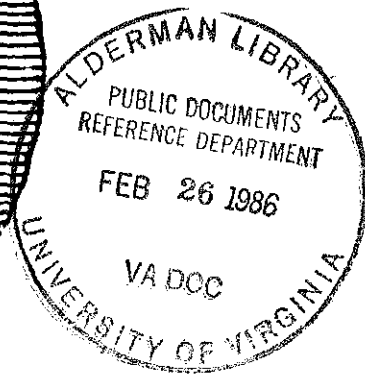
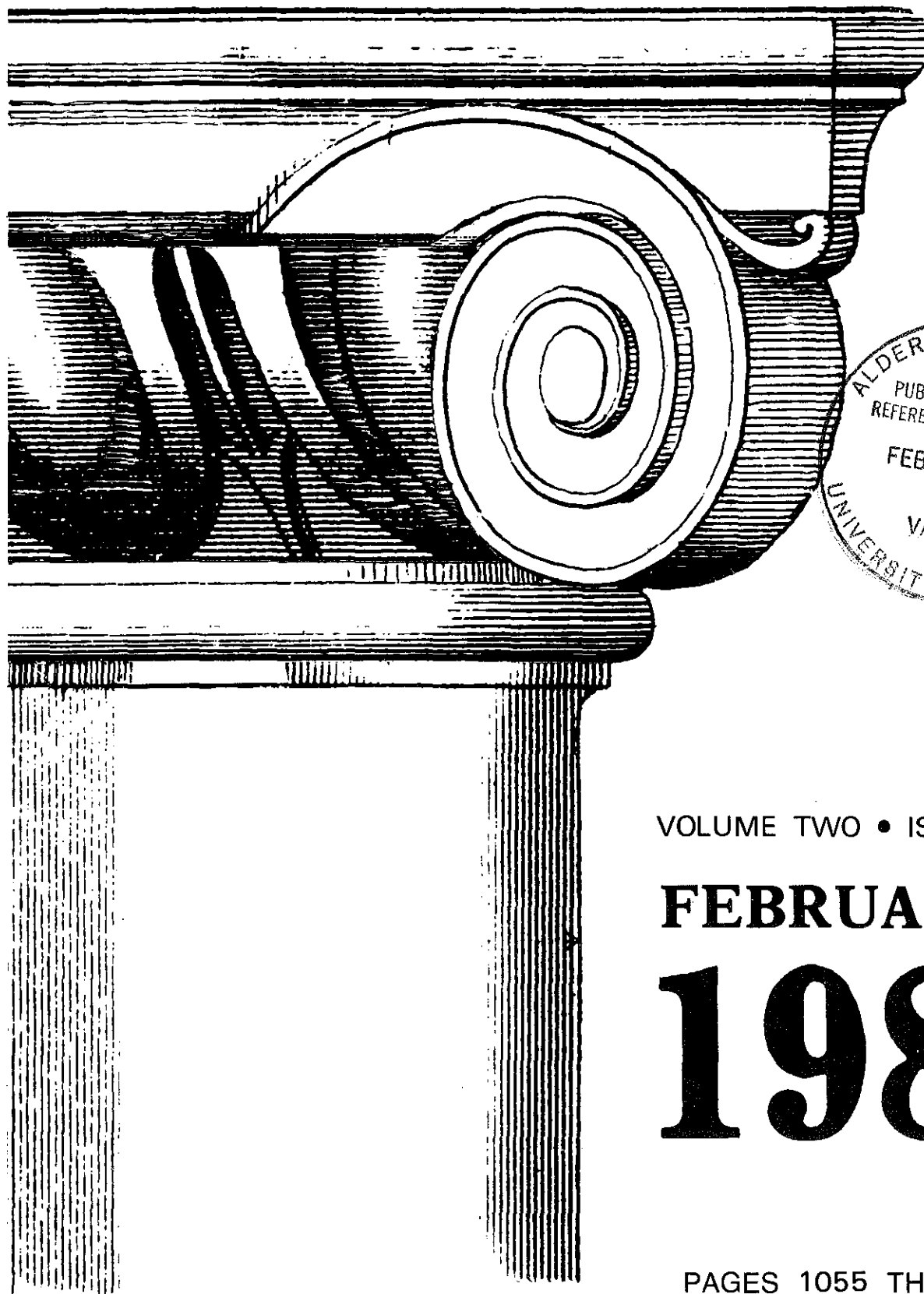


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THE VIRGINIA REGISTER

OF REGULATIONS

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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

require the agency to solicit additional public comment on the substantial changes.

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

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.

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

PUBLICATION DATE	MATERIAL SUBMITTED BY 12 noon Wednesday
July 8	June 21
Index	
July 22	July 3
Aug. 5	July 17
Aug. 19	July 31
Sept. 2	Aug. 14
Sept. 16	Aug. 28
Sept. 30	Sept. 11
Final Index - Volume I	
Oct. 14	Sept. 25
Oct. 28	Oct. 9
Nov. 11	Oct. 23
Nov. 25	Nov. 6
Dec. 9	Nov. 20
Dec. 23	Dec. 4
Index	
Jan. 6 1986	Dec. 18
Jan. 20	Dec. 31 (Tuesday)
Feb. 3	Jan. 15
Feb. 17	Jan. 29
Mar. 3	Feb. 12
Mar. 17	Feb. 26
Index	
Mar. 31	Mar. 12
Apr. 14	Mar. 26
Apr. 28	Apr. 9
May 12	Apr. 23
May 26	May 7
June 9	May 21
June 23	June 4
Index	
July 7	June 18
July 21	July 2
Aug. 4	July 16
Aug. 18	July 30
Sept. 1	Aug. 13
Sept. 15	Aug. 27
Sept. 29	Sept. 10
Final Index - Volume II	

TABLE OF CONTENTS

PROPOSED REGULATIONS

BOARD OF EDUCATION

Procedure for Adjusting Grievances (VR 270-01-0008) 1056

FINAL REGULATIONS

CRIMINAL JUSTICE SERVICES BOARD

Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II (VR 240-02-1) 1066

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Procedures, Instructions and Guidelines for Single-Family Mortgage Loans to Persons of Low and Moderate Income (VR 400-02-0003) 1071

DEPARTMENT OF LABOR AND INDUSTRY

Commercial Diving Operations Standard - Virginia Occupational Safety and Health Standards for General Industry (VR 425-02-4) 1085

Power Lawnmower Standard - Virginia Occupational Safety and Health Standards for General Industry (VR 425-02-5) 1086

EMERGENCY REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Emergency Rules and Regulations Pertaining to the Prevention of the Introduction and Possible Spread of Avian Influenza in Poultry Flocks and Hatcheries and Their Products in Virginia 1088

DEPARTMENT OF TAXATION

Retail Sales and Use Tax Regulation Innovative High Technology Industries and Research (VR 630-10-49.2) 1092

GOVERNOR

EXECUTIVE ORDERS

Order Number Four (86)
Continuing Certain Executive Orders Necessary for the Efficient Administration of State Government. 1095

Order Number Five (86)
Review of Regulations Proposed by State Agencies 1095

VIRGINIA TAX BULLETIN

DEPARTMENT OF TAXATION

Tax Regulation VR 630-2-3111.1. Individual Income Tax: Net Operating Losses 1099

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION ... 1100

GENERAL NOTICES 1105

Notice to State Agencies 1105
Notice to Trade Organizations and Associations .. 1105

ERRATA

Department of General Services

Regulations for Breath Alcohol Testing (VR 330-02-01) 1105

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 1106

LEGISLATIVE

Notice to Subscribers 1133

CHRONOLOGICAL LIST

Open Meetings 1133
Public Hearings 1135

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

BOARD OF EDUCATION

Title of Regulation: VR 270-01-0008. Procedure for Adjusting Grievances.

Statutory Authority: § 22.1-16 of the Code of Virginia

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Editor's Note:

The Department of Education's regulations governing procedures for adjusting grievances are being amended to meet the requirements of § 22.1-309 of the Code of Virginia as amended by the 1985 General Assembly. These amendments to the grievance procedures are an exact duplication of the state law and thus do not differ materially from that which is required by the above-referenced state law. Therefore, the Department of Education is claiming exclusion from Article 2 of the Administrative Process Act under subsection C.4.(a) of § 9-6.14:4.1.

Summary:

These amended regulations provide a procedure for resolving disputes concerning application of local school board policies, rules, and regulations as they affect the work of employees and disciplinary actions which include dismissal or probation. The regulations contain an added provision for the review of documents in disciplinary actions involving recommendations for dismissal or probation as enacted into law by the 1985 Session of the General Assembly. No other substantive additions or changes are included in the regulations.

VR 270-01-0008. Procedure for Adjusting Grievances.

PREAMBLE

The Virginia Board of Education adopts the following Procedure for Adjusting Grievances to provide, in accordance with the statutory mandate of Title 22.1 of the Code of Virginia, and the Standards of Quality for School divisions, Chapter 667 of the Acts of Assembly, 1980, an orderly procedure for resolving disputes concerning application of local school board policies, rules and regulations as they affect the work of employees, and disciplinary actions which include dismissal or probation.

PART I. Definitions.

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

The term "Days" shall refer to means calendar days unless a different meaning is clearly expressed in this procedure. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday, or legal holiday, the period of time for taking action under this procedure shall be extended to the next day if it is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher within the term of such teacher's contract and the nonrenewal of a contract of a teacher on a continuing contract.

As used in Part A, the term "Grievance" shall mean means, for the purposes of Part II, a complaint or a dispute by a teacher relating to his ~~or her~~ employment, including but not necessarily limited to the application or interpretation of personnel policies, rules and regulations, ordinances, and statutes; acts of reprisal as a result of utilization of this grievance procedure; and complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex. "Grievance" means, for the purposes of Part III, a complaint or a dispute involving a teacher relating to his ~~or her~~ employment involving dismissal or placing on probation. The term "grievance" shall not include a complaint or dispute by a teacher relating to the establishment and revision of wages or salaries, position classifications or general benefits; suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations; failure to promote; or discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment in a particular subject, abolition of a particular subject, insufficient funding; hiring, transfer, assignment and retention of teachers within the school division; suspension from duties in emergencies; or the methods, means and personnel by which the school division's operations are to be carried on. While these management rights are reserved to the school board, failure to apply, where applicable, these rules, regulations, policies, or procedures as written or established by the school board is grievable.

"Personnel file" means, for the purposes of Part III, any and all memoranda, entries or other documents included

Proposed Regulations

in the teacher's file as maintained in the central school administration office or in any file on the teacher maintained within a school in which the teacher serves.

"Probation" shall mean means a period not to exceed one year during which time it shall be the duty of the teacher to remedy those deficiencies which gave rise to the probationary status.

For purposes of Part A, the term "Teacher" or "teachers" shall mean means, for the purposes of Part II, all employees of the school division involved in classroom instruction and all other full-time employees of the school division except the following: those employees classified as supervising employees. The term shall mean "Teacher" means, for the purposes of Part III, all regularly certified professional public school personnel employed under a written contract as provided by § 22.1-302 of the Code of Virginia, by any school division as a teacher or supervisor of classroom teachers but excluding all superintendents.

The term "Shall file," "shall respond in writing," or "shall serve written notice" shall be met when means the document is either delivered personally to the grievant or office of the proper school board representative or is mailed by registered or certified mail, return receipt requested, and postmarked within the time limits prescribed by this procedure.

A "Supervisory employee"; the term "supervisory" shall mean means any person having authority in the interest of the board (a) (i) to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; and (b) (ii) to direct other employees; or (c) (iii) to adjust the grievance of other employees; or (d) (iv) to recommend any action set forth in (a), (b), or (c) (i), (ii), or (iii) above; provided that the authority to act as set forth in (a), (b), (c), or (d) (i), (ii), (iii), or (iv) requires the exercise of independent judgment and is not merely routine and clerical in nature.

The term "written" "Written grievance appeal" shall mean means a written or typed statement describing the event or action complained of, or the date of the event or action, and a concise description of those policies, procedures, regulations, ordinances or statutes upon which the teacher bases his or her claim. The grievant shall specify what he or she expects to obtain through use of the grievance procedure. A statement shall be written upon forms prescribed by the Board of Education and supplied by the local school board.

PART A II. Grievance Procedure

F. § 2.1. Purpose of Part A II of this Grievance Procedure.

The purpose of Part A II of the Procedure for Adjusting Grievances is to provide an orderly procedure for resolving disputes concerning the application,

interpretation, or violation of any of the provisions of local school board policies, rules and regulations as they affect the work of teachers, other than dismissals or probation. An equitable solution of grievances should be secured at the most immediate administrative level. The procedure should not be construed as limiting the right of any teacher to discuss any matter of concern with any member of the school administration; nor, should the procedure be construed to restrict any teacher's right to seek, or the school division administration's right to provide, review of complaints that are not included within the definition of a grievance. Nothing in this procedure shall be interpreted to limit a school board's exclusive final authority over the management and operation of the school division.

H. Definitions

A. For purposes of Part A, the term "teacher" or "teachers" shall mean all employees of the school division involved in classroom instruction and all other full-time employees of the school division except the following:

(1) A supervisory employee; the term "supervisory employee" shall mean any person having authority in the interest of the board; (a) to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; and (b) to direct other employees; or (c) to adjust the grievance of other employees; or (d) to recommend any action set forth in (a), (b), or (c) above; provided that the authority to act as set forth in (a), (b), (c), or (d) requires the exercise of independent judgment and is not merely routine and clerical in nature.

B. As used in Part A, the term "grievance" shall mean a complaint or a dispute by a teacher relating to his or her employment, including, but not necessarily limited to the application or interpretation of personnel policies, procedures, rules and regulations, ordinances, and statutes; acts of reprisal as a result of utilization of this grievance procedure; and complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex.

The term "grievance" shall not include a complaint or dispute by a teacher relating to the establishment and revision of wages or salaries, position classifications or general benefits; suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations; failure to promote; or discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment in a particular subject, abolition of a particular subject, insufficient funding; hiring, transfer, assignment and retention of teachers within the school division; suspension from duties in emergencies; or the methods, means and personnel by which the school division's operations are to be carried on. While these management rights are reserved to the school board,

Proposed Regulations

failure to apply, where applicable, these rules, regulations, policies, or procedures as written or established by the school board is grievable.

C. The term "days" shall refer to calendar days unless a different meaning is clearly expressed in this procedure. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday, or legal holiday, the period of time for taking action under this procedure shall be extended to the next day if it is not a Saturday, Sunday, or legal holiday.

D. The term "written grievance appeal" shall mean a written or typed statement describing the event or action complained of; the date of the event or action, and a concise description of those policies, procedures, regulations, ordinances or statutes upon which the teacher bases his or her claim. The grievant shall specify what he or she expects to obtain through use of the grievance procedure. A statement shall be written upon forms prescribed by the Board of Education and supplied by the local school board.

E. The term "shall file," "shall respond in writing," or "shall serve written notice" shall be met when the document is either delivered personally to the grievant or office of the proper school board representative or is mailed by registered or certified mail, return receipt requested, and postmarked within the time limits prescribed by this procedure.

III. § 2.2. Grievance procedure.

Recognizing that grievances should be begun and settled promptly, a grievance must be initiated within 15 working days following either the event giving rise to the grievance, or within 15 working days following the time when the employee knew or reasonably should have known of its occurrence. Grievances shall be processed as follows:

A. Step 1 - Informal.

The first step shall be an informal conference between the teacher and his or her immediate supervisor (which may be the principal). The teacher shall state the nature of the grievance, and the immediate supervisor shall attempt to adjust the grievance. It is mandatory that the teacher present the grievance informally prior to proceeding to Step 2.

B. Step 2 - Principal.

If for any reason the grievance is not resolved informally in Step 1 to the satisfaction of the teacher, the teacher must perfect his or her grievance by filing said grievance in writing within 15 working days following the event giving rise to the grievance, or within 15 working days following the time when the employee knew or reasonably should have known of its occurrence, specifying on the form the specific relief expected. Regardless of the

outcome of Step 1, if a written grievance is not, without just cause, filed within the specified time, the grievance will be barred.

A meeting shall be held between the principal (and/or his or her designee) and the teacher (and/or his or her designee) within five working days of the receipt by the principal of the written grievance. At such meeting the teacher and/or other party involved shall be entitled to present appropriate witnesses and to be accompanied by a representative other than an attorney. The principal (and/or his or her designee) shall respond in writing within five working days following such meeting.

The principal may forward to the teacher within five days from the receipt of the written grievance a written request for more specific information regarding the grievance. The teacher shall file an answer thereto within 10 working days, and the meeting must then be held within five days thereafter.

C. Step 3 - Superintendent.

If the grievance is not settled to the teacher's satisfaction in Step 2, the teacher can proceed to Step 3 by filing a written notice of appeal with the superintendent, accompanied by the original grievance appeal form within five working days after receipt of the Step 2 answer (or the due date of such answer). A meeting shall then be held between the superintendent (and/or his or her designee) and the teacher (and/or his or her designee) at a mutually agreeable time within five working days. At such meeting both the superintendent and the teacher shall be entitled to present witnesses and to be accompanied by a representative who may be an attorney. A representative may examine, cross-examine, question, and present evidence on behalf of a grievant or the superintendent without violating the provisions of § 54-44 of the Code of Virginia. If no settlement can be reached in said meeting, the superintendent (or his or her designee) shall respond in writing within five working days following such meeting. The superintendent or designee may make a written request for more specific information from the teacher, but only if such was not requested in Step 2. Such request shall be answered within 10 working days, and the meeting shall be held within five working days of the date on which the answer was received. If the grievance is not resolved to the satisfaction of the teacher in Step 3, the teacher may elect to have a hearing by a fact-finding panel, as provided in Step 4, or after giving proper notice may request a decision by the school board pursuant to Step 5.

D. Step 4 - Fact-finding panel.

In the event the grievance is not settled upon completion of Step 3, either the teacher or the school board may elect to have a hearing by a fact-finding panel prior to a decision by the school board, as provided in Step 4. If the teacher elects to proceed to Step 4, he or she must notify the superintendent in writing of the

Proposed Regulations

intention to request a fact-finding panel and enclose a copy of the original grievance form within five working days after receipt of a Step 3 answer (or the due date of such answer). If the school board elects to proceed to a fact-finding panel, the superintendent must serve written notice of the board's intention upon the grievant within 15 working days after the answer provided by Step 3.

1. Panel. Within five working days after the receipt by the division superintendent of the request for a fact-finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in any previous phase of the grievance procedure as a supervisor, witness, or representative. The two panel members so selected shall within five working days of their selection select a third impartial panel member.

2. Selection of impartial third member. In the event that both panel members are unable to agree upon a third panel member within five working days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which one individual shall be selected by the two members of the panel to serve as the third member. The individuals named by the chief judge may reside either within or outside the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Within five days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by alternately deleting names from the list until only one remains. The panel member selected by the teacher shall make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member.

3. Holding of hearing. The hearing shall be held by the panel within 30 calendar days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.

4. Procedure for fact-finding panel.

a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.

b. The panel may ask for statements from the division superintendent and the teacher clarifying the issues involved at the beginning of the hearing and at the discretion of the panel may allow closing statements.

c. The parties shall then present their claims in evidence. Witnesses may be questioned by the panel members, or by the teacher and the division superintendent, or their representative. The panel may, in its discretion, vary this procedure, but shall afford a full and equal opportunity for all parties to present any material or relevant evidence and shall afford the parties the right of cross-examination.

d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel may be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.

e. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.

f. The finding of facts and recommendations by the panel shall be based exclusively upon the evidence presented at the hearing and the panel's recommendations shall be arrived at by a majority vote of the panel members.

g. On its own motion or upon application of the teacher or division superintendent, the hearing may be reopened by the panel, for good cause shown, at any time to hear after-discovered evidence before its final report is delivered.

h. The panel shall make a written report which shall include its findings of fact and recommendations, and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 days after the completion of the hearing.

i. A stenographic record or tape recording shall be taken of the proceedings. The recording may be dispensed with entirely by mutual consent of the parties. If the recording is not dispensed with the two parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense involved in preparing it.

5. Expenses.

a. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the

Proposed Regulations

division superintendent. The expenses of the panel shall be borne one-half by the school board and one-half by the teacher.

b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his or her normal working hours if he receives his normal salary for the period of such service.

c. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

6. Right to further hearings.

Following a hearing by a fact-finding panel, the teacher shall not have the right to a further hearing by the school board as provided in subsection E(3) of this section. The school board shall have the right to require a further hearing in any grievance proceeding as provided in subsection E(3) of this section.

E. Step 5 - Decision by the school board.

1. If a teacher elects to proceed directly to a determination before the school board as provided for in Step 5, he or she must notify the superintendent in writing of the intention to appeal directly to the board, of the grievance alleged, and the relief sought within five working days after receipt of the answer as required in Step 3 or the due date thereof. Upon receipt of such notice, the school board may elect to have a hearing before a fact-finding panel, as indicated in Step 4, by filing a written notice of such intention with the teacher within 10 working days of the deadline for the teacher's request for a determination by the school board.

2. In the case of a hearing before a fact-finding panel, the school board shall give the grievant its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's finding of fact and recommendations unless the school board proceeds to a hearing under subsection E(3) of § 2.2. of these regulations. The decision of the school board shall be reached after considering the transcript, if any; the findings of fact and recommendations of the panel; and such further evidence as the school board may receive at any further hearing which the school board elects to conduct.

3. In any case in which a hearing before a fact-finding panel is held in accordance with Step 4, the local school board may conduct a further hearing before such school board.

a. The local school board shall initiate such hearing by sending written notice of its intention to the teacher and the division superintendent within 10 days after receipt by the board of the findings of fact and recommendations of the fact-finding panel and any transcript of the panel hearing. Such notice shall be provided upon forms to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.

b. In any case where such further hearing is held by a school board after a hearing before the fact-finding panel, the school board shall consider at such further hearing the transcript, if any; the findings and recommendations of the fact-finding panel; and such further evidence including, but not limited to, the testimony of those witnesses who have previously testified before the fact-finding panel as the school board deems may be appropriate or as may be offered on behalf of the grievant or the administration.

c. The further hearing before the school board shall be set within 30 days of the initiation of such hearing, and the teacher must be given at least 15 days written notice of the date, place, and time of the hearing. The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties or their representatives to cross-examine the witnesses. Witnesses may be questioned by the school board.

The school board's attorney, assistants, or representative, if he, or they, represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of § 22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative, and the superintendent, may join the school board in executive session to assist in the writing of the decision.

A stenographic record or tape recording of the proceedings shall be taken. However, the recording may be dispensed with entirely by mutual consent of the parties. If not dispensed with, the two parties shall share the cost of the recording equally; and, if either party requests a transcript, that party shall

bear the expense of its preparation.

d. The decision of the school board shall be based solely on the transcript, if any; the findings of fact and recommendations of the fact-finding panel; and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party. The school board shall give the grievant its written decision within 30 days after the completion of the hearing before the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, the school board's written decision shall include the rationale for the decision.

4. In any case where a hearing before a fact-finding panel is not held, the board may hold a separate hearing or may make its determination on the basis of the written evidence presented by the teacher and the recommendation of the superintendent.

5. The school board shall retain its exclusive final authority over matters concerning employment and the supervision of its personnel.

IV. § 2.3. Grievability.

A. Initial determination of grievability.

Decisions regarding whether a matter is grievable shall be made by the school board at the request of the division superintendent or grievant. Such decisions shall be made within 10 days of such request. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing and prior to any panel or board hearing or the right to such determination shall be deemed to have been waived. Failure of the school board to make such a determination within such a prescribed 10-day period shall entitle the grievant to advance to the next step as if the matter were grievable.

B. Appeal of determination on grievability.

1. Decisions of the school board may be appealed to the circuit court having jurisdiction in the school division for a hearing on the issue of grievability.

a. Proceedings for a review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within 10 days after the date of the decision and giving a copy thereof to all other parties.

b. Within ~~ten~~ 10 days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken, a copy of its decision, a copy of the notice of appeal, and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court may, on motion of the grievant, ~~may~~ issue a writ of certiorari requiring the school

board to transmit the record on or before a certain date.

c. Within 10 days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court may, in its discretion, ~~may~~ receive such other evidence as the ends of justice require.

d. The court may affirm the decision of the school board or may reverse or modify the decision. The decision of the court shall be rendered not later than ~~the fifteenth day~~ 15 days from the date of the conclusion of the court's hearing.

V. § 2.4. Time limitations.

The right of any party to proceed at any step of this Part A II grievance procedure shall be conditioned upon compliance with the time limitations and other requirements set forth in this procedure.

A. The failure of the teacher to comply with all substantial procedural requirements including initiation of the grievance and notice of appeal to the next step in the procedure, shall eliminate the teacher's right to any further proceedings on the grievance unless just cause for such failure can be shown.

B. The failure of the school board or any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at his ~~or her~~ option, to advance to the next step in the procedure or, at the final step, to a decision in his ~~or her~~ favor.

C. The determination as to whether the substantial procedural requirements of this Part A II of the Procedure for Adjusting Grievances have been complied with shall be made by the school board. In any case in which there is a factual dispute as to whether the procedural requirements have been met or just cause has been shown for failure to comply, the school board shall have the option of allowing the grievant to proceed to its next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.

VI. § 2.5. Separability.

If any portion of this Part A II of the Procedure for Adjusting Grievances, or the application thereof, shall be held invalid by a court of competent jurisdiction, the remainder of this procedure and the application thereof in all other circumstances where not expressly held invalid shall not be affected thereby.

Proposed Regulations

PART B III.

Procedure for Dismissals or Placing on Probation.

This Part B III of the Procedure for Adjusting Grievances adopted by the Board of Education in accordance with the statutory mandate of Article II, Chapter 11, Title 22 22.1 of the Code of Virginia and the Standards of Quality for school divisions, Chapter 529 667 of the Acts of Assembly, 1980, is to provide an orderly procedure for the expeditious resolution of disputes involving the dismissal or placing on probation of any teacher.

I. Definitions.

For the purposes of this Part B of the Procedure for Adjusting grievances, the following definitions shall apply:

A. The term "teacher" shall mean all regularly certified professional public school personnel employed under a written contract as provided by § 22.1-302 of the Code of Virginia by any school division as a teacher or supervisor of classroom teachers but excluding all superintendents.

B. "Grievance" means a complaint or a dispute involving a teacher relating to his or her employment involving dismissal or placing on probation.

C. "Dismissal" means the dismissal of any teacher within the term of such teacher's contract and the nonrenewal of a contract of a teacher on a continuing contract.

D. "Probation" shall mean a period not to exceed one year during which time it shall be the duty of the teacher to remedy those deficiencies which gave rise to the probationary status.

H. § 3.1. Procedure for dismissals or placing on probation.

A. Notice to teacher of recommendation for dismissal or placing on probation.

1. In the event a division superintendent determines to recommend dismissal of any teacher, or the placing on probation of a teacher on continuing contract, written notice must shall be sent to the teacher on forms to be prescribed by the Board of Education notifying him or her of the proposed dismissal, or placing on probation, and informing the teacher that within 15 days after receiving the notice, the teacher may request a hearing before the school board, or before a fact-finding panel as hereinafter set forth.

2. During such 15-day period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed, or acted upon by the school board except as provided for herein.

3. At the request of the teacher, the superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to §§ 22.1-311 or 22.1-312 of the Code of Virginia, the division superintendent shall provide, within 10 days of the request, the teacher, or his representative, with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal or probation. Within 10 days of the request of the division superintendent, the teacher, or his representative, shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal or probation. The cost of copying such documents shall be paid by the requesting party.

B. Fact-finding panel.

Within 15 days after the teacher receives the notice referred to in subsection A(1) of § 3.1 of these regulations, either the teacher, or the school board, by written notice to the other party upon a form to be prescribed by the Board of Education, may elect to have a hearing before a fact-finding panel prior to any decision by the school board.

1. Panel. Within 5 five working days after the receipt by the division superintendent of the request for a fact-finding panel, the teacher, and the division superintendent, shall each select one panel member from among the employees of the school division other than an individual involved in the recommendation of dismissal or placing on probation as a supervisor, witness, or representative. The two panel members so selected shall within 5 five working days of their selection, select a third impartial panel member.

2. Selection of impartial third member. In the event that both panel members are unable to agree upon a third panel member within 5 five working days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which list one individual shall be selected by the two members of the panel as the third member. The individuals named by the chief judge may reside either within or without the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law, and shall be deemed by the judge capable of presiding over an administrative hearing. Within five days after receipt by the two panel members of the list of fact-finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by the panel members alternately deleting names from

Proposed Regulations

the list until only one remains with the panel member selected by the teacher to make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member.

3. Holding of hearing. The hearing shall be held by the panel within 30 calendar days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing, and be represented at all stages, by a representative or legal counsel.

4. Procedure for fact-finding panel.

a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.

b. The panel may ask for statements from the division superintendent and the teacher (or their representative) clarifying the issues involved at the beginning of the hearing and, at the discretion of the panel, may allow closing statements.

c. The parties shall then present their claims in evidence. Witnesses may be questioned by the panel members, and by the teacher and the division superintendent, or their representative. However, the panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination.

d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.

e. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.

f. The facts found and recommendations made by the panel shall be based exclusively upon the evidence presented to the panel at the hearing and such facts found and recommendations made, shall be arrived at by a majority vote of the panel members.

g. The hearing may be reopened by the panel at any time before the panel's report is made upon its own motion or upon application of the teacher or

the division superintendent for good cause shown to hear after-discovered evidence.

h. The panel shall make a written report which shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent and the teacher, not later than 30 days after the completion of the hearing.

i. A stenographic record or tape recording of the proceedings shall be taken. In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.

5. Expenses.

a. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be born one-half by the school board and one-half by the teacher.

b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his or her normal working hours if he or she receives his or her normal salary for the period of such service.

6. Right to further hearing. If the school board elects to have a hearing by a fact-finding panel on the dismissal or placing on probation of a teacher, the teacher shall have the right to a further hearing by the school board as provided in subsection C of this section. The school board shall have the right to require a further hearing as provided in subsection C also.

7. Witnesses. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

C. Hearing by school board.

1. After receipt of the notice of pending dismissal or placing on probation described in subsection A(1) of § 3.1 of these regulations, the teacher may request a hearing before the school board by delivering written notice to the division superintendent within 15 days

Proposed Regulations

from the receipt of notice from the superintendent. Subsequent to the hearing by a fact-finding panel under subsection B of § 3.1, the teacher, as permitted by subsection B(7) of § 3.1, or the school board may request a school board hearing by written notice to the opposing party and the division superintendent within 10 days after the receipt by the party initiating such hearing of the findings of fact and recommendations made by the fact-finding panel and the transcript of the panel hearing. Such notice shall be provided upon a form to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.

2. In any case in which a further hearing is held by a school board after a hearing before the fact-finding panel, the school board shall consider at such further hearing the record, or transcript, if any, the findings of fact and recommendations made by the fact-finding panel and such further evidence, including, but not limited to, the testimony of those witnesses who have previously testified before the fact-finding panel as the school board deems may be appropriate or as may be offered on behalf of the teacher or the superintendent.

3. The school board hearing shall be set and conducted within 30 days of the receipt of the teacher's notice or the giving by the school board of its notice. The teacher shall be given at least 15 days written notice of the date, place, and time of the hearing and such notice shall also be provided to the division superintendent.

4. The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it, and such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence including the testimony of witnesses and the right of all parties to cross-examine the witnesses. Witnesses may be questioned by the school board.

5. A record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The board shall bear the expense of the recording and the transcription.

6. The school board shall give the teacher its written decision within 30 days after the completion of the hearing before the school board.

7. The decision by the school board shall be based on the transcript, the findings of fact and

recommendations made by the fact-finding panel, and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party.

The school board's attorney, assistants, or representative, if he or they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of § 22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

D. School board determination.

1. In any case in which a hearing is held before a fact-finding panel but no further hearing before the school board is requested by either party, the school board shall give the teacher its written decision within 30 days after the school board receives both the transcript of such hearing and the panel's findings of fact and recommendation. The decision of the school board shall be reached after considering the transcript, the findings of fact, and the recommendations made by the panel.

2. The school board may dismiss, suspend, or place on probation a teacher upon a majority vote of a quorum of the school board. In the event the school board's decision is at variance with the recommendation of the fact-finding panel, the school board's written decision shall include the rationale for the decision.

HH: § 3.2. Time limitations.

The right of any party to proceed at any step of the grievance procedure shall be conditioned upon compliance with the time limitations and other requirements set forth in this grievance procedure.

A. The failure of the grievant to comply with all substantial procedural requirements shall terminate the teacher's right to any further proceedings on the grievance unless just cause for such failure can be shown.

B. The failure of the school board or of any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at his or her option, to advance to the next step in the procedure or, at the final step, to a decision in his or her favor.

C. The determination as to whether the substantial procedural requirements of this Part B III of the Procedure for Adjusting Grievances have been complied

with shall be made by the school board. In any case in which there is a factual dispute as to whether the procedural ~~which there is a factual dispute as to whether the procedural~~ requirements have been met or just cause has been shown for failure to comply, the school board shall have the option of allowing the grievance to proceed to its next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.

IV. § 3.3. Separability.

If any portion of this Part B III of the Procedure for Adjusting Grievances, or the application thereof, shall be held invalid by a court of competent jurisdiction, the remainder of this procedure and the application thereof in all other circumstances where not expressly held invalid shall not be affected thereby.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: VR 240-02-1. Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.

Statutory Authority: §§ 9-170(1) and 9-170(20) of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

In accordance with the provisions of §§ 9-6.14:7.1, 9-170(1), 9-170(20), and 9-186 through 9-192, of the Code of Virginia, the Criminal Justice Services Board has adopted Regulations Relating to Criminal History Record Information Part I; Criminal History Record Information Security Part II. These regulations supersede existing regulations amended September 6, 1983.

The regulation exists to ensure the completeness and accuracy; the privacy and security of criminal history record information and to insure that criminal history record information will be disseminated in accordance with applicable statutes and executive orders.

The amendment to the regulations as adopted authorizes criminal justice agencies to establish and charge reasonable fees for criminal record searches when dissemination of criminal history record information is requested by noncriminal justice agencies or individuals.

No changes were made to the regulations as submitted as a proposed regulation. There were no changes in the basis, purpose or impact of the regulations as proposed.

VR 240-02-1. Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.

PART I.

Pursuant to the provisions of §§ 9-170(1), 9-170(20) and 9-186 through 9-192 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following regulations:

1-0 § 1.1. Definitions.

[The following words and terms, when used in these

regulations, shall have the following meaning, unless the context clearly indicates otherwise.]

"Board" means the Criminal Justice Services Board.

"Central Criminal Records Exchange" means that repository in this Commonwealth which receives, identifies and maintains individual criminal history records.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgement of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.), of Title 16.1 of the Code of Virginia, criminal justice investigative information, or correctional status information.

"Criminal history record information area" means any area in which criminal history record information is collected, stored, processed or disseminated.

"Criminal justice agency" means a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the

department.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term does not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and a right to know the information.

"Expunge" means removal by a court order from public inspection or access.

"Seal" means to physically secure to prevent inspection, except where specified by court order.

2-0 § 1.2. Applicability.

These regulations are applicable to originals or copies, manual or automated criminal history record information which are used, collected, stored or disseminated by a criminal justice agency of the Commonwealth, its political subdivisions, and the United States or another state or its political subdivisions but only to the extent of that exchange. Further, these rules apply to noncriminal justice agencies or individuals who are eligible under the provisions of law to receive such limited criminal history record information.

The provisions of these regulations do not apply to the original or copied records of entry, such as police blotters maintained by a criminal justice agency on a chronological basis and permitted to be made public, if such records are not indexed or accessible by name; court records of public criminal proceedings, including opinions and published compilations thereof; records of traffic offenses disseminated to or maintained by the Department of Motor Vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses; statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable; announcements of executive clemency; posters, announcements, or lists for identifying or apprehending fugitives or wanted persons; criminal justice intelligence information; or criminal justice investigative information.

Nothing in these regulations shall be construed as prohibiting a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is related to the offense for which the individual is currently within the criminal justice system.

2-0 § 1.3. Collection and storage.

It shall be incumbent upon each criminal justice agency maintaining a criminal justice information system to ensure the timeliness and accuracy of information in the system, collected after November 1, 1976, and dispositions

shall be reported promptly to the Central Criminal Records Exchange when appropriate, or to the arresting agency for offenses not required to be reported to the Central Criminal Records Exchange, but in no case later than 30 days after the disposition. In the event inaccuracies are discovered in the information collected, the agency shall notify all agencies and individuals known to have received the information and corrections shall be made in the information.

There shall be no use or dissemination of criminal history record information by criminal justice agency personnel until it has been determined to be the most accurate and complete information available to the criminal justice agency.

4-0 § 1.4. Dissemination.

All criminal history record information shall be disseminated directly or through an intermediary only in accordance with the provisions of §§ 9-184 and 19.2-389 of the Code of Virginia.

Criminal justice agencies disseminating criminal history record information shall maintain a record of such dissemination as to the receiving criminal justice agency or noncriminal justice agency or individual. The record shall consist of the date of dissemination, identifying name or number of subject record and agency or individual to whom the record was disseminated. Secondary or any subsequent dissemination by a criminal justice agency shall be guided by the same rules and regulations as outlined herein for a primary dissemination. A noncriminal justice agency or individual shall not disseminate any criminal history record information.

If a criminal justice agency determines that an agency or individual to which criminal history record information has been disseminated has further disseminated that information in violation of law, a report of that alleged violation shall be made promptly to the department.

A record of dissemination shall be preserved for a period of not less than two years from date of dissemination.

Prior to any dissemination of a criminal history record by a criminal justice agency, a query of the Central Criminal Records Exchange shall be made to ensure that the most up-to-date disposition data are used. Exceptions to this query are limited to those instances set forth in § 19.2-389(D) of the Code of Virginia.

"Conviction data" record information shall be disseminated to a noncriminal justice agency or individual in compliance with the existing laws and its use shall be limited to the purpose of the original dissemination and shall not be disseminated further.

No agency or individual shall confirm or deny the existence or nonexistence of criminal history record

Final Regulations

information to any persons or agency that would not be eligible to receive the information itself. No dissemination of a criminal history record is to be made to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of arrest and no disposition of the charge has been recorded and no active prosecution of charge is pending.

Interstate dissemination of criminal history record information shall be governed by existing state and federal law.

Criminal justice agencies may charge a reasonable fee for search time expended and copying when dissemination of criminal history record information is requested by a noncriminal justice agency or individual. The schedule of fees to be charged shall be posted.

6-0 § 1.5. Access and review.

Any individual or his attorney, upon proper identification, shall have the right to inspect criminal history record information being maintained on that individual by the Central Criminal Records Exchange or any criminal justice agency.

Prior to any such inspection, the agency may request a verification of the individual's identity through the furnishing by the individual of a set of inked fingerprints. Should an agency receiving such a request not have the capabilities to handle the classification of the fingerprints, same may be submitted by mail to the Central Criminal Records Exchange, which in turn will make the appropriate search and return to the requesting agency. At a minimum, verification of identity shall be a valid motor vehicle operators' license, valid nonoperators' identification card, or valid photo identification of federal or state agency.

A fee not to exceed \$5.00 may be charged by the requested agency to cover administrative costs.

Any individual or his attorney may inspect his criminal history record information arising from arrests for felonies and Class 1 and 2 misdemeanors maintained on him in the Central Criminal Records Exchange by applying at any law enforcement agency with terminal capabilities on the Virginia Criminal Information Network or to the Central Criminal Records Exchange, Virginia State Police, directly, during normal working hours.

The agency to which the request is directed shall provide reasonable assistance to the individual or his attorney to help understand the record.

6-0 § 1.6. Challenge.

Individuals who desire to challenge their own criminal history record information must execute the appropriate form as required and forward it to the Central Criminal Records Exchange or the criminal justice agency

maintaining the record. A duplicate copy may be maintained by the individual initiating the challenge or review. A copy of the challenged record may be furnished to the requesting individual. This copy shall be prominently marked or stamped "NOT TO BE DISSEMINATED FURTHER EXCEPT AS PROVIDED BY LAW."

A fee not to exceed \$1.00 per page may be charged by the criminal justice agency.

7-0 § 1.7. Challenge of criminal history record maintained by the Central Criminal Records Exchange.

If the challenge is made of a record maintained by the Central Criminal Records Exchange, the manual and/or automated record shall be flagged with the message "CHALLENGED RECORD." All records disseminated shall contain this message while under challenge.

The Central Criminal Records Exchange shall compare the original input form and the information contained in the repository files and reviewed by the individual. If no error is located, the Central Criminal Records Exchange shall forward a copy of the original challenge form, a copy of the Central Criminal Records Exchange form and any other relevant information to the agency or agencies which the Central Criminal Records Exchange records indicate as having originated the information under challenge and request them to examine all relevant files to determine validity of the challenge.

The agency responsible for originating the challenged record shall conduct an examination of the agency's source data, the contents of the challenge and information supplied by the Central Criminal Records Exchange for any discrepancies or errors and shall advise the Central Criminal Records Exchange as to the results of the examination. The Central Criminal Records Exchange shall then notify the agency in which the record was originally reviewed of the Central Criminal Records Exchange's action. The agency in which the review and challenge occurred shall notify the individual or his attorney of the Central Criminal Records Exchange's action.

8-0 § 1.8. Challenge of criminal history record maintained by a criminal justice agency other than the Central Criminal Records Exchange.

If a challenge is made of a record maintained by an agency, the manual and/or automated record shall be flagged with the message "CHALLENGED RECORD." All disseminated records shall contain this message while under challenge.

If the challenged record pertains to the arrest information, the agency shall examine all relevant files to determine the validity of the challenge. If no error(s) is found, the agency shall then notify the agency where the review and challenge occurred, which shall notify the individual or his attorney of the action taken.

If the challenged record pertains to the disposition information, the agency shall compare contents of challenge with the information supplied by the clerk of the court. If no error(s) is found, the agency shall forward the challenge to the clerk of the court originating the disposition for examination of the court records pursuant to the challenge. The arresting agency shall then notify the individual or his attorney of the action. The clerk of the court shall cause the court records to be compared with the contents of the challenge to determine if there are discrepancies in the disposition segment of the record maintained by the arresting agency or record reviewed by the individual. The clerk of the court shall notify all those agencies that are party to the challenge, of the results and any corrective action. The agency in which the challenge occurred shall notify the individual or attorney of action taken.

~~9.0~~ § 1.9. Administrative review.

After the aforementioned review and challenge has been made in either the Central Criminal Records Exchange or the arresting agency, the individual or his attorney may request in writing that the agency head review the challenge if he is not satisfied with the results of the review and challenge. The agency head or his designated official shall review the challenge and notify the individual or his attorney of the decision within 30 days of the receipt of the written request.

~~10.0~~ § 1.10. Administrative appeal.

After the administrative review, the individual or his attorney may in writing within 30 days of notification of the decision of the administrative review, request that the director of the department review the challenge and conduct an informal hearing before the director or a designated hearing officer. The decision of the hearing officer shall be communicated to the individual or his attorney.

~~11.0~~ § 1.11. Correction.

If an error is discovered, all known copies of the record(s) shall be corrected by notifying appropriate criminal justice agencies, noncriminal justice agencies or individuals in writing of the corrections to be made. This communication shall include a request for the receiving criminal justice agencies to notify any and all additional agencies or individuals known to maintain such record(s) and to make the appropriate corrective action. Upon request, an individual or his attorney shall be given the name of all noncriminal justice agencies to whom data has been furnished.

~~12.0~~ § 1.12. Audit.

The department shall conduct annual audits of a random representative sampling of state and local criminal justice agencies so as to ensure and verify adherence to rules and regulations and ensure completeness and accuracy of

the criminal history records.

The audit reviews may include, but not be limited to, examination of record accuracy, completeness, effectiveness of the systematic audit procedures, evidence of dissemination limitations, security provisions and the individual's right of access and challenge.

~~13.0~~ § 1.13. Expunging and sealing.

~~13.1~~ A. Court order.

The director, upon receipt of a court order for the expungement of criminal history record, pursuant to § 19.2-392.2 of the Code of Virginia, shall by letter with an enclosed copy of the order, direct the Central Criminal Records Exchange and those agencies and individuals known to maintain or to have obtained such a record, to remove the manual record from its repository and place it in a sealed, separate file identified by the Central Criminal Records Exchange number or other identifying number and mark "EXPUNGED RECORD TO BE UNSEALED ONLY BY COURT ORDER."

Should the record be maintained in an automated system, the Central Criminal Records Exchange or the agency known to possess such a record shall cancel the automated record in whatever manner necessary to preclude on-line or off-line access to the record. The automated record should be electronically erased if necessary to fully effect the cancellation. The procedures as outlined herein for manual records shall be followed.

Should an expungement court order be directed to a criminal justice agency other than the department, the directed criminal justice agency shall comply as outlined herein and without delay advise the director in writing of such order together with a copy of the order. The director shall upon receipt of such notification follow the procedure previously mentioned.

~~13.2~~ B. Sealed record.

No sealed record shall be subject to inspection by anyone, except pursuant to an appropriate court order.

~~13.3~~ C. Procedure.

Expungement of records shall be made pursuant to § 19.2-392.2 of the Code of Virginia, or as otherwise provided by law.

PART II ~~14.0~~ CRIMINAL HISTORY RECORD INFORMATION SECURITY.

~~14.1~~ § 2.1. Applicability.

These regulations are applicable to all criminal justice information systems operated within the Commonwealth of Virginia. These rules and regulations on security are not

Final Regulations

applicable to court records or other records expressly excluded by § 9-184, Paragraph B of the Code of Virginia.

These regulations establish a minimum set of security standards which shall apply to any manual or automated recordkeeping system which collects, stores, processes, or disseminates criminal history record information.

Where individuals or noncriminal justice agencies are authorized to have direct access to criminal history record information pursuant to a specific agreement with a criminal justice agency to provide service required for the administration of criminal justice, such service support agreement will embody the restrictions on dissemination and the security requirements contained in these regulations and the Code of Virginia.

14.2 § 2.2. Responsibilities.

A. In addition to those responsibilities mandated by state and federal laws, the Department of State Police shall have the responsibility for the implementation of these regulations in regard to the operation of the Central Criminal Records Exchange.

B. The implementation of these regulations, except as set forth in subsection A, shall be the responsibility of the criminal justice agency as designated and authorized by the county or municipality in cases of political subdivisions. Nothing in these rules and regulations shall be deemed to affect in any way the exercise of responsibility conferred on counties and municipalities of the state under Title 15.1 of the Code of Virginia. The determination of the suitability of the actual procedures instituted by the criminal justice agency will be the subject of study in any audit by the department, mandated by § 9-186 of the Code of Virginia.

14.3 § 2.3. Physical access.

Access to any area in which criminal history record information is collected, stored, processed or disseminated shall be limited to authorized persons. Control of such access shall be ensured through the use of locks, guards and/or other appropriate means. Authorized personnel shall be clearly identified.

Procedures shall be established to detect an unauthorized attempt or access. Furthermore, a procedure shall be established to be followed in those cases in which an attempt or unauthorized access is detected. Such procedures shall become part of the orientation of any employee working in criminal history record information area(s) and shall be reviewed periodically to ensure their effectiveness.

Each criminal justice agency shall provide that direct access to criminal history record information shall be available only to authorized officers or employees of a criminal justice agency and, as necessary, other authorized personnel essential to the proper operation of the criminal

history record information system.

Each criminal justice agency shall institute procedures, where computer processing is not utilized, to ensure that an individual or agency authorized to have direct access is responsible for (i) the physical security of criminal history record information under its control or in its custody, and (ii) the protection of such information from unauthorized access, disclosure or dissemination.

Procedures shall be instituted to protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind or other natural or man-made disasters.

All system specifications and documentation shall be carefully controlled to prevent unauthorized access and dissemination.

14.4 § 2.4. Personnel.

In accordance with applicable law, ordinances, and regulations, the criminal justice agency shall:

A. Screen and have the right to reject for employment, based on good cause, all personnel to be authorized to have direct access to criminal history record information.

B. Have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such information where such personnel violate the provisions of these regulations or other security requirements established for the collection, storage, or dissemination of criminal history record information.

C. Ensure that each employee working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations. All designated employees shall be briefed on their roles and responsibilities in protecting the information resources in the agency. Special procedures connected with security shall be documented and disseminated to all those with a need to know. These procedures shall be reviewed periodically to ensure their relevance and continuing effectiveness.

14.5 § 2.5. Telecommunications.

In those systems where terminal access of criminal history record information is permitted, all terminal devices must be secure. Any terminal device capable of receiving or transmitting criminal history record information shall be attended during all periods of its operation. In all cases in which the terminal is unattended, the device, through some security means, shall be made inoperable.

Telecommunications facilities used in connection with the terminal shall also be secured. The terminal device shall be identified on a hardware basis to the host

computer. In addition, appropriate identification of the terminal operator may be required. Equipment associated with the terminal device shall be reasonably protected from possible tampering or tapping. In all cases in which a computer system provides terminal access to criminal history record information, the use of dial-up lines shall be prohibited to access criminal history record information.

14-6 § 2.6. Computer operations.

Where computerized data processing is employed, effective and technologically advanced software and hardware designs shall be instituted to prevent unauthorized access to such information.

Computer operations, whether dedicated or shared, which support criminal justice information systems shall operate in accordance with procedures developed or approved by the participating criminal justice agencies.

Criminal history record information shall be stored by the computer in such a manner that it cannot be modified, destroyed, accessed, changed, purged or overlaid in any fashion by noncriminal justice terminals.

Operational programs shall be used that will prohibit inquiry, record updates, or destruction of records, from any terminal other than criminal justice system terminals which are so designated.

The destruction of record shall be limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.

Operational programs shall be used to detect and store for the output of designated criminal justice agency employees all unauthorized attempts to penetrate any criminal history record information system, program or file.

Programs designed for the purpose of prohibiting unauthorized inquiries, unauthorized record updates, unauthorized destruction of records, or for the detection and logging of unauthorized attempts to penetrate any criminal history record information system shall be known only to the criminal justice agency employees responsible for criminal history record information system control or individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide such programs. The program(s) shall be kept continuously under maximum security conditions.

The criminal justice agency shall have the right to audit, monitor, and inspect procedures established pursuant to these rules and regulations.

[§ 2.7. Effective date:

These rules and regulations shall be effective on and after April 1, 1986, and until amended or rescinded. These

rules and regulations are amended pursuant to § 9-6.14:7.1 of the Code of Virginia and the Criminal Justice Services Board will receive, consider, and respond to petitions by any interested person at any time for the reconsideration or revision thereof.

§ 2.8. Adopted:

July 27, 1977

§ 2.9. Amended:

April 20, 1978

April 10, 1981

September 6, 1983

January 8, 1986]

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-02-0003. Procedures, Instructions and Guidelines for Single-Family Mortgage Loans to Persons of Low and Moderate Income.

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

Effective Date: January 21, 1986

NOTICE

Documents and forms referred to as exhibits have not been adopted by the authority as a part of the Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

Summary:

Under the current provisions of the authority's Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income, the maximum loan amount may not exceed 95% of the lesser of the sales price or appraised value of the home to be financed, except as may otherwise be approved by the authority in the

Final Regulations

case of a single family detached residence and townhouse. The amendment will permit the maximum amount of a loan insured by FHA or VA to be such other percentage of the lesser of the sales price or appraised value as would be permitted by FHA or VA. FHA currently permits loans in amounts not to exceed 98% of the lesser of the sales price or appraised value up to \$25,000 and 95% of the excess of such sales price or appraised value over \$25,000. VA currently permits loans up to 100% of the lesser of the sales price or appraised value.

The Procedures, Instructions and Guidelines presently required that FHA or VA loans be closed in the name of the Processing/Disbursing/Servicing Agents (PDS Agents) and that the loans be purchased by the authority from the PDS agents in accordance with a purchase and sale agreement. The amendment will authorize the authority, at its election, to require that the loans be closed in its name, and therefore it will not be necessary that the loan be purchased by the authority. Furthermore, under the amendment, FHA and VA loans would be processed in accordance with the provisions in the Procedures, Instructions and Guidelines relating to the making of single family loans rather than the authority's statutory and regulatory requirements relating to the purchase and sale of mortgage loans.

In order for a loan to be assumed under the current Procedures, Instructions and Guidelines, the assumptor must satisfy the authority's underwriting criteria as set forth therein. The amendment will provide that, in the case of FHA or VA loans, the assumptor must only satisfy such criteria as FHA or VA permits to be applied. The only underwriting criterion which the FHA and VA will presently permit the authority to apply is its maximum allowable adjusted income, as well as the applicable requirements under § 103A of the Internal Revenue Code which must be satisfied to maintain the tax-exemption of the authority's bonds.

The Procedures, Instructions and Guidelines presently require that new and existing homes to be financed by the authority satisfy certain property guidelines specified therein. Under the amendment, a new or existing home to be financed by a FHA or VA loan must satisfy only the applicable requirements of FHA or VA.

By using the maximum loan amount as calculated by FHA and VA, the authority anticipates that an additional 2,000 families will qualify during calendar year 1986 for loans under the program. Because of the FHA and VA limitation on the applicability of underwriting criteria for loan assumptions, the authority expects that an additional 500 loans will be assumed each year. The application of FHA and VA property standards is anticipated to increase by 2,000 during calendar year 1986 the number of homes which will qualify for financing by the authority under

the program. The closing of loans in the name of the authority and the elimination of the requirement for the purchase and sale of the loan is not expected to have any impact with respect to the number of persons served under the program. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the regulation.

VR 400-02-0003. Procedures, Instructions and Guidelines for Single-Family Mortgage Loans to Persons of Low and Moderate Income.

PART I. GENERAL.

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

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. Such income and sales price limitations shall be set forth in the Processing and Disbursing Guide described in § 1.2 C hereof.

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 procedures, instructions and guidelines where deemed appropriate by him for good cause, to the extent not inconsistent with the authority's act, rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines 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 procedures, instructions and guidelines 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 mortgage loans under the authority's single family housing program. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time.

§ 1.2. Processing/dispersing/servicing agents.

A. The processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Dispersing/Servicing Agents ("PDS agents") of the authority. To be initially approved as PDS agents, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and/or federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;
4. Have aggregate servicing and originating volume during the preceding five years at least equal to 10 times the principal amount of loans expected to be initially serviced and originated for the authority;
5. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;
6. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
7. Have a delinquency rate on its portfolio of serviced mortgage loans not in excess of 5.1%;
8. Have a foreclosure rate on portfolio of serviced mortgage loans not in excess of 1.0% annually;
9. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and
10. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service)

mortgage loans, the applicant must satisfy the qualification set forth in (4) and (5) above only with respect to the origination of mortgage loans.

All PDS agents approved by the authority shall enter into Processing/Dispersing/Servicing Agreements ("PDS agreements") with the authority containing such terms and conditions as the executive director shall require with respect to the processing, dispersing and servicing of mortgage loans hereunder. The PDS agents shall maintain adequate books and records with respect to such mortgage loans, 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 PDS agent for originating and servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS agreements.

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 PDS 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 PDS 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

Final Regulations

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. Processing and Disbursing Guide and Servicing Guide.

The Processing and Disbursing Guide attached hereto as Part II is incorporated into and made a part of these procedures, instructions and guidelines. The executive director is authorized to prepare and from time to time revise a Servicing Guide which shall set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the Servicing Guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the Processing and Disbursing 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 PDS agents and (ii) agree to purchase individual mortgage loans from its PDS 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 PDS agreement, the Processing and Disbursing Guide, the Servicing Guide and the authority's act and rules and regulations.

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 PDS 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 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 PDS 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 PDS 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 PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which PDS agents may qualify for such delegation. If such delegation has been made, the PDS agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the Processing and Disbursing Guide, the PDS agreement or the authority's act or rules and regulations, he may require the PDS Agents to purchase such mortgage loan, subject to

such terms and conditions as he may prescribe.

PART II.
VIRGINIA HOUSING DEVELOPMENT AUTHORITY
PROCESSING AND DISBURSING GUIDE.

Article I.
Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible, but the authority will restrict the number of loans that the PDS agent can originate for such persons and has established sales price limits for such households. An individual who is 62 or more years of age or who is handicapped or disabled shall not be deemed a one-person household for these purposes.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

1. Allocation to one-person households.

The maximum number of one-person households will be limited to 17% of all units financed. Units will be allocated by planning district with each planning district to receive funds based on its relative need. Allocation of one-person households to PDS agents and builders will be made based upon the dollar amount of their allocation and geographical location. The maximum number of one-person households allowed will be specified in the Forward Commitment Agreement and Builder Commitment Agreement.

§ 2.2. Compliance with certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

The federal Mortgage Subsidy Bond Tax Act of 1980 imposes certain new requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with this federal law, VHDA is establishing certain procedures which must be performed by the PDS 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 PDS agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing, initialing and signing the "Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980" (the "checklist") (Section II, Exhibit A) prior to VHDA approval of each loan. No loan will be approved by VHDA unless all of the federal eligibility requirements are met as well as the usual VHDA requirements set forth in

other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

An applicant will be considered an eligible borrower for a VHDA mortgage loan, if the applicant meets all of the following federal criteria:

1. Has not had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan. (See B. Three-year requirement);
2. Agrees to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See C. Principal residence requirement);
3. Will 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 D. New mortgage requirement);
4. Has contracted to purchase an eligible dwelling. (See § 2.2.2. Eligible dwelling);
5. Has executed a borrower affidavit at the time of loan application (to be confirmed on the date of loan closing); and
6. Agrees not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan without the prior written consent of VHDA.

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, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the borrower affidavit that at no time during the three years preceding the execution of the mortgage loan has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3. "Targeted areas"); however, even if the residence is located in a "targeted area," the prior tax returns described in 3. below must be obtained for the purpose of determining compliance with other requirements.

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

- a. A fee simple interest,

Final Regulations

- 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 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 PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three years preceding execution of the mortgage or certified copies of the returns. 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 for such year is waived.

The PDS 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 PDS agent. The PDS agent must, with due diligence, verify the representations in the

borrower affidavit regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to VHDA that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of 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 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 VHDA. 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 rehabilitation loan) after the closing of the mortgage loan on the borrower affidavit and as part of the attachment to the deed of trust.

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

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

- a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);
- b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and
- c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability 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.

5. Review by PDS agent. The borrower affidavit must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS agent shall review the appraiser report of a VHDA-approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to VHDA for approval.

6. Post-closing procedures. The PDS 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 VHDA if such addresses are not the same. Subject to VHDA's approval, the PDS 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 made to refinance a loan for the construction of an eligible dwelling, VHDA shall not make such mortgage loan until it has determined that such

construction has been satisfactorily completed.

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

E. Multiple loans.

Any eligible borrower may not have more than one outstanding VHDA mortgage loan.

§ 2.2.2. Eligible dwellings.

A. General.

In order to qualify as an eligible dwelling for which a VHDA 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 a VHDA approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General. 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 such federal limits equal or exceed the VHDA sales price limits shown in § 2.4. Therefore, the residence is an eligible dwelling if the acquisition cost is not greater than the VHDA sales price limit. In the event that the acquisition cost exceeds the VHDA sales price limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling.

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

a. Acquisition cost includes:

- (1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a

Final Regulations

related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Section II Exhibit G, Item 4).

(3) Where the eligible dwelling is subject to a ground rent, the capitalized value of any ground rent calculated using a discount rate equal to the yield of the VHDA bonds from which the mortgage loan was made. VHDA will supply bond yield information to PDS agents on request for the purpose of calculating capitalized ground rent.

(4) 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.

3. Acquisition cost worksheet. The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this Subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the borrower affidavit required to be submitted with the loan submission. The seller affidavit shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

4. Review by PDS agent. The PDS agent shall determine that the acquisition cost of the eligible dwelling does not exceed the authority's sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling. As part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to VHDA that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this Subsection B. In addition, the PDS agent must compare the information contained in the acquisition cost worksheet with the information contained in the seller affidavit and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

5. Independent appraisal. VHDA 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.

§ 2.3. Targeted areas.

A. General.

In accordance with the Mortgage Subsidy Bond Tax Act of 1980, VHDA 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. VHDA will exercise due diligence in making mortgage loans in targeted areas by advising PDS 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 a PDS agent exclusively for targeted areas will be specified in the Forward Commitment Agreement.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement in § 2.2.1 B.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in (1) below, or an area of chronic economic distress, as described in (2) below.

(1) 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. Maps indicating the location of current qualified census tracts will be supplied to the PDS agents by VHDA.

(2) 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 Mortgage Subsidy Bond Tax Act of 1980. PDS agents will be informed by VHDA as to the location of areas so designated.

City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ Richmond-Peterburg MSA includes: 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.

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA MSA, the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/ Roanoke MSA.

§ 2.4. Sales price limits.

The authority's maximum allowable sales prices shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC-MD- VA MSA			
1/	\$104,200**	\$104,200**	\$90,300**
Norfolk-Virginia Beach- Newport News MSA			
2/	\$78,500	\$78,500	\$68,300
North Piedmont/Richmond- Petersburg MSA/Roanoke MSA			
3/	\$71,000	\$71,000	\$67,500
Remainder of State			
4/	\$61,100	\$61,100	\$56,500

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth

* NOTE: For information regarding maximum allowable sales prices of residences financed by the 1981A (13.7%), 1982A (13.85%) or "blend" of 1982A and 1982B (11.75%), please contact the VHDA Staff.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.5. Net worth.

To be eligible for VHDA financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of adjusted income over \$20,000.

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.

§ 2.6. Income requirements.

A. Maximum income.

The maximum adjusted incomes for eligible borrowers shall be as follows:

MAXIMUM ALLOWABLE ADJUSTED INCOMES

Applicable to all bond issues except 1981A (13.7%),

Final Regulations

1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC-MD-VA MSA			
1/	\$41,200**	\$41,200**	\$36,500**
Norfolk-Virginia Beach Newport News MSA			
2/	\$34,300	\$34,300	\$29,000
Northern Piedmont/Richmond-Petersburg MSA/Roanoke MSA			
3/	\$29,900	\$29,900	\$28,700
Remainder of State			
4/	\$29,400	\$29,400	\$27,200

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ Richmond-Petersburg MSA includes: 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.

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA-MSA, the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/ Roanoke MSA.

* NOTE: For information regarding the maximum allowable adjusted incomes of persons or families acquiring residences financed by 1981 Series A (13.7%), 1982 Series A (13.85%) and "blend" of 1982A and 1982B (11.75%), please contact the VHDA staff.

B. Minimum income.

An applicant is eligible for VHDA financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed 32% of monthly gross income. Also, the applicant is eligible when monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Section II, Exhibit B)

§ 2.7. Calculation of loan amount.

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

Condominiums - 95% (or, in the case of a loan insured or guaranteed by FHA or VA, such other percentage as may be permitted by FHA or VA) of the sales price or appraised value, whichever is less.

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.) Also, the value of personal property included in the appraisal must be deducted from the appraised value. (See Appraiser Report, Section II, Exhibit H.)

§ 2.8. Mortgage insurance requirements.

Unless the loan is insured or guaranteed by FHA or VA, 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 all loans which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If VHDA requires FHA or VA insurance, the loan will either, at the election of the authority, (a) be closed in VHDA's name in accordance with the procedures and requirements herein or (b) be closed in the PDS agent's name and purchased by VHDA once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event VHDA purchases an FHA or VA insured loan, the PDS agent must enter into a purchase and sale agreement. (See Section II, Exhibit C.)

§ 2.9. Underwriting.

A. Employment and income.

B. Length of employment.

1. The applicant must be employed a minimum of six months with present employer. An exception to the

six-month requirement can be granted by VHDA if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

C. Self-employed applicants.

1. 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. The following information is required at the time of application:

a. Federal income tax returns for the two most recent tax years.

b. 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.

D. Income derived from sources other than primary employment.

E. Alimony and child support.

1. A copy of the legal document and sufficient proof must be submitted to VHDA verifying that alimony and child support are court ordered and are being received.

F. 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.

G. 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.

NOTE: Under the Mortgage Subsidy Bond Tax Act of 1980, no part of the residence may be used in a trade or business.

H. 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.

I. Credit.

VHDA requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain a VHDA loan.

J. 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. VHDA has complete discretion to decline a loan when a bankruptcy is involved.

K. Judgments.

An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for a VHDA loan.

§ 2.10. Funds necessary to close.

A. Cash.

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. VHDA does not permit the applicant to borrow funds for this purpose. 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 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.

Final Regulations

§ 2.11. Loan assumptions, leasing, terms and owner occupancy.

A. Loan assumptions.

VHDA does not currently permit loan assumptions, except that loan assumptions shall be permitted with respect to mortgage loans financed from the proceeds of the authority's single-family bonds issued on or after December 17, 1981, (loans numbered 40,000 and on) if the requirements set forth in § 2.2.1 B and C and § 2.2.2. B herein are satisfied and if the [~~assumption~~ *assumptor*] satisfies the VHDA underwriting criteria set forth herein or, in the case of a loan insured or guaranteed by FHA or VA, such criteria herein as FHA or VA permits to be applied. Such policy of permitting loan assumptions is subject to change at any time without notice by the authority in its discretion.

B. Leasing.

The owner may not lease the property without VHDA's prior written consent.

C. Loan term.

Loan terms may not exceed 30 years.

D. 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. Preparation of application package.

A. The application package submitted to VHDA for approval must contain the following:

1. Reservation card.
2. Application - the application must be made on Virginia Housing's approved application form.
3. Preliminary underwriting form.
4. Credit report issued by local credit bureau and miscellaneous information as applicable - explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller

and all parties entering into the contract and state which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) - form should be FNMA or FHLMC and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to Virginia Housing or who has a certification from a trade organization approved by Virginia Housing (photos and required supporting documentation).

11. Loan submission cover letter.

12. Appraiser's report.

13. Acquisition cost worksheet.

14. Affidavit of seller.

15. Affidavit of borrower.

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 10 in the affidavit of borrower. (NOTE: If a letter from the IRS is to be delivered pursuant to paragraphs § 2.2.1 B3 of the Processing, Disbursing Guide, such letter must be enclosed herewith).

17. Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

18. Signed request for copy of tax returns (No. 4506).

19. HUD information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), and Regulations Z (Truth-In-Lending) as amended April 1, 1981. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. ECOA notice statement to borrower of provisions of the Equal Credit Opportunity Act, with borrower's acknowledgement of receipt.

21. Truth-in-lending disclosure.

After the application package has been completed, it should be forwarded to:

Single Family Division
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

§ 2.13. Commitment.

Upon approval of the applicant, VHDA will send a mortgage loan commitment (see Section II, Exhibit J) to the borrower in care of the agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the agent. A commitment must be issued in writing by an authorized officer of VHDA and signed by the applicant before a loan may be closed.

§ 2.13.1. Loan rejection.

If the borrower fails to meet VHDA underwriting criteria or if the property fails to meet VHDA property standards, a loan rejection letter will be issued by VHDA (see Section II, Exhibit L). If the application is resubmitted, the credit documentation cannot be more than 90 days old and the appraisal more than six months old.

§ 2.14. Loan settlement.

A. Loan closing.

Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send VHDA's letter of closing instructions (see Section II, Exhibit N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. VHDA will provide the PDS agent with the documents which the closing attorney is required to complete. After VHDA reviews the closing attorney's preliminary work and approves closing, a loan proceeds check will be sent to the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions (see Section II, Exhibit M). Closing attorneys may use loan proceeds checks when in a position to conduct the loan closing and disburse proceeds in accordance with Virginia Housing's letter authorizing the closing and instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with Virginia Housing's requirements, Regulation Z and ECOA. A certified or cashier's check is to be provided at loan closing for the buy-down points, if any. The check is to be payable to VHDA. Under the applicable federal regulations the original proceeds of the bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. Payment of buy-down points out of mortgage loan proceeds would be using bond proceeds to pay interest rather than the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds. Buy-down points may not be deducted from loan proceeds.

B. Post-closing requirements.

In accordance with § 9 of the PDS agreement, all post-closing documents, including the post-closing cover letter (see Section II, Exhibit P), should be forwarded as follows to:

Single Family Division
Post-Closing Section
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

Within five days after the closing of the loan, the PDS agent must forward the fees, interest and any other money due VHDA, a repayment of VHDA's outstanding construction loan, if any, PMI affidavit and all closing documents except the original recorded deed of trust and title insurance policy.

Within 45 days after loan closing, the PDS agent shall forward to VHDA the original recorded deed of trust and title insurance policy.

During the 120-day period following the loan closing the agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify VHDA if such addresses are not the same or if there is any such change of address. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the checklist for certain requirements of the Mortgage Subsidy Bond Tax Act may not be correct or proper, the agent shall immediately notify the authority.

§ 2.15. Property guidelines - existing housing.

Existing [~~house~~ houses] to be financed by loans insured or guaranteed by FHA or VA must meet any and all applicable requirements imposed by FHA or VA.

All *other* existing houses must meet the following minimum requirements; however, each house will be reviewed on a case-by-case basis with regard to marketability and security of the loan:

1. 100 amp electrical service is required.
2. No space heaters or circulators are allowed; however, a floor furnace or wall furnace is acceptable in a one-story house if such a furnace adequately heats the house.
3. Pier foundations are considered on a case-by-case basis.

Final Regulations

4. All property must be located on a state-maintained road with a minimum frontage of 30 feet. No easements or right-of-ways are allowed as access to properties. House should not be located more than 200 feet from the state-maintained road.

5. Joint ownership of well and septic is not allowed and the well must be on the subject property.

6. 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.

7. The floor plan must be acceptable with bathrooms and bedrooms centrally located and providing maximum privacy. Primary bathroom locations are not acceptable if the traffic patterns require entrance through another living area (e.g. a bathroom which opens directly into the kitchen).

8. The house must have a sufficient number of bedrooms to properly serve the borrower. Only bedrooms will be used as sleeping quarters, with each bedroom to be occupied by no more than two persons.

9. Mobile homes are not acceptable.

§ 2.16. Property guidelines - New construction.

New homes to be financed by loans insured or guaranteed by FHA or VA must meet any and all applicable requirements imposed by FHA or VA.

A. All other new homes must meet the Uniform Statewide Building Code (the "Code") and the Department of Housing and Urban Development Minimum Property Standards (MPS) in addition to the following VHDA underwriting requirements:

1. Minimum of 4/12 pitch roof.
2. Storm windows or double glazed windows are required.
3. Insulated exterior doors or storm doors are required.
4. All property must be located on state-maintained roads.
5. Energy package in conformance with FHMA energy standards.
6. Mobile homes are not acceptable.

B. Also, the following standards are preferred:

1. All ceilings and 75% of the walls be 1/2 inch drywall or plaster.

2. Kitchen cabinets should comply with the following: doors should be a minimum of 5/8 inch and end panels should be a minimum of 1/2 inch thick. Materials should be wood or plywood. All stiles and rails should be of wood. Drawer fronts should be a minimum of 5/8 inch and sides should be a minimum of 3/8 inch wood or plywood, bottoms should be 1/4 inch plywood. Shelves should be a minimum of 5/8 inch wood, plywood or particle board. Plywood and particle board shelves should have edging.

3. Ceiling height of eight feet or greater.

4. Pier foundations are discouraged except where brick or block curtain wall completely covers piers.

5. Insulated sheathing.

6. If vertical siding is used, fir, cedar or redwood is preferred.

7. Fiberglass insulation in ceiling, floor and wall.

8. The use of wood foundations is discouraged unless the type of construction results in substantial savings to be passed on to the buyer.

9. Hardwood floors unless a 30 ounce carpet is used.

§ 2.17. Substantially rehabilitated.

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

1. Substantially rehabilitated means improved to a condition which meets VHDA 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 appraisal submitted with the loan application, must list the improvements and estimate the value of the improvements. Virginia Housing's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards.

4. VHDA 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 Mortgage Subsidy Bond Tax Act of 1980, the proceeds of VHDA cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). VHDA 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.

§ 2.18. Condominium requirements.

A. Policy on condominiums.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to Virginia Housing for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which Virginia Housing has not previously financed the purchase of any units, Exhibit U providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. Virginia Housing will review the above described form and financial information. If on the basis of such review Virginia Housing finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit U requires that the Unit Owners Association agree to submit to Virginia Housing upon its request, the condominium's annual financial statements, operating budget and other information as Virginia Housing may require. The association is also required to agree that Virginia Housing shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for Virginia Housing's termination of its approval of the condominium.

3. Each year Virginia Housing will send Exhibit V to the Unit Owners Association requesting information concerning the condominium including a statement as

to the status of the VA, FNMA and/or FHLMC approvals and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, Virginia Housing may terminate its approval of the condominium. Virginia Housing will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, Virginia Housing will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event Virginia Housing determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of Virginia Housing, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by Virginia Housing.

4. If a condominium is approved by FNMA, Virginia Housing will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, Virginia Housing will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by Virginia Housing and exceeds the foregoing percentage limitations, Virginia Housing will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-02-4. Commercial Diving Operations Standard - Virginia Occupational Safety and Health Standards for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

On November 26, 1982, Federal OSHA exempted scientific diving operations from coverage under the Commercial Diving Operations Standard (29 CFR 1910, Subpart T), provided that the diving meets the definition of "scientific diving," and is under the direction and control of a diving program utilizing a safety manual and a diving control board meeting certain specified criteria (47 Fed. Reg. 53357; 1910.401(a)(2)(iv)). On April 4, 1984, the United States Court of Appeals for the District of Columbia Circuit

Final Regulations

ordered Federal OSHA to "authoritatively state guidelines that would indicate how the 'scientific' and 'commercial' classifications [of the standard] will be applied to arguably ambiguous cases." The guidelines adopted in Appendix B to 29 CFR 1910 Subpart T were Federal OSHA's response to the Circuit Court order.

No additional cost or adverse impact to Virginia employers is anticipated since the guidelines do not impose any additional regulatory burden but are merely interpretive of a preexisting standard.

Federal Regulation 29 CFR 1953.23(a)(2) requires Virginia to adopt changes to federal standards in verbatim or to promulgate equivalent changes which are at least as effective. The Virginia Code reiterates this requirement at section 40.1-22(5). Adopting Appendix B to 29 CFR 1910, Subpart T, allows Virginia to conform to the federal standard.

Editor's Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Virginia Occupational Safety and Health Standards for General Industry, Commercial Diving Operations Standard is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire standard will not be printed in the Virginia Register of Regulations; however, the January 9, 1985 amendment adding a new Appendix B at the end of Subpart T of 29 CFR 1910 is set out. Copies of the Commercial Diving Standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-4. Commercial Diving Operations Standard - Virginia Occupational Safety and Health Standards for General Industry.

The Virginia Occupational Safety and Health Codes Board has adopted and issue an amendment adding a new Appendix B to the Commercial Diving Standard as codified in 29 CFR 1910 Subpart T and published in the Federal Register, Vol. 50, No. 6, Wednesday, January 9, 1985. The amendment, as adopted, is set out below:

Appendix B - Guidelines for Scientific Diving.

This appendix contains guidelines that will be used in conjunction with § 1910.401(a)(2)(iv) to determine those scientific diving programs which are exempt from the requirements for commercial diving. The guidelines are as follows:

1. The Diving Control Board consists of a majority of active scientific divers and has autonomous and absolute authority over the scientific diving program's operation.

2. The purpose of the project using scientific diving is the advancement of science; therefore, information

and data resulting from the project are non-proprietary.

3. The tasks of a scientific diver are those of an observer and data gatherer. Construction and trouble-shooting tasks traditionally associated with commercial diving are not included within scientific diving.

4. Scientific divers, based on the nature of their activities, must use scientific expertise in studying the underwater environment and, therefore, are scientists or scientists in training.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building
910 Capitol Street
Richmond, Virginia

POST OFFICE BOX 546
RICHMOND, VIRGINIA 23204
(804) 788-2541

January 31, 1986

Mr. William G. Bryson, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
P. O. Box 12064
Richmond, Virginia 23241

Attention: Margaret Gravett
Administrative Staff Specialist

Dear Mr. Bryson:

This will acknowledge receipt of the amendment to the Commercial Diving Operations Standard--Virginia Occupational Safety and Health Standards for General Industry, which was adopted by the Virginia Safety and Health Codes Board on November 19, 1985, to become effective on April 1, 1986.

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 the Virginia Standard (VR 425-02-4) is identical to the federal regulation.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

* * * * *

Title of Regulation: VR 425-02-5. Power Lawnmower Standard - Virginia Occupational Safety and Health Standards for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

On February 1, 1985, Federal OSHA published amendments to its Power Lawnmower Standard (29 CFR 1910.243(e)), in the Federal Register (50 Fed.

Reg. 4648).

In 1978, in attempting to streamline federal regulations, certain general industry safety and health standards and parts of standards were revoked. Definitions for the terms "sulky-type mower" and "deadman control" were revoked in error. These terms have continued to be used in enforcement of 29 CFR 1910.243(e).

Federal OSHA's justification for making these amendments without further notice or public procedure is that the changes do not alter the requirements of the standard. Adopting these amendments to 29 CFR 1910.243(e) will allow Virginia to conform to the federal standard. No additional cost or adverse impact to Virginia employers is anticipated.

Editor's Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Virginia Occupational Safety and Health Standards for General Industry, Power Lawnmower Standards is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire standard will not be printed in the Virginia Register of Regulations; however, the February 1, 1985, amendments are set out. Copies of the Power Lawnmower Standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-5. Power Lawnmower Standard - Virginia Occupational Safety and Health Standards for General Industry.

The Virginia Occupational Safety and Health Codes Board has adopted and issue amendments relating to the Power Lawnmower Standard as codified in 29 CFR 1910.243(e) and published in the Federal Register, Vol. 50, No. 22, Friday, February 1, 1985. The amendments, as adopted, are set out below:

§ 1910.243. Guarding of portable powered tools.

* * * *

(e) Power lawnmowers--(1) General requirements. (i) Power lawnmowers of the walk-behind, riding-rotary, and reel power lawnmowers designed for sale to the general public shall meet the design specifications in "American National Standard Safety Specifications for Power Lawnmowers" ANSI B71.1-X1988. These specifications do not apply to a walk-behind mower which has been converted to a riding mower by the addition of a sulky. Also, these specifications do not apply to flail mowers, sicklebar mowers, or mowers designed for commercial use.

* * * *

(3) * * *

(vii) Wheel drive disengaging controls, except

deadman controls, shall move opposite to the direction of the vehicle motion in order to disengage the drive. Deadman controls shall automatically interrupt power to a drive when the operator's actuating force is removed, and may operate in any direction to disengage the drive.

(4) * * *

(vi) Hand-operated wheel drive disengaging controls shall move opposite to the direction of vehicle motion in order to disengage the drive. Foot-operated wheel drive disengaging controls shall be depressed to disengage the drive. Deadman controls, both hand and foot operated, shall automatically interrupt power to a drive when the operator's actuating force is removed, and may operate in any direction to disengage the drive.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
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VIRGINIA CODE COMMISSION
General Assembly Building
510 Capitol Street
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RICHMOND, VIRGINIA 23204
(804) 780-3001

January 31, 1986

Mr. William G. Bryson, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
P. O. Box 12064
Richmond, Virginia 23241

Attention: Margaret Gravett
Administrative Staff Specialist

Dear Mr. Bryson:

This will acknowledge receipt of the amendment to the Power Lawnmower Standards--Virginia Occupational Safety and Health Standards for General Industry, which was adopted by the Virginia Safety and Health Codes Board on November 19, 1985, to become effective on April 1, 1986.

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 the Virginia Standard (VR 425-02-4) is identical to the federal regulation.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:s11

EMERGENCY REGULATION

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: Emergency Rules and Regulations Pertaining to the Prevention of the Introduction and Possible Spread of Avian Influenza in Poultry Flocks and Hatcheries and Their Products in Virginia.

Statutory Authority: § 3.1-734 of the Code of Virginia.

Effective Date: January 24, 1986

Declaration of Emergency

The State Veterinarian finds that the possible spread of avian influenza from the recent outbreak in Pennsylvania to the poultry industry of the Commonwealth poses an imminent threat to the safety and welfare of Virginia poultry. This finding is based on the following facts:

(1) Avian influenza is an infectious and contagious respiratory disease in poultry. The disease is caused by a virus and poses no threat to human beings.

(2) Once a flock is infected, the primary means of disease control is depopulation of the flock.

(3) The egg and poultry industry is a major contributor to the economy of this state. Currently, it has an estimated value of \$750 million. Rockingham County alone enjoys an annual payroll of \$50-\$60 million from this industry.

(4) Avian influenza has caused great economic distress in Virginia and other states. During the 1983-84 outbreak of this disease in Virginia, the poultry industry in the state sustained losses of approximately \$40 million.

(5) An outbreak of this disease could decimate the poultry industry of Virginia.

(6) Avian influenza (H5N2) again has been confirmed as existing in Pennsylvania. Epidemiological data from the 1983-84 epizootic indicates that this virus came to Virginia from Pennsylvania. The most effective means of preventing a recurrence of avian influenza in Virginia are those measures that will place restrictions on the movement of poultry and poultry products from areas known to be affected with the disease. The means proposed are considered minimal. Lesser measures would be ineffective in preventing the introduction of this disease into Virginia.

In view of the foregoing, a finding of emergency was determined by the Virginia State Veterinarian on January 24, 1986. Such emergency precludes adoption by the usual procedures of the Virginia Administrative Process Act (APA), § 9-6.14:6 of the Code of Virginia.

The approval of the Governor will allow the State

Veterinarian to dispense with the public procedures prescribed in the APA with respect to regulations, and will authorize the State Veterinarian to publish any emergency proclamations (including the emergency regulation hereunder) necessary to protect the poultry industry of Virginia from avian influenza. This emergency regulation (Poultry Disease Emergency Proclamation 1986-1) will expire on July 24, 1986, before which time new regulations, if any, will be developed under the APA provisions.

Submitted by: /s/ William D. Miller, D.V.M., State Veterinarian

Date: January 23, 1986

Approved by: /s/ S. Mason Carbaugh, Commissioner, VDACS

Date: January 23, 1986

Approved by: /s/ Richard M. Bagley, Secretary, Commerce and Resources

Date: January 23, 1986

Approved by: /s/ Gerald L. Baliles, Governor, Commonwealth of Virginia

Date: January 24, 1986

Filed: /s/ Joan W. Smith, Registrar of Regulations

Date: January 24, 1986

Time: 2:16 p.m.

POULTRY DISEASE EMERGENCY PROCLAMATION 1986-1

I. INTRODUCTION.

The Commonwealth of Virginia having been officially notified of an outbreak of avian influenza (H5N2), an infectious and contagious disease of poultry, in Snyder County, Pennsylvania, and the possibility of the existence of this disease in Fulton County, Pennsylvania, deems it necessary at this time to set forth this Poultry Disease Emergency Proclamation to prevent the introduction of avian influenza into the poultry population of the Commonwealth.

II. AUTHORITY

The State Veterinarian, by virtue of the authority contained in Chapter 27, Title 3.1, § 3.1-734 of the Code of Virginia, hereby issues the Poultry Disease Emergency Proclamation set forth herein to become effective at midnight on January 24, 1986. Restrictions are imposed on the importation of poultry and poultry products into the Commonwealth of Virginia from certain counties of the states of Pennsylvania and Maryland. This proclamation will remain in effect for 180 days from this date unless previously withdrawn.

III. LIVE POULTRY OTHER THAN POULTRY FOR

Emergency Regulation

SLAUGHTER.

A. Live poultry other than poultry for slaughter from the Pennsylvania Counties of Snyder and Fulton, will be accepted for importation into Virginia only when the following conditions have been met:

- (1) Birds intended for shipment have been held in isolation from all other poultry for a period of not less than 30 days.
- (2) Pretesting for avian influenza of the isolated birds will have been performed within 10 days of the termination of the isolation period.
- (3) Birds are from a flock that has been under a Pennsylvania state supervised avian influenza surveillance program for at least 30 days.
- (4) A Certificate of Veterinary Inspection has been completed by the Pennsylvania State Veterinarian or his designated representative for each intended shipment.
- (5) A Virginia permit number has been obtained and recorded on the Certificate of Veterinary Inspection.

B. Live poultry other than poultry for slaughter from the Pennsylvania counties of Union, Centre, Northumberland, Mifflin, Juniata, Bedford, Huntingdon, and Franklin, and from the Maryland counties of Washington and Allegany, will be accepted for importation into Virginia only when the following conditions are met:

- (1) Pretesting for avian influenza will have been performed for all shipments within 10 days of importation.
- (2) Birds are from a flock that has been under a Pennsylvania or Maryland (whichever is appropriate) state supervised avian influenza surveillance program for at least 30 days.
- (3) A Certificate of Veterinary Inspection has been completed by the Pennsylvania or Maryland State Veterinarian (whichever is appropriate) or their designated representative for each intended shipment.
- (4) A Virginia permit number has been obtained and recorded on the Certificate of Veterinary Inspection.

C. Live poultry other than poultry for slaughter from all other counties of the states of Pennsylvania and Maryland is not affected by this emergency proclamation.

IV. SLAUGHTER POULTRY.

A. Slaughter poultry from any point of origin within the Pennsylvania counties of Snyder, Fulton, Union, Centre, Northumberland, Mifflin, Juniata, Bedford, Huntingdon, and Franklin, and from any point of origin within the

Maryland counties of Washington and Allegany, may be imported into Virginia during the period of this proclamation, when the following conditions have been met:

- (1) Birds are found to be negative for avian influenza upon pretesting within 10 days of importation,
- (2) A Certificate of Veterinary Inspection has been completed by the Pennsylvania or Maryland State Veterinarian (whichever is appropriate) or his designated representative for each intended shipment, and
- (3) A Virginia permit number has been obtained and recorded on the Certificate of Veterinary Inspection.

B. Slaughter poultry from all other counties of the states of Pennsylvania and Maryland is not affected by this emergency proclamation.

V. CHICKS AND POULTS.

A. Chicks and poults will be allowed to enter Virginia if accompanied with a National Poultry Improvement Plan (NPIP) VS Form 9-3, entitled Report of Sales of Hatching Eggs, Chicks and Poults, provided a Virginia permit number has been obtained and recorded on the NPIP form.

B. Chicks and poults originating in Virginia will not be transported into Snyder or Fulton Counties, Pennsylvania, without prior approval of the Virginia State Veterinarian.

VI. EGGS.

A. Hatching Eggs.

- (1) Importation into Virginia of hatching eggs from Snyder and Fulton Counties, Pennsylvania, is prohibited.
- (2) Hatching eggs imported into Virginia from the Pennsylvania counties of Union, Centre, Northumberland, Mifflin, Juniata, Bedford, Huntingdon and Franklin, and from the Maryland counties of Washington and Allegany, must be accompanied by a Certificate of Inspection (EXHIBIT A) signed by a veterinarian or poultry production manager certifying that such eggs are from flocks free of avian influenza.

(3) Hatching eggs from all other counties of the states of Pennsylvania and Maryland are not affected by this emergency proclamation.

(4) A Virginia permit number must be obtained and recorded on the Certificate of Inspection (EXHIBIT A).

B. Table Eggs.

Emergency Regulation

(1) All table eggs from Snyder and Fulton Counties, Pennsylvania, shall be from avian influenza negative flocks and shall be sanitized before such eggs may be imported into the Commonwealth of Virginia.

(2) Shipments of these table eggs from Snyder and Fulton Counties for importation into the Commonwealth of Virginia must be accompanied by a Certificate of Inspection (EXHIBIT A) signed by a veterinarian or a poultry production manager certifying that such eggs are from flocks free of avian influenza.

(3) A Virginia permit number must be obtained and recorded on the Certificate of Inspection (EXHIBIT A).

(4) Table eggs from all other counties of the states of Pennsylvania and Maryland are not affected by this emergency proclamation.

VII. PERMITS.

To obtain a required permit number, the office of the Virginia State Veterinarian, Washington Building, Suite 600, 1100 Bank Street, Richmond, Virginia 23219, shall be contacted. This may be done by telephoning 804-786-2483 or 804-786-2481, Monday through Friday from 8:15 AM to 5:00 PM.

The provisions of the above proclamation notwithstanding, when from reliable information it is learned that avian influenza has spread to other localities, the Virginia State Veterinarian is authorized to amend this proclamation to cover these localities.

Emergency Regulation

CERTIFICATE OF INSPECTION
(SHELL EGGS)

for use in

THE CONTROL AND ERADICATION OF AVIAN INFLUENZA

Virginia Permit No.: _____

Date: _____

Time of Shipment: _____

SHIPPER

RECEIVER

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Eggs for:

_____ Commercial

_____ Hatching

Certifying Statement

This is to certify that eggs in this shipment are from flocks free of avian influenza, and not from an area quarantined for avian influenza, and have been washed and sanitized in accordance with the emergency regulations.

(Signature of Verifying Officer)

This is to certify that all reusable materials used in shipping these eggs have been:

_____ Washed and disinfected

_____ Destroyed

(Signature of Verifying Officer)

Verifying Officer's Name (Print) _____

Verifying Officer's Position _____

Address _____

City, State, Zip _____

EXHIBIT A

Emergency Regulation

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-10-49.2 Retail Sales and Use Tax Regulation Innovative High Technology Industries and Research.

Statutory Authority: § 58.1-608 of the Code of Virginia.

Effective Date: January 16, 1986 through November 30, 1986

Preamble

Section 58.1-608 of the Code of Virginia provides the various exemptions from the Virginia Retail Sales and Use Tax. Among the exemptions granted are ones for tangible personal property used directly in industrial manufacturing and tangible personal property used directly and exclusively in basic research or research and development in the experimental or laboratory sense. Both statutory exemptions are generally available to businesses that manufacture high technology products and/or that conduct research activities in technologically innovative fields.

The Department of Taxation finds that an emergency situation exists necessitating the immediate promulgation of this regulation; that such emergency precludes the usual procedures set forth for the promulgation of regulations in the Virginia Administrative Process Act ("APA"), Virginia Code § 9-6.14:1 et seq., and that emergency promulgation of this regulation is permitted in accordance with APA, § 9-6.14:4.1 of the Code of Virginia.

The precise reason and factual basis for the emergency situation is that a definitive statement of Virginia's sales and use tax policy with respect to high technology businesses currently does not exist. This regulation provides such a policy statement and will enable high technology businesses to determine how the sales and use tax will apply to their operations. As Virginia's tax climate with respect to such businesses is extremely favorable, this regulation will be an important component of the state's economic development efforts. Without the adoption of this regulation on an emergency basis, a delay of several months will be encountered in formally disseminating the information contained herein to the national business community.

This emergency regulation shall be in effect upon the signature of the Governor. It will expire on December 1, 1986, at which time, a regulation will have been adopted under the procedures set forth in the APA.

The Department of Taxation will receive, consider and respond to any petitions to reconsider or revise this emergency regulation which might be filed by interested persons or groups prior to its expiration.

VR 630-10-49.2. Retail Sales and Use Tax Regulation: Innovative High Technology Industries and Research.

A. Generally.

Generally, any person producing a "high technology" or technologically innovative product, including systems, for sale or resale is entitled to the industrial manufacturing exemptions set forth in VR 630-10-63. In addition, a person engaged in research and/or developmental activities in the experimental or laboratory sense which have as their ultimate goal the advancement of technology, the development of new products or processes, the improvement of existing products or processes, or the development of new uses for existing products or processes, is generally entitled to the research exemption set forth in VR 630-10-92. Sales of tangible personal property by a high technology business are generally subject to the sales tax unless the seller takes from the purchaser a valid certificate of exemption. As set forth in VR 630-10-91.1, some transactions which involve both the provision of personal services and the sale of tangible personal property are not subject to the tax. Purely service transactions which do not involve a transfer of tangible personal property are also not subject to the tax.

High technology businesses already located or planning to locate in Virginia are encouraged to request rulings from the Tax Commissioner in order to clarify the exemptions available to them under the Virginia Retail Sales and Use Tax Act.

B. Industrial manufacturing exemptions generally.

The industrial manufacturing exemptions are explained in detail at VR 630-10-63. Generally, those items exempted from the tax include materials that become a component part of finished products, machinery and tools (including computer hardware and software) that are used directly in production, power used to run exempt machinery, tangible personal property used directly in production line testing and quality control, and materials, containers, labels, etc., used for the packaging of finished products. As stated in VR 630-10-63, the exemption applies only to the manufacture of products for sale or resale; thus, items used primarily in the production of products for ones' own use are not entitled to the industrial manufacturing exemption. The preponderance of use test, which is applicable to tangible personal property used both in a taxable and exempt manner by an industrial manufacturer, is explained in subsection D of VR 630-10-63.

C. Research and development exemptions generally.

The exemption available for research activities is explained in detail at VR 630-10-92. To qualify for the exemption, tangible personal property must be used directly and exclusively in basic research or research and development activities in the experimental or laboratory sense. Generally, a research activity which has as its goal the advancement of existing knowledge or technology, the

development of new uses for existing products, technology or processes, or the improvement of existing products, technology or processes will be entitled to the exemption. Thus, most research into innovative technologies or fields will qualify for the research exemption. However, the production of management studies and similar projects does not constitute exempt research under VR 630-10-92 as such projects do not involve experimental or laboratory research.

D. Sales of tangible personal property and/or services.

The sale, lease or rental of tangible personal property by a high technology business is generally subject to the sales tax unless the purchaser or lessee furnishes the seller or lessor with a valid certificate of exemption as explained in VR 630-10-20. Pursuant to § 58.1-602(16) of the Code of Virginia, a "sale" is "any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property." The term "lease or rental" is defined in § 58.1-602(8) of the Code of Virginia as "the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property."

As provided in VR 630-10-57 and VR 630-10-95, the tax is applicable to the total charge made to the purchaser or lessee by the vendor, including charges made for any services in connection with the sale, rental or lease. Service and labor charges in connection with a sale, rental or lease are taxable because they are specifically included in the statutory definitions of "sales price" (§ 58.1-602(17) of the Code of Virginia) and "gross proceeds" (§ 58.1-602(4) of the Code of Virginia), upon which the tax is computed. Those statutes permit, however, the deduction of separately stated installation and repair labor charges from the base used for computing the tax.

Purely service transactions in which no tangible personal property passes to the customer are not subject to the tax. Tangible personal property used or consumed in the provision of such services is subject to the tax at the time of purchase.

As explained in subsection E below, certain transactions which involve the sale of tangible personal property as an inconsequential element of a personal service transaction are not subject to the tax.

E. True object test.

Certain "mixed" transactions that involve both the sale of tangible personal property and the provision of personal services by the vendor are not taxable. Those transactions deemed exempt are ones in which the sale of tangible personal property is inconsequential to the services provided by the vendor and for which a lump sum charge is made by the vendor.

The procedure for determining whether a mixed transaction is nontaxable is set forth in VR 630-10-97.1. Liability for the tax depends upon whether the true object of the transaction is to obtain a nontaxable service or taxable tangible personal property. If the true object is to obtain tangible personal property, a taxable sale occurs.

F. Specific high technology activities.

1. Computer software.

The production of computer software in tangible form for sale or resale constitutes industrial manufacturing. Therefore, the exemptions set forth in VR 630-10-63 are applicable to such production; however, the exemptions are not available for persons who produce computer software for purposes other than for sale or resale. Examples of exempt tangible personal property used directly in the production of computer software for sale or resale include, but are not limited to, computer hardware and software used to encode magnetic tapes or other storage medium or to otherwise produce finished products, and the tangible medium that finished products will take (tapes, discs, etc.).

Tangible personal property used directly and exclusively in computer software research and development activities is exempt from the tax. Exempt research and development activities are those that have as their ultimate goal the advancement of computer software technology, the development of new computer software products, the improvement of existing computer software products, or the development of new uses for existing computer software products. An example of exempt tangible personal property used in a research and development activity is computer hardware and software used in programming and other developmental activities, including the testing, of new computer software products.

2. Information technology.

Persons engaged in research and development in the fields of computer hardware and software engineering, operations research and decision sciences, systems engineering and analysis, and human-computer interface with the ultimate goal of advancing information technology or developing new products, technology, or processes or improving or finding new uses for existing products, technology, or processes are entitled to the exemption explained in VR 630-10-92.

Research and development activities entitled to the research exemption include, but are not limited to, (i) developing the theory and design of digital or analog computer hardware along with the integrated design of software and firmware, (ii) developing the theory, modeling, and design of management information systems, (iii) the design and analysis of information

Emergency Regulation

systems as physical entities with a focus on the system life-cycle, and (iv) human factors engineering for the design, development, testing, and evaluation of the human-computer interface.

Persons engaged in the production of products for sale or resale resulting from research and development in the information technology fields are deemed to be industrial manufacturers entitled to the exemptions set forth in VR 630-10-63.

3. Biotechnology.

Persons engaged in research and development in the fields of biotechnology and genetic engineering with the ultimate goal of advancing knowledge or technology in those fields, developing new products, technology, or processes, developing new uses for existing products, technology, or processes, or improving existing products, technology, or processes are entitled to the research exemption set forth in VR 630-10-92.

Research and development activities entitled to the exemption include, but are not limited to, the application of recombinant DNA techniques to the development and improvement of agricultural and biomedical products, technology, or processes, the development of monoclonal antibodies using hybridoma technology, and the development of instrumentation for use in scientific research.

Persons engaged in the production of products resulting from biotechnological research are industrial manufacturers entitled to the exemption set forth in VR 630-10-63.

4. Computer aided engineering.

Persons engaged in research and development in the field of computer aided engineering are entitled to the research exemptions set forth in VR 630-10-92 when such research has as its goal the advancement of technology, the development of new products, technology, or processes, the development of new uses for existing products, technology, or processes, or the improvement of existing products, technology, or processes.

Exempt research activities include, but are not limited to, research and development into advanced automation (including artificial intelligence and computer vision), integrated manufacturing systems (robotics and manufacturing processing), and structural dynamics.

Persons engaged in the production of products resulting from research and development into computer aided engineering are industrial manufacturers entitled to the exemptions set forth in VR 630-10-63.

5. Materials science.

Persons engaged in research and development in the field of materials science with the ultimate goal of advancing technology, developing new products, technology, or processes or new uses for existing products, technology, or processes, or improving existing products, technology, or processes are entitled to the research exemption found at VR 630-10-92.

Examples of exempt research activities include, but are not limited to, research and development into the making and use of composite materials, high performance alloys, and semiconductor materials.

Persons engaged in the production of products resulting from materials science research are entitled to the industrial manufacturing exemptions set forth in VR 630-10-63.

6. Other high technology activities.

To determine the correct application of the tax to high technology activities other than the five set forth above, a request for a ruling should be addressed to the Tax Commissioner as suggested in subsection A.

H. Innovative Technology Authority.

The Innovative Technology Authority is exempt from the sales and use tax under VR 630-10-45 on all of its purchases, leases or rentals of tangible personal property. In addition, all tangible personal property purchased, leased or rented by a nonprofit college or university in conjunction with research sponsored, encouraged or inspired by the Innovative Technology Authority or the Center for Innovative Technology is exempt from the tax pursuant to VR 630-10-96.

Tangible personal property donated to the Innovative Technology Authority, Center for Innovative Technology, or colleges or universities on which the sales and use tax has not previously been paid is generally taxable to the donor pursuant to VR 630-10-20(D). Section added 1/86.

01/09/86 /s/ W. H. Forst, Tax Commissioner
Department of Taxation

Approval of emergency regulation
01/09/86 Charles S. Robb, Governor

Filed: 01/16/86 - 10:06 a.m.
Joan W. Smith, Registrar of Regulations

GOVERNOR

EXECUTIVE ORDER NUMBER FOUR (86)

CONTINUING CERTAIN EXECUTIVE ORDERS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF STATE GOVERNMENT

By virtue of the authority vested in me as Governor by §§ 2.1-39.1, 2.1-51.8:1, 2.1-51.14, 2.1-51.17, 2.1-51.20, 2.1-51.26, and 2.1-51.33 of the Code of Virginia and subject always to my continuing, ultimate authority and responsibility to act in such matters and to reserve powers, I hereby continue the following executive orders which are necessary for the efficient administration of state government:

1. Executive Order Number 47 (84) (Revised), Authority and Responsibility of the Governor's Secretaries, issued by Charles S. Robb on October 26, 1984; and
2. Executive Order Number 48 (84) (Revised), Delegation of Authority for Certain Actions Affecting Management of the Commonwealth, issued by Charles S. Robb on October 26, 1984.

This Executive Order will become effective on the date of its signing and will remain in full force and effect until September 15, 1986, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia, at Richmond, this 16th day of January, 1986.

/s/ Gerald L. Baliles, Governor

* * * * *

EXECUTIVE ORDER NUMBER FIVE (86)

REVIEW OF REGULATIONS PROPOSED BY STATE AGENCIES

By virtue of the authority vested in me by § 9-6.14:9.1 of the Code of Virginia, I hereby establish procedures for the review of all new or revised regulations proposed by state agencies. This executive order sets out the process and procedures to be followed during the review of proposed regulations.

While recognizing that the state government has an affirmative and inescapable duty to enforce regulations that protect the public safety and welfare, it is the policy of the Commonwealth of Virginia to conduct required regulatory activities in a manner that intrudes to the least possible extent into the legitimate functions of private enterprise and individual citizens. It also is the policy of the Commonwealth to strive to draft, adopt and enforce regulations that do not unnecessarily burden the activities of private businesses and citizens.

Because regulations are an important instrument of

government control, it is vital that such regulations, both in form and substance, reflect a consistent and rational regulatory philosophy. Rational regulatory policy requires that regulations be subject to evaluation when drafted and prior to issuance. Therefore, as required by law, this review will have three parts: 1) a review by the Office of the Attorney General to ensure statutory authority exists for the proposed regulations; 2) an examination by the Governor to determine if the proposed regulations are necessary to protect the public health, safety and welfare; and 3) an examination by the Governor of the proposed regulations for clarity.

APPLICABILITY

This executive order applies to the new and revised regulations proposed by state agencies in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

I. AGENCY RESPONSIBILITIES.

A. General Responsibilities:

1. The head of each state agency that promulgates and enforces regulations shall appoint an Agency Regulatory Coordinator whose name and title shall be forwarded to the Governor's Office. The agency head will be held ultimately accountable for assuring that all mandated requirements are met.

2. The Coordinator should be knowledgeable as to the requirements and intent of:

a. The Administrative Process Act (§ 9-6.14:1 et seq., Code of the Virginia);

b. The Virginia Register Act (§ 9-6.15 et seq., Code of Virginia);

c. The Governor's objectives for preparation and review of regulations; and

d. The meaning and expectations concerning the criteria for analysis of the proposed regulations.

3. The Coordinator shall serve as the agency's liaison with the Virginia Registrar of Regulations.

4. The Coordinator also shall conduct quality-control reviews of all proposed regulations and regulatory review packages to ensure that review criteria are met.

5. Each agency that promulgates regulations must prepare and adhere to written public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. These guidelines are required by § 9-6.14:7.1 of the Administrative Process Act.

Governor

a. Public participation guidelines must be used prior to and during the entire formulation, drafting, promulgation, and final adoption process of a regulation. These guidelines must include:

- methods for the identification and notification of interested parties; and
- specific means of seeking input from interested persons or groups.

b. In addition, whenever appropriate, these guidelines may provide for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency.

c. Because public participation guidelines are regulations themselves, they should be submitted for review in accordance with the process required for all new or proposed regulations as set forth in this executive order.

6. Each agency, upon the request of the Governor's Office, shall appear before the Commission on Efficiency in Government to discuss and respond to significant issues that may be raised over their regulatory proposals.

B. Regulatory Review Submission:

Each agency shall submit a regulatory review package meeting the requirements of this executive order to the Department of Planning and Budget, and to the Governor's Office at the same time it submits proposed regulations to the Registrar of Regulations. As such, this review process shall run concurrently with the public comment period required under the Administrative Process Act.

The regulatory review package shall include a copy of the proposed regulations and an analysis of the proposal. For a proposed modification to an existing regulation, the format used should clearly show the current regulation as well as proposed changes. The analysis should take the form of a single document and must contain the following components, which are required as a result of Administrative Process Act mandates:

1. **Statement of Purpose:** The statement of purpose explains why the regulation exists and the desired end result or objective of the regulation.

Estimated Impact:

- a. Number and types of regulated entities or person affected;
- b. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance;

c. Projected cost to agency for implementation and enforcement; and

d. Source of funds (e.g., user fees, including fee structure; federal grants, other nongeneral fund revenue sources; general fund).

3. Reference to the legal authority of the agency to act.

4. A copy of the written assurance from the Office of the Attorney General that the agency has statutory authority to issue the proposed regulation.

5. The date, time and location of the public hearings that are scheduled on the proposed regulation.

6. Name, title, address, and telephone number of an individual to contact for further information about the regulation.

7. Explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

8. Explanation of how clarity and simplicity were assured in drafting the regulation.

In addition, the analysis shall include the following information to facilitate the review of the regulation as required under the Administrative Process Act.

9. An estimate of the impact of the proposed regulation upon small businesses or organizations in Virginia. A small business or organization is one that meets the criteria for "eligible small business" as defined in § 9-199, Code of the Virginia. This requirement also applies to private non-profit and public entities that meet those criteria.

10. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and agency assurance that the proposed regulation is the least burdensome available alternative.

11. A schedule setting forth when, within two years after a regulation is promulgated, the agency will evaluate it for effectiveness and continued need.

12. A description of any forms, reports or other procedural requirements mandated by the proposed regulation and an explanation of the need for such forms, reports or requirements.

NOTE: For any new forms or reports proposed, agencies must submit a list of the number and type of forms or reports replaced or eliminated or the agency's reason for requesting an exemption under the procedures of the Governor's Paperwork Reduction Initiative.

13. The estimated date of publication of the proposed regulation in the Virginia Register of Regulations pursuant to the publication schedule provided by the Registrar of Regulations.

14. The date on which the public comment period will end, as well as the proposed effective date of the regulation.

In some cases when an agency's proposal contains minor or technical adjustments to an existing regulation which will not have a significant impact on the regulated community, the regulatory review package should contain only the following components from the list given above:

1. Statement of purpose;
5. Public hearing dates, times and locations;
6. Contact person;
7. Explanation of need;
10. Discussion of alternatives considered;
13. Publication date; and
14. Proposed adoption and effective dates

However, the Department of Planning and Budget or the Governor's Office may request more detail from agencies after reviewing this information.

C. Final Proposed Regulation:

After the agency has revised the proposed regulation, based on comments received during the public comment period, the agency will prepare the final proposed regulation. The agency must provide a copy of the proposed final regulation and any applicable comments to the Department of Planning and Budget and the Governor's Office simultaneously with its submission to the Registrar during the 30-day final adoption period, mandated by § 9-6.14:9 of the Code of Virginia.

II. RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING AND BUDGET.

A. The Analyst for the submitting agency will review the package. An initial screening will be conducted to determine whether the package meets the minimum standards set out in this executive order. If the package does not meet these requirements, the material will be returned to the Agency Regulatory Coordinator with a notation as to the package's shortcomings. The agency then must prepare a new or revised package and submit it to the Department of Planning and Budget and the Governor's Office.

NOTE: This procedure will be repeated until the agency

submits a satisfactory package. Agency heads will be ultimately responsible for the submission of complete regulatory review packages.

B. The Analyst then will review the package to determine if the changes are minor, technical, or administrative in nature. If this is the case, the Analyst will prepare comments (including recommended amendments or modifications, if appropriate). At a minimum, two weeks before the close of the public comment period, the Analyst will send comments to the Governor's Office for dissemination to the Registrar, the responsible Secretary and the agency within the period prescribed for public comments.

C. If the Analyst concludes that the proposed regulation contains major programmatic or other substantive changes or is contrary to state objectives, draft comments will be prepared and sent to the Governor's Office copying the appropriate Secretary (at least two weeks prior to the close of the public comment period) for review and discussion prior to submission of final comments to the Registrar. The appropriate Secretary shall consult with the Governor's Office. Copies of the Governor's comments will be sent to the agency and to the Department of Planning and Budget.

After the agency has submitted the final, revised regulation, the Analyst will compare the proposed final regulation with the original review package, public comments, and previous executive department comments to determine if any portion of the regulation has been reworked. If the agency has not made the recommended changes or has not adequately answered public comments, the Analyst will notify the Governor's Office and make recommendations on a suggested Governor's final comment. This will be sent to the Registrar for publication and to the agency.

III. RESPONSIBILITIES OF THE GOVERNOR.

A. Overall Responsibilities: The Governor's Office shall issue and clarify all procedures and guidance to be followed during the review process.

B. Responsibilities for Review of Proposed Regulations:

1. The Governor's Office receives copies from each agency of proposed regulations, regulatory review packages (including public participation guidelines), as well as the comments prepared by the Department of Planning and Budget.

2. The Governor's Office reviews and approves the Department of Planning and Budget's comments on proposed regulations.

3. The Governor's Office reviews regulatory review packages and the Department of Planning and Budget's and public comments, as available, according to the criteria contained in § 9-6.12:9.1, Code of

Governor

Virginia.

4. The Governor's Office may forward significant issues arising from regulatory proposals for the consideration of the Commission on Efficiency in Government pursuant to Executive Order 2 (86).

5. The Governor comments on each regulatory review package pursuant to § 9-6.14:9.1, Code of Virginia.

IV. RESPONSIBILITIES OF THE SECRETARIES.

A. Each Secretary is responsible for recommending to the Governor's Office appropriate actions for resolving issues or other points of disagreement regarding the promulgation of regulations by his or her respective agencies.

B. Each Secretary shall consult with the Governor's Office on regulations identified by the Department of Planning and Budget as having major programmatic or other substantive changes or being contrary to state objectives pursuant to Section II. C. of this order.

C. Each Secretary may issue guidelines, following discussions with the Governor's Office, which address the unique requirements of each Secretary in the review process required by the provisions of this executive order.

This executive order supersedes and rescinds Executive Order Number 51 (84), issued September 27, 1984, by Governor Charles S. Robb.

This executive order will become effective upon its signing and will remain in full force and effect until June 30, 1990 unless rescinded or amended by further executive order.

Given under my hand and the Seal of the Commonwealth of Virginia on this 30th day of January, 1986.

/s/ Gerald L. Baliles, Governor

VIRGINIA TAX BULLETIN

DEPARTMENT OF TAXATION

DATE: January 1, 1986

SUBJECT: Tax Regulation VR 630-2-311.1: Individual
Income Tax: Net Operating Losses

With the goal of increasing voluntary compliance and as part of our effort to provide regulations which interpret and enforce the laws of this Commonwealth, the Department of Taxation has adopted a regulation entitled VR 630-2-311.1: Individual Income Tax: Net Operating Losses. This regulation is an additional part of the Virginia Individual Income Tax Regulations that were published January 1, 1985.

This new regulation on Net Operating Losses was adopted on October 21, 1985 and is effective for taxable years beginning on and after January 1, 1985.

We have printed this regulation in a manner that will allow it to be inserted into the existing Virginia Individual Income Tax Regulations between pages 4 and 5.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

NOTICES OF INTENDED REGULATORY ACTION

STATE BOARD OF ACCOUNTANCY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Accountancy intends to consider promulgating, amending or repealing regulations entitled: **State Board of Accountancy Rules and Regulations**. The purpose of the proposed action is to revise the fees charged for license, license renewal, certificate of maintenance, examination, reexamination, and certificate by endorsement. Other changes to the regulations which may be necessary will be considered. The board encourages licensees, consumers of regulated services and citizens to submit written comment on all regulations.

Statutory Authority: § 54-84 of Chapter 5 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8505 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **Rules and Regulations Governing the Production, Handling, and Processing of Milk for Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food**. The purpose of the proposed amendment is to lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter on individual producer raw milk.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until March 5, 1986, to Raymond D. Vaughan, Secretary of the Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209

Contact: William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture & Consumer Services, Division of Dairy and Foods, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Service intends to consider amending regulations entitled: **Rules and Regulations Governing the Production, Processing and Sale of Grade "A" Pasteurized Market Milk and Grade "A" Pasteurized Market Milk Products and Certain Milk Products**. The purpose of the proposed amendment is to lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter on individual producer Grade "A" raw milk for pasteurization.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until March 5, 1986, to Raymond D. Vaughan, Secretary of the Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209

Contact: William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture & Consumer Services, Division of Dairy and Foods, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects intends to consider amending regulations entitled: **Virginia State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects**. The amendments may

address, but will not be limited to the education and training requirements of a person seeking the Engineering Intern Status graduating from nonapproved programs, minimum standards for land surveyors, and language changes in the architect regulations.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 6, 1986.

Contact: Johnsie Williams, APELSCLA Board, 3600 West Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8555 (toll-free number 1-800-552-3016)

VIRGINIA AUCTIONEERS BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Auctioneers Board intends to consider promulgating, amending or repealing regulations entitled: **Virginia Auctioneers Board**. The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Examiners for Audiology and Speech Pathology intends to consider promulgating, amending or repealing regulations entitled: **Audiology and Speech Pathology**. The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

BOARD OF BARBER EXAMINERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Barber Examiners intends to consider promulgating, amending or repealing regulations entitled: **Regulations of Virginia Board of Barber Examiners**. The board will conduct an informational proceeding to receive public comment on existing regulations as to its effectiveness, efficiency, necessity, clarity and cost compliance. The board encourages licensees, consumers of regulated services and other interested citizens to submit written comment on all board regulations.

Statutory Authority: § 54-1.28 and Chapter 4.1 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Olliver O. Trumbo, II, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509 (toll-free number 1-800-552-3016, Virginia only)

BOARD OF COMMERCE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Commerce intends to consider promulgating, amending or repealing regulations entitled: **Rules and Regulations Governing Employment Agencies**. The purpose of the proposed action is to revise the fees charged for initial license and renewal. The board also intends to review all existing regulations and encourages licensees, consumers of regulated services and other citizens to submit comment on all regulations.

Statutory Authority: § 54-872.18 and Chapter 24.2 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond,

General Notices/Errata

Va. 23230-4917, telephone (804) 257-8505 (toll-free number 1-800-552-3016, Virginia only)

Contact: Glenn D. Radcliffe, Chief of Operations, Division of Youth Services, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-0385

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Polygraph Examiners Regulations**. The purpose of the proposed regulations is to amend the Rights of Examinees to prohibit the asking during polygraph examination of questions concerning the political affiliation, religion, labor activities and/or handicaps of the examinee; to allow examinees to tape record polygraph examinations and to require examinees to be informed of their rights in writing in advance of polygraph examinations. Also to solicit public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Department's Public Participation Guidelines' requirement for an Annual Review of Regulations.

Statutory Authority: § 54-917 of the Code of Virginia.

Written comments may be submitted until March 7, 1986.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515 (toll-free number 1-800-552-3016, Virginia only)

BOARD OF CORRECTIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to promulgate regulations entitled: **Minimum Standards for Post Dispositional Confinement for Secure Detention and Court Service Units**. The purpose of the proposed regulations will set forth the minimum standards for post dispositional confinement for Juvenile and Domestic Relations Court Services detention facilities and Court Service Units.

Statutory Authority: §§ 53.1-5 and 16.1-284.1 of the Code of Virginia.

Written comment may submitted until March 15, 1986 to Barbara S. Klotz, Analyst Planning and Development, 4615 West Broad Street, P.O. Box 26963, Richmond, Virginia 23261

VIRGINIA BOARD OF COSMETOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Cosmetology intends to consider promulgating, amending or repealing regulations entitled: **Regulations of the Virginia Board of Cosmetology**. The board will conduct an informational proceeding to receive public comment on existing regulations as to its effectiveness, efficiency, necessity, clarity and cost compliance. The board encourages licensees, consumers of regulated services and other interested citizens to submit written comment on all board regulations.

Statutory Authority: § 54-1.28 and Chapter 6.1 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Olliver O. Trumbo, II, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509 (toll-free number 1-800-552-3016, Virginia only)

BOARD FOR COMMERCIAL DRIVER TRAINING SCHOOLS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Commercial Driver Training Schools intends to consider promulgating, amending or repealing regulations entitled: **Board for Commercial Driver Training Schools**. The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA FIRE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Board intends to consider amending regulations entitled: **Training Courses and Programs for Fire Marshals and Their Assistants**. The purpose of the proposed amendment is to amend the training courses and programs required for local fire marshals and their assistants.

Statutory Authority § 9-155 of the Code of Virginia

Written comments may be submitted until March 15, 1986, to Robert A. Williams, Department of Fire Programs, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg. 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681

VIRGINIA BOARD OF HEARING AID DEALERS AND FITTERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Hearing Aid Dealers intends to consider promulgating, amending or repealing regulations entitled: **Virginia Board of Hearing Aid Dealers and Fitters Regulations**. The board will receive public comment on existing regulations as to its effectiveness, efficiency, necessity, clarity, and cost compliance. The board also intends to review all existing regulations and encourages licensees, consumers of regulated services and citizens to submit written comment on all regulations.

Statutory Authority: § 54-1.28 and Chapter 15.2 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8595 (toll-free number 1-800-552-3061, Virginia only)

BOARD FOR CERTIFICATION OF LIBRARIANS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Certification of Librarians intends to consider promulgating, amending or repealing regulations entitled: **State Board of Certification of Librarians**. The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Examiners for Nursing Home Administrators intends to consider promulgating, amending or repealing regulations entitled: **State Board of Examiners for Nursing Home Administrators**. The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA STATE BOARD OF OPTICIANS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

General Notices/Errata

public participation guidelines that the Virginia State Board of Opticians intends to consider promulgating, amending or repealing regulations entitled: **Regulations of Virginia State Board of Opticians.**

The board will conduct an informational proceeding to receive public comment on existing regulations as to its effectiveness, efficiency, necessity, clarity and cost compliance. The board encourages licensees, consumers of regulated services and other interested citizens to submit written comment on all board regulations.

Statutory Authority: § 54-1.28 and Chapter 14.1 of Title 54 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Olliver O. Trumbo, II, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Real Estate Board intends to consider amending regulations entitled: **Virginia Real Estate Board's Regulations; (ii) Fair Housing Regulations; and (iii) Condominium and Time-Share Regulations.** The purpose will be to undertake an annual review and seek public comment on all its regulations. Consideration will be given to the following specific items and other suggestions that are received by the board prior to March 5, 1986:

- Repeal of unnecessary procedural Fair Housing provisions.
- Amendments to provisions of Condominium Regulations.
- Amendments to Time-Share Regulations.
- Amendment to conform regulations to law regarding registration of rental location agents.
- Require immediate return of license upon termination or transfer of a salesperson.
- Specify approval of categories of broker courses.
- Amend acceptable content of required Real Estate Principals and Practices courses.
- Provisions for the issuance of duplicate broker licenses.
- Upon consideration of all submittals, the board may

elect to proceed further in accordance with its public participation guidelines and the Administrative Process Act resulting in new, modified, or repealed regulations.

Statutory Authority: § 54-740 of the Code of Virginia.

Written comments may be submitted until March 5, 1986.

Contact: Julio G. Del Corso, III, Assistant Director, Virginia Real Estate Board, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516 (toll-free number 1-800-552-3016, Virginia only).

DEPARTMENT OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to amend regulations entitled: **The Virginia Fuel Assistance Program.** The department is planning to develop policies and procedures for implementation of the 1986-87 Fuel Assistance Program, which will include: (i) any needed changes based on problems identified in the 1985-86 program; (ii) changes to the climate zones; and, (iii) other changes as a result of reduced federal funding. Regulatory requirements are contained in Title VI of the Human Services Reauthorization Act of 1984 (P.L. 98-558)

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

Written comments may be submitted until March 19, 1986 to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699

Contact: Charlene H. Chapman, Supervisor, Energy and Emergency Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr. Richmond, Va. 23229-8699, telephone (804) 281-9046

BOARD OF CERTIFICATION OF WATER AND WASTEWATER WORKS OPERATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Certification of Water and Wastewater Work Operators intends to consider promulgating, amending or repealing regulations entitled: **Certification of Water and Wastewater Works Operators.** The board will conduct an informational proceeding thereby soliciting public comment on all existing regulations as to its effectiveness, efficiency,

necessity, clarity and cost of compliance in accordance with the board's public participation guidelines.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 21, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016, Virginia only)

GENERAL NOTICES

NOTICE TO STATE AGENCIES

RE: Forms for filing material on dates for publication in The Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION - RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

NOTICE TO TRADE ASSOCIATIONS AND ORGANIZATIONS

The 1985-1986 listing of major meetings of certain organizations and associations is being updated. If you

would like your organization's annual or semi-annual meeting listed, please advise the office of the Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591.

ERRATA

DEPARTMENT OF GENERAL SERVICES

Title of Regulation: **VR 330-02-01. Regulations for Breath Alcohol Testing.**

Issue: 2:7, 820-824, January 6, 1986

Corrections to the final regulation are as follows:

Page 823, § 3.1 A should read as follows:

"A. The device [~~must~~ shall] have a systematic error not exceeding $\pm 10\%$."

CALENDAR OF EVENTS

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

THE VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

February 25, 1986 - 2 p.m. - Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, Board Room 204, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to adopt regulations entitled: **Rules and Regulations Governing Retail Food Store Sanitation and Operations.** This regulation establishes requirements for Retail Food Store Sanitation and Operations.

STATEMENT

Basis: Virginia Department of Agriculture and Consumer Services, Bureau of Food Inspection, has for some time been considering the need to formalize retail food store inspection criteria that are currently contained in the Food Inspection Field Operations Manual. In addition, new technology and innovations in the retail food industry such as food services and salad bars have increased attention being given to sanitation and food safety by the public and some members of the General Assembly.

Purpose: The proposed regulation will formalize the inspection procedures for retail food stores currently utilized by the Virginia Department of Agriculture and

Consumer Services, Bureau of Food Inspection.

Impact: The expense to regulatory agencies for the implementation and enforcement of the proposed regulation will be limited to printing costs.

Statutory Authority: §§ 3.1-364 and 3.1-398 of the Code of Virginia.

Written comments may be submitted until February 7, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Contact: Don O'Connell, Chief, Bureau of Food Inspection, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3520

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February 26, 1986 - 10 a.m. - Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

The Department will hear comments on all of the proposed regulations listed below.

Written comments on all proposed regulations may be submitted until February 25, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend the following regulations:

Title: Rules and Regulations for Enforcement of the Virginia Pesticide Law. This regulation ensures that pesticides sold and used in Virginia are effective and can be used without causing unreasonable adverse effects to humans and the environment.

STATEMENT

Statement of Basis: 1. The original rules and regulations were written to regulate the manufacture, sale, and transportation of economic poisons (pesticides) and devices, including insecticides, fungicides, rodenticides, herbicides, disinfectants, pest repellents, lures, wood

preservatives, and mildew controls.

In 1975 the rules and regulations were amended to provide for enforcement of the Virginia Pesticide Use and Application Act of 1975. This act provided for the certification and licensing of both private and commercial applicators using restricted use pesticides in Virginia. In addition, this act provides for monitoring use or conducting misuse investigations on the use of any pesticide or container inconsistent with the label directions or regulations of the board.

2. The rules and regulations adopted under the Virginia Pesticide Law were considered in accordance with the Governor's Regulation Review Process to determine if the requirements were needed and to assure that they were clearly and simply stated as well as requirements not needed.

3. The continued economic production of food and fiber in Virginia is, in a large measure, dependent on the effective control of the various pests e.g. insects, diseases, weeds etc. affecting these commodities. Chemical pesticides are expected to continue playing a major role in effective pest control. In addition, it is equally essential that these materials be applied in such a manner as to assure a minimum adverse impact on humans and the environment. An effective program of regulating these important chemicals is essential to this effort.

Purpose: The primary purpose of this regulation is to aid in assuring the continued availability of pesticide chemicals essential to the production of food and fiber and the protection of health and property in Virginia. It also provides assurance that these products are adequately labeled to ensure that they are effective for their intended use and can be used without unreasonable adverse effects to the applicator, the public or to the environment.

Impact: Number or types of regulated entities or persons affected. All citizens of Virginia have a vested interest in the effective regulation of pesticide chemicals. The entities include 13,000 farmers, 400 dealers, homeowners, 3,000 commercial applicators, 898 manufacturers and others.

Statutory Authority: §§ 3.1-217 and 3.1-217.1 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist, Bureau Chief, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations for the Enforcement of Virginia Fertilizer Law.

STATEMENT

Statement of basis: This regulation is essential to assure

consumers that commercial fertilizers are plainly and conspicuously labeled and that such products contain the amount of nutrients declared on the label. It prescribes how plant nutrients must be expressed on the product label; it provides for minimum guarantees for nutrients other than nitrogen, phosphorus and potassium; it prescribes how slowly available plant nutrients may be guaranteed; it provides the requirements for registering and labeling "Soil Conditioners"; it provides investigational allowances to be used in determining when a product is deficient; it provides for monetary penalty assessments for nitrate and water insoluble nitrogen, secondary and minor elements and for excessive chlorine in tobacco fertilizers; it provides maximum chlorine guarantees for tobacco fertilizers and it provides for a minimum percentage of primary plant nutrients (Nitrogen, Phosphate and Potash) in mixed fertilizers.

Statement of purpose and impact: The regulation is necessary to prescribe uniform labeling of plant nutrients so that the consumer can compare one product with another; to provide investigational allowances to be used in determining when a product is deficient; to provide for monetary penalty assessments for deficiencies in certain plant nutrients and to provide minimum percentages of plant nutrients to be included in mixed fertilizers.

Impact: The regulation affects 350 fertilizer manufacturers doing business in Virginia. The new provision will likely reduce violations and monetary penalty assessments.

Statutory Authority: § 3.1-104 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law. The regulation establishes industry-wide rules to provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses. The regulation prescribes sales records to be kept, identifies persons that can alter records or reject a sale, and provides authorization from consignor for licensee to buy tobacco for his own account.

STATEMENT

Statement of Basis: The Virginia Commission Merchants Law provides for licensing Commission Merchants and sets forth certain requirements for record keeping for the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses. Section 3.1-921 of the Code of Virginia provides for the State Board of Agriculture and Consumer Services to adopt needed rules and regulations for the enforcement of this chapter. Regulations have been adopted to further assure the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses.

Calendar of Events

Nontechnical changes were made to improve sentence structure and clarity to the rules.

The regulation specifies information required on a "Ticket", "Tobacco Sale Bill", and "Buyers Bill". It further specifies what records must be kept and made available for inspection and who is authorized to make changes to the required documents.

Purpose: To provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses.

Impact: This regulation affects 44 tobacco warehouses licensed under the Commission Merchants Law and all companies/persons buying tobacco at these licensed warehouses.

Statutory Authority: § 3.1-721 of the Code of Virginia.

Contact: J. F. Lyles, Chief, Virginia Department of Agriculture and Consumer Services, Weights and Measures Bureau, Washington Bldg., Room 402, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2476

* * * * *

Title: Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.

STATEMENT

Statement of Basis: The Virginia Weights and Measures Law (Ch. 35 of Title 3.1 of the Code of Virginia) provides consumer protection at the point of sale in all commercial transactions. Section 3.1-926 of the Code of Virginia states in part, that the board may issue regulations for the enforcement of this chapter. Regulations have been developed to establish operating guidelines for specific weights and measures activities. The regulations were developed to:

1. Specify commodity labeling requirements to assure truthful information in labeling of consumer and nonconsumer commodities. The labeling requirements are compatible with the Federal Fair Packaging and Labeling act and Uniform Packaging and Labeling Regulation as passed by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

2. Specify method of sale for certain consumer commodities. The method of sale is compatible with the Uniform Method of Sale Regulation as adopted by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

3. Exempt from sealing or marking and/or annual retesting of certain weights and measures.

4. Establish guidelines for the accurate weighing of

producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years.

5. Require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Purpose: To prescribe how consumer and nonconsumer packages must be labeled to enhance value comparison and reduce fraud and misrepresentation; to prescribe method of sale for certain consumer commodities; to exempt from annual sealing or marking and/or annual retesting of certain weights and measures; to establish guidelines for the accurate weighing of producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years; and to require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Impact: This regulation affects the following firms or persons doing business in Virginia: (i) packers and processors preparing prepackaged commodities, (ii) retailers selling bulk commodities by weight, (iii) vending machine owners or operators, (iv) railroads, (v) tobacco auction warehouses, and (vi) sellers of agricultural products or specified bulk commodities by weight.

This regulation also affects the following firms or persons doing business in Virginia: (i) sellers advertising the sale of fireplace or stove wood, (ii) manufacturers or sellers of prefabricated utility buildings or polyethylene products, (iii) packagers or installers of insulating materials, (iv) retailers or wholesalers of soft wood lumber, and (v) owners or operators filling liquified petroleum gas cylinders.

Also, the regulation affects each owner or operator of milk tanks, vehicle tanks, dry or liquid measure containers when used as a standard of measure.

Statutory Authority: §§ 3.1-926 and 3.1-943 of the Code of Virginia.

Contact: J. F. Lyles, Chief, Weights and Measures Bureau, Washington Bldg., 1100 Bank St., P. O. Box 1163, Room 402, Richmond, Va. 23209, telephone (804) 786-2476

* * * * *

Title: Rules and Regulations Governing the Virginia Animal Remedies Law. These regulations establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

STATEMENT

Statement of basis: The health programs for livestock and

Calendar of Events

poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Purpose: To establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

The health programs for livestock and poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect all firms or persons who manufacture and offer for sale or purchase and use animal remedies in the production of meat, milk and eggs for human consumption.

Statutory Authority: § 3.1-839 of the Code of Virginia.

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, 1100 Bank St., Room 403, Richmond, Va. 23209, telephone (804) 786-3514

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law. This regulation (i) requires the licensee to declare the conditions under which he intends to operate; (ii) requires the license to be conspicuously posted in the licensee's place of business; (iii) requires "Conditional Buyers" to provide additional information to the producer when shipment is rejected; (iv) requires proper accounting for receipt and delivery of products; (v) requires all contracts be filed with the Department of Agriculture and Consumer Services; and (vi) prescribes rules for filing complaints of violations of §§ 3 and 4 of the regulation.

STATEMENT

Basis: During the early 1960's, it was determined that some Virginia produce growers were not receiving proper accounting of and prompt payment for produce sold to produce dealers located in state as well as out of state. Thus, the Virginia Agricultural Products Dealers Licensing and Bonding Law was enacted in 1966 and the Rules and Regulations for the Enforcement of the Law were adopted in April of 1977.

Preventing misunderstanding between produce growers and produce buyers is essential in maintaining a wholesome marketing atmosphere. These regulations are essential in ensuring Virginia's agricultural producers that sales of

produce will be properly accounted for and that they will receive prompt payment.

Purpose: The purpose of this regulation is to require the licensee to declare, at the time application is made for a license, the conditions under which the licensee intends to operate; require the license to be conspicuously posted in the licensee's place of business; require "Conditional Buyers" to provide additional information to the producer when shipment is rejected; require proper accounting of receipt and delivery of products; require all contracts be filed with the Department of Agriculture and Consumer Services; and prescribe rules for filing complaints of violations of §§ 3 and 4 of the regulation. Changes were made to improve sentence structure and clarity.

Impact: This regulation affects 58 (number of 1985 licensees) persons or firms purchasing Virginia agricultural produce directly from the producer and not exempted in the Dealers in Agricultural Products Law § 3.1-722.1 of the Code of Virginia.

Projected cost to regulated entities for implementation and compliance - None.

Statutory Authority: § 3.1-722.13 of the Code of Virginia.

Contact: J. Bentley Crichton, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, 1100 Bank St., Room 403, Richmond, Va. 23219, telephone (804) 786-3542

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Agricultural Liming Materials Law.

STATEMENT

Statement of basis and purpose: This regulation is essential to assure consumers that agricultural liming materials are accurately and conspicuously labeled. The regulation prescribes minimum standards and classification of liming materials by fineness; minimum calcium carbonate equivalents for Burnt Lime, Hydrated Lime, Limestone, Shells and Burnt Shells. The regulation prescribes investigational allowance and penalties for deficiencies in neutralizing value, fineness; calcium, magnesium and potash in lime potash mixtures. It establishes test methods by reference to those published in the "Book of Methods" by the Association of Official Analytical Chemist. It requires that the results of official samples be reported annually to all registrants of agricultural liming materials.

Impact: The regulation affects 62 registrants doing business in Virginia. No new burden is imposed by these regulations.

Statutory Authority: § 3.1-126.12 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Fertilizer Section,

Calendar of Events

Virginia Department of Agriculture and Consumer Services,
Division of PAIR, 1100 Bank St., Room 505, Richmond, Va.
23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Gasoline and Motor Fuels Law.

STATEMENT

Statement of basis and purpose: This regulation is essential to ensure that all motor fuel offered for sale is accurately labeled and meets established minimum specifications. It (i) prescribes minimum specification for distillation, Reid vapor pressure, water and sediment and gum in gasoline; flash point, water and sediment, sulfur cetane, distillation and corrosion in diesel fuel; (ii) provides the requirement for registration and labeling of gasoline and diesel fuel; (iii) prescribes the regulatory action to be taken when motor fuels are found not to conform to minimum specifications and (iv) requires the publication of information filed in connection with registration and results of tests of official samples.

Impact: The regulation affect approximately 600 motor fuel registrants and 14,400 retail outlets in Virginia.

Cost to industry will be minimal since current requirements are that the kind of alcohol blended must be posted on retail pumps, this regulation requires that the percentage be added.

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

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act.

STATEMENT

Statement of basis: This regulation is necessary to clearly define the requirements and conditions under which a permit may be issued; to (i) prescribe record keeping requirements for permittees; (ii) production reporting requirements; (iii) security measures to deter unauthorized use of equipment or removal of ethanol; to clarify denaturing requirements for industrial ethanol; to prescribe (i) warning statements for denatured ethanol; (ii) minimum size containers; (iii) conditions for transporting undenatured ethanol; and to require an identifying mark on any distilling apparatus existing under the authority of the Virginia Industrial Ethanol Act.

Statement of purpose: This regulation is necessary to preclude the diversion of fuel alcohol to beverage use and to create a climate that will foster the growth and development of the industry.

Impact: This regulation affects 66 firms producing ethanol in Virginia. No new burden is imposed by the regulation.

Statutory Authority: § 3.1-1052 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505 Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Petroleum Products Franchise Act.

STATEMENT

Statement of basis: Rules and Regulations are mandated by § 59.1-21.16:2 of the Code of Virginia. The regulation is necessary to clearly define the conditions and terms under which a produce/refiner may operate a retail outlet which was operated by a franchised dealer; to establish and define the conditions and terms under which a producer/refiner may rebuild or relocate a retail outlet operated by the producer/refiner prior to July 1, 1979; and, to establish requirements for reporting locations of retail outlets.

Statement of purpose: This regulation is necessary for the enforcement of § 59.1-21.16:2 of the Code of Virginia, the Petroleum Products Franchise Act. It establishes conditions under which a producer/refiner may temporarily operate a franchised retail outlet, rebuild or relocate retail outlets and outlines the criteria for reporting the locations of retail outlets.

Impact: The regulation affects 358 producer/refiner outlets and 1,073 franchised dealers operating retail outlets in Virginia. No new burden is imposed by these regulations.

Statutory Authority: § 59.1-21.16:2 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law.

STATEMENT

Statement of basis: Virginia is a producer of Narcissus plants and bulbs and vegetable transplants for shipment to

other states and countries. Some importing states and countries legally require pest-free certification of Narcissus plants, Narcissus bulbs and vegetable transplants for importation. For this reason, it is necessary to declare these articles as nursery stock and provide procedures to make them eligible for pest-free certification. No change in this portion of the regulation is necessary.

White pines are widely grown throughout Virginia as an ornamental and as an agricultural commodity for Christmas trees. White pine blister rust, Cronartium ribicola, is a destructive disease of white pines. European black currant, Ribes nigrum, serves as the alternate host to this rust and may harbor and disseminate this disease.

Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Purpose: To declare Narcissus plants, Narcissus bulbs, and vegetable transplants as nursery stock and make them eligible for certification as pest-free for export. It also prohibits the importation of European black currant plants, Ribes nigrum, the alternate host of white pine blister ruts, Cronartium ribicola. Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Impact: Section 1 affects no more than 100 nurseries having more than one sales location.

Section 2 affects 10 growers producing 15 acres of Narcissus bulbs.

Section 3 affects 3 growers producing 150 acres of vegetable transplants.

Section 4 (European Black Currant Plants) affects all persons in the state in that it prohibits anyone from importing or bringing these plants into Virginia.

Statutory Authority: § 3.1-188.25 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

Title: Rules and Regulations for Enforcement of the Virginia Commercial Feed Law. The regulations define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels.

STATEMENT

Statement of basis: Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Purpose: To define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels. Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect 603 firms or persons who process or manufacture commercial feed ingredients or manufacturers and sell commercial feed and 79,000 livestock and poultry producers who purchase and use commercial feeds in the production of meat, milk and eggs for human consumption in Virginia.

Statutory Authority: § 3.1-813 of the Code of Virginia.

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, Room 403, Richmond, Va. 23209, telephone (804) 786-3514

Title: Rules and Regulations for Enforcement of the Virginia Seed Law. This regulation prescribes the method of inspecting, sampling, and testing of seed; provides applicable tolerances in testing, and prescribes specifications and requirements for labeling.

STATEMENT

Statement of Basis: To ensure that all seed sold, offered for sale, exposed or advertised is truthfully labeled with information taken from a laboratory analysis of a test conducted from a representative sample of a lot. Protect agricultural land from the introduction of prohibited noxious weed seed, and inform the purchaser of seed if any restricted noxious weed seed are present and their rate of occurrence. Restrict the sale of seed that contain weed seed in excess of 1.0%. Inform the purchaser if seed have been treated and identify the treatment substance.

Calendar of Events

For these reasons it is necessary to maintain an inspection, sampling and testing program that will monitor seed that is sold in order that the purchaser of the seed and other agricultural interest will be protected.

Statement of purpose and impact: This regulation is to ensure that all seeds are truthfully labeled within tolerance of the label guarantee and meet established minimum specifications according to standard procedures of inspecting, sampling, testing and the application of tolerance. Also, to name those weed seed which are classified as prohibited noxious (no tolerance permitted) and restricted noxious with limitation as to rate of occurrence. This regulation also establishes the maximum percentage of (common) weed seed and inert matter, and the minimum germination standards of vegetable, flower and peanut seed. Changes were made to improve the sentence structure and clarify. Seven agricultural kinds were added to the existing list. The requirement for labeling the component of lawn and turf seed mixtures under the heading of fine textured and coarse kinds was deleted to conform to the requirement of the Federal Seed Act and the Recommended Uniform State Seed Law.

Impact: This regulation affects all persons in Virginia who label or purchase seed to include 58,000 farmers, 165 seed labelers, 1.1 million home owners, 30 sod producers, 240 golf courses, 800 schools, 80 colleges, 65 federal parks, 31 state parks, and other state agencies.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Contact: D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3797

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

STATEMENT

Statement of Basis: Preventing the artificial (long distance) spread of the gypsy moth is dependent upon regulating the movement of articles capable of transporting any life stage of the gypsy moth. For this reason, it is necessary to establish regulated (infested) areas from which articles capable of moving gypsy moth may not be moved without first being certified free of all life stages.

Purpose: To prevent the artificial spread of gypsy moth from regulated (infested) areas to nonregulated (noninfested) areas by requiring that articles capable of transporting life stages of the gypsy moth be inspected and certified free of gypsy moth.

Impact: This regulation affects any person moving regulated articles from the regulated (infested) areas into the nonregulated (noninfested) areas.

Statutory Authority: §§ 3.1-188.23 - 3.1-188.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to REPEAL the following regulations:

Title: Rules and Regulations for Enforcement of the Barberry and Black Stem Rust Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In order to prevent the spread of a destructive disease from certain species of barberry, mahonia and *Mahoberberis* plants to small grain crops, this regulation was enacted. This regulation was enacted to: (i) declare all rust-susceptible species of these plants as a public nuisance; (ii) authorize the State Entomologist to destroy all rust-susceptible species of these plants found in Virginia; (iii) prohibit the movement, planting, and/or growing of any rust-susceptible species of these plants; and (iv) allow movement, planting and/or growing of nonsusceptible species of these plants, if labeled properly. This was determined to be the only means of control, since no practical chemical controls were available. Also, this regulation was enacted to enable VDAS to cooperate with the USDA quarantine for the same organism. However, the USDA has not enforced their quarantine for several years, like Virginia, since rust-susceptible varieties of these plants are no longer commercially available. This lack of availability has resulted in minimal hazard disease spread to grain crops in the Commonwealth. Therefore, this regulation is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations for Enforcement of the Noxious Weed Law.

STATEMENT

Brief statement of subject, substance, issues, basis and

purpose: During the past 10 years it has been demonstrated that the weed (*Salpichroa organifolia*) can be effectively controlled by readily available herbicides, but eradication is not likely since the plant reproduces vegetatively as well as by seed. Also, this weed has not become a serious problem in Virginia over the last 10 years. The need for the regulation has passed and the regulation should be repealed.

Statutory Authority: §§ 3.1-296.13 - 3.1-296.14 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

Title: Rules and Regulations Providing for the White Pine Blister Rust Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: Many years ago, several species of gooseberries and currant plants that are capable of spreading the disease white pine blister rust, were shipped to Virginia and other states. During this period of time, it was felt that the best way to protect commercial stands of which pines in certain areas of the state would be to restrict the movement into those areas of certain disease susceptible varieties of currants and gooseberries. Therefore, 33 counties were described as having the largest stands of white pines, and would be protected from the entrance of disease carrying currants and gooseberries. Over the years, requests for shipment into these protected counties have dwindled. Also, commercial nurseries stopped shipping varieties of the plants capable of spreading white pine blister rust. The regulation is no longer necessary to protect commercial stands of white pines and should be repealed. The complete prohibition of European black currants (the most destructive variety) section of this quarantine is recommended to be added to the regulations under the Virginia Plants and Plant Products Inspection Law under this review process.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

Title: Rules and Regulations for Enforcement of the Tomato Plant Disease Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In the past, commercial tomato growers in eight Virginia counties have purchased transplants from Southern states infected with several diseases. This regulation was adopted to assure a continuous supply of healthy tomato transplants for planting. The regulation was designed to: (i) prohibit the movement of plants into or between the protected eight counties unless such plants were accompanied by a certificate of inspection; (ii) allow plants accompanied by an approved certificate to move into or between the counties; (iii) allow tomato growers in the protected counties to call for an inspection by VDACS personnel on any imported plants; (iv) assure that all plants moving into or between the protected counties were subject to inspection by VDACS personnel; and (v) allow plants not accompanied by a valid certificate or found to be infected with any of the listed diseases to be stop sale, seized, destroyed, or returned to the shipper.

Over the last several years, the primary exporting states have employed a good transplant inspection program to assure relative freedom from disease. Also, commercial tomato growers in Virginia have not called for inspection of tomato plants suspected of having a disease problem for two years. In addition, the Virginia Plant and Plant Products Inspection Law would allow VDACS to take action to rectify any disease problems detected on tomato transplants. This regulation has served its purpose and is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-3515

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

February 25, 1986 - 9:30 a.m. - Open Meeting
March 11, 1986 - 9:30 a.m. - Open Meeting
March 25, 1986 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

Calendar of Events

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND CERTIFIED LANDSCAPE ARCHITECTS

Friday, March 14, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the November 15 meeting; (ii) review investigative cases; (iii) draft proposed regulations; and (iv) discuss the LGR report.

Board of Architects

March 7, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting (i) to approve the minutes of the December 13 meeting; (ii) review investigative cases; (iii) draft proposed regulations; and (iv) to review applications.

Board of Certified Landscape Architects

March 19, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve the minutes of the October 8 meeting; (ii) review of applications; and (iii) probable discussion of regulations.

Board of Land Surveyors

† **February 21, 1986 - 9 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the January 24 meeting; (ii) discuss regulations and possible drafting of regulations; (iii) review applications; (iv) draft response to LGR Study; and (v) review investigative

April 12, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to grade examinations. cases.

Board of Professional Engineers

February 19, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve the minutes of the January 29 meeting; (ii) review investigative cases; (iii) review applications; (iv) oral examinations; and (v) drafting of regulations.

Contact: Johnsie Williams, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va. 23230-4917, telephone (804) 257-8506

VIRGINIA AUCTIONEERS BOARD

March 7, 1986 - 10 a.m. - Public Hearing
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **Rules and Regulations of the Virginia Auctioneers Board.** The amendments provide for the establishment of a program of certification for all registered auctioneers. The proposed amendments intend to establish criteria for certification of auctioneers in accordance with applicable statutes.

STATEMENT

Basis and Purpose: Pursuant to §§ 54-824.9:2 and 54-824.9:3 of the Code of Virginia, the Virginia Auctioneers Board proposes to adopt rules and regulations to implement the enabling statute of the board, which is to certify and regulate any registered individual wishing to hold himself out as a Certified Virginia Auctioneer in the Commonwealth and to otherwise discharge the duties imposed on the board by § 54-1.28 of Chapter 1.1 of Title 54, Code of Virginia. The objective of these proposed amendments is to assure that auctioneers have met the desired competence through the least burdensome and most cost effective method available.

Impact: A. The amendments will affect approximately 780 registered auctioneers who may be eligible for certification. It is estimated that approximately 110 auctioneers per year would apply for examination and certification. In the initial year of the program, most applicants would be appending under the "grandfather" clause and would not be required to be examined.

B. The projected cost of implementation to the regulated entities is estimated at \$120 per applicant based on the expected cost of \$12,000 per year for administration, which includes the cost of examination and certification. The cost for implementation of the amendments may be passed on

Calendar of Events

to the consumer by auctioneers in the form of increased fees. The cost of compliance to the regulated entities includes the fees for application and for attendance at a school of auctioneering to qualify for the examination. Based on the average cost of auctioneer schools, transportation, loss of business time and examination fees, the average expense per applicant is \$1,720.

C. The agency expects that the cost for administration of the proposed amendments will be \$12,000 per year. Revenue from examination and reexamination fees for \$50 is estimated at \$5,500 per year and \$6,500 per year will be generated by the \$75 certification fee. No additional personnel or equipment will be necessary to implement the proposed amendments.

D. Funds for implementing the amendments will come from part of the special dedicated revenue appropriated to the Department of Commerce. The proposed fee schedule is as follows:

Examination fee \$50

Reexamination fee \$50

Certification fee \$75

Statutory Authority: §§ 54-824.9:2 and 54-824.9:3 of the Code of Virginia.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016)

VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

February 18, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A board meeting to consider (i) reinstatement of temporary permits; (ii) committee report on transfer of board to Department of Health Regulatory Boards; (iii) update on expenditures, revenue and fees; and (iv) action on complaints.

Contact: Geralde W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8554

BOARD OF BARBER EXAMINERS

March 24, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West

Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of license; (ii) review investigative reports of complaints and determine disposition; and to (iii) consider correspondence pertinent to the operation of the board.

Contact: Board of Barber Examiners, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **February 21, 1986 - 10 a.m. - Open Meeting**
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and, (iii) approve minutes of the previous meeting.

Contact: C. Sutton Mullen, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Division of Historic Landmarks State Review Board

February 18, 1986 - 10 a.m. - Open Meeting
221 Governor Street, Richmond, Virginia 23219

A meeting to consider the addition of the following properties to the Virginia Landmarks Register and their nomination to the National Register of Historic Places:

Boulevard Historic District, Richmond (city);
Fan Area Historic District, Extension, Richmond (city);
Maple Hall, Rockbridge County;
Woodstock Hall Tavern, Albemarle County.

February 18, 1986 - 2 p.m. - Open Meeting
221 Governor Street, Richmond, Virginia 23219

A general business meeting.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

Calendar of Events

STATE BOARD FOR CONTRACTORS

† February 26, 1986 - 10 a.m. - Open Meeting
City Hall Building, Court House Drive, Council Chambers,
Virginia Beach, Virginia

A meeting to conduct a formal fact-finding hearing regarding State Board for Contractors v. Jeff E. Gourley.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF CORRECTIONS

† March 12, 1986 - 10 a.m. - Open Meeting
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

VIRGINIA BOARD OF COSMETOLOGY

† March 10, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A practical examination committee meeting.

Contact: Olliver O. Trumbo, II, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

CRIMINAL JUSTICE SERVICES BOARD

† April 2, 1986 - 1:30 p.m. - Open Meeting
Division of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Contact: Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

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Committee on Training

April 2, 1986 - 9:30 a.m. - Public Hearing
Division of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

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: **Rules Relating to Certification of Criminal Justice Instructors**. This regulation amends existing training and certification requirements for criminal justice instructors.

STATEMENT

Basis and Purpose: The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170 (1) and (11) of the Code of Virginia.

Those who instruct in the Commonwealth's criminal justice academies are responsible for providing a foundation for action for criminal justice officers across the state. Prior to being accepted as an instructor, these individuals should be able to demonstrate through experience and ability, a fundamental competence to provide the necessary instruction. Since only those who wish to instruct in approved training programs are subject to these regulations, they will impact less than 15% of the criminal justice officers in the Commonwealth.

Subject and Substance: The proposed amendments to the rules mandate minimum requirements for certification and recertification of criminal justice instructors.

Impact: This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. Minimal fiscal impact is anticipated.

Compliance Cost: Rules pertaining to this subject matter currently exist. Some minimal compliance costs may be associated with the requirement for retraining prior to recertification. No increase in costs is anticipated relative to the changes involving initial certification.

The proposed recertification requirement calls for completion of a seminar approved by the department, to ensure that the individuals are up-to-date with the subject matter in their respective categories of certification. In many cases, this retraining will be accomplished through the existing in-service training requirement.

Implementation Costs: Implementation costs to the Department of Criminal Justice Services is not expected to exceed those costs associated with compliance with the Administrative Process Act, Executive Order No. 51, and the board's Public Participation Guidelines. No additional costs are anticipated.

Calendar of Events

Written comments may be submitted until February 28, 1986 to L. T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Mr. Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

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April 2, 1986 - 9:30 a.m. – Public Hearing
Division of Motor Vehicles, 3200 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

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 adopt regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Courthouse and Courtroom Security Personnel and Deputy Sheriffs Designated to Serve Process.** The regulation amends existing training standards for deputy sheriffs and other law-enforcement and designated personnel to provide security for the courthouse and courtroom and serve process.

STATEMENT

Basis and Purpose: The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170 (5 & 5a.) of the Code of Virginia. The protection of property and persons during the judicial process is a specialized function requiring certain knowledge, skills and abilities. The purpose of the proposed rules is to provide training necessary for effective protection of the courthouse and courtroom and for the protection of the individuals upon whom process is served.

Subject and Substance: The proposed amendments to the rules mandate minimum training standards for those criminal justice personnel designated to provide courthouse and courtroom security or who serve process.

Impact: This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. No fiscal impact is anticipated.

Statutory Authority: § 9-170 (5 and 5a) of the Code of Virginia.

Written comments may be submitted until February 28, 1986.

Contact: Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

VIRGINIA BOARD OF DENTISTRY

April 10, 1986 - 10 a.m. – Public Hearing
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to adopt regulations entitled: **Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene.**

STATEMENT

Purpose: The purpose of these regulations is to establish the requirements for licensure as dentists and dental hygienists in Virginia, to regulate the licensure of dentists and dental hygienists and to discharge the duties required of the board by § 54-163 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

Basis: § 54-163 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 4,331 licensed dentists, 2,003 licensed dental hygienists and 29 temporary permits. The Board of Dentistry depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

Statutory Authority: § 54-163 of the Code of Virginia

Written comments may be submitted until April 4, 1986.

Contact: Nancy T. Feldman, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0311

STATE BOARD OF EDUCATION

February 25, 1986 - 8 a.m. – Open Meeting
February 26, 1986 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, 1st Floor, Richmond, Virginia. (Location accessible to handicapped.)

A regularly scheduled business meeting of the board. Business will be conducted according to items listed on the agenda which is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2540

Calendar of Events

COMMISSION OF GAME AND INLAND FISHERIES

† **March 21, 1986 - 9:30 a.m.** – Open Meeting
Game Commission Offices, 4010 West Broad Street,
Richmond, Virginia. (Location accessible to handicapped.)

The commission will consider a proposed new regulation pertaining to the appointment of new license agents by the commission for the sale of hunting and fishing licenses. Also to be considered is a proposed amendment to boating regulations (VR 325-04-1, § 1), pertaining to boating safety equipment, applicable to all recreational boats, as required by federal law. General administrative matters will also be considered.

Contact: Norma G. Adams, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 257-1000

DEPARTMENT OF GENERAL SERVICES

State Insurance Advisory Board

March 14, 1986 - 9:30 a.m. – Open Meeting
Ninth Street Office Building, 9th and Grace Streets,
Conference Room of the Director of the Department of
General Services, Richmond, Virginia. (Location accessible
to handicapped.)

A quarterly meeting of the State Insurance Advisory Board.

Contact: Charles F. Scott, Director, Department of General Services, Office of Risk Management, 805 E. Broad St., Room 117, Richmond, Va. 23219, telephone (804) 786-5968.

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

February 18, 1986 - 4 p.m. – Open Meeting
February 19, 1986 - 9 a.m. – Open Meeting
Howard Johnson's Richmond Hotel, 3207 North Boulevard,
Richmond, Virginia. (Location accessible to handicapped.)

The following committees of the Statewide Health Coordinating Council will be meeting, Tuesday, February 18, 1986, beginning at 4:00 p.m.: Analysis and Plans Development Committee and the Evaluation Committee. The Executive Committee will begin meeting at 12:00 noon. The Statewide Health Coordinating Council will hold its regular business meeting at 9:00 a.m. on Wednesday, February 19, 1986 to conduct regular business of the council and other committee work.

Contact: Raymond O. Perry, Assistant Health Commissioner, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 26, 1986 - 9:30 a.m. – Open Meeting
CHANGED MEETING PLACE: Virginia Hospital Association Headquarters, 4200 Innslake Drive, Glen Allen, Virginia

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-6371

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **March 5, 1986 - 10 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor,
Conference Room, Richmond, Virginia. (Location accessible
to handicapped.)

A monthly meeting of the council. The agenda is available upon request.

Contact: Grace I. Lessner, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, Va. 23219, telephone (804) 225-2538

VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

February 20, 1986 - 10 a.m. – Open Meeting
Virginia Department of Highways and Transportation,
Board Room, 1401 East Broad Street, Richmond, Virginia.
(Location accessible to handicapped; interpreter for deaf
provided if requested.)

A monthly meeting of the State Highway and Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

Calendar of Events

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Board of Commissioners

February 18, 1986 - 9 a.m. - Open Meeting
13 South 13th Street, Richmond, Virginia (Location accessible to handicapped.)

A regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various program; (iii) review the authority's operations for the prior month; and (iv) to consider such other matters and take such other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Ad Hoc Advisory Committee

March 3, 1986 - 10 a.m. - Open Meeting
March 4, 1986 - 9 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if needed.)

The advisory committee has been appointed by the Board of Housing and Community Development to assist it in formulating recommendations to be offered at the annual meeting of The Building Officials and Code Administrators International, Inc. (BOCA), regarding 1986 proposed changes to the BOCA model codes. The requirements of the BOCA Model Building Code, Existing Structures Code, Mechanical Code, Plumbing Code, and Fire Prevention Code are referenced by the Virginia Uniform Statewide Building Code which is adopted and maintained by the board. The meeting of the advisory committee will be for the purpose of developing recommendations for approval or challenge of the recommendations developed by the BOCA Code Change Committees which were developed at meetings in January, 1986. All organizations known to be affected by the State Building Code have been invited to supply a representative to the advisory committee.

Contact: Jack A. Proctor, Administrator, Office of Uniform

Building Code, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-5041

GOVERNOR'S ADVISORY COMMITTEE ON CHILD ABUSE AND NEGLECT

March 7, 1986 - 10 a.m. - Open Meeting
Koger Executive Center, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room B, Richmond, Virginia (Location accessible to handicapped.)

A regular quarterly meeting.

Contact: D. Ray Sirry, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699,

VIRGINIA STATE LIBRARY BOARD

April 7, 1986 - 10 a.m. - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Standard for Microfilming of Public Records for Archival Retention, VR 440-01-137.1**. These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming records of permanent value.

STATEMENT

Subject and Substance: Standards for the Microfilming of Public Records for Archival Retention are being rewritten by the State Library Board and provide minimum standards for microfilming public records of archival value. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. Requirement for methylene blue testing was changed from no specified frequency to every eight hours for commercial labs.
2. The acceptable density range was increased from 1.0-1.2 to .9-1.2.
3. The resolution requirement was changed from 90 lines per millimeter to 90 lines per millimeter and resolution of the 4.0 pattern.

Calendar of Events

4. The residual thiosulfate concentration was changed from an optimum of .7 micrograms to greater than zero and less than .7 micrograms.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming public records of permanent value.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: § 42.1-82 of the Code of Virginia.

Purpose: To ensure that when records of permanent value are microfilmed the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597

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April 7, 1986 - 10 a.m. - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process, VR 440-01-137.2** These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in a procedural microphotographic process for microfilming permanent records.

STATEMENT

Subject and Substance: Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process are being rewritten by the State Library Board and provide minimum standards for microfilming deeds and other writings by a procedural microphotographic process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.

2. The acceptable density range was changed from 1.0-1.2 to .9-12.

3. The resolution requirement was changed from 5.0 pattern for 16mm and the 7.1 pattern for 35mm was changed to resolution of the 5.0 pattern and 120 lines per millimeter regardless of the reduction ratio.

4. The reduction ratio is no longer specified.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming deeds and other writings by a procedural microphotographic process.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: §§ 17-60, 17-70, 42.1-82 of the Code of Virginia.

Purpose: To ensure that when deeds and other writings are recorded by a procedural microphotographic process the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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April 7, 1986 - 10 a.m. - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library intends to repeal existing regulations and to adopt regulations entitled: **Minimum Standards for Instruments Recorded by a Microphotographic Process, VR 440-01-137.3.** This regulation provides minimum standards for paper size and quality inscription color and quality and document format for instruments recorded by a microphotographic process.

STATEMENT

Subject and Substance: Minimum Standards for Instruments Recorded by a Microphotographic Process applies only to instruments recorded by a microphotographic process. The

Calendar of Events

standard is being repealed by the State Library Board because of the adoption of Standards for Recorded Instruments (VR 440-01-137.7) which applies to all instruments submitted for recordation.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Other pertinent information: Superceded by Standards for Recorded Instruments VR 440-01-137.7.

Contact: Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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April 7, 1986 - 10 a.m. – Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition, VR 440-01-137.4.** This regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law chancery, and criminal cases.

STATEMENT

Subject and Substance: Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition are being rewritten by the State Library Board and provide minimum standards for microfilming all ended records, papers or documents pertaining to law, chancery, and criminal cases. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.
2. The resolution requirement for 35mm film was changed from the 7.1 pattern to the 4.0 pattern and 90 lines per millimeter. The resolution requirement for 16mm film was changed from the 5.0 pattern to the 4.0 pattern and 90 lines per millimeter.

3. The requirement for a specific reduction ratio was removed.

4. The requirement for the background density was changed from 1.0-1.2 to .9-1.2.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: §§ 17-47.4 and 42.1-82 of the Code of Virginia.

Purpose: To ensure that when ended law, chancery, and criminal files are microfilmed, the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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April 7, 1986 - 10 a.m. – Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for Computer Output Microfilm (COM) for Archival Retention, VR 440-01-137.5.** These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated of public records of permanent value.

STATEMENT

Subject and Substance: Standards for Computer Output Microfilm (COM) for Archival Retention are being rewritten by the State Library Board and provide minimum standards for microfilm of public records of permanent value produced by the computer output microfilm (COM) process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were

Calendar of Events

adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The acceptable density range was changed from 1.0-1.2 to 1.8 or higher.
2. The acceptable residual thiosulfate concentration was changed from an optimum concentration of .7 micrograms to greater than zero and less than .7 micrograms.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated for records of permanent value.

2. Exclusions - The standards do not apply to computer output microfilm (COM) generated for records of nonpermanent value.

Basis: § 42.1-82. of the Code of Virginia

Purpose: To ensure that when public records of permanent value are generated by the computer output microfilm (COM) process, the microfilm on which the images are recorded and the images are archival, can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

COMMISSION ON LOCAL GOVERNMENT

March 11, 1986 - 2 p.m. - Open Meeting
Center In The Square, 1 Market Square, Roanoke, Virginia

A regular meeting of the Commission on Local Government.

Contact: Amy L. MacMahan, Commission on Local Government, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

MARINE RESOURCES COMMISSION

February, 25, 1986 - 9:30 a.m. - Open Meeting
March 25, 1986 - 9:30 a.m. - Open Meeting
April 22, 1986 - 9:30 a.m. - Open Meeting
2401 West Avenue, Newport News, Virginia

The Marine Resources Commission normally meets on

the fourth Tuesday each month, at 9:30 a.m., at the agency office, 24th Street and West Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It hears and decides appeals made on local wetlands board decisions. Fishery Management and Conservation measures are discussed by the Commission. The Commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

Contact: Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

VIRGINIA STATE BOARD OF MEDICINE

March 13-15, 1986 - 8:30 a.m. - Open Meeting
Radisson Hotel, Charlottesville, Virginia. (Location accessible to handicapped.)

A meeting to review reports, interview licensees and make decisions on discipline matters before the board. At 1:30 p.m. Saturday, March 15, the full board will meet in open session to conduct general board business.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., Richmond, Va. 23261, telephone (804) 786-0575

STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

February 26, 1986 - 10 a.m. - Open Meeting
Chesterfield County Community Services Board, Magnolia Grange Museum House (directly across from Chesterfield Courthouse), 10020 Ironbridge Road, Chesterfield, Virginia

A regular monthly meeting. The agenda will be published February 19, and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Mental Health and Mental Retardation Secretary, Department of Mental Health and Mental Retardation Board, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

Calendar of Events

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Systemwide Training and Staff Development Workgroup

February 20, 1986 - 10 a.m. - Open Meeting
Department of Mental Health Training Office, 203 Governor Street, Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting for the review of progress on FY 1986 regional training grants; (ii) review of systemwide training needs assessment and development of priorities for FY 1987; and (iii) dissemination of application packets for FY 1987 regional training grants.

Contact: Ken Howard, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-6133

STATE MILK COMMISSION

† February 19, 1986 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 1015, Richmond, Virginia. (Location accessible to handicapped.)

A routine monthly meeting.

Contact: C. H. Coleman, Administrator, Ninth Street Office Bldg., Room 1015, Richmond, Va. 23219, telephone (804) 786-2013

OLD DOMINION UNIVERSITY

Board of Visitors

† April 4, 1986 - (Specific time will be included in the agenda to be distributed two weeks prior to meeting.) - Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia

A regular meeting of the Board of Visitors to handle affairs of the university.

Contact: Dr. Gary N. Rubin, Associate Vice President for Advancement and Secretary to the Board of Visitors, Old Dominion University, Norfolk, Va. 23508, telephone (804) 440-3072

VIRGINIA STATE BOARD OF OPTICIANS

† February 27, 1986 - 9:30 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of licenses, (ii) review investigative reports of complaints and determine disposition, and (iii) consider general correspondence pertinent to the operation of the board. MEETING FEBRUARY 28, 1986, cancelled and rescheduled.

Contact: Olliver O. Trumbo, II, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

VIRGINIA BOARD OF OPTOMETRY

April 16, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6351 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Optometry intends to repeal the existing regulations and adopt regulations entitled: **VR 510-01-1: Regulations of the Virginia Board of Optometry**. The proposed regulations, a revision of existing ones, provide the standards for the practice of optometry in Virginia; state the requirements for candidates for examination and licensure as optometrists; and govern the board in the performance of its duties.

STATEMENT

Subject: The proposed regulations provide the standards for the practice of optometry in Virginia. The regulations state the requirements for licensure as an optometrist, for taking a practical examination, for renewing a license, and for obtaining continuing education. The regulations also describe acceptable professional designations for optometrists, and list conduct that is unprofessional. Additionally, fees charged by the board for examinations and licensure are stated in the regulations.

Purpose: To ensure the safety of the public in obtaining eye care.

Impact: The regulations will affect the 905 licensed optometrists in Virginia.

Basis: These regulations are issued under the authority granted by § 54-376 of the Code of Virginia.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until April 16, 1986.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, P. O. Box 27708, Richmond, Va. 23261,

Calendar of Events

telephone (804) 786-0077

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., Richmond, Va. 23261, telephone (804) 786-0575

STATE BOARD OF PHARMACY

March 12, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, I-64 West, Ball Room,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Pharmacy intends adopt regulations entitled: **Board of Pharmacy Regulations.**

STATEMENT

Subject: This proposed regulation addresses licensure requirements for pharmacists and pharmacies, drug security, recordkeeping, prescription orders and methods of dispensing of drugs in pharmacies serving various prescription drug needs.

Basis and purpose: This regulation is based on requirements set forth in The Drug Control Act and the necessity for the board to advise the pharmacist and others directly affected by the act of the latitude which the licensees may practice and stay within the requirements of law as they engage in various aspects of drug distribution.

Further, this regulation has been the subject of intense review for clarification and represents a reduction of existing regulations and a rewriting of a large numbers of the present regulations. With the exception of regulations dealing with good manufacturing practices, all regulations will be repealed and these proposals adopted.

Estimated Impact: This regulation will directly affect the same number of licensees as do the existing regulations, i. e. 1,325 pharmacies, 5,100 pharmacists, 65 drug distributors and 14,000 controlled substances registrants.

Statutory Authority: § 54-524.16 of the Code of Virginia.

Written comments may be submitted until March 12, 1986.

Contact: Jack B. Carson, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0239

ADVISORY BOARD ON PHYSICAL THERAPY

March 14, 1986 - 1:30 p.m. - Open Meeting
Radisson Hotel, Charlottesville, Virginia. (Location accessible to handicapped.)

A meeting to conduct general board business and respond to correspondence.

POLYGRAPH EXAMINERS ADVISORY BOARD

† March 4, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to continue revision of the licensing examinations, and to consider revisions to the regulations governing polygraph examiners.

Contact: Iva B. Frizzell, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/8563

PRIVATE SECURITY ADVISORY BOARD

† February 21, 1986 - 10 a.m. - Open Meeting
Department of Criminal Justice Services, 805 East Broad Street, 11th Floor, Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review and discuss training relative to private security services personnel.

Contact: Dr. Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

RADFORD UNIVERSITY

Board of Visitors

† February 18-19, 1986 - 8:30 a.m. - Open Meeting
Radford University, Preston Hall, Board Room, Radford, Virginia. (Location accessible to handicapped.)

A regular routine meeting. The agenda is not complete.

Contact: Deborah L. Brown, Director of Public Information and Relations, Box 5760, Radford, Va., telephone (703) 731-5401/5407/5324

VIRGINIA REAL ESTATE BOARD

February 18, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

Calendar of Events

A meeting to (i) approve minutes of the January 18-19 meeting; (ii) review investigative cases; (iii) and to review applications for licensure and appointments.

Contact: Julio G. Del Corso, III, Assistant Director for Real Estate, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516

† **February 19-20, 1986 - 10 a.m. – Open Meeting**
Stafford County Administrative Center, 1739 Jefferson Davis Highway, Rowser Building, Board of Supervisors Meeting Room, Stafford, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Board v. June Pine.

† **February 27-28, 1986 - 10 a.m. – Open Meeting**
Prince William Circuit Court, 9311 Lee Avenue, Courtroom 2, Manassas, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Board v. Hassell B. Bell.

† **March 4-5, 1986 - 10 a.m. – Open Meeting**
Lynchburg Circuit Court, 900 Court Street, Courtroom B, Lynchburg, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Board v. Freda Yeatts.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

† **March 14, 1986 - 9 a.m. – Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the February 18 meeting; (ii) review investigative cases; and (iii) review applications for licensure appointments.

Contact: Elinor Powell, Interim Assistant Director for Real Estate, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516

March 15-16, 1986 - 9 a.m. – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to review regulations entitled (i) "Virginia Real Estate Board's Regulations; (ii) Fair Housing Regulations; and (iii) Condominium and Time-Share Regulations."

Contact: Julio G. Del Corso, III, Assistant Director for Real Estate, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516

VIRGINIA RESOURCES AUTHORITY

March 11, 1986 - 10 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to (i) approve minutes of the prior month board meeting; (ii) review the authority's operations for the prior month; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **February 26, 1986 - 9 a.m. – Open Meeting**
† **March 26, 1986 - 9 a.m. – Open Meeting**
† **April 23, 1986 - 9 a.m. – Open Meeting**
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to hear and render a decision on all Appeals of Denials of On-Site Sewage Disposal System Permits.

Contact: P.M. Brooks, 502 Madison Bldg., Richmond, Va. 23219, telephone (804) 786-1931

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

February 18, 1986 - 9 a.m. – Public Hearing
1000 Washington Building, 12th and Bank Streets, Audio Visual Room, 9th Floor, Richmond, Virginia. (Location accessible to handicapped.)
March 18, 1986 - 9 a.m. – Public Hearing
April 15, 1986 - 9 a.m. – Public Hearing
State Capitol, House Room 2, Richmond, Virginia. (Location accessible to handicapped.)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation. Prior to the public hearing, which starts at 10:00 a.m., the authority will conduct its regular business meeting.

Contact: Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg.

Calendar of Events

Richmond, Va., telephone (804) 786-3791

STATE BOARD OF SOCIAL SERVICES

February 19, 1986 - (Time to be announced) - Open Meeting

February 20, 1986 - (Time to be announced) - Open Meeting

Department of Social Services, 8007 Discovery Drive, Blair Building, Richmond, Virginia. (Location accessible to handicapped.)

March 19, 1986 - (Time to be announced) - Open Meeting

March 20, 1986 - (Time to be announced) - Open Meeting
Fair Oaks Inn, 11787 Lee Jackson Highway, Fairfax, Virginia. (Location accessible to handicapped.)

A work session and formal business meeting.

Contact: Phyllis Sisk, 8007 Discovery Dr., Richmond, Va. 23229-8899, telephone (804) 281-9236

DEPARTMENT OF SOCIAL SERVICES

† **March 3, 1986 - 2 p.m. - Public Hearing**

Department of Social Services, 8007 Discovery Drive, Blair Building, Conference Room B, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **State Plan for Implementation of the Virginia Weatherization Assistance Program for Low-Income Persons.** The State Plan describes methods of implementing the Weatherization Program in Virginia.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: The State Plan sets forth the method of development and implementation of a weatherization program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwelling of low-income persons.

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

Written comments may be submitted until March 3, 1986.

Other pertinent information: Copies of the State Plan are available at the Department of Social Services or telephone: (804) 281-9046

Contact: Daniel W. Deane, Program Specialist, Department of Social Services, 8007 Discovery Dr. Richmond, Va. 23288, telephone (804) 281-9046 (toll-free number 800-552-7091)

Human Services Information and Referral Advisory Board

March 21, 1986 - 9:30 a.m. - Open Meeting

Koger Executive Center, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room B, Richmond, Virginia. (Location accessible to handicapped.)

A general meeting of the Information and Referral Board.

Contact: D. Ray Sirry, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699,

Division of Licensing Programs

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs intends to adopt regulations entitled: **Regulations for Criminal Record Checks: Licensed Child Care Centers and Child Caring Institutions.** The purpose of this regulation is to provide guidelines and clarification for the requirement that all persons involved in the operation of a licensed child care center or child caring institution secure a criminal record check; and to protect children in licensed facilities from persons previously convicted of specified crimes.

STATEMENT

Basis: The Department of Social Services has implemented procedures for criminal record checks because of the passage of S.B. 618 during the 1985 Session of the General Assembly. Sections 19.2-389, 63.1-199 of the Code of Virginia, were changed by adding §§ 63.1-198.1 and 63.1-198.2 and amending § 63.1-199.

This statutory change required that all compensated employees and volunteers as well as applicants/licenseses of child care centers and child caring institutions secure a criminal records clearance and be issued a certificate by the Commissioner of Social Services. In consultation with the state police and the staff of the office of the Attorney General, the department devised procedures to implement the law and has been processing the required certificates since July 1, 1985.

Effective September 20, 1985, the Emergency Regulation for Criminal Record Checks, pursuant to § 9-6.14:6 of the Code of Virginia, was approved by Governor Charles S. Robb. The department is currently operating under this regulation which became effective September 1, 1985.

The Department of Social Services, acting under the authority of § 63.1-202 of the Code of Virginia, is authorized to promulgate regulations.

Purpose: The basic intent of the statute is to protect children in licensed child care centers and child caring

Calendar of Events

institutions from predatory persons already convicted of crimes against children.

Impact: A. Regulated entities as of November 1, 1985, include 761 licensed child care centers and 36 licensed child caring institutions. The following is a breakdown of the total licensed capacity:

761 Child Care Centers	58,241 Children
36 Child Caring Institutions	918 Children
TOTAL	59,159

B. The approximate number of individuals requiring criminal record checks during the period of one year was estimated on the required staffing in the current child care center and child caring institution standards with some consideration of staff turnover and volunteers. The initial estimate was 10,000 individuals but as of November 25, 1985, over 11,000 record checks have been received. Therefore, the estimated total for one year has been revised to approximately 15,000.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until February 24, 1986.

Contact: Sheila B. Rich, Supervisor of Children and Adult Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free number 1-800-552-7091)

VIRGINIA BOARD OF SOCIAL WORK

February 21, 1986 - 9:30 a.m. - Open Meeting
517 West Grace Street, Richmond, Virginia

A meeting to conduct general board business; (ii) review applications; and (iii) respond to correspondence.

Contact: John W. Braymer, Ph.D., Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7703

DEPARTMENT OF TAXATION

March 17, 1986 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-28-796.13 through VR 630-28-796.27. Virginia Cattle Assessment.** This regulation sets forth and explains the applicability of the Virginia Cattle Assessment and

the procedures relating to its collection and recording.

STATEMENT

Basis: This regulation is issued under authority granted by Virginia Code § 58.1-203.

Purpose: This regulation sets forth and explains the applicability of the Virginia Cattle Assessment and the procedures relating to its collection and recording.

Issue: The 1985 General Assembly transferred the authority for collecting and recording the Virginia Cattle Assessment from the Virginia Cattle Industry Board to the Department of Taxation. This regulation specifies how the Department of Taxation will carry out its statutory responsibility.

Substance: This regulation details when the Virginia Cattle Assessment applies, who collect it and remits it to the Department of Taxation, what registration and records are required, and the penalty for failure to comply.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

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March 17, 1986 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-2-325: Individual Income Tax: Taxable income of nonresidents and VR 630-2-332: Individual Income Tax: Credit for taxes paid to another state.**

STATEMENT

Basis: These regulations are issued under the authority granted by Virginia Code § 58.1-203.

Purpose: These regulations are being amended to conform to the change made by the 1985 General Assembly to § 58.1-332 of the Code of Virginia (Chapter 466, Senate Bill 651). This code section was amended to provide an individual income tax credit to individual shareholders of an S corporation which has paid corporation income tax to a state which does not recognize the federal S election.

Issues: The change made by the 1985 General Assembly to § 58.1-332 of the Code of Virginia (Chapter 466, Senate Bill 651) conflicts with the present regulations which were

Calendar of Events

adopted September 19, 1984. The present regulations specify that no credit for corporation income taxes paid to another state by an S corporation is available to an individual taxpayer. The 1985 statutory change allows this credit to individual taxpayers.

Substance: These amended regulations specify that the credit for income taxes paid to another state is available to an individual shareholder of an S corporation which has paid income tax to a state which does not recognize the federal S election. To avoid ambiguity, an example illustrating the computation of this credit is provided. Furthermore, these regulations specify how the amount of tax paid by the S corporation shall be allocated to each of the shareholders.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

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March 17, 1986 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **Retail Sales and Use Tax Regulation VR 630-10-18.1: Catalogs and other printed materials and VR 630-10-86: Printing.** These regulations set for the application of the sales and use tax to tangible personal property used or consumed by printers and to the sale of printing by such persons, including the sale of catalogs, letters, brochures, and similar printed materials.

STATEMENT

Basis: These regulations are issued under the authority granted by Virginia Code § 58.1-203.

Purpose: As revised, these regulations set forth the application of the sales and use tax to brochures, letters, reports, and similar printed materials produced for use outside the state, as well as the application of the tax to the production and sale of printing in general.

Issues: When delivery of printing from the seller to the purchaser occurs in Virginia, the sales and use tax will apply unless specifically exempted from the tax. Virginia Code § 58.1-608.30 sets forth such an exemption for catalogs and similar printed materials used to advertise tangible personal property for sale or resale when such materials are distributed for use outside the state after storage for 12 months or less in Virginia. Effective July 1,

1986 and running through June 30, 1990, the above statute will be expanded to exempt any catalogs, letters, brochures, reports, and similar printed materials that are distributed for use outside the state after storage in Virginia for 12 months or less. By statute, the expanded exemption will not apply to administrative supplies such as letterhead, envelopes, stationery, invoices, billing forms, payroll forms, price lists, time cards, and computer cards.

Substance: Applying the law change effective on July 1, 1986, these regulations exempt catalogs, letters, brochures, reports, and similar printed materials that will be distributed for use outside of Virginia after storage here for 12 months or less. Pursuant to the law change, these regulations state the taxability of administrative supplies. Examples of exempt printed materials and taxable administrative supplies are included in these regulations. Additionally, proposed regulation VR 630-10-86 has been revised to address the statutory interstate commerce and resale exemptions as they relate specifically to printers and to address the correct application of the tax to materials furnished to printers by customers for fabrication into finished products.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

VIRGINIA BOARD OF VETERINARY MEDICINE

† **February 19, 1986 - 1 p.m. - Open Meeting**
† **February 20, 1986 - 10 a.m. - Open Meeting**
† **February 21-22, 1986 - 9 a.m. - Open Meeting**
Omni International Hotel, 777 Waterside Drive, Norfolk, Virginia. (Location accessible to handicapped.)

A meeting to (i) conduct general business, (ii) informal conferences, and (iii) state board examinations of veterinarian applicants.

Contact: Moria C. Lux, Virginia Board of Veterinary Medicine, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

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April 8, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, I-64 West, Ballroom, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Veterinary Medicine intends to repeal the existing regulations and adopt regulations entitled: **VR 645-01-1: Regulations Governing the Practice of Veterinary**

Medicine. The proposed regulations, a revision of existing ones, provides the standards for the practice of veterinary medicine and surgery in Virginia and states the requirements for candidates for licensure as veterinarians and certification as animal technicians.

STATEMENT

Subject: The proposed regulations provide standards for the practice of veterinary medicine in Virginia. Requirements for the licensure of veterinarians and the certification of animal technicians are described in the regulations, which also set forth conditions for the registry and operation of animal facilities. The regulations require that animal facilities have a room reserved for surgery and access to laboratory equipment to perform certain tests. Should a veterinarian's practice be limited in scope, the regulations provide a means for the issuance of a restricted facility permit. Radiology equipment must be operated in accordance with the Virginia Department of Health's "Ionizing Radiation Rules and Regulations." The proposed regulations establish rules for the dispensing and storage of drugs. It is required that veterinary facilities maintain drug inventory records, as well as medical records on each animal treated, or client. Fees charged by the board for costs such as examinations and licensure are listed in the regulations, as are actions that constitute unprofessional conduct. The regulations contain public participation guidelines which already are in effect. The combined package is a revision of existing regulations updated to accommodate the changing nature of veterinary medicine.

Purpose: To protect animal health and to ensure the safety of the public.

Impact: The regulations will affect the 1,698 licensed veterinarians, the 369 certified animal technicians, and 436 permitted animal facilities.

Basis: These regulations are issued under authority granted by § 54-784.03 (13) of the Code of Virginia.

Statutory Authority: § 54-784.03 (13) of the Code of Virginia.

Written comments may be submitted until April 8, 1986.

Contact: Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

VIRGINIA DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

March 1, 1986 - 10:30 a.m. - Open Meeting

Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: George A. Koger, Executive Assistant, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3148

VIRGINIA BOARD FOR THE VISUALLY HANDICAPPED

† **April 9, 1986 - 11 a.m. - Open Meeting**
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget, executive agreements, and operating plans.

Contact: Diane Allen, Acting Confidential Secretary, 397 Azalea Avenue, Richmond, Va. 23227, telephone (804) 264-3145

STATE WATER CONTROL BOARD

† **February 19, 1986 - 7 p.m. - Public Hearing**
Chesapeake City Council Chambers, City Hall Building, Corner of Albemarle and Holt Drives in the Civic Center Complex, Chesapeake, Virginia

A public hearing to receive comments and testimony relative to issuance of the NPDES Permit for the City of Chesapeake's Water Treatment Plant Sludge Lagoons and its effect on water quality and beneficial uses of receiving waters.

† **February 25, 1986 - 2 p.m. - Public Hearing**
Smithfield City Council Chambers, Town Hall, 310 Institute Street, Smithfield, Virginia

A public hearing to receive comments on the proposed NPDES Permit Reissuance and on the criteria used to determine effluent limitations in the proposed NPDES Permit Reissuance for Smithfield Foods, Inc., P.O. Box 447, Smithfield, Virginia for its Smithfield Packing and Gwaltney Food Processing Plants.

† **March 24-25, 1986 - 9 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. (Location accessible to handicapped.)

Calendar of Events

A regular quarterly meeting.

STATEMENT

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

Subject: Subpart G, Pretreatment, of Regulation No. 6, National Pollution Discharge Elimination System Permit Amendment.

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March 7, 1986 - 10 a.m. - Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia
March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue, Roanoke, Virginia. (Location accessible to handicapped.)

Substance: Establishes the responsibilities of the board, local governments and industry to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes of Publicly Owned Treatment Works (POTWs) or which contaminate POTW residues.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **Water Quality Standards, § 1:11 Chlorine Standard and Policy for Surface Waters.** Set enforceable instream concentration limits for chlorine in state waters.

Issue: To eliminate pollutants, to reduce the amount of pollutants, or to alter the nature of pollutants in wastewater to a nonharmful state prior to discharging or introducing such pollutants into POTWs.

STATEMENT

Basis: The regulation delineates the procedures to be followed in connection with the administration of a statewide pretreatment program. The board may be authorized under §§ 402 and 307 of the Federal Clean Water Act to administer the pretreatment program.

Statement, substance, issues, basis, and purpose: The Virginia Water Control Board proposes a water quality standard and policy which sets an enforceable concentration limit for total residual chlorine in freshwater and chlorine produced oxidant in saline water that will protect aquatic life. Currently we do not have an instream standard for chlorine.

Purpose: To establish legal requirements for state administration of the pretreatment program and enable the implementation of National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in POTWs or which may contaminate sewage sludge.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Impact: Since the EPA has been administering the program for the last seven years and, those municipalities required by regulation to have a pretreatment program have obtained approval, there should be no appreciable impact to those municipalities, (approximately 43 in number). Twenty three municipalities are to be reevaluated for pretreatment program needs. It is estimated that approximately one-half of these will need to develop a pretreatment program. This would entail a resource and financial commitment ranging from one person plus \$5,000 per year for the smallest of these communities up to two persons and \$10,000 per year for the largest of the communities. However, the transfer of authority to administer the pretreatment program, from the EPA to the Commonwealth as a result of these regulations, will not impose any additional financial costs to Virginia communities or industries as the responsibility for implementing their program already lies with the affected municipalities and industries.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230.

Contact: Jean W. Gregory, Water Resources Ecologist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6985

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March 10, 1986 - 7 p.m. - Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia
March 11, 1986 - 2 p.m. - Public Hearing
Stafford County Administrative Center, Route 1, Stafford County Board of Supervisors Room, Stafford, Virginia

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

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **Regulation No. 6 - National Pollutant Discharge Elimination System (NPDES) Permit Program Subpart G - Pretreatment and Industrial User Control Program.** This regulation will regulate nondomestic discharges to public owned treatment plants to prohibit interference or pass through of any material which may cause environmental harm.

Written comments may be submitted until March 14, 1986.

Contact: LaVern H. Corkan, Pretreatment Program Manager, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6306

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Calendar of Events

March 10, 1986 - 7 p.m. – Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **NPDES General Permit for Sewage Discharges of Less Than 1000 Gallons Per Day**. This presents the authority and requirements for General Permits which authorize sewage discharges to state waters from treatment works that discharge less than 1000 gallons per day.

STATEMENT

Basis: Under the authority §§ 62.1-44.15(5) and 62.1-44.15(10) of the Code of Virginia, the State Water Control Board (SWCB) is authorized to issue permits for the discharge of treated sewage into state waters and to adopt such regulations as it deems necessary to enforce water quality management in the Commonwealth.

Section 402 of the Clean Water Act authorizes the Commonwealth to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the law. The Commonwealth of Virginia received such authorization in 1975 with SWCB Regulation No. 6 being the specific governing authorization.

Federal NPDES regulations (40 CFR 122.28) allow states with NPDES authorization to issue general permits written to cover a category of discharges within a geographic area. Regulation No. 6 provides the SWCB with the authority to issue and enforce these permits.

Substance and Purpose of Proposed Regulation: It is the intent of the SWCB to adopt a regulation for an NPDES General Permit for Sewage Discharges of less than 1,000 gallons per day (GPD). At the present time, all persons wishing to discharge wastewater from point sources to the waters of the Commonwealth must obtain individual NPDES permits. Some of these discharges are from minor point sources, such as sewage discharges of less than 1,000 GPD, which have little potential to adversely impact the receiving waters. Issuance of general NPDES permits will reduce the review, inspection, and administrative burden necessitated by individual permits but not warranted by the discharge in consideration. Since permit conditions applicable to individual permits, such as monitoring and reporting requirements, will remain in place, the Commonwealth will retain a record of all discharges authorized under general NPDES permits.

Issue: By adoption of this proposed regulation the SWCB hopes to reduce unwarranted administrative burdens placed upon itself and owners of sewage discharges of less than 1,000 GPD. As a result of this endeavor, the SWCB will lose some comprehensive regulatory review of these discharges, but shall still retain a certain regulatory posture.

It is felt that resources not spent on administration of individual NPDES permits for these minor, less significant discharges can be redirected to more critical areas of concern.

This better utilization of resources outweighs the minor loss of regulatory overview for these less significant discharges.

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

Written comments may be submitted until March 20, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Martin G. Ferguson, Program Director, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6984

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March 10, 1986 - 7 p.m. – Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **NPDES General Permit for Groundwater Heat Pumps**. This regulation presents the authority and requirements for General Permits which authorize discharges from groundwater heat pumps.

STATEMENT

Basis: Under the authority of §§ 62.1-44.15(5) and 62.1-44.15(10) of the Code of Virginia, the State Water Control Board (SWCB) is authorized to issue permits for the discharge of treated sewage into state waters and to adopt any such regulations as it deems necessary to enforce water quality management in the Commonwealth of Virginia.

Section 402 of the Clean Water Act allows the Commonwealth authorization to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the law. The Commonwealth of Virginia received such authorization in 1975 with Regulation No. 6 being the specific governing regulation.

Federal NPDES regulations (40 CFR 122.28) allow states with NPDES authorization to issue general permits written to cover a category of discharges within a geographic area. Regulation No. 6 provides the SWCB with the authority to issue and enforce these permits.

Substance and Purpose: It is the intent of the SWCB to adopt a regulation for an NPDES General Permit for groundwater heat pumps. At the present time, all persons

Calendar of Events

wishing to discharge wastewater from point sources to the waters of the Commonwealth must obtain individual NPDES permits. Some of these discharges are from minor point sources such as groundwater heat pumps which have little potential to adversely impact the receiving waters. Issuance of general NPDES permits will reduce the review, inspection, and administrative burden necessitated by individual permits but not warranted by the discharge in consideration. Since permit conditions applicable to individual permits, such as monitoring and reporting requirements, will remain in place, the state will retain a record of all discharges authorized under general NPDES permits.

Issue: By adoption of this proposed regulation the SWCB hopes to reduce unwarranted administrative burdens placed upon itself and owners of groundwater heat pumps. As a result of this endeavor, the SWCB will lose some comprehensive regulatory review of these discharges, but shall still retain a certain regulatory posture.

It is felt that resources not spent on administration of individual NPDES permits for these minor, less significant discharges can be redirected to more critical areas of concern.

This better utilization of resources outweighs the minor loss of regulatory overview for these less significant discharges.

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

Written comments may be submitted until March 10, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Program Director, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6984

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March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue, Roanoke, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **Water Quality Standard in the Basin and Section Description Tables, Skidmore Fork (Rockingham County), Section 5D, Shenandoah River Subbasin.** With this amendment Skidmore Fork would be changed from Class IV Mountainous Zone Waters to Class VI Natural Trout Waters.

STATEMENT

Basis: Section 62.1-44.15(3) of the Code of Virginia

authorizes the board to establish Water Quality Standards and Policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards or policies established. Such standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified, amended, or cancelled.

Section 303 of the Federal Clean Water Act requires states to adopt water quality standards and to have them approved by the Environmental Protection Agency (EPA).

Additionally, both state and federal law require triennial reviews of water quality standards, with adoption of new standards, amendments to existing standards, as appropriate. If EPA determines that Virginia's water quality standards are not appropriate, it will promulgate its own federal water quality standard for Virginia. This standards amendment was a result of EPA's review of Virginia's 1984 triennial review process.

Purpose: The purpose of this proposed amendment is to restore the natural trout water designation to Skidmore Fork (Rockingham County), Section 5D, in the Shenandoah River Subbasin.

Skidmore Fork (Rockingham County) in the Shenandoah River Subbasin was declassified from Class VI Natural Trout Waters to Class IV Mountainous Zone Waters at the triennial review of the Water Quality Standards in August, 1984. This declassification should not have been initiated since there were no data submitted to support this cancellation.

EPA indicated to us in a letter dated March 22, 1985, that they could not approve this revision. They also state that their approval of the revised Virginia Water Quality Standards was contingent upon reestablishing the natural trout water designation on Skidmore Fork.

The commission of Game and Inland Fisheries, in a letter dated July 24, 1985, further confirmed the existence of a population of trout in Skidmore Fork.

Impact: The board does not believe any immediate costs will occur if this amendment is restored to its original natural trout water designation. This is primarily because the change was meant to protect existing conditions and no discharger should have to provide additional treatment to meet new requirements. For example, the streams adopted for designation as trout streams currently support populations of natural trout.

Statutory Authority: § 62.1-44.15(3)a of the Code of Virginia.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box

Calendar of Events

11143, Richmond, Virginia 23230.

Contact: Mary M. Reid, Pollution Control Specialist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6699

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March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue,
Roanoke, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: § 1.10 B.2 of the Water Quality Standard and Policy for Mercury in Freshwater. This amendment substitutes the word "methyl" mercury for the word "total" mercury.

STATEMENT

Subject, substance, issues, basis and purpose: The Virginia Water Control Board proposes to amend the agency's water quality standard for mercury. This amendment will require reporting levels of mercury in edible fish tissue in freshwater as methyl rather than total mercury.

The Food and Drug Administration's (FDA) change in the action level for mercury in fish tissue from total to methyl mercury concentration necessitates amendment to § 1.10 B.2 of the Water Quality Standards since the Health Department will require reporting in methyl mercury.

Statutory Authority: § 62.1-44.15(3)a of the Code of Virginia.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Mary M. Reid, Pollution Control Specialist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6699

COLLEGE OF WILLIAM AND MARY

Board of Visitors

February 20, 1986 - 5 p.m. - Open Meeting
February 21-22, 1986 - 8 a.m. - Open Meeting
March 20, 1986 - 5 p.m. - Open Meeting
March 21-22, 1986 - 8 a.m. - Open Meeting
April 24, 1986 - 5 p.m. - Open Meeting
April 25-26, 1986 - 8 a.m. - Open Meeting
Alumni House, 500 Richmond Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors

of the College of William and Mary to review quarterly operations of the college, and Richard Bland College, to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individual and/or organizations who request it.

Contact: Office of University Relations, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

LEGISLATIVE

Notice To Subscribers

Legislative meetings held during the session of the General Assembly are exempted from publication in the Virginia Register of Regulations. Call Legislative Information for information on standing committee meetings. Telephone Number (804) 786-6530

CHRONOLOGICAL LIST

OPEN MEETINGS

February 18

Audiology and Speech Pathology, Virginia Board of Examiners
Conservation and Historic Resources, Department of
- Virginia Historic Landmarks Board
- Division of Historic Landmarks State Review Board
Health Coordinating Council, Virginia Statewide
Housing Development Authority, Virginia
- Board of Commissioners
Radford University, Board of Visitors
Real Estate Board, Virginia

February 19

Architects, Professional Engineers, Land Surveyors, and Certified Landscape Architects
- Board of Professional Engineers
Health Coordinating Council, Virginia Statewide
Milk Commission, State
Radford University, Board of Visitors
Real Estate Board, Virginia
Social Services, Board of
Veterinary Medicine, Virginia Board of

Calendar of Events

February 20

Highways and Transportation, Virginia Department of
Mental Health and Mental Retardation, Department of
- Systemwide Training and Staff Development
Workgroup
Real Estate Board, Virginia
Social Services, Board of
College of William and Mary, Board of Visitors
Veterinary Medicine, Virginia Board of

February 21

Architects, Professional Engineers, Land Surveyors,
and Certified Landscape Architects
- Board of Land Surveyors
Building Code Technical Review Board, State
Private Security Advisory Board
Social Work, Board of
Veterinary Medicine, Virginia Board of
College of William and Mary, Board of Visitors

February 22

Veterinary Medicine, Virginia Board of
College of William and Mary, Board of Visitors

February 25

Alcoholic Beverage Control, Department of
Education, State Board of
Marine Resources Commission

February 26

Contractors, State Board for
Education, State Board of
Health Services Cost Review Council, Virginia
Mental Health and Mental Retardation, State Board of
Sewage Handling and Disposal Appeals
Review Board, State

February 27

Opticians, Virginia State Board of
Real Estate Board, Virginia

February 28

Opticians, Virginia State Board of
Real Estate Board, Virginia

March 1

Visually Handicapped, Department for the
- Advisory Committee on Services

March 3

Housing and Community Development, Board of
- Ad Hoc Advisory Committee

March 4

Housing and Community Development, Board of
- Ad Hoc Advisory Committee
Polygraph Examiners Advisory Board
Real Estate Board, Virginia

March 5

Higher Education for Virginia, State Council of
Real Estate Board, Virginia

March 7

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Architects
Child Abuse and Neglect, Governor's Advisory
Committee on

March 10

Cosmetology, Virginia Board of

March 11

Alcoholic Beverage Control, Department of
Local Government, Commission on
Resources Authority, Virginia

March 12

Corrections, Board of

March 13

Medicine, Virginia State Board of

March 14

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
General Services, Department of
- State Insurance Advisory Board
Medicine, Virginia State Board of
Physical Therapy, Advisory Board on
Real Estate Board, Virginia

March 15

Medicine, Virginia State Board of
Real Estate Board, Virginia

March 16

Real Estate Board, Virginia

March 19

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Certified Landscape Architects
Social Services, Board of

March 20

Social Services, State Board
College of William and Mary, Board of Visitors

March 21

Game and Inland Fisheries, Commission of
Social Services, Department of
- Human Services Information and Referral Advisory
Board
College of William and Mary, Board of Visitors

March 22

College of William and Mary, Board of Visitors

March 24

Barbers Examiners, Board of
Water Control Board, State

Calendar of Events

March 25

Alcoholic Beverage Control, Department of
Water Control Board, State
Marine Resources Commission

March 26

Sewage Handling and Disposal Appeals
Review Board, State

April 2

Criminal Justice Services Board

April 4

Old Dominion University, Board of Visitors

April 9

Visually Handicapped, Virginia Board for the

April 12

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Land Surveyors

April 22

Marine Resources Commission
College of William and Mary, Board of Visitors

April 23

Sewage Handling and Disposal Appeals
Review Board, State

April 24

College of William and Mary, Board of Visitors

April 25

College of William and Mary, Board of Visitors

April 26

College of William and Mary, Board of Visitors

March 7

Auctioneers Board, Virginia
Commerce, Department of
Water Control Board, State

March 10

Water Control Board, State

March 11

Water Control Board, State

March 12

Pharmacy, State Board of
Water Control Board, State

March 17

Taxation, Department of

March 18

Small Business Financing Authority, Virginia

April 2

Criminal Justice Services Board
- Committee on Criminal Justice
- Information Systems

April 7

Library Board, Virginia State

April 8

Veterinary Medicine, Virginia Board of

April 10

Dentistry, Virginia Board of

April 15

Small Business Financing Authority, Virginia

April 16

Optometry, Virginia Board of

PUBLIC HEARINGS

February 18

Small Business Financing Authority, Virginia

February 19

Water Control Board, State

February 25

Agriculture and Consumer Services, Department of
Water Control Board, State

February 26

Agriculture and Consumer Services, Department of

March 3

Social Services, Department of

Calendar of Events
