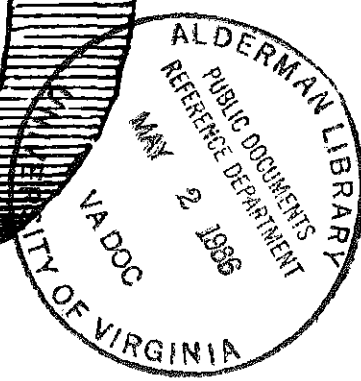


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THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME TWO • ISSUE FIFTEEN

APRIL 28

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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 or 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 his 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

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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

COMMISSION OF GAME AND INLAND FISHERIES

In General (VR 325-04-1) 1483

DEPARTMENT OF TAXATION

Virginia Taxable Income (Individual Income Tax Regulation) (VR 630-2-322) 1483

Virginia Taxable Income (Corporation Income Tax Regulation) (VR 630-3-402) 1490

Advertising (Retail Sales and Use Tax Regulation) (VR 630-10-3) 1495

Common Carriers of Property or Passengers by Railway (Proposed Retail Sales and Use Tax Regulation) (VR 630-10-24.4) 1497

FINAL REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine (VR 115-04-02) 1502

Rules and Regulations for Enforcement of the Virginia Pesticide Law (VR 115-04-03) 1504

Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law (VR 115-04-05) .. 1521

Rules and Regulations for Enforcement of the Virginia Commercial Feed Law (VR 115-04-06) 1524

Rules and Regulations Governing the Virginia Animal Remedies Law (VR 115-04-07) 1530

Rules and Regulations for the Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law (VR 115-04-08) 1530

Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law (VR 115-04-11) 1532

Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act (VR 115-04-13) 1533

Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law (VR 115-04-15) 1535

Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act (VR 115-04-16) 1536

Rules and Regulations for Enforcement of the Barberry and Black Stem Rust Quarantine (Repealed) 1539

Rules and Regulations for Enforcement of the Noxious Weed Law (Repealed) 1539

Rules and Regulations Providing for the White Pine Blister Rust Quarantine (Repealed) 1539

Rules and Regulations for Enforcement of the Tomato Plant Disease Quarantine (Repealed) 1539

VIRGINIA FIRE BOARD AND THE DEPARTMENT OF FIRE PROGRAMS

Guidelines for Public Participation in Regulation Development and Promulgation (VR 310-01-1) 1540

DEPARTMENT OF SOCIAL SERVICES

Maximum Resource Limit in the Aid to Dependent Children (ADC) and General Relief (GR) Programs (VR 615-01-3) 1541

STATE WATER CONTROL BOARD

Basin and Section Description Table (Shenandoah River Subbasin), Natural Trout Waters in Section 5 D 1542

§ 1.10 B.2 Water Quality Standards and Policy for Mercury in Freshwater 1543

EMERGENCY REGULATIONS

DEPARTMENT OF SOCIAL SERVICES

Time Limitations on Eligibility in the Refugee Resettlement Program (RRP) (VR 615-01-13) 1544

Table of Contents

STATE CORPORATION COMMISSION

Regulation Governing Savings Institution Holding
Companies (Case No. BFI850266) 1546

In the Matter of Adopting Commission Policy
Regarding Natural Gas Industrial Rates and
Transportation Policies (Case No. PUE860024) 1548

GOVERNOR

GOVERNOR'S COMMENTS

(No comments were submitted for this issue)

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION ... 1552

GENERAL NOTICES

Department of Alcoholic Beverage Control and Virginia Alcoholic Beverage Control Board

Notice to the public to consider the amendment or
adoption of regulations: VR 125-01-2 through VR
125-01-7 1557

Commission of Game and Inland Fisheries

Notice to the public concerning the proposed
amended Commission regulation applicable Statewide 1561

Department of Mines, Minerals, and Energy

Delegation of Authority (Memorandum) 1561

Notice to State Agencies 1562

ERRATA

Department of Social Services; Board of Corrections; Board of Education and Department of Mental Health and Mental Retardation

Core Standards for Interdepartmental Licensure and
Certification of Residential Facilities for Children of
the Board of Corrections (VR 230-40-001); Board of
Education (VR 270-01-003); Department of Mental

Health and Mental Retardation (VR 649-02-1) and
Department of Social Services (VR 615-29-02) 1562

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 1563

LEGISLATIVE

Open Meetings and Public Hearings 1583

CHRONOLOGICAL LIST

Open Meetings 1584
Public Hearings 1586

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.

COMMISSION OF GAME AND INLAND FISHERIES

NOTE: The Commission of Game and Inland Fisheries is exempted from the Administrative Process Act, (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulation. These regulations are numbered to conform to the new classification system established by the Virginia Code Commission. Numbers in parentheses are the existing regulation numbers.

PUBLIC HEARING NOTICE: The Commission of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29-125, 29-126 and 29-127 of the Code of Virginia, the following proposed amended Commission regulation applicable Statewide. A public hearing on the advisability of adopting, or amending and adopting, the proposed regulation, or any part thereof, will be held at the Virginia Beach School Board Building, Virginia Beach, Virginia, beginning at 9:30 a.m. on Friday, May 16, 1986, at which time any interested citizen present shall be heard. If the Commission is satisfied that the proposed regulation, or any part thereof, is advisable, in the form in which published or as amended as a result of the public hearing, the Commission may adopt such proposal at that time, in whole or in part.

Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-04-1. In General.

§ 1. Adoption of federal regulations and statutes applicable to boating safety equipment and lights; "recreational boat" defined.

A. Federal requirements applicable to boating safety equipment and lights required to be installed or carried in or on motorboats, and vessels propelled by sail, being operated on waters subject to the jurisdiction of the United States, as set forth in Titles 33 and 46 of the Code of Federal Regulations, and in Sections 2020 through 2030 of Title 33 of the United States Code, are hereby adopted by the commission as its regulations applicable to boating safety equipment and lights required to be installed or carried in or on such vessels being operated on all waters within the territorial limits of this Commonwealth.

B. Notwithstanding any contrary or inconsistent provision of federal law, the term "recreational boat" as used in

these regulations shall mean any motorboat or vessel manufactured, used, leased, rented or chartered primarily for non-commercial use.

§ 1. Adoption of federal regulations and statutes concerning boating safety equipment and lights to apply to vessels in Virginia.

A. The following federal rules and regulations are hereby adopted by the commission as its regulations. These rules and regulations shall apply by their own terms to all vessels within the Commonwealth. As used in 33 CFR, § 175.3, the word "engaged" shall mean "hired for use."

1. 33 U.S.C.A., §§ 2001, 2002, 2003, 2020 through 2030 (1976 and supplement 1985).

2. 33 C.F.R., Part 175 (1985), except § 175.17.

3. 46 C.F.R., Subparts 25.25, 25.30, 25.35, 25.40-1(a) and (b) (1985).

B. These regulations are adopted under the authority of § 62.1-172.1 of the Code of Virginia.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-322. Virginia Taxable Income (Individual Income Tax Regulation).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: July 8, 1986 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This revised regulation sets forth the method for computing the Virginia taxable income of individuals, concentrating on the various additions, subtractions, deductions, and modifications provided by state law, including the subtraction for qualified agricultural contributions enacted by the 1985 session of the Virginia General Assembly and signed into law.

VR 630-2-322. Virginia Taxable Income (Individual Income Tax Regulation).

A. § 1. Generally.

Proposed Regulations

An individual's Virginia taxable income for a taxable year is his FAGI for the taxable year with the additions, subtractions and deductions set forth in subsections ~~(B)~~, ~~(C)~~, and ~~(D)~~ §§ 2, 3 and 4 of this regulation.

B. § 2. Additions.

To the extent excluded from FAGI, the items enumerated below shall be added to FAGI in computing Virginia taxable income. (For the ARCS addition, see VR 630-2-323.)

1. Interest on obligations of other states and certain obligations of the United States.

a. Obligations of other states. Interest on obligations of any state other than Virginia or on the obligations of a political subdivision of such other state or interest or dividends on obligations or securities of any authority, commission or instrumentality thereof which are exempt from federal but not state income tax must be added to FAGI. The amount to be added shall be reduced by the expenses not deducted in computing federal adjusted gross income.

b. Certain obligations of the United States. Interest on obligations or securities of the United States or any commission, authority or instrumentality thereof, which is exempt from federal income tax but which is not exempt (under federal law) from state income tax must be added to FAGI. The amount to be added shall be reduced by expenses not deducted in computing FAGI.

c. Expenses deductible in computing the addition are those which by virtue of I.R.C. § 265 (which prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry on obligations exempt from federal income tax) are not deductible for federal purposes.

EXAMPLE: Taxpayer has \$2,500 in interest income from obligations of State X and \$500 in interest from obligations of Virginia. None of this \$3,000 in interest is subject to federal income tax. "A" incurs \$300 in expenses related to this interest income which, by virtue of IRC § 265 was not deductible in computing FAGI. The amount of interest income to be added to FAGI in computing Virginia taxable income is computed as follows:

\$2,500 (taxable State X interest)
- [300 (nondeductible expenses)
x 2,500 - taxable State X interest]
\$3,000 - total interest
= \$2,250

The total nondeductible interest expenses are

proportioned between interest taxable in Virginia (State X) and that not subject to Virginia tax (Va.) to determine the portion of these expenses which may be deducted in computing the interest addition.

If the interest is on an obligation created by a compact or agreement to which this state is a party, such interest shall not be added to FAGI in computing Virginia taxable income.

d. Regulated investment companies. Interest on any obligations taxable under subsections (a) or (b) above which is received by a regulated investment company and passed through to the shareholders in qualifying distributions as defined in I.R.C. § 852 shall be taxable in the hands of the shareholders and must be added to FAGI (to the extent excluded therefrom) in computing the shareholder's Virginia taxable income.

2. Interest eligible for federal interest exclusion.

a. To the extent excluded from FAGI pursuant to the provisions of IRC § 128 and accompanying Treasury regulations, interest income must be added to FAGI in computing Virginia taxable income. Interest income which is not includable in Virginia taxable income, i.e., interest on obligations of the U.S. or Virginia as defined in VR 630-2-322 ~~(C)~~(2) paragraph 1 of § 3 of this regulation, is not required to be added to FAGI even if it is excluded by virtue of the net interest exclusion under IRC § 128.

b. The amount of the net interest exclusion to be added to FAGI in computing Virginia taxable income shall be proportionally reduced by the expenses not deducted in computing FAGI. Expenses deductible in computing the addition are those which by virtue of IRC § 265, which prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry on obligations exempt from federal income tax, are included in federal adjusted gross income.

3. Lump sum distributions.

Individuals who elect to use the 10-year averaging method for computation of the tax on a lump sum distribution from a qualified employee's trust shall add to FAGI: (i) 40% of the capital gain part and all of the ordinary income part of such distribution where the election is made to use the 10-year averaging method for the capital gain portion as well as the ordinary income portion; or (ii) all of the ordinary income portion where the 10-year averaging method is not used for the capital gain portion. The amount to be added is reduced by the minimum distribution allowance and any amount excludable for federal income tax purposes. The amount excludable for federal income tax purposes includes the death benefit

exclusion and federal estate tax, if applicable. The minimum distribution allowance for state purposes is the allowance computed for federal purposes and may not exceed the taxable (40%) portion of the capital gain (if such gains are included in the 10-year averaging election) plus the ordinary income portion of the distribution. Where a distribution consists of both capital gain and ordinary income but the 10-year averaging method is not elected for the capital gain portion, the death benefits and federal estate tax exclusion must be allocated to the capital gain and ordinary income portion respectively based upon the percentage of the total taxable distribution represented by each.

EXAMPLE: A qualifying lump sum distribution consists of \$40,000 in ordinary income and \$10,000 in capital gain. The taxpayer elects to use the 10-year averaging method only for ordinary income. The death benefit exclusion is \$3,000, the minimum distribution allowance is \$5,000 and federal estate taxes are \$8,000. The amount of the distribution to be added to FAGI in computing Virginia taxable income is computed as follows:

<p style="text-align: center;">ordinary .</p> <p>\$40,000 income</p> <p>(5,000 - min. distr. x <u>40,000</u> - ord. income allowance 50,000 - total distribution) +</p> <p>(3,000 - death ben. x <u>40,000</u> + exclusion 50,000)</p> <p>(8,000 - estate x <u>40,000</u> taxes 50,000)</p>	+	<p>= \$27,200</p>
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Therefore, the amount of the lump sum distribution to be added is \$27,200, calculated by subtracting the proportional share of excludable amounts (death benefit exclusion, minimum distribution allowance and estate taxes) attributable to the ordinary income portion from the ordinary income.

The effect is to add to FAGI that portion of a lump sum distribution which is excludable from FAGI by virtue of the special 10-year averaging method of computing the tax, less the minimum distribution allowance and death benefits exclusion.

A qualified employee's trust is one from which lump sum distributions qualify for treatment under the 10-year averaging method plan pursuant to I.R.C. § 402. (For computation of the standard deduction as it relates to lump sum distributions, see subsection (D)(3)(b) below paragraph 3, subsection b of § 4 of

these regulations.)

4. Two-earner married couple deduction.

The amount deducted from federal adjusted gross income pursuant to the provisions of I.R.C. § 221 shall be added to FAGI in computing Virginia taxable income. I.R.C. § 221 allows a deduction in the computation of FAGI for a percentage of the earned income of the lower earning spouse in the case of married persons filing joint federal income tax returns, both of whom have earned income. The amount of the addition shall be equal to the amount deducted in computing FAGI. Where a husband and wife elect to compute their Virginia tax liabilities separately, the federal deduction must be added to the income of the spouse whose earned income was used in computing the deduction for federal income tax purposes.

EXAMPLE 1: H and W, a husband and wife with no dependents, filed a joint federal income tax return in taxable year 1982 and qualified for a two-earner married couple deduction of \$500. The deduction was based upon the income of H, the lower earning spouse, pursuant to I.R.C. § 221. H and W file a joint Virginia return, have FAGI of \$28,000, and do not itemize their deductions. Their Virginia taxable income is computed as follows:

FAGI	\$28,000
Less: Va. Standard Deduction	(2,000)
Less: Personal Exemptions	(1,200)
Plus: Federal 2-Earner Deduction	<u>500</u>
Va. Taxable Income	\$25,300

Therefore, their Virginia taxable income is \$25,300 and their Virginia tax liability is \$1,234.75.

EXAMPLE 2: Assume the same facts as Example 1, except that H and W elect to file separately on a combined Virginia return. H's income is \$10,000; W's income is \$18,000. Their Virginia tax liabilities are computed as follows:

	<u>H</u>	<u>W</u>
FAGI	\$10,000	\$18,000
Less: Va. Standard Deduction	—	(2,000)
Less: Personal Exemptions	(600)	(600)
Plus: Federal 2-Earner Deduction	<u>500</u>	<u>—</u>
Va. Taxable Income	\$ 9,900	\$15,400

Therefore H's Virginia taxable income is \$9,900 and his tax liability is \$364.38, W's Virginia taxable income is \$15,400 with a tax liability of \$665.36, and H and W's total Virginia tax liability is \$1,034.74. H must add the two-earner deduction since the federal deduction was based upon his earned income.

©: § 3. Subtractions.

Proposed Regulations

1- Generally. To the extent included in FAGI, the items enumerated below shall be subtracted from FAGI in determining Virginia taxable income. If an item was partially excluded or deducted in determining FAGI, it shall be subtracted from FAGI only to the extent included therein. If an item has already been excluded from Virginia taxable income, it shall not be subtracted again pursuant to this section.

2- 1. Interest or dividends on obligations of the United States or Virginia.

a. "Obligation" means a debt obligation or security issued by the United States or any authority, commission or instrumentality of the United States or by the Commonwealth of Virginia or any of its political subdivisions, which obligation or security is issued in the exercise of the borrowing power of the United States or Virginia and is backed by the full faith and credit of the United States or Virginia.

b. Guarantees by the United States or Virginia of obligations of private individuals or corporations are merely contingent obligations of the United States or Virginia even though the guarantees may be backed by the full faith and credit of the United States or Virginia. The obligation does not become an obligation of the United States or Virginia because of the guarantee and interest and dividends paid on such guaranteed obligations do not qualify for the subtraction unless specifically exempted by statute.

c. Specific statutory exemptions exist for certain securities issued by particular federal or Virginia agencies or political subdivisions. If a federal or Virginia statute exempts from state taxation the interest or dividends on specific securities of a particular agency or political subdivision then such interest or dividends qualify for the subtraction.

d. Repurchase agreements are usually obligations issued by financial institutions which are secured by U.S. obligations exempt from Virginia income taxation under a or c above. In such cases the interest paid by the financial institutions to purchasers of repurchase agreements does not qualify for the subtraction. Repurchase agreements issued following current commercial practice will invariably be regarded as obligations of the issuing financial institution. However, if the purchaser is regarded as the true owner of the underlying exempt obligation, the interest will qualify for the subtraction even though collected by the seller and distributed to the purchaser. Any claim of such ownership must be substantiated by a taxpayer claiming a subtraction.

e. Interest received from regulated investment companies. Interest on exempt obligations received by a regulated investment company and passed through to the stockholders in qualifying

distributions, as defined in I.R.C. § 852, will retain its exempt status in the hands of the shareholders. If a shareholder receives a distribution which includes interest from both exempt and nonexempt obligations, all distributions will be deemed taxable unless the shareholder can substantiate the exempt portion of the distributions. Any individual requiring advice as to the taxable status of distributions from any regulated investment company should contact such company. Due to the turnover in investments held by such companies and the commingling of interest from exempt and nonexempt obligations, the department cannot render such advice.

f. Expenses. The subtraction for interest on exempt obligations must be reduced by any expenses attributable to such interest and by interest or indebtedness incurred or continued to purchase or carry exempt obligations pursuant to I.R.C. § 265.

3- 2. Interest or dividends from pass-through entities.

a. Under federal law certain income received by a partnership, estate, trust or regulated investment company (pass-through entity) and distributed to a partner, beneficiary or shareholder (recipient) retains the same character in the hands of the recipient. If a pass-through entity receives interest or dividends on U.S. or Virginia obligations which are distributed to the recipients in a manner that the distributions retain their character in the hands of the recipients under federal law, then such interest or dividends may be subtracted by the recipients in computing Virginia taxable income.

b. A pass-through entity may invest in several types of securities, some of which are U.S. or Virginia obligations. When taxable income is commingled with exempt income all income is presumed taxable unless the portion of income which is exempt from Virginia income tax can be determined with reasonable certainty and substantiated. The determination must be made for each distribution to each shareholder. For example, if distributions are made monthly then the determination must be made monthly. As a practical matter, only pass-through entities which invest exclusively in U.S. or Virginia obligations, or which have extremely stable investment portfolios, will be likely to make such determinations.

c. Examples:

(+) (1) ABC Fund, a regulated investment company, invests exclusively in U.S. Treasury notes and bills which are exempt from state taxation under 31 U.S.C.A. § 3124. All distributions are considered to be interest on U.S. obligations and may be subtracted by the recipient.

(+) (2) Va. Fund, a regulated investment company,

invests exclusively in obligations of Virginia and its political subdivisions. Distributions are considered to be interest on Virginia obligations and qualify for the subtraction to the extent that such distributions are included in the recipient's federal taxable income.

(H) (3) XYZ Fund, a regulated investment company, invests in a variety of securities including obligations of the U.S., Virginia, other states, corporations and financial institutions (repurchase agreements). Due to the commingling of taxable and exempt income, the turnover in XYZ Fund's investments and the fluctuation in a shareholder's investment in XYZ Fund, all distributions are considered taxable income and do not qualify for the subtraction unless XYZ Fund determines the portion of distributions which is interest and dividends from U.S. and Virginia obligations for each distribution to each shareholder. Note that any portion of XYZ Fund's distributions which are excluded from federal taxable income as interest on obligations of other states must be added to Virginia taxable income.

4- 3. Pension and retirement income.

Income received by officers or employees of the Commonwealth, its political subdivisions or agencies as a pension or retirement income shall be subtracted from FAGI in determining Virginia taxable income to the extent that such income is specifically exempted from state taxation by law. Income specifically exempt from state taxation includes that received pursuant to provisions of the Virginia Supplemental Retirement System, the Judicial Retirement System (§ 51-160 et seq. of the Code of Virginia and prior law, § 51-3 et seq. of the Code of Virginia), State Police Officers Retirement System (§ 51-143 et seq. of the Code of Virginia and the special retirement system for officers and employees of counties, cities and towns (§ 51-112 et seq. of the Code of Virginia.)

Qualified retirement income or pensions, as defined above, received by the retiree or his surviving spouse may be subtracted to the extent included in FAGI. No person claiming a deduction pursuant to this section may also claim the retirement income tax credit set forth in VR 630-2-330 nor may such person claim the disability income exclusion set forth in VR 630-2-322, paragraph 4, § 3 below.

5- 4. Disability income.

Federal law (IRC § 37) allows retired individuals who are under age 65 and who qualified for retirement on the basis of a permanent and total disability a credit against federal tax liability for a specified percentage amount of a disability income base. Persons who qualify for such federal credit may deduct from FAGI in computing Virginia taxable income the amount on

which the federal credit is based. This credit base amount to be deducted is limited to the amount actually allowed in computing the federal credit. Example follows:

EXAMPLE: For the taxable year beginning January 1, 1984, Taxpayer A, a disabled retired single individual has FAGI of \$12,500. Under federal law A is entitled to a 15% disability credit based upon a base of \$5,000 less 1/2 of the amount by which FAGI exceeds \$7,500. Since A's FAGI exceeds \$7,500 by \$5,000, his credit base for computing the federal credit is \$5,000 (initial credit base) - 1/2 x 5,000 (amount by which FAGI exceeds \$7,500) or \$2,500. Thus A may deduct \$2,500 from FAGI in computing Virginia taxable income.

No person claiming a deduction pursuant to this section may also claim the retirement income tax credit set forth in VR 630-2-330 nor may such person claim a state or local retirement subtraction as set forth in VR 630-2-322, paragraph 3, § 3 above.

6- 5. Social Security and Railroad Retirement benefits.

The amount of any Social Security benefits received under Title II of the Social Security Act (Old Age and Survivors Disability Insurance) and any other benefits included in FAGI solely by virtue of IRC § 86 shall be subtracted from FAGI in computing Virginia taxable income. "Other benefits" under IRC § 86 include Tier 1 Railroad Retirement benefits and workmen's compensation to the extent that it reduces OASDI benefits. Tier 1 and 2 Railroad Retirement benefits also shall be subtracted from FAGI in computing Virginia taxable income by virtue of the Railroad Retirement Act.

7- 6. Income tax refunds.

The amount of any income tax refund or credit for overpayment of income tax to Virginia or any other taxing jurisdiction shall be deducted from FAGI to the extent included therein. For purposes of determining Virginia taxable income, the amount of federally allowable itemized deductions is reduced by the amount of income tax imposed by Virginia or other taxing jurisdictions. (See subsection (D)(2) paragraph 1, § 4 below.) Therefore, any refunds or credits for overpayments of such taxes which are required, by federal law, to be included in FAGI, may be deducted in computing Virginia taxable income.

8- 7. WIN or targeted jobs tax credit.

Federal law permits employers to claim an income tax credit based upon certain wages paid under I.R.C. §§ 40 and 44B. If such credit is elected, I.R.C. § 280C bars the deduction of the wages on which such credit is based. To the extent such wages were not deducted from FAGI, they shall be subtracted therefrom in the computation of Virginia taxable income.

Proposed Regulations

8. Foreign source income.

a. Generally. Foreign source income as defined in VR 630-2-302(F)(2) shall be subtracted from FAGI, to the extent included therein, in determining Virginia taxable income.

b. Earned income. Federal law allows individual taxpayers to exclude in the computation of FAGI a portion of earned income from foreign sources. To the extent that this exclusion is elected, such earned income will similarly be excluded from Virginia taxable income. However, if a taxpayer does not elect, or is not eligible to elect, to exclude foreign source income from FAGI, he may not deduct such income from FAGI in computing Virginia taxable income.

c. Taxes paid to foreign country. Federal law generally allows an individual who has paid or accrued foreign income tax to elect to either treat such tax as a deduction from FAGI or to apply such taxes as a credit against federal tax liability. If a taxpayer elects to treat foreign taxes as a deduction from FAGI, his allowable itemized deductions will be reduced by such amount in computing Virginia taxable income. (See subsection ~~(D)~~(2) paragraph 1, § 4 below.)

9. Qualified agricultural contributions.

a. Generally. The amount of any qualified agricultural contribution shall be subtracted from FAGI in determining Virginia taxable income.

b. Qualified contributions. Contributions that qualify for subtraction from FAGI are contributions of agricultural products made between January 1, 1985, and December 31, 1987, by an individual who is engaged in the trade or business of growing or raising such products. Thus, contributions of agricultural products by an individual who is not engaged in the business of farming (for instance, contributions of goods raised in a family garden) do not qualify for subtraction.

To be subtractible, a contribution must be made to an organization exempt from federal income taxation under IRC § 501(c)(3) and must meet the following tests: (i) the product contributed must be fit for human consumption, i.e. edible; (ii) the use of the product by the donee must be related to the purpose or function for which the donee was granted exemption under IRC § 501(c)(3) (for instance, contributions of crops to a foundation organized for scientific or literary purposes would not qualify, but contributions of crops to a nonprofit food bank would qualify); (iii) the contribution is not made in exchange for money, property or service; and (iv) the donor must obtain from the donee a written statement representing that the

donee's use and disposition of the product will be in accordance with its charitable mission. Such written statements also must list the type and quantity or volume of products contributed, state that the products donated are fit for human consumption, and state the use to which the donations will be put. Such written statements must be filed with the taxpayer's income tax return when the subtraction for qualified agricultural contributions is claimed.

To be subtractible from FAGI under the above tests, the donee must make use of the agricultural products donated to it consistent with the purpose for which it was granted exemption under IRC § 501(c)(3). Therefore, contributions of crops to a charitable organization which provides food to the needy would qualify. However, contributions of crops to an organization that does not itself provide food to the needy would not qualify, even if the donee in turn contributes the crops to an organization that provides food to the needy.

c. Agricultural products. Crops are the only agricultural products eligible for subtraction when donated. Thus, the subtraction is limited to contributions of products of the soil and does not include contributions of animal products.

d. Computation of subtraction. The subtraction for qualified agricultural contributions is equal to the lowest wholesale market price in the nearest regional market of the type of product(s) donated during the month(s) in which donations are made. For the purpose of determining the lowest wholesale market price for a particular product, a taxpayer must use the lowest wholesale market price, regardless of grade or quality, published by the U.S. Department of Agriculture for the regional market nearest the taxpayer's place of business.

e. Limitation of subtraction. The subtraction for qualified agricultural contributions shall be reduced by the amount of any other charitable deductions relating to qualified agricultural contributions if the deductions are claimed on the donor's federal return for the taxable year in which the contribution is made, or if the deductions are eligible for carryover to subsequent taxable years under I.R.C. § 170. For example, a farmer who itemizes deductions for federal and state income tax purposes and who claims a charitable deduction of qualified agricultural products on his federal return must reduce his Virginia subtraction for qualified agricultural contributions by the amount of his federal charitable deduction for the same products. If the farmer's total charitable contributions of qualified agricultural products exceed the deduction ceiling set by federal law and the farmer is eligible to carryover deductions to subsequent years, the farmer must also subtract the deductions eligible for carryover from the value of his qualified

agricultural contributions.

D. § 4. Deductions.

1. Generally. The following items shall be deducted in determining Virginia taxable income.

2- 1. Itemized deductions.

a. Generally. Any taxpayer who itemizes his deductions for federal income tax purposes must also itemize deductions for Virginia income tax purposes. The federally allowable amount of itemized deductions (prior to the subtraction of the federal zero bracket amount) shall be subtracted from FAGI in determining Virginia taxable income, but must be reduced by any amount claimed as a deduction for income taxes paid to Virginia or any other state, locality, foreign country, or other taxing jurisdiction. (See subsection ~~(C)~~(7) paragraph 6, § 3 above.)

b. Additional deduction for charitable mileage. The amount of itemized deductions allowed for federal income tax purposes shall be increased to allow a deduction for Virginia purposes of 18 cents per mile for charitable contribution transportation. The additional Virginia deduction is allowed only with respect to transportation expenses allowed under IRC § 170 and only to the extent that such expenses are actually deducted for federal purposes.

The amount of charitable mileage expenses claimed for federal purposes is increased to result in a deduction of 18 cents per mile for Virginia purposes. If a person elects to compute the federal deduction based upon actual expenses, the increased Virginia deduction is computed by converting expenses to a per mile amount and adding to that an amount sufficient to equal 18 cents per mile. The amount of the addition is the additional Virginia deduction.

EXAMPLE 1: Taxpayer A uses his automobile for charitable purposes and determines annual expenses (gasoline, oil, etc.) attributable to charitable usage to be \$500, which is deducted as a charitable contribution for federal tax purposes. A drove his automobile 4,350 miles in incurring the \$500 in expenses, which results in a per mile cost of 11.5 cents. Therefore A is entitled to an additional Virginia deduction of \$282.75 computed as follows:

$$(\$.18 - \$.115) = \$.065 \times 4,350 = \$ 282.75$$

If the standard federal mileage rate for charitable mileage is used, the amount of the Virginia addition is the difference between the standard rate and 18 cents per mile.

EXAMPLE 2: Taxpayer B is entitled to deduct expenses attributable to 5,555 miles of automobile use

as a charitable contribution. B utilizes the standard mileage rate (9 cents per mile for taxable year 1983) and therefore is allowed a federal deduction of \$500. B is entitled to an additional Virginia deduction of \$500 computed as follows:

$$(\$.18 - \$.09) = \$.09 \times 5,555 = \$ 500$$

2- 2. Standard deduction.

a. Generally. Any taxpayer who does not itemize deductions for federal purposes must claim the standard deduction in the computation of Virginia taxable income. The amount of the standard deduction for a single individual or a married couple filing jointly shall be 15% of federal adjusted gross income not to exceed \$2,000; except as set forth in subparagraph c below, the standard deduction shall not be less than \$1,300. In the case of a married individual filing a separate return or separately on a combined return, the standard deduction shall not exceed \$1,000 or be less than \$650.

b. Lump sum distribution. When any taxpayer has received a lump sum distribution from a qualified retirement plan and, under the provisions of I.R.C. § 402, has elected to use the special 10-year averaging method for the computation of federal tax on the distribution, then for purposes of computing the standard deduction FAGI shall be increased by any amount of the distribution which has not been included in FAGI.

c. Dependents. Any individual who may be claimed as a dependent on another taxpayer's return may compute the standard deduction only with respect to earned income. As used in this section the term "earned income" shall mean wages, salaries or professional fees and other amounts received as compensation for professional services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. This rule applies to dependents under age 19 and full-time students who are eligible to be claimed on their parents' return even though the parents do not actually take the exemption.

4- 3. Exemptions. There shall be deducted from FAGI \$600 for each personal exemption allowed to the taxpayer for federal income tax purposes. For each exemption allowed to the taxpayer under the provisions of I.R.C. § 151(c), there shall be deducted an additional \$400. I.R.C. § 151(c) allows an additional deduction for an individual who is at least 65 years of age during the taxable year. In the case of a husband and wife filing a joint return, each may claim the

Proposed Regulations

additional exemption if both are at least 65 years of age during the taxable year. This additional exemption may not be claimed for dependents even though such dependents may meet the age requirement.

NOTE: For purposes of qualifying for the additional federal exemption under I.R.C. § 151(c), a person is deemed to be 65 years of age on the day before his birthday. For example, a person who is 65 on January 1, 1985 may claim the additional exemption for taxable year 1984.)

6. 4. Child and dependent care. Effective for taxable years beginning on and after January 1, 1982, the amount of employment-related expenses allowed for computing the federal child and dependent care credit (I.R.C. § 44A) may be subtracted from FAGI in computing Virginia taxable income. The amount of employment-related expenses which may be subtracted is limited to that amount actually used in computing the federal credit. Such amount will be limited by the restrictions of I.R.C. § 44A, including the maximum amount of expenses allowable in computing the federal credit and earned income limitations. This subtraction will further be limited to only expenses which qualify for federal credit. For example, if federal law places a ceiling on expenditures for purposes of computing the federal credit such ceiling will similarly limit the Virginia deduction.

The actual amount of the federal child and dependent care claimed has no bearing upon this deduction; only the base for computing the federal credit is relevant.

E. § 5. Modifications and adjustments.

The modifications set forth in § 58.1-315 of the Code of Virginia shall be added or subtracted, whichever is applicable, in determining Virginia taxable income. (See also VR 630-2-315.)

Section revised 7/86.

Title of Regulation: VR 630-3-402. Virginia Taxable Income (Corporation Income Tax Regulation).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: July 8, 1986 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

This revised regulation sets forth the method for computing the Virginia taxable income of corporations, concentrating on the various additions, subtractions, deductions, and modifications provided by state law, including the subtraction for qualified agricultural

contributions enacted by the 1985 session of the Virginia General Assembly and signed into law.

VR 630-3-402. Virginia Taxable Income (Corporation Income Tax Regulation)

A. § 1. Federal taxable income.

1. A. A Virginia income tax is imposed on all income from Virginia sources which is defined as federal taxable income with certain specified additions, subtractions and exemptions. For the purpose of determining Virginia taxable income, the term "federal taxable income" means all income from whatever source derived and however named on which a federal income tax is imposed.

2. B. For most corporations "federal taxable income" for Virginia income tax purposes will be the amount shown on the line of federal form 1120 designated "taxable income" (after net operating loss deduction and special deductions). However, there are some exceptions, including, but not limited to, the following:

a. 1. Regulated investment companies file federal form 1120 but do not follow normal corporate rules for computing the tax. Separate taxes are imposed on investment company taxable income and on capital gains. The federal taxable income of a regulated investment company for Virginia purposes is the sum of: (i) "investment company taxable income" defined in I.R.C. § 852(b) and (ii) the amount of capital gains defined in I.R.C. § 852(b).

b. 2. Real estate investment trusts file federal form 1120 but do not follow normal corporate rules for computing the tax. Separate taxes are imposed on "real estate investment trust taxable income," capital gains, "income from foreclosure property" and "income from prohibited transactions."

a. The federal taxable income of a real estate investment trust for Virginia income tax purposes is the sum of: (i) "real estate investment trust income" as defined in I.R.C. § 857(b)(2); (ii) "capital gains" as defined in I.R.C. § 857(b)(3); (iii) "income from foreclosure property" as defined in I.R.C. § 857(b)(4); and (iv) "income from prohibited transaction" as defined in I.R.C. § 857(b)(6).

e. 3. Organizations exempt from federal tax under subchapter F of the Internal Revenue Code which have unrelated business income are required to file Federal Form 990-T. For such organizations, federal taxable income means "unrelated business taxable income" as defined in I.R.C. § 512.

d. 4. Corporations organized under the laws of a foreign country and doing business within the U.S. pay the regular corporate tax on net income effectively connected with the conduct of a trade or business within the U.S. and, in the absence of a treaty

Proposed Regulations

between the U.S. and the foreign country, a separate tax of 30% on the gross income from dividends, interest and certain other income from U.S. Sources. For Virginia purposes the federal taxable income of such foreign corporations is either the taxable income under the terms of any applicable treaty, or the sum of: (i) the gross income defined in I.R.C. § 881, and (ii) the net income defined in I.R.C. § 882.

e. 5. Net operating loss deductions.

(4) a. Corporations incurring a net operating loss are allowed under federal law to carry such loss back to specified years and over to specified subsequent years. Virginia law has no provision for a net operating loss deduction (NOLD). Therefore an NOLD is allowable for Virginia purposes only to the extent that the NOLD is allowed as a deduction in computing federal taxable income.

(4) b. When a net operating loss is carried back to a prior year, the NOLD is treated as a change in federal taxable income for the year to which the loss is carried. The corporation may file an amended Virginia return claiming a refund due to the NOLD. A copy of federal form 1139, 1120X or similar form must be attached to the amended Virginia return. See §§ 58.1-1823 (amended returns), 58.1-1823 (interest on overpayments attributable to an NOLD), 58.1-403 (special rules for railway companies) and 58.1-442 (special rules for consolidated and combined Virginia returns) of the Code of Virginia.

(4) c. The Virginia additions and subtractions of the loss year follow the loss to the year the NOLD is claimed. For example, if 50% of the 1983 federal net operating loss is carried back to 1980, then 50% of the 1983 Virginia additions and subtractions will also be carried back to 1980.

(4) d. Under federal law an NOLD may be used only to reduce federal taxable income. An NOLD may not create or increase a federal net operating loss. Because an NOLD cannot reduce federal taxable income below zero, it is possible that a corporation with substantial Virginia additions will owe Virginia income tax even though its federal taxable income is reduced to zero by an NOLD.

(4) e. Members of an affiliated group of corporations which file a consolidated federal return and separate or combined Virginia returns must compute federal taxable income and the NOLD as if each corporation had filed a separate federal return for all affected years. If the group files a Virginia consolidated return which does not include all of the corporations included in the federal consolidated return then the federal taxable income and NOLD must be computed as if all affected federal consolidated returns included only those corporations

included in the Virginia consolidated return. The provisions of Treasury regulation § 1.1502-79 which allocated a consolidated loss to the members of the group shall not be applied in computing the separate federal taxable income in this situation. See regulation VR 630-3-442.

f. 6. Certain corporations may be required to redetermine Virginia taxable income to properly reflect the business done in Virginia. (§ 58.1-446 of the Code of Virginia.)

B. § 2. Additions.

The purpose of the additions specified in § 58.1-402 of the Code of Virginia is to add to Virginia taxable income certain items excluded or deducted from federal taxable income. If an item was fully included in federal taxable income, then it will not be added to Virginia taxable income by this section. If an item was only partially included in federal taxable income, then the item will be added to Virginia taxable income only to the extent it was excluded or deducted from federal taxable income. If an item excluded or deducted from federal taxable income has already been included in Virginia taxable income by operation of some other section of the Code of Virginia, then the item will not be added again under this section. The additions are:

1. Interest on obligations of other states.

a. Interest on the obligations of any state other than Virginia or on the obligations of a political subdivision of such other state must be added to federal taxable income.

b. I.R.C. § 265 prohibits the deduction of expenses allocable to or interest on indebtedness incurred or continued to purchase or carry obligations exempt from federal income tax. If a corporation has interest income on obligations of other states and also has expenses or interest which were not deducted by operation of I.R.C. § 265, then the addition shall be reduced by the portion of such expenses or interest which is attributable to the interest income on obligations of other states.

EXAMPLE: Taxpayer has \$3,000 of income exempt from federal income tax of which \$1,000 is on obligations of a political subdivision of Virginia and \$2,000 on obligations of political subdivisions of states other than Virginia. Application of I.R.C. § 265 barred deduction of \$300 from federal taxable income. The addition is \$1,800 calculated as follows

$$2,000 - [300 \times \frac{2,000}{3,000}] = 1,800$$

c. If the interest is on an obligation created by a compact or agreement to which Virginia is a party, such interest shall not be added to Virginia taxable

Proposed Regulations

Income.

2. Interest or dividends from the United States.

a. Interest or dividends on obligations or securities of any authority, commission or instrumentality of the United States, exempt from federal income tax but not from state income tax, must be added to federal taxable income.

b. If any related expenses were not deducted from federal taxable income by reason of I.R.C. § 265, then the addition shall be reduced by the portion of such expenses attributable to federal interest or dividends exempt from federal income tax.

3. Excess cost recovery.

If any deduction was claimed on taxpayer's federal return under the accelerated cost recovery system (ACRS) for taxable years beginning after December 31, 1981, 30% of such deduction must be added to federal taxable income. See regulation VR 630-3-323.

4. State income taxes.

If any Virginia income tax imposed by this chapter was deducted in determining federal taxable income, such amount shall be added to federal taxable income. If any net income taxes and other taxes, including franchise and excise taxes which are based on, measured by, or computed with reference to net income, imposed by any other taxing jurisdiction were deducted in determining federal taxable income. To determine if a particular tax imposed by another taxing jurisdiction is a net income tax see regulation VR 630-3-405.

5. Unrelated business taxable income.

Organizations described in I.R.C. § 501(c) are exempt from federal income tax unless they have unrelated business income, in which case a tax is imposed on "unrelated business taxable income" defined in I.R.C. § 512. The unrelated business taxable income of such organization must be added to Virginia taxable income if it has not already been included in federal taxable income.

6. ESOP credit carryover.

Federal law allows employers to claim a credit for contributions to an Employee Stock Ownership Plan (ESOP) and further provides that the amount of such contributions may not be deducted in computing federal taxable income. I.R.C. § 44G. Virginia law allows a subtraction for such contributions. See ~~paragraph (G)(11) of Va. Reg. § 630-3-402 § 3, paragraph 11 of these regulations~~. Federal law allows the ESOP credit to be carried over to subsequent years and, if any ESOP credit remains unused at the

end of the carryover period, the unused credit may be deducted. If any ESOP credit carryover is deducted in computing federal taxable income under I.R.C. § 404(i) such amount shall be added to federal taxable income in computing Virginia taxable income.

C. § 3. Subtractions.

The purpose of the subtractions specified in § 58.1-402 of the Code of Virginia is to subtract from Virginia taxable income certain items included in federal taxable income. If an item was partially excluded or deducted in determining federal taxable income, then it shall be subtracted from Virginia taxable income only to the extent that it was included in federal taxable income. If an item has already been excluded from Virginia taxable income under this chapter, then it shall not be subtracted again under this section. The subtractions are:

1. Interest or dividends on obligations of the United States or Virginia.

a. "Obligation" means a debt obligation or security issued by the United States or any authority, commission or instrumentality of the United States or by the Commonwealth of Virginia or any of its political subdivisions, which obligation or security is issued in the exercise of the borrowing power of the United States or Virginia and is backed by the full faith and credit of the United States or Virginia.

b. Guarantees by the United States or Virginia of obligations of private individuals or corporations are merely contingent obligations of the United States or Virginia even though the guarantees may be backed by the full faith and credit of the United States or Virginia. The obligation does not become an obligation of the United States or Virginia because of the guarantee and interest and dividends paid on such guaranteed obligations do not qualify for the subtraction unless specified exempted by statute.

c. Specific statutory exemptions exist for certain securities issued by particular federal or Virginia agencies or political subdivisions. If a federal or Virginia statute exempts from state taxation the interest or dividends on specific securities of a particular agency or political subdivision then such interest or dividends qualify for the subtraction.

For examples of specific statutory exemptions see § 15.1-1383 of the Code of Virginia and 12 U.S.C.A. § 2055.

d. Repurchase agreements are usually obligations issued by financial institutions which are secured by U.S. obligations exempt from Virginia income taxation under *subparagraphs* a or c above. In such cases the interest paid by the financial institutions to purchasers of repurchase agreements does not qualify for the subtraction. Repurchase agreements

issued following current commercial practice will be regarded as obligations of the issuing financial institution. However, if the purchaser is regarded as the true owner of the underlying exempt obligation, the interest will qualify for the subtraction even though collected by the seller and distributed to the purchaser. Any claim of such ownership must be substantiated by a taxpayer claiming a subtraction.

2. Interest or dividends from pass-through entities.

a. Under federal law certain income received by a partnership, estate, trust or regulated investment company (pass-through entity) and distributed to a partner, beneficiary or shareholder (recipient) retains the same character in the hands of the recipient. If a pass-through entity receives interest or dividends on U.S. or Virginia obligations which are distributed to the recipients in a manner that the distributions retain their character in the hands of the recipients under federal law, then such interest or dividends may be subtracted by the recipients in computing Virginia taxable income.

b. A pass-through entity may invest in several types of securities, some of which are U.S. or Virginia obligations. When taxable income is commingled with exempt income all income is presumed taxable unless the portion of income which is exempt from Virginia income tax can be determined with reasonable certainty and substantiated. The determination must be made for each distribution to each shareholder. For example, if distributions are made monthly then the determination must be made monthly. As a particular matter, only pass-through entities which invest exclusively in U.S. or Virginia obligations, or which have extremely stable investment portfolios, will be likely to make such determinations.

c. Examples:

(i) ABC Fund, a regulated investment company, invests exclusively in U.S. Treasury notes and bills which are exempt from state taxation under 31 U.S.C.A. § 3124. All distributions are considered to be interest on U.S. Obligations and may be subtracted by the recipient.

(ii) Virginia Fund, a regulated investment company, invests exclusively in obligations of Virginia and its political subdivisions. Distributions are considered to be interest on Virginia obligations and qualify for the subtraction to the extent that such distributions are included in the recipient's federal taxable income.

(iii) XYZ Fund, a regulated investment company, invests in a variety of securities including obligations of the U.S., Virginia, other states, corporations and financial institutions (repurchase

agreements). Due to the commingling of taxable and exempt income, the turnover in XYZ Fund's investments and the fluctuation in a shareholder's investment in XYZ Fund, all distributions are considered taxable income and do not qualify for the subtraction unless XYZ Fund determines the portion of distributions which is interest and dividends from U.S. and Virginia obligations for each distribution to each shareholder. Note that any portion of XYZ Fund's distributions which are excluded from federal taxable income as interest on obligations of other states must be added to Virginia taxable income.

3. DISC dividends.

a. A domestic international sales corporation (DISC) is exempt from the federal income tax under I.R.C. § 991. Virginia law does not provide a similar exemption. Therefore a DISC is subject to Virginia tax if it is a domestic corporation or doing business in Virginia.

b. I.R.C. § 995 imputes certain earnings of a DISC to the DISC's shareholders as a distribution taxable as a dividend. Subsequent actual distributions are excluded from the shareholder's income as being first made out of previously taxed income. I.R.C. § 996(a)(1). The deemed distributions will be considered dividends for the purpose of Va. Code pursuant to § 58.1-407 of the Code of Virginia (relating to allocation of dividend income). However, the provisions of Va. Code § 58.1-446 may apply to a DISC.

c. If 50% or more of the income of a DISC was assessable in Virginia for the preceding year, or the last year in which the DISC had income, then to the extent that deemed distributions from such DISC were included in taxpayer's federal taxable income, such amounts shall be subtracted from federal taxable income. For the purpose of this subtraction, 50% or more of the income of a DISC shall be deemed assessable in Virginia if the DISC filed a Virginia income tax return for the preceding year, or the last year in which the DISC had gross income, and such return shows either that all income was taxable in Virginia or that 50% or more of the income was allocated or apportioned to Virginia.

4. State tax refunds.

If federal taxable income included a refund or credit for overpayment of income taxes to this state or any other state, the amount of such refund or credit shall be subtracted from Virginia taxable income.

5. Foreign dividend gross up.

I.R.C. § 78 requires corporations electing to claim a

Proposed Regulations

credit for taxes paid to a foreign government by a subsidiary to deem the amount of such taxes a dividend and includes such amount in federal taxable income. If I.R.C. § 78 requires the inclusion of an amount of federal taxable income then such amount, net of any expenses attributable to such amount, shall be subtracted from Virginia taxable income. A copy of I.R.S. form 1118, or similar form, shall be attached to the return to substantiate the subtraction.

6. WIN or Targeted Jobs credit.

Federal law permits a taxpayer to claim a credit based upon certain wages paid. I.R.C. §§ 40 and 44B. If a WIN or Targeted Jobs credit is elected I.R.C. § 280C bars the deduction of the wages on which the credit is based. To the extent such wages were not deducted from federal taxable income, they shall be subtracted from Virginia taxable income.

7. Subpart F income.

If I.R.C. § 951 requires an amount to be included in federal taxable income, then such amount, net of any expenses attributable to such amount, shall be subtracted from Virginia taxable income.

8. Foreign source income.

If federal taxable income includes any amount that is "foreign source income," as that term is defined in § 58.1-302 of the Code of Virginia, and the regulations thereunder, such amount may be subtracted.

9. Excess cost recovery.

If the taxpayer included any excess cost recovery in its additions for taxable years beginning after December 31, 1981, then taxpayer may subtract a portion of such excess cost recovery in returns for taxable years beginning after December 31, 1983. See regulation VR 630-3-323.

10. Dividends received.

To the extent included in federal taxable income there shall be subtracted from Virginia taxable income the dividends received from a corporation when the taxpaying corporation owns 50% or more of the voting power of all classes of stock of the payer.

11. ESOP contributions.

Federal law allows employers to claim a credit for contributions made to an Employee Stock Ownership Plan (ESOP), and further provides that any ESOP contributions for which a credit is allowed may not be deducted in computing federal taxable income. I.R.C. § 44G. If any ESOP contributions are not deducted in computing federal taxable income because of the provisions of I.R.C. § 44G, such contributions may be

subtracted in computing Virginia taxable income.

12. Qualified agricultural contributions.

a. Generally. The amount of any qualified agricultural contribution shall be subtracted from federal taxable income in determining Virginia taxable income.

b. Qualified contributions. Contributions that qualify for subtraction from federal taxable income are contributions of agricultural products made between January 1, 1985, and December 31, 1987, by a corporation engaged in the trade or business of growing or raising such products.

(1) To be subtractible, a contribution must be made to an organization exempt from federal income taxation under I.R.C. § 501(c)(3) and must meet the following tests: (i) the product contributed must be fit for human consumption, i.e., edible products; (ii) the use of the product by the donee must be related to the purpose or function for which the donee was granted exemption under I.R.C. § 501(c)(3) (for instance, contributions of crops to a foundation organized for scientific or literary purposes would not qualify, but contributions of crops to a nonprofit food bank would qualify); (iii) the contribution is not made in exchange for money, property, or service; and (iv) the donor must obtain from the donee a written statement representing that the donee's use and disposition of the product will be in accordance with its charitable mission. Such written statements also must list the type and quantity or volume of products contributed, state that the products donated are fit for human consumption, and state the use to which the donations will be put. Such written statements must be filed with the corporation's income tax return when the subtraction for qualified agricultural contributions is claimed.

(2) To be subtractible from federal taxable income under the above tests, the donee must make use of the agricultural products donated to it consistent with the purpose for which it was granted exemption under I.R.C. § 501(c)(3). Therefore, contributions of crops to a charitable organization that provides food to the needy would qualify. However, contributions of crops to an organization that does not itself provide food to the needy would not qualify, even if the donee in turn contributes the crops to an organization that provides food to the needy.

c. Agricultural products. Crops are the only agricultural products eligible for subtraction when donated. Thus, the subtraction is limited to contributions of products of the soil and does not include contributions of animal products.

d. Computation of subtraction. The subtraction for

Proposed Regulations

qualified agricultural contributions is equal to the lowest wholesale market price in the nearest regional market of the type of product(s) donated during the month(s) in which donations are made. For the purposes of determining the lowest wholesale market price for a particular product, a corporation must use the lowest wholesale market price, regardless of grade or quality, published by the U.S. Department of Agriculture for the regional market nearest to the corporation's place of business.

e. *Limitation on subtraction.* The subtraction for qualified agricultural contributions shall be reduced by the amount of any other charitable deductions under I.R.C. § 170 relating to qualified agricultural contributions if the deductions are claimed on a corporation's federal return for the taxable year in which the contribution is made, or if the deductions are eligible for carryover to subsequent taxable years under I.R.C. § 170. For example, a corporation which deducts charitable contributions of qualified agricultural products for federal and state income tax purposes must reduce its Virginia subtraction for qualified agricultural contributions by the amount of its charitable deductions for the same products. If the corporation's total charitable contributions of qualified agricultural products exceed the deduction ceiling set by federal law and the corporation is eligible to carryover deductions to subsequent years, the corporation must also subtract the deductions available for carryover from the value of its qualified agricultural contributions.

Section revised 7/86.

Title of Regulation: VR 630-10-3. Advertising (Retail Sales and Use Tax Regulation).

Statutory Authority: § 58.1-203 of the Code of Virginia

Public Hearing Date: July 8, 1986 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This regulation sets forth the application of the sales and use tax to charges for the provision of concept, writing, graphic design, mechanical art, photography and production supervision in the planning, creating or placing of advertising in the media.

VR 630-10-3. Advertising (Retail Sales and Use Tax Regulation).

§ 1.

A person who is engaged in the production of

commercial advertisements is not providing a service but is engaged in the production of tangible personal property. The total charge for the production of tangible personal property used in any form of advertising, including any services in connection with such production, is subject to the tax, absent any other specific exemption. Charges for professional services performed by advertising agencies for others where such services do not result in the production of tangible personal property are not subject to the tax. For example, if a customer contracts with an advertising agency to conduct a marketing survey which results only in a report or recommendations, the charge for conducting such survey represents a nontaxable charge for a professional service. However, if the same customer contracts with the agency to produce a magazine advertisement for a product and in conjunction therewith the agency conducts a marketing survey, the total charge for the production of the advertisement, including charges for the survey is subject to the tax.

Any person engaged in producing tangible property must register as a dealer and collect and remit the tax on sales of all such property.

§ 1. Definitions.

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

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting or other media, including without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision.

"Advertising business" means any person or group of persons providing "advertising" as defined herein.

"Media" means and includes newspapers, magazines, billboards, direct mail, radio, television, and other modes of communication.

§ 2. Advertising Agencies.

The tax applies to the total charge made by an advertising agency as set forth in § 1 above, regardless of the method in which the agency bills a client for the production of an advertisement whether as a fixed fee, hourly rate or cost plus basis. Where an agency is paid a retainer for the performance of a variety of functions which may or may not involve the production of tangible advertising, the entire retainer will be subject to the tax unless the agency separately states the charge for the production of the tangible product.

Where an agency provides services which do not result in the production of a tangible product, the tax will not apply to charges for such services. However, all tangible personal property purchased by the agency for use in performing the services is subject to the tax at the time of

Proposed Regulations

purchase.

§ 2. Advertising businesses.

A. Ad creation.

The tax does not apply to charges by an advertising business for professional services in the planning, creating or placing of advertising in newspapers, magazines, billboards, direct mail, radio, television, or other media regardless of how such charges are computed by the advertising business and whether or not such business actually places the advertising in the media.

The tax does not apply to charges by an advertising business for the provision of concept, writing, graphic design, mechanical art, photography and production supervision in the development of an advertising campaign, whether or not all aspects of the campaign are actually performed by the advertising business. For example, charges by an advertising business for concept, writing, graphic design, mechanical art, photography, etc.... provided by another advertising business, for use in the development of an advertising campaign are not subject to the tax.

B. Purchases.

Advertising businesses are engaged in providing professional services and are the users and consumers of all tangible personal property purchased for use in such businesses. Therefore, the tax applies to all purchases by an advertising business including, without limitation, the following items:

1. Administrative items, including paper, ink, pencils, layout boards, blank audio and video tapes, office furniture, office supplies and similar equipment and supplies;
2. Printing, including direct mail items, mailing lists, handbills, brochures, flyers, bumper stickers, posters and similar printed materials whether or not for use in the development of a specific advertising campaign, and whether or not any of such materials are intended for distribution out of state;
3. Promotional items, including pens, pencils, ash trays, calendars, balloons, t-shirts and similar items whether or not for use in a specific advertising campaign, and whether or not such items are intended for distribution out of state.

In addition, the tax applies to all purchases by an advertising business of concept, writing, graphic design, mechanical art, photography, etc..., not made pursuant to the development of a specific advertising campaign. For example, if an advertising business purchases scenic photographs of Virginia for possible use in future advertising campaigns, the purchase of such photographs will be subject to the tax. (For photographs generally, see

VR 630-10-82).

C. Billing.

The tax does not apply to the total charge made by an advertising business for the creation or placement of advertising in the media, regardless of the method(s) used in computing such charge, as for example by fixed fee, hourly rate, percentage of media placed, or other method. Nor does the tax apply to handling fees or cost plus charges added to out of pocket expenses incurred by advertising businesses on behalf of their clients.

For example, if an advertising business contracts to develop a media advertising campaign for its client, and if pursuant to such contract, the client permits it to retain a commission equal to 15% of all media placed during the campaign, and in addition to reimburse it for any out of pocket expenses incurred for items such as postage, mailing list rentals, blank audio and video tapes, and other specified production materials, on an actual cost plus 20% handling fee basis, neither the 15% commission, nor the 20% handling fee would be subject to the tax. (For purchases by an advertising business generally, see subsection 2(B) of this regulation).

§ 3. Newspaper and other print media advertising.

A. Ad production.

The tax applies to the total charge for preparing an advertisement for placement in a newspaper or other publication. The amount subject to the tax includes charges for concept and copy, art work furnished to the customer, charges for labor to produce the layout, compose the ad or display, and to produce mechanicals and charges for models, props, type and similar items.

Materials which become a part of the newspaper advertisement such as art work, typesetting, photographs, and similar items may be purchased exclusive of the tax under a resale exemption. However, pencils, layout boards, and similar equipment and supplies used in producing advertising are used and consumed by the person engaged in such production and are subject to the tax at the time of purchase.

B. Charges for placing and running advertisement in newspaper or other print media.

1. The charge for placing and running an advertisement in a newspaper or other print media is not subject to the tax.

2. Where the newspaper or magazine develops the advertisement but makes no charge, either implicit or specific, for such development, there is no taxable transaction. Generally, this nontaxable transaction will occur only where a newspaper or magazine utilizes standard "space" charges based upon the amount of newspaper or magazine space purchased by a

Proposed Regulations

customer and such charge is uniformly applied to all customers regardless of whether the advertisement is prepared by the newspaper or furnished by the customer. Additional surcharges for special affects, such as color, will not negate this exclusion provided all other criteria are met. Where a newspaper or magazine prepares an advertisement and does not utilize standard space charges or make a separate charge for the production of the advertisement, such charges will be subject to the tax.

§ 3. Newspaper and other media advertising.

A. Space and time charges.

Charges for placing or running advertising in the media, as defined herein, are not subject to the tax. For example, the tax does not apply to charges for space in newspapers, magazines, or other print media nor to airtime charges on radio, television or other broadcast media.

B. Interstate commerce.

Charges by an advertising business for professional services in the development and placement of advertising in the media are not subject to the tax whether or not the advertising business, the client which contracts with such business or the advertising media itself are located in Virginia. (For Interstate Commerce, see VR 630-10-51).

§ 4. Audio visual advertising.

A. Ad production.

The tax applies to the total charge for the production of an audio advertisement or an audio visual film or television advertisement or promotion. The amount subject to the tax includes charges for concept development, sound affects, props, canned music and talent. The film or tape on which the advertisement or promotion is transmitted may be purchased exclusive of the tax under a resale certificate of exemption. Items used or consumed by the producer of the advertising such as cameras, film or tape editing equipment, and similar items are subject to the tax at the time of purchase.

B. Charges for placing and airing advertisement on television or radio.

1. The charge for airing an advertisement on television or radio is not subject to the tax.

2. Where the television or radio station develops the advertisement but makes no charge, either implicit or specific, for such development, there is no taxable transaction. Generally, this nontaxable transaction will occur only where the station utilizes standard "airtime" charges based upon the amount and the time period of air time purchased by a customer and such charge is uniformly applied to all customers regardless of whether the advertisement is prepared

by the station or furnished by the customer. Where a radio or television station prepares an advertisement and does not utilize standard airtime charges or makes a separate charge for the production of the advertisement, such charges will be subject to the tax.

§ 5. Other advertising.

The tax applies to the total charge for other advertising which results in the production of tangible personal property. Examples of such taxable property include the design of advertising loges, business cards, envelopes, forms, banners, display racks, brochures, letters, specialty, promotional and premium items, and campaign flyers, posters and brochures. The amount subject to the tax includes any labor or service charges in connection with the production of this property. Items which become a part of taxable property may be purchased exclusive of the tax under a resale certificate of exemption. However, supplies and equipment used in the production of taxable property, including art supplies, drawing boards and similar items are used and consumed by the person engaged in such production and are subject to the tax at the time of purchase.

§ 6. § 4. In-house advertising.

Materials and supplies and other tangible personal property used in "in-house" advertising, that is, advertising produced by any entity to advertise, promote or display its own products or services, are subject to the tax at the time of purchase.

For outdoor signs, see VR 630-10-100; for interstate commerce, see VR 630-10-51 ; for catalogs and other printed materials for distribution out of state, see VR 630-10-18.1 . Section under review 1/79 through 5/85; section revised 6/86.

NOTE: This regulation is effective June 1, 1985, and will expire on June 30, 1986. Effective July 1, 1986, charges for the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting or other media, including without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision will not be subject to the tax. Persons providing these services will be deemed to be the users and consumers of all tangible personal property purchased.

* * * * *

Title of Regulation: VR 630-10-24.4. Common Carriers of Property or Passengers by Railway (Proposed Retail Sales and Use Tax Regulation).

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: July 8 - 10 a.m.
(See Calendar of Events section for additional information)

Proposed Regulations

Summary:

This regulation sets forth the application of the sales and use tax to common carriers of property or passengers by railway.

VR 630-10-24.4. Common Carriers of Property or Passengers by Railway (Proposed Retail Sales and Use Tax Regulation).

§ 1. Definitions.

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

"Common carrier" means a railway which holds itself out to carry goods by rail for hire for anyone who would employ it and/or which holds itself out to carry all proper persons who apply to be passengers. A private carrier by rail is not a common carrier within the meaning of this regulation and is not entitled to an exemption from the tax.

"Use or consumption directly" means those activities that are an integral part of the rendition of common carrier service by a railway. Items of tangible personal property that are used or consumed directly in the rendition of common carrier service by a railway are those that are both indispensable to the actual provision of the transportation service and used or consumed immediately in the performance of such service. The fact that a particular item may be considered essential to the rendering of such transportation service because its use is required either by law or practical necessity does not, of itself, mean that the property is used directly in the rendition of the service. As described in § 4 of this regulation, items of tangible personal property which are to be incorporated into and will become a part of a railway's owned or leased transportation system are deemed to be used directly in the rendition of its public service; however, tangible personal property used in general and administrative activities and activities not related to a railway's transportation system are deemed not to be used directly in the rendition of its public service. The terms "use" or "consumption" directly includes tangible personal property used in the repair and maintenance of a railway's transportation system to keep it in operation.

§ 2. Generally.

Tangible personal property purchased or leased by a common carrier of property or passengers by railway for use or consumption directly in the rendition of its public service is exempt from the sales and use tax.

§ 3. Railway common carrier activities.

A. The activities of a railway as defined in the Uniform System of Accounts for Railroad Companies prescribed by

the Interstate Commerce Commission are (i) way and structures, (ii) equipment, (iii) transportation, and (iv) general and administrative. The following is a description of each activity:

1. Way and structures.

This activity entails the repair, maintenance, and acquisition of right-of-way and track, structures, buildings, and facilities, including TOFC terminals, signals and interlockers, highway grade crossings, running tracks, passing tracks, crossovers, and switching tracks. Functions attributable to accounts 1-43 and 45 of the Uniform System of Accounts as of October 1, 1983, are included in this activity.

2. Equipment.

This activity entails the repair, maintenance, and acquisition of transportation and other operating equipment, including locomotives, freight train cars, passenger train cars, highway revenue equipment, floating equipment, and work equipment. Functions attributable to accounts 44 and 52-58 of the Uniform System of Accounts as of October 1, 1983, are included in this activity.

3. Transportation.

This activity entails the operation, servicing, inspecting, weighing, assembling, and switching of trains; operation of highway revenue services; operation of facilities in connection with transportation operations (coal and ore terminals, intermodal terminals, and terminal grain elevators for example); operation of floating equipment and related facilities; and the operation of communications systems which primarily support train operations.

4. General and administrative.

This activity entails the provision of overall administrative and other general support for carrier operations. For the purposes of VR 630-10-24.4, this activity includes general and administrative functions relating to operating and nonoperating activities, including executive, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing, industrial engineering, and regulatory reporting.

B. As noted in the Uniform System of Accounts, certain general and administrative functions may be included within the way and structures, equipment, and transportation activities. Such functions include the payment of salaries and wages, fringe benefits, and other directly supportive administrative functions. Tangible

personal property used in such functions is taxable.

§ 4. Taxable and exempt usage.

The following are descriptions and examples of taxable and exempt uses of tangible personal property attributable to the four primary railway activities. The listings of items for each activity are intended to be representative, but not exhaustive.

1. Way and structures (Accounts 1-43 and 45 of the Uniform System of Accounts).

Tangible personal property used in this activity is generally subject to the tax to the extent it is not an integral part of a railway's roadbed. Taxable property includes materials used to construct or erect most structures (station and office buildings, roadway buildings, sidewalks, driveways, etc.); structures carrying public roads; railway tunnels (except rails and roadbed); and items used in administrative support of the activity. Exempt items used directly in the rendition of common carrier service include rails; ties; roadbed materials; materials used to construct or erect railway bridges and trestles (except foundations); materials used to construct or erect piers, wharves and docks (except foundations); and signals. Tangible personal property, i.e. machinery, tools, etc., used to produce exempt tangible personal property such as signals, track materials, etc., is considered to be used indirectly in the rendition of common carrier service and is taxable.

Taxable:

Expenses and supplies of the type listed in account 1, engineering, of the Uniform System of Accounts, including atlases and maps, books, furniture, stationery, etc.;

Surveying equipment, supplies, tripods, etc.;

Other supplies and equipment used in providing administrative support or for the personal comfort of employees;

All material used to repair general offices, shops, stations, roadway buildings, air conditioning, plumbing and heating, etc.;

Materials used in the construction, repair or maintenance of station and office building structures, roadway building structures, water station structures, fuel station structures, shop and enginehouse structures, storage warehouses, terminal building structures, dams and canals, power plant building structures, and employee and other parking lots;

Materials used in the construction, repair or maintenance of public improvements, including bridges and grade crossings used to carry public or

private roads over, under, or across railway tracks;

Materials used in the construction, repair or maintenance of tunnels (except rails and roadbed);

Power plant machinery;

Telephones, switchboards, and other communications systems used for administrative purposes;

Tangible personal property used in work on roads, sidewalks, ditches, drains, right-of-way (other than track, roadbed, and signals), etc.; and

Security fences around track, railyards, etc.

Exempt

Ties, rails and spikes;

Ballast;

Switches and switch heaters;

Track panels, frogs, turnouts, cribbing, and similar track material;

Materials used to construct or erect railway bridges, trestles, piers, wharves, and docks, except that materials used in the foundations of such structures are taxable;

Signals and interlockers, including signals used for protection at grade crossings, crossing gates, and grade crossing warning bells;

Centralized traffic controls, visual and electronic train monitoring and control systems;

Tangible personal property used by a railway common carrier to clear and grade for roadway, and lay down roadway;

Equipment, tools, and supplies used by a railway common carrier to install, maintain, and repair track, ties, roadbed, signals; monitoring and control systems, and traffic control systems; however, tangible personal property used in the fabrication or production of exempt tangible personal property is deemed to be used indirectly in the rendition of common carrier service, for instance machinery used to produce exempt signal systems is taxable;

Repair and replacement parts, fuel, and supplies used to repair and maintain exempt revenue equipment and equipment used to service or repair exempt revenue equipment tract and communications systems; and

Coal pier and other bulk commodity loading, unloading, and thawing equipment.

Proposed Regulations

2. Equipment (Accounts 44 and 52-58 of the Uniform System of Accounts).

Tangible personal property, other than administrative supplies, employee comfort supplies, and equipment and structures of all types, used in this activity is exempt from the tax.

Taxable:

Arm rests and cab cushions (other than for passenger use);

Clocks;

Beds and bedding (other than for passenger use);

Furniture (other than for passenger use);

Kitchen equipment and supplies (other than for passenger use);

Instructional cars;

Ditching cars;

Officers cars;

Business cars;

Painters cars;

Pay cars;

Scale test cars; and

Supplies and equipment used to maintain or repair company automobiles and general purpose trucks;

Materials and supplies used for the upkeep of shop and repair facilities; and computer systems used for general administrative and financial accounting purposes.

Exempt:

Fire extinguishers used on revenue equipment;

Locomotives;

Freight cars;

Passenger cars;

Dynamometer cars;

Tool cars;

Ballast cars;

Rail test cars (rail test cars may be subject to the

motor vehicle sales and use tax, however);

Wreck cranes;

Weed burners;

Snowplow equipment used to clear track to allow for passage of revenue equipment except snow removal equipment for general yard use;

Highway revenue equipment including chassis and containers;

Floating equipment used for the transportation of freight or passengers; and

Computer systems used for guidance, monitoring or control of train movements;

Tangible personal property used in the repair and maintenance of revenue equipment, including wheel truing machines, electric testing equipment, cranes, locomotive and car rebuilding machinery, etc.

Tangible personal property used in cleaning and painting (including lettering) revenue equipment; and

Tangible personal property used in clearing wrecks.

3. Transportation.

Tangible personal property used in this activity is generally exempt from the tax as this activity relates primarily to the direct operation of railways. Of course, administrative support activities and activities which are indirectly a part of rendition of common carrier service are taxable.

Taxable:

Crew meals and lodging;

Tangible personal property used in supporting activities such as sorting and handling waybills, reporting car movement data, etc., except equipment for communication between monitoring and control personnel and revenue equipment; and

Tangible personal property used for general administrative purposes or for the comfort of employees.

Exempt:

Equipment used in switching trains;

Equipment used in fueling, lubricating, maintaining, and repairing revenue and service equipment;

Equipment used on revenue equipment to maintain

commodities (freight) at constant temperatures;

Equipment used in and for communication between monitoring and control personnel and revenue equipment;

Tangible personal property used in receiving, sorting, and loading freight, containers, or trailers or in adjusting or transporting loads, including scales, forklifts, conveyer systems, piggybackers, racks, hand trucks, packing material, straps, blocking and bracing materials, chains, and waybills, freight bills or bills of lading carried with the freight being transported; and

Decals and lettering used on revenue equipment.

NOTE: In the case of the way and structures, equipment, and transportation activities, tangible personal property used in the servicing, maintenance or repair of tangible personal property is exempt from the tax only to the extent that the tangible personal property serviced, maintained or repaired is exempt from the tax.

4. General and administrative.

Tangible personal property used in the general and administrative activity is taxable. Such property includes office supplies, office equipment, furniture, tariff rate schedules, billing supplies and equipment, payroll supplies and equipment, etc.

§ 5. Metro and Amtrak.

Notwithstanding other provisions of VR 630-10-24.4, the commuter rail service operated by the Washington Metropolitan Area Transit Authority enjoys a sales and use tax exemption under federal law on all tangible personal property and services purchased or leased by it. The same exemptions are enjoyed by the National Rail Passenger Corporation.

The only requirement for exemption under this section is that a purchase must be paid for out of Metro or Amtrak funds. This requirement is not met when an employee pays for tangible personal property or lodgings out of his own funds, even though he may later be reimbursed by Metro or Amtrak, or when such charges are paid for out of a Metro or Amtrak cash advance. The requirement is met when purchases are pursuant to Metro or Amtrak purchase orders, billed directly to Metro or Amtrak or paid for by Metro or Amtrak credit card or check.

§ 6. Contractors.

Generally, purchases of tangible personal property by contractors in connection with real property construction contracts with railway common carriers are taxable sales to such contractors for their own use or consumption. Only

in instances where the credit of a railway common carrier is bound directly in a purchase by a contractor and the contractor has been officially designated as a purchasing agent for the railway will such purchases be deemed to be those of the railway and taxable or exempt as set forth in §§ 1 through 5 of this regulation.

Contractors are not subject to the use tax when provided with tangible personal property by a railway common carrier in connection with a real property construction contract provided that the tangible personal property so furnished enjoyed a sales and use tax exemption when purchased by the railway common carrier.

§ 7. Proration.

It is possible that an item of tangible personal property may be used in both a taxable and exempt manner. In such cases, the sales and use tax base should be computed by multiplying the sales price or cost price, whichever is applicable, of the item by the percentage of time that the item is used in a taxable manner.

§ 8. Lost, damaged or unclaimed property.

The tax does not apply to compensation paid by a railway common carrier to a customer for tangible personal property lost or damaged while in the carrier's possession. If a railway common carrier sells damaged or unclaimed property, it must register as a dealer and collect and pay the tax.

§ 9. Demurrage.

Charges to shippers or consignees for their failure to release a railway car within a specified period after placement, known as demurrage charges, are not subject to the sales and use tax. Such charges are not taxable as they are part of the total nontaxable charge for transporting property. This regulation addresses only those demurrage charges for the retention of railway cars and has no application to taxable demurrage charges for gas cylinders and other tangible personal property.

Section added 10/86.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

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

Effective Date: May 28, 1986

Summary:

The amendments to the Virginia Pest Law - Virginia Gypsy Moth Quarantine, were mainly for clarification and simplicity as follows:

1. Nontechnical changes were made to nine sections to improve sentence structure and to add clarity and simplicity to the regulation;

2. LP gas containers were incorporated as hazardous equipment associated with recreational vehicle sites. This was due to the fact that LP gas containers are frequently attached to or associated with recreational vehicles and offer an ideal and secluded site to which gypsy moth life stages may be attached and transported. Also a change was made to allow an inspector to determine, based on established criteria, when a hazardous recreational vehicle site exists. The determination of a hazardous recreational vehicle site is dependent upon the number of egg masses per acre (over 50), the predominance of preferred host trees in the campground and the distance of preferred host trees from the campsites. An inspector was identified as a VDACS employee or other person authorized by the commissioner to enforce the quarantine; and

3. No changes were made to existing policy or operating procedures.

VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

Regulation 1:

§ 1. Definitions.

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

"Associated equipment" means articles associated with

mobile homes and recreational vehicles ; such as, but not limited to ; : awnings, tents, outdoor furniture, trailer blocks, LP gas containers, and trailer skirts.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, or moving regulated articles, and the VDACS, U.S. Department of Agriculture (USDA), or both, wherein the former agrees to comply with the requirements of the compliance agreement.

"Gypsy moth" means the insect "Lymantria dispar" (Linnaeus) in any living stage.

"Hazardous recreational vehicle site" means any site where a recreational vehicle is, or may be parked, and it which is determined in the professional judgement of by an inspector that such site harbors to harbor populations of gypsy moth ; on the basis of eggs, larvae, or pupae which are present and could be spread by a recreational vehicle that could be spread by movement of recreational vehicles or associated equipment .

"Inspector" means A properly identified employee of the Virginia Department of Agriculture and Consumer Services, Plant Pest Control Section, or any other person authorized by the Commissioner to enforce the provisions of this quarantine any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations .

"Mobile home" means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

"Outdoor household articles" means articles associated with a household that have been kept outside the home such as , including but not limited to outdoor furniture, barbeque grills, building materials, children's play things, yard items, trash cans, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

"Recreational vehicles" means highway vehicles, including pickup truck campers, one-piece motor homes, and camping or travel trailers, designed to serve as a temporary place of dwelling.

"Scientific permit" means a document issued by the State Entomologist Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

"Virginia Pest Law" means that law set forth in Article

6 (§ 3.1-188.20 et seq.) of Title 3.1 of the Code of Virginia.

Regulation 2-

§ 2. Regulated articles.

The following articles are regulated under the provisions of this quarantine, and shall not be moved into or within Virginia, except in accordance with the conditions prescribed in this quarantine:

1. Trees with roots, shrubs with roots, and persistent woody stems, except if greenhouse grown throughout the year.
2. Logs and pulpwood, except if moved to a mill operating under a compliance agreement.
3. Firewood.
4. Mobile homes and associated equipment.
5. Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites and the person in charge of the site has been notified.
6. Cut Christmas trees.
7. Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth infestations and the person in possession thereof has been so notified.

Regulation 3-

§ 3. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the Gypsy Moth and Brown-tail Moth Quarantine No. 45, or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

The entire counties of: Arlington, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Loudoun, Page, Prince William, Rappahannock, Stafford, and Warren.

The entire independent cities of: Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and Winchester.

Portions of the following counties:

Accomack County

That portion of the county which lies north of State Road Route 695 beginning at the junction of State Road Route 695 and the Chesapeake Bay on the west and then east along State Road Route 695 to its junction with State Road Route 679; then north 0.2 miles on State Road Route 679 to its junction with State Road Route 695; then east on State Road Route 695 to its junction with Powells Bay; then east along an imaginary line to its junction with the Atlantic Ocean.

Madison County

That portion of the county being north of a line beginning at the junction of State Route 615 and the Greene, Madison County Line, then east along State Route 615 to its intersection with State Route 662, then north along State Route 662 to its boundary of the Shenandoah National Park, then north along the Shenandoah National Park boundary to State Route 672, then east along State Route 672 to its intersection with State Route 649, then east along State Route 649 to its intersection with State Route 670, then south and east along State Route 670 to its intersection with State Route 231, then south and east along State Route 231 to its intersection with State Route 609, then east along State Route 609 to its intersection with the Madison County, Culpeper County Line.

Shenandoah County

That portion of the county which lies north and east of State Route 675.

Regulation 4-

§ 4. Conditions governing movement of regulated articles into or within Virginia.

A regulated article may not be moved into or within the state from a regulated area as described in § 3 unless a certificate or permit has been issued and attached to said the regulated article in accordance with § 5.

Regulation 5-

§ 5. Conditions governing the issuance of certificates and permits.

A. Certificates.

Certificates may be issued by an authorized inspector for the movement of the regulated articles designated in § 2 under any of the following conditions when:

1. In the judgement of the inspector, they have not been exposed to infestations;
2. They have been examined by the inspector and found to be free of gypsy moth;

Final Regulations

3. They have been treated to destroy gypsy moth under the direction of the inspector and ~~in accordance with~~ according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;

4. Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moth would not be transmitted thereby by movement of the article .

B. Permits.

Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, ~~utilization use~~ , processing, or treatment.

C. Compliance agreement.

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such regulated articles may be required to sign a compliance agreement stipulating . *The agreement shall stipulate that they will maintain such safeguards will be maintained* against the establishment and spread of infestation , and *will comply with such the conditions as to governing* the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector .

D. Use of certificates or permits with shipments.

All regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, or waybill , or other shipping document, shall be ~~furnished given~~ by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.

E. Assembly of articles for inspection.

Persons intending to move any of the regulated articles shall ~~make application apply~~ for inspection as far in advance as possible ; . *They shall so handle such articles as to safeguard them the articles from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection .*

Regulation 6:

§ 6. Cancellation of certificates or permits.

Any certificate or permit which has been issued or authorized will be withdrawn by the inspector if he determines that the holder thereof has not complied with conditions for ~~the their use of such documents~~ or with any applicable compliance agreement.

Regulation 7:

§ 7. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect , and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths as provided in the Virginia Pest Law under which this quarantine is ~~promulgated issued~~ .

Regulation 8:

§ 8. Shipment for experimental or other scientific purposes.

Any living stage of gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the Virginia Department of Agriculture and Consumer Services , and in accordance with ~~such any conditions as which~~ may be required in ~~such the~~ permit. The permit shall be securely attached to the outside of the shipping container.

Regulation 9:

§ 9. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services ~~disclaims liability shall not be liable~~ for any costs incident to inspections required under the provisions of the quarantine and regulations, other than for the services of the inspector.

Regulation 10: Violations:

Persons convicted of violating any of the regulations may be punished in accordance with Section 3.1-188.20 of the Virginia Pest Law.

* * * * *

Title of Regulation: VR 115-04-03. Rules and Regulations for Enforcement of the Virginia Pesticide Law.

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

Effective Date: May 28, 1986

Summary:

This regulation aids 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. Of the 835 requirements, 61 were eliminated; 507 clarified and 267 left unchanged. No new requirements were added.

VR 115-04-03. Rules and Regulations for Enforcement of the Virginia Pesticide Law.

Regulation 2. Terms Defined and Construed.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise. [Words used in singular form in these regulations include the plural, and vice versa, as appropriate.]

"Active ingredient" means an ingredient which:

1. Is capable in itself, and when used in the same manner and for the same purposes as directed for use of the product, of: Is independently capable of:

a. Preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, nematodes, or other pests; or

b. Altering through physiological action the behavior of ornamental or crop plants or the their produce thereof ; or

c. Causing leaves or foliage to drop from a plant; or

d. Artificially accelerating the drying of plant tissue.

2. Is present in the product in an amount sufficient to add materially to its effectiveness be effective ; and

3. Is not antagonistic to the activity of the principal active ingredients. Provided, however, That The commissioner may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the pesticide to warrant such action.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, including any algae or other aquatic weed.

"Law" means Articles 1, 2, 3 and 4 (§ 3.1-189 et seq.) of Chapter 14 of Title 3.1 of the Code of Virginia, known as the Virginia Pesticide Law.

"Rodent" means any animal of the order Rodentia ; including, but not limited to, rats, mice, rabbits, gophers, prairie dogs, and squirrels.

Regulation 3

§ 2. Language to be used.

All statements, words, and other information required by the law or the by these regulations in this part to appear on the label or labeling of any pesticide shall be in the English language. Provider, However, that in the case of articles intended solely for distribution to points outside the continental United States , the appropriate foreign language may be used in lieu of the English language .

Regulation 4. Omission of Label of Labeling. The omission of a label or labeling from any pesticide shall not affect any provision under the Law or the Regulations in this part with respect to any statement required to appear on such label or labelings.

Regulation 5

§ 3. Label.

A. Name and address of manufacturer. An unqualified name and address given on the label shall be considered as The name and address of the manufacturer shall appear on the label . If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the pesticide was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for . . .," "Distributed by . . .," or "Sold by . . .," to show that the name is not that of the manufacturer. When a person manufactures a pesticide in two or more places or in a place different from the manufacturer's principal office, the actual place of manufacture of each particular package need not be stated on the label; except when, under the special circumstances existing, the failure to name it may be misleading to the public. The address of the manufacturer, registrant, or person for whom manufactured shall include the street address, if any, and zip code unless the street address is shown in a current city directory or telephone directory.

B. Name, brand or trade mark of pesticide. The name, brand, or trademark of the pesticide appearing on the label shall be that under which the pesticide is registered.

C. Net content. The net content declaration shall comply with the Weights and Measures Act of Virginia Chapter 35 (§ 3.1-919 et seq.) of Title 3.1 of the Code of Virginia and its regulations promulgated thereunder .

D. Directions for use. Directions for use are required for the protection of the public. The public includes not only users of pesticides, but also those who handle them or may be affected by their use, handling, or storage. Pesticides restricted by these regulations shall be

Final Regulations

registered only for the *their* permitted uses , and the label shall have a prominent statement to the effect that the product is to be used only as directed. Directions for use are considered necessary in the case of most retail containers which go into the hands of users , with the following exceptions :

Directions may be omitted:

1. If the pesticide is to be used by manufacturers in their regular manufacturing processes ; , provided ; that the label clearly shows that the product is intended for use only in manufacturing processes, and bears an ingredient statement giving the name and percentage of each of the active ingredients.

2. If the pesticide is sold to distributors for dilution or mixing with carriers to prepare pesticides for sale to the public ; , provided ; that the label bears an ingredient statement giving the name and percentage of each of the active ingredients ; ; and the pesticide is a well-known substance or mixture of substances ; ; and there is readily available general knowledge of the composition, methods of use, and effectiveness of the product for pesticide purposes.

Regulation 6:

§ 4. Ingredient statement.

A. Location of ingredient statement.

The ingredient statement ~~must~~ shall appear on that part of the label displayed under customary conditions of purchase ; ; except in cases where the commissioner determines that, due to the size or form of the container, a statement on that portion of the label is impractical, and permits ~~such~~ the statement to appear on another side or panel of the label. When so permitted, the ingredient statement ~~must~~ shall be in larger type and more prominent than would otherwise be possible required . The ingredient statement ~~must~~ shall run parallel with other printed matter on the panel of the label on which it appears , and ~~must~~ shall be on a clear contrasting background ~~not obscured or crowded~~ .

B. Names of ingredients.

The well-known common name of the ingredient ~~must~~ shall be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the commissioner may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the commissioner may prescribe the terms under which it may be used. A trademark or trade name may not be used as the name of an ingredient , except when it has become a common name.

C. Percentages of ingredients.

Percentages of ingredients shall be determined by weight , and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

D. Designation of ingredients.

1. Active ingredients and inert ingredients shall be so designated, and the term "inert ingredient" shall appear in the same size type and be ~~equally~~ as prominent as the term "active ingredient".

2. If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall, respectively, be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

E. Active ingredient content. As long as a pesticide is subject to the Law the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the pesticide.

Regulation 7:

§ 5. Pesticides highly toxic to Man humans .

A. Pesticides which fall within any of the following categories when tested on laboratory animals as specified in subparagraphs paragraphs 1, 2, or 3 of this paragraph subsection are highly toxic to ~~man~~ humans or contain substances or quantities of substances highly toxic to ~~man~~ humans within the meaning of the law . { Such pesticides being hereinafter in this part shall be referred to as pesticides highly toxic to ~~man~~ humans. Provided however, That the commissioner may, Upon application and after an opportunity for a hearing, the commissioner may exempt any pesticide which is in any of these categories, but which is not in fact highly toxic to man, from the these requirements of the Law and the regulations in this part with respect to pesticides highly toxic to ~~man~~ which is not highly toxic to humans :

1. Oral toxicity. A pesticide which has single dose LD50 of 50 milligrams or less per kilogram of body weight , when administered orally to both male and female rats which have been fasted for a period of 24 hours (or to other rodent or nonrodent species specified by the commissioner); or

2. Toxicity on inhalation. A pesticide which has an LC50 of 2,000 micrograms or less of dust or mist per liter of air or 200 parts per million or less by volume of a gas or vapor, when administered by continuous inhalation for one hour to both male and female rats (or to other rodent or nonrodent species specified by the commissioner) , if the commissioner he finds that it is reasonably foreseeable that such concentration will be encountered by ~~man~~ humans ; or

3. Toxicity by skin absorption. A pesticide which has an LD50 of 200 milligrams or less per kilogram of body weight, when administered by continuous contact for 24 hours with the bare skin of rabbits (or other rodent or nonrodent species specified by the commissioner).

B. Test on other species.

Tests on other specified rodent or nonrodent species may be required by the commissioner with respect to individual pesticides or to classes of pesticides whenever he finds that tests on other species are necessary to determine whether a pesticide is highly toxic to man humans.

C. Terms LD50 and LC50.

An LD50 as used in connection with oral toxicity and skin absorption toxicity tests specified in paragraph (a) (1) and (2) of this Regulation is the dose, and LC50 as used in connection with inhalation tests specified in paragraph (a) (2) of this Regulation is the concentration, which is expected to cause death within 14 days in 50 percent % of the test animals so treated.

D. Toxicity based on human experience.

If the commissioner finds, after an opportunity for hearing, that available data on human experience with any pesticide indicates a toxicity greater greater toxicity than that determined from found in the above described tests on animals, the human data shall take precedence; and, if he finds that the protection of the public so requires, the commissioner shall declare such a pesticide to be highly toxic to man humans for the purposes of this law and the its regulations thereunder.

Regulation 8.

§ 6. Warning or caution statement.

A. Warning or caution statements; which are necessary and, if compiled with, adequate to prevent injury to living man and humans, useful vertebrate, and invertebrate animals, and useful vegetation, and useful invertebrate animals, must appear on the label in a place sufficiently prominent to warn the user; and must. They shall state clearly and in nontechnical language the particular hazard involved in the use of the pesticide; (e.g., ingestion, skin absorption, inhalation, flammability, or explosion), and the precautions to be taken to avoid accident, injury, or damage.

B. The label of every pesticide shall bear warnings or cautions which are necessary for the protection of the public, including the statement, "Keep out of reach of children", and a signal word such as "DANGER", "WARNING", or "CAUTION" as, which the commissioner may prescribe, on the front panel or that part of the label displayed under customary conditions of purchase:

Provided, . However, the commissioner may permit reasonable variations in the placement of that part of the required warnings and cautions other than the statement "Keep out of reach of children" and the required signal word, if in his opinion such variations would not be injurious to the public. If a pesticide is marketed in channels of trade where the likelihood of contact with children is extremely remote, or if the nature of the product is such that it is likely to be used on infants or small children without causing injury under any reasonably foreseeable conditions, the commissioner may waive the requirements of the statement "Keep out of reach of children"; if in his opinion, such a statement is not necessary to prevent injury to the public. The commissioner may permit a statement such as "Keep away from infants and small children" in lieu instead of the statement "Keep out of reach of children", if he determines that such a variation would not be injurious to the public.

C. The label of every pesticide which is highly toxic to man as described in Regulation 7 humans shall bear the word words "DANGER" along with the word and "POISON" in red on a contrasting background in immediate proximity next to the skull and crossbones, and an antidote statement including directions to call a physician immediately, on the front panel or that part of the label displayed under customary conditions of purchase. Provided, However, the commissioner may permit reasonable variations in the placement of the antidote statement if some reference such as "See antidote statement on back panel" appears on the front panel near the word "POISON" and the skull and crossbones.

D. Warning or caution statements which comply with the requirements of Interpretation 18 of the regulations for the enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; as that interpretation now exists or may from time to time be amended, shall deem to be considered in compliance with the requirements of these regulations.

Regulation 9.

§ 7. Registration.

A. Eligibility.

Any manufacturer, packer, seller, distributor, or shipper of a pesticide is eligible as a registrant and may register such the pesticide.

B. Effect of registration: If a pesticide is registered under the Law no further registration under the Law is required: Provided, That (1) the product is in the manufacturer's or registrant's original unbroken immediate container; and (2) the claims made for it and the directions for its use do not differ in substance from the representation made in connection with registration.

B. Procedure for registration.

Final Regulations

Application for registration should be made on the form provided. Application forms will be furnished upon request to the Virginia Department of Agriculture and Commerce Consumer Services, Office of Pesticide Regulatory Section Regulation, Post Office Box 1163, Richmond, Virginia 23209. Application should be submitted as far in advance as possible and at least thirty days before the time when it is desired that, before the time registration is desired to take effect.

C. Effective date of registration.

Registration of a pesticide shall become effective on the date the certificate of registration is issued.

D. Responsibility of a registrant.

The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of a pesticide.

E. Changes in labeling or formula.

1. Changes in substance in the labeling, or changes in the formula of a registered pesticide, must shall be submitted in advance to the Office of Pesticide Regulatory Section Regulation. The registrant must shall describe the exact changes desired and the proposed effective date; ; and; upon request, shall submit a description of tests which justify such changes.

2. After the effective date of a change in labeling or formula, the product shall be marketed only under the new claims new label or formula, except that a reasonable time may be permitted by the commissioner to dispose of properly labeled stocks of old products.

F. Claims must shall conform to registration.

Claims made for a pesticide must shall not differ in substance from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

Regulation 10.

§ 8. Coloration and discoloration.

A. Unless exempted by Regulation 14 § 13. of these regulations, the white pesticides hereinafter named shall be colored or discolored in accordance compliance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland.

B. Coloring agent.

The coloring agent must shall produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the these regulations in this part during ordinary conditions of marketing or storage; and. They must not cause the product to become ineffective, or result in its causing cause damage when used as directed.

C. Arsenicals and barium fluosilicate.

Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue; except the yellow-reds and yellows, having a value of not more than eight and a chroma of not less than four, or shall be discolored to a neutral lightness value not over seven.

D. Sodium fluoride and sodium fluosilicate.

Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than eight and a chroma of not less than four, or shall be discolored to a neutral lightness value not over seven.

E. Exceptions.

Notwithstanding the provisions of paragraphs (b) and (c) of this Regulation The commissioner, after the opportunity for a hearing, may permit other hues to be used for any particular purpose, if the prescribed hues are not feasible for such the purpose, and if such this action will not be injurious to the public.

Regulation 11. Adulteration; Valuable Constituent.

(a) A valuable constituent will be considered as wholly abstracted whenever the designation or representation of the product imports its presence therein and such constituent has been wholly omitted therefrom in the preparation of the product or has been wholly removed from the completed product.

(b) A valuable constituent will be considered as partly abstracted whenever the designation or representation of the product imports its presence therein, and such constituent is not present in the usual or customary amount or in the amount indicated in the labeling.

Regulation 12

§ 9. Misbranding.

A. False or misleading statements.

Among representations in the labeling of a pesticide which render it misbranded are the following:

A. 1. A false or misleading statement concerning the composition of the product.

B. 2. A false or misleading statement concerning the

effectiveness of the product as a pesticide or device.

C. 3. A false or misleading statement about the value of the product for purposes other than as a pesticide or device.

D. 4. A false or misleading comparison with other pesticides or devices.

E. 5. A false or misleading representation as to the safety of the pesticide or of its ingredients, including a statement such as "nonpoisonous", "noninjurious", or "nonhazardous", unless the product is in fact safe from all conditions.

F. 6. Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of this state *Commonwealth*.

G. 7. The name of a pesticide which contains two or more active ingredients, if it suggests the name of one or more but not all such ingredients, even though the names of the other ingredients are stated elsewhere in the labeling:

Provided, however, That it is permissible, when the percentage of each active ingredient is given in the name, to omit reference in name of the product to the inert ingredient.

8. Prominent reference in the labeling to one or more active ingredients without giving their percentages to immediate proximity thereto or without giving equal prominence to the other active ingredients or to the presence of inert ingredients.

H. 8. A true statement used in such a way as to which would give a false or misleading impression to the purchaser.

(10) The term "concentrate" is used in the brand name, unless one of the following conditions is met:

(i) The percentage of principal active ingredients (excluding solvents and modifiers) appears in the brand name on the label. (Example: Doe 50% DDT Concentrate.)

(ii) A statement of weight per volume of the principal active ingredient (excluding solvents and modifiers) appears prominently on the label. (Example: Contains 2 lb. DDT per gallon.)

(iii) The dilution ratio to be followed is part of the brand name. (Example: Doe 10:1 Wood Preservative Concentrate.)

(iv) The product is intended for further processing or formulation prior to sale to the ultimate user. (Example: For Pesticide Manufacturing Use Only.)

B. Justification of false and misleading statements not permitted.

(1) The use of any false or misleading statement on any part of the labeling, given as the statement or opinion of any person or based upon such statement or opinion shall not be justified nor may such statement be justified by the fact that the statement or opinion is actually that of the person.

(2) The use of false or misleading statement in the labeling cannot be justified by an explanatory statement.

Regulation 13.

§ 10. Enforcement.

A. Collection of samples.

Samples of pesticides and devices shall be collected by a designated agent. An official representative sample shall be one which is taken by the commissioner or his duly authorized agent. An unbroken original package shall be taken as the official sample where the pesticide is packed in small bottles or small packages. Where the pesticide is packed in large containers, the official sample shall be a portion taken from one original package in a lot.

B. Examination of samples.

Methods of sample examination of samples shall be those adopted and published by the Association of Official Analytical Chemists, where applicable, and such any other methods as may be necessary to determine whether if the product complies with the law.

C. Notice of apparent violation.

1. If from an examination or analysis, a pesticide or device appears to be in violation of the law, a written notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him an opportunity to offer such a written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the law and the regulations.

2. Any such person may, in addition to his reply to such notice, file such In addition to his reply to the notice, any person may file, within 20 days of receipt of the notice, a written request for an opportunity to present his views orally in connection therewith an oral defense.

3. No notice or hearing shall be required prior to the seizure of any pesticide or device.

Regulation 14.

§ 11. Notice of judgment.

Final Regulations

Publication of court judgments of courts in cases arising heard under the criminal or seizure provision of the law shall be made in the form of notices, circulars, or bulletins as directed by the commissioner may direct .

Regulation 15:

§ 12. Products for experimental use.

A. Articles for which no permit is required.

1. A substance or mixture of substances being put through test in which the purpose is tested only to determine its value for as a pesticide purposes , or to determine its toxicity or other properties, and where the user does not expect to receive any benefit in pest control from its use, is not considered a pesticide within the meaning of § 3.1-198.1 of the law Code of Virginia . Therefore, no permit under the Law is required for shipment.

2. A pesticide shipped or delivered for experimental use by or under the supervision of any federal or state agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the law and the these regulations in this part .

B. Articles for which permit is required.

1. A pesticide shipped or delivered for experimental use by other qualified persons ; but not under the supervision of a federal or state agency authorized by Law to conduct research in the field of pesticides shall be exempt from the provisions of the law and of the these regulations ; in this part: Provided, that if a permit for such shipment or delivery is obtained prior thereto beforehand. Permits will may be of two types either , specific and or general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to different persons.

2. If a pesticide is to be tested for a use which is likely to result in a leave residue on or in food or feed, a permit for shipment or delivery will be issued only when:

a. The food or feed product will not only be used for as food or feed only except for laboratory or experimental animals, or

b. Convincing evidence is submitted by the applicant that the proposed use will not result in a produce an amount of residue which would be hazardous to men humans or other animals.

3. A permit for shipment or delivery of any experimental pesticide for testing in any place likely to be frequented by people will be granted only if it

is clearly shown in the application for such permit that the applicant's instructions for use reasonably assures the avoidance of injury to all persons concerned.

3. All applications for permits covering shipments for experimental use shall be filed in duplicate and must be signed by the shipper or the person making the delivery and must contain the following include :

a. Name and address of the shipper and places or places from which the shipment will be made.

b. Proposed date of shipment or proposed shipping period , not to exceed one year.

c. A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

d. A statement of the approximate quantity to be shipped.

(e) Available data or information or reference to available data or information on the acute toxicity of the pesticide.

e. A statement of the nature of the proposed experimental program, including the type of pests or organisms to be experimented with, the crops or animals for which the pesticide is to be used, the areas where it is proposed to conduct the program the program will be conducted, and including the results of previous tests , where necessary , to justify the quantity requested.

(g) When food or feed is likely to be contaminated, either a full statement of action which will be taken to prevent the food or feed from being consumed, except by laboratory or experimental animals, or convincing evidence that the proposed experiments will not result in injury to man or useful animals.

f. The percentage of the total quantity specified under subparagraph d of this paragraph which will be supplied without charge to the user.

g. A statement that the pesticide is intended for experimental use only.

h. Proposed labeling which must bear:

(1) The prominent statement "For experimental use only" on the container label and any accompanying circular or other labeling,

(2) A warning or caution statement which may be necessary ; and ; if complied with , adequate for the protection of those who may handle or be exposed to the experimental formulations substance ,

(3) The name and address of the applicant for the permit,

(4) The name or designation of the formulation substance, and

(5) If the pesticide is to be sold, a statement of the names and percentages of the principal active ingredients in the product.

(6) ~~Provided, That, If the shipper shall submits a copy of the valid experimental permit and accepted labeling issued under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act and the accepted labeling related thereto, the commissioner may exempt the shipper from the requirement of submitting as a part of the application, the data and information herein above specified in subparagraphs (v) to (x) (e) through (h).~~

4. The commissioner may limit the quantity of a pesticide covered by a permit to such less quantity than requested as he may determine if the available information on effectiveness, toxicity, or other hazards is not sufficient to justify the scope of experimental use proposed in the application; or make such the proposed experiment and he may impose other limitations in the permit as he may determine to be necessary for the protection of the public.

~~(6) A pesticide intended for experimental use shall not be offered for general sale by a retailer or others or advertised for general sale.~~

C. Cancellation of permits.

Any permit for shipment for experimental use may be cancelled at any time for any violation of the its terms thereof.

Regulation 16.

§ 13. Exemption.

Any pesticide specified in Regulation 10 § 8. of these regulations which is intended solely for use by a textile manufacturer or commercial laundry, cleaner, or dyer as a mothproofing agent, or used in the manufacture or processing of rubber, glue or leather goods, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric and will not be present in these finished goods in sufficient quantities to cause injury to any person, shall be exempt from the requirements of § 3.1-233(4) of the law Code of Virginia, and § 8 of these regulations.

B. The pesticide sodium fluoride shall be exempt from the requirements of Section 3.1-233(4) of the Law and Regulation 10(e) of these Regulations when,

(1) it is intended for use as fungicide solely in the manufacturer or processing of rubber, glue, or leather goods;

(2) coloration of said pesticide in accordance with said requirements will be likely to impart objectionable color characteristics to the finished goods;

(3) said pesticide will not be present in such finished goods in sufficient quantities to cause injury to any persons; and

(4) said pesticide will not come into the hands of the public except after incorporation into such finished goods.

Regulation 17.

§ 14. Declaration of pests.

In addition to those pests defined in Article 1 of the law, the commissioner hereby declares as pests the following forms of plant and animal life and viruses:

1. Mammals, including but not limited to dogs, cats, moles, bats, wild carnivores, armadillos, and deer;

2. Birds, including but not limited to starlings, English sparrows, crows, and blackbirds;

3. Fishes, including but not limited to the jawless fishes such as the sea lamprey, the cartilaginous fishes such as the sharks, and the bony fishes such as the carp;

4. Amphibians and reptiles, including but not limited to poisonous snakes;

5. Aquatic and terrestrial invertebrates, including but not limited to slugs, snails, and crayfish;

6. Roots and other plant parts growing where not wanted;

7. Viruses, other than those on or in living man humans or other animals.

Regulation 18.

§ 15. Handling and storage.

No person shall handle, transport, store, display, or distribute pesticides in such a manner as to which may endanger man and his humans and the environment, or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with such the pesticides.

Regulation 19.

Final Regulations

§ 16. Disposal.

No person shall dispose of, discard, or store any pesticides or pesticide containers in such a manner as which may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects, or to pollute any water supply or waterway.

Regulation 20.

§ 17. Application and equipment.

A. No person shall apply, dispense, or use any pesticide in or through any equipment or application apparatus unless such the equipment or application apparatus is in sound mechanical condition and capable of satisfactory operation. All pesticide application equipment shall be properly equipped to dispense the proper amount of material ; . All pesticide mixing, storage, or holding tanks, whether on application equipment or not, shall be leakproof ; . All spray distribution systems shall be leakproof, and any pumps which such these systems may have shall be capable of operating at sufficient pressure to assure a uniform and adequate rate of discharge ; .

B. and All pesticide application equipment shall be equipped with whatever cut-off valves and discharge orifices may be necessary to enable the operator to pass over nontarget areas without contaminating them. All hoses, pumps, or other equipment used to fill pesticide handling, storage, or application equipment shall be fitted with an effective valve or device to prevent backflow of pesticides or pesticide use dilutions into water supply systems, streams, lakes, other sources of water, or other materials. Provided, However, such these backflow devices or valves are not required for separate water storage tanks used to fill agricultural pesticide application equipment by gravity systems when the fill spout, tube, or pipe is not allowed to contact or fall below the water level of the application equipment being filled, and no other possible means of establishing a backsiphon or backflow exists.

Regulation 21.

§ 18. Cancellation authority.

All pesticides upon which cancellation have been cancelled or suspension action suspended by the United States Government has been may be are subject to cancellation in Virginia ; . Provided, that No registration shall be revoked or refused until the registrant shall have has been given an opportunity for a hearing by the commissioner. Any appeal of cancellation action at the federal level shall not affect cancellation proceedings with this Commonwealth.

Regulation 22.

§ 19. Restricted pesticides.

Unless otherwise specified herein, federally permitted uses of pesticides will be permitted in Virginia.

Regulation 23.

§ 20. Additional requirements for highly hazardous pesticides.

When the commissioner has evidence that the use of any highly hazardous pesticide product or substance will significantly affect the quality of the total environment or the health and safety of individual users, nontarget species, or a geographic area, he shall, with the approval of the board, control the distribution, sale and use of such product or the substance by employing one or more of the following regulatory procedures:

1. Registration of sellers and users;
2. Records and reports on quantities sold and used;
3. Sales and use permits;
4. Certification of compliance to approved label precautions; and
5. Approved supervision of use.

Regulation 24.

§ 21. Categories for commercial applicators.

Certified commercial applicators of pesticides classified for restricted use shall be licensed in one or more of the following categories:

1. Agricultural pest control.

A. Plant

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in production of agricultural crops (including but not limited to: tobacco ; , peanuts ; , cotton ; , food and feed grains ; , soybeans and forage ; vegetables, small fruits ; , tree fruits and, nuts ; and Christmas trees) as well as on, grasslands and noncrop agricultural lands.

B. Animal

This category includes commercial applicators using or supervising the use of restricted-use pesticides on agriculturally related animals ; including, but not limited to : beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock; and to places on or in which such animals are confined for control of pests directly affecting such animals.

Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly

holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides, are included in this category.

2. Forest pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in forests, forest nurseries, and forest seed-producing areas.

3. Ornamental and turf pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf, (including, but not limited to, golf courses, parks, cemeteries, etc.)

4. Seed treatment.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides on seeds.

5. Aquatic pest control.

This category includes commercial applicators using, or supervising the use of, any restricted use pesticide in or on standing or running water, for the expressed purpose of controlling pests excluding. (This excludes applicators engaged in public health related activities included in category H below.)

6. Right-of-way pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in the maintenance of public rights-of-way for roads, electric power lines, telephone lines, pipelines, and railways, or other similar areas.

7. Industrial, institutional, structural and health-related pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in, on, or around food-handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments; including warehouses and grain elevators, and other structures and adjacent or related areas, public or private; for the protection of the structures or controlling nuisance pests or for the protection of stored, processed, or manufactured products. This category does not include commercial applicators using, or supervising the use of, restricted-use pesticides specific to other categories covered by this regulation (i.e. forest pest control, ornamental and turf pest control, right-of-way pest control, etc.)

8. Public health pest control.

This category includes state, federal, or other

governmental employees using, or supervising the use of, restricted-use pesticides in public health programs for the management and control of pests having medical and public health importance significance.

9. Regulatory pest control.

This category includes state, federal, or other governmental employees who use, or supervise the use of, restricted-use pesticides in the control of regulated and nuisance pests.

10. Demonstration and research pest control.

This category includes:

1. Individuals who demonstrate, by actual use or application, the proper use and techniques of application of restricted-use pesticides, or who supervise such demonstration, including such persons as extension specialists, county agents, commercial representatives, or others; and

2. Persons conducting field research with pesticides, including such persons as state, federal, commercial, and other persons conducting field research on or utilizing using restricted-use pesticides.

Regulation 25.

§ 22. Standards of certification of commercial applicators.

A. Determination of competency.

Competence in the use and handling of pesticides to prevent unreasonable adverse effect on the environment shall be determined on the basis of written examinations administered by the commissioner or his authorized agent and, as appropriate, performance testing based upon standards set forth below. Such This examination and testing shall include the general standards applicable to all categories, and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be certified.

All commercial applicators engaged in the aerial application of restricted-use pesticides in any category shall furnish evidence of:

1. Compliance with Title 14, Code of Federal Regulations; Chapter 1, Sub-Chapter G, Part 137, (Agricultural Aircraft Operations).

2. Compliance with § 10, rules and regulations under the Aviation Law of Virginia as issued by the Virginia Department of Aviation, as adopted February, 1981.

B. General standards for all categories of certified commercial applicators:

1. All commercial applicators shall demonstrate

Final Regulations

practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems in situations appropriate to the particular category or subcategory of the applicator's certification , and the following areas of competency.

For purposes of these regulations , practical knowledge means is the possession of pertinent facts and comprehension together , with the ability to use them in dealing with specific problems and situations.

To the extent that such factors are relevant to applications by commercial applicators in the category, The examination may cover factors such as:

a. Label and labeling comprehension:

- (1) The general purpose, format, and terminology of pesticide labels and labeling;
- (2) The understanding of directions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
- (3) The classification of the product, as to whether general or restricted; and
- (4) Necessity The need for use consistent with the label.

b. Safety - factors including:

- (1) Pesticide toxicity and hazard to ~~man~~ humans and common exposure routes;
- (2) Common types and causes of pesticide accidents;
- (3) Precautions, including reentry or preharvest intervals where appropriate, necessary to guard against injury to applicators and other individuals in or near treated areas;
- (4) Need for and use of required protective clothing and equipment;
- (5) Common symptoms of pesticide poisoning;
- (6) First aid and other procedures to be followed in case of a pesticide accident; and
- (7) Proper identification, storage, transporting, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from ~~having~~ gaining access to pesticides and pesticide containers.

c. Environment.

The environmental consequences of the use and

misuse of pesticides as may be influenced by such factors as:

- (1) Weather and other climatic conditions;
- (2) Types of terrain, soil, or other substrate;
- (3) Presence of fish, wildlife, and other nontarget organisms and potential accumulation in the food chain;
- (4) Drainage patterns.

d. Pest identification:

- (1) Common features of pest organisms ~~pests~~ and the characteristics of the damage needed for pest recognition they cause ;
- (2) Recognition of relevant pests; and
- (3) Pest development and biology as it may be relevant to ~~problem~~ identification and methods of control.

e. Pesticide products:

- (1) Types of pesticides;
- (2) Types of formulations;
- (3) Compatibility, synergism, persistence and animal and plant toxicity of the formulations products ;
- (4) Hazards and residues associated with use;
- (5) Factors which influence effectiveness or lead to such problems as like resistance to pesticides; and
- (6) Dilution procedures.

f. Equipment operation:

- (1) Types of equipment and advantages and limitations of each type; and
- (2) Uses, maintenance, and calibration.

g. Application techniques.

- (1) Methods of Procedure used to calculate and apply various formulations of pesticides, solutions, and gases, together with and a knowledge of which technique of application to use in a given situation;
- (2) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
- (3) Prevention of drift and pesticide loss into the environment.

h. Laws and regulations - General knowledge of:

(1) Applicable state and federal laws and regulations, including responsibilities associated with the supervision of noncertified applicators.

C. Specific standards of competency for each applicable category of commercial applicators.

Commercial applicators in each category as described in § 21 shall be particularly qualified with respect to the practical knowledge of standards as elaborated listed below:

1. Agricultural pest control

a. Plant.

Applicators must demonstrate practical knowledge of the crops grown in his their operational areas, and the specific pests of those crops on which they may be using restricted-use pesticides. The importance of such This competency is amplified by important because of the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, and potential for environmental contamination, nontarget injury and community problems resulting from caused by the use of restricted-use pesticides in agricultural areas.

b. Animal.

Applicators applying pesticides directly to animals, or to places on or in which animals are confined, must demonstrate practical knowledge of such animals and their associated pests. A Practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must demonstrate practical knowledge of the relative hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment.

2. Forest pest control.

Applicators shall demonstrate practical knowledge of the types of forests, forest nurseries, and forest seed production in the state Commonwealth and the pests to be controlled. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A Practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and, frequently include natural aquatic habitats, and harbor wildlife, the consequences of pesticide use may be difficult to

assess. The applicator must, therefore, demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Applicators must demonstrate practical knowledge of proper use of specialized equipment must be demonstrated, especially as it relates to including problems or meteorological factors and adjacent land use.

3. Ornamental and turf pest control

Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including practical knowledge of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other domestic animals.

4. Seed treatment

Applicators shall demonstrate practical knowledge of types of seeds commonly used in his operating area that require chemical protection against pests, and factors such as required seed coloration and special labeling, carriers, and surface active agents which influence pesticide binding and may affect germination. They must shall demonstrate practical knowledge of hazards associated with handling, sorting and, mixing, and misuse of treated seed such as, including the introduction of treated seed into food and feed channels, as well as and proper disposal of unused treated seeds.

5. Aquatic pest control

Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by of improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must demonstrate practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects, and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited-area application.

6. Right-of-way pest control

Applicators shall demonstrate practical knowledge of a wide variety of environments, since right-of-ways can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage

Final Regulations

destruction, and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides ~~with~~ in the right-of-way area, and the impact of their application activities in the adjacent areas and communities.

7. Industrial, institutional, structural and health related pest control

Applicators shall demonstrate a practical knowledge of the variety of pests controlled by applicators licensed in this category, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, damage, and contamination of habitat, and exposure of people and pets. Since human exposure; (including babies, children, pregnant women, and elderly people), is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which will lead to a hazardous condition, including continuous exposure in the various situations encountered cited in this category. Because health-related pest control may involve outdoor applications, applicators ~~must~~ shall also demonstrate practical knowledge of environmental conditions particularly related to this activity.

In order to provide the opportunity for specialization, and, to minimize the need to demonstrate competence in areas of work outside the applicator's particular interest and need, this category is divided into subcategories as elaborated below:

a. General pest control

Applicator uses or supervises the use of restricted-use pesticides in or around households, churches, offices, warehouses, schools, factories, etc. for the protection of people, clothing, fabrics, paper, pets, and stored foods in private residences, including apartments.

b. Wood-infesting organisms

Applicator uses or supervises the use of restricted-use pesticides in the prevention and control of wood-infesting organisms including termites, wood-destroying beetles and ants, and fungi for the preservation and protection of fences, materials, utility poles, buildings, and other structures.

c. Food processing pest control

Applicator uses or supervises the use of restricted-use pesticides in food manufacturing and processing plants and warehouses, food handling establishments, canneries, mills, dairies, restaurants, grain elevators, bakeries, ships, vehicles, meat packing plants, cafeterias, rest homes, and hospital

food preparation areas, etc.

d. Fumigation

Applicator uses or supervises the use of restricted-use pesticides as fumigants in any of the above areas as a pest control practice or as a fruit or tobacco ripening technique. Such products containing methyl bromide, chloropicrin, sulfuryl fluoride, carbon tetrachloride, ethylene dibromide, etc., are considered fumigants.

Applicators may become certified and licensed in one or all established subcategories.

8. Public health pest control

Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and ~~employment~~ use of such nonchemical control methods as sanitation, waste disposal, and drainage.

9. Regulatory pest control

Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate practical knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their practical knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas of the ~~state~~, *Commonwealth* where emergency measures are invoked to control regulated pests, and where individual judgements must be made in new situations.

10. Demonstration and research pest control

a. Persons demonstrating, by actual use or application, the safe and effective use of pesticides to other applicators and the public, shall be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration; and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they shall demonstrate a practical knowledge of pesticide organism interactions and the importance of integrating

pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in § 22 A. In addition, they shall meet the specific standards required for categories 1 through 7 of the section as may be applicable *pertain* to their particular activity.

b. Persons conducting field research or method improvement work with restricted-use pesticides shall be expected to know the general standards detailed in *subsection A of § 22 A*. In addition, they shall be expected to know the specific standards required for categories 1 through 9 of this section, applicable to their particular activity ; ; or alternatively, to meet the more inclusive requirements listed under "Demonstration".

Regulation 26

§ 23. Records.

A. All commercial applicators , or their employers, shall ~~keep and maintain~~ for a period of two years records of all applications of pesticides classified for restricted use. Such records shall be maintained separately or distinguishable from the customary sales invoices *provided given* to customers and shall provide:

1. Name and address of customer and address of ~~sight~~ *site* of application, if different.
2. Name and certification number (or certification number of the supervising certified applicator) of the person ~~(s)~~ making the application.
3. Date of application. (month, day, year)
4. Type of plants, crop, animals, or ~~site(s)~~ *sites* treated and principal ~~pest(s)~~ *pests* to be controlled.
5. Acreage, area, or number of plants or animals treated , or other appropriate description.
6. Pesticide applied , including label name (brand name), type of formulation and company name appearing on the label.
7. Total amount (pounds, gallons, etc.) of pesticide mixture applied.
8. Type of equipment used. (Including required personal protective equipment when applicable).
9. Disposal method of unused ~~pesticide(s)~~ *pesticides* or empty containers.

B. All required records shall ~~upon written request~~ be made available *upon written request* for inspection ~~and/~~ or copying by the commissioner or his authorized agent.

C. While not required, all private applicators are encouraged to keep ~~and maintain~~ records of all applications of pesticides classified for restricted use.

Regulation 27

§ 24. Standards for certification of private applicators.

A. Competence in the use and handling of pesticides by a private applicator will be determined by procedures set forth below.

B. As a minimum requirement for certification, a private applicator must demonstrate practical knowledge of the pest problems and pest control practices associated with his agricultural operations ; ; proper storage, use, handling, and disposal of the pesticides and containers ; ; supervision of noncertified applicators ; ; and other related legal responsibility necessary to prevent unreasonable adverse effects on the environment. This practical knowledge includes *the ability to:*

1. Recognize common pests to be controlled , and damage caused by them.
2. Read and understand the label and labeling information - including the common name of the pesticide applied ; ~~pests(s)~~ *pests* to be controlled; timing and methods of application; safety precautions; ~~and pre-harvest or reentry restrictions~~; and any specific disposal procedures.
3. Apply pesticides ~~in accordance with~~ *according to* label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances , taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
4. Recognize local ~~environment~~ *environmental* situations that must be considered during application to avoid contamination.
5. Recognize common poisoning symptoms and procedures to follow in case of a pesticide accident.

C. ~~Such~~ *The* competence of each private applicator shall be verified by the commissioner through the administration of ~~private applicator~~ certification system which ensures that the private applicator is ~~competent~~, ~~based upon the standards set forth above~~, *qualified* to use the restricted-use pesticides under limitations of applicable state and federal laws and regulations. A certification system shall employ a written or oral testing procedure, or such other equivalent system as ~~may~~ be adopted by the commissioner , subject to the approval of the United States Environmental Protection Agency.

1. In any case where a person ; *is unable to read a label* at the time of testing for certification is ~~unable~~

Final Regulations

to read a label, the commissioner may employ use a testing procedure; previously approved by the United States Environmental Protection Agency which can adequately assess measure the person's competence of such persons with regard to all of the above standards. Certification must be related and limited to the use and handling of each individual pesticide for which he desires certification at any time. Therefore, the applicator will be authorized to use only the pesticide(s) for which he has demonstrated competence. A specific procedure is required relating to label comprehension, testing, or demonstration designed to assure his practical knowledge of the following:

a. Understanding of the label and labeling information, including those items indicated in § 24 subsection A paragraph 2 above.

b. Sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

D. Certification options available to private applicators are:

1. General certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide which he would normally expect to use in his particular agricultural operations. Competency determination shall reflect all aspects of the private applicator standards, and shall be broad enough to test the private applicator's ability to apply general principles to specific problems associated with the restricted use pesticides required for the production and protection of his crops.

2. Pesticide class certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide in the same class or family. This includes all different pesticide products and all different formulations of a pesticide used for the same purpose use, or application. Examples include, but are not limited to: pre-emergency herbicides for vegetable crops, foliar insecticides on corn, rodenticides in fruit orchards, nematicides in fields prior to planting, ground application of fungicides on vegetables, seed treatments for plant diseases, desiccants and defoliant on cotton, and livestock dips for insect control. Competency determination shall reflect the full range of the private applicator standards, but with special emphasis placed on the particular characteristics of the pesticide class, as well as the nature of the application or use.

3. Commodity/crop/site certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide needed for specific crops or sites which the applicator would be expected to deal with in his agricultural operations. This would include includes any pesticide products (different pesticide classes, active ingredients, and formulations) used on a specific line or class; designation. Examples include: single crop, such as cotton, corn, peanuts, apples, tobacco, or wheat; single site class, such as poultry houses or dairy barns; single livestock line, such as beef cattle, swine, or turkeys; crop classes class, such as forage crops or small fruits; site class, such as barns or greenhouses; and livestock class, such as poultry.

Competency determination shall reflect the full range of the private applicator standards, with emphasis placed on the particular characteristics of the specific crop or site, or crop/site class, concerned and the pests involved.

A private applicator may wish to be certified for a specific site or crop (such as cotton, corn, or beef cattle) or for a site or crop class (such as forage crops, livestock, small grain crops).

4. Single product certification.

This option certifies as competent the private applicator the private applicator as competent for one or more uses of a single product or related products with the same active ingredient and with a similar formulation and uses. Competency determination shall reflect all appropriate uses of these products for the agricultural area where he will be expected to make applications apply the pesticide.

5. Single products/single use authorization (emergency program).

This option would authorize authorizes the private applicator to make single use application(s)-applications of a restricted-use product, or other products of the same formulation.

This option may be used only as an emergency provision to accommodate situations, such as an unexpected pest problem, that requires immediate certification of a previously uncertified private applicator, or of one whose particular type of certification would does not cover the product needed to deal with the problem.

E. Methods of determining competency.

Private applicators desiring certification may elect any of the following methods except as provided in paragraphs 4 and 5 above.

1. Written examination (~~open book~~) following lecture-type training.

Examination to cover only the materials presented in the training.

2. Written examination (~~open book~~) following self independent study. Examination to cover only the self-study materials made available.

3. Written examination without prior training.

4. Oral examination and *simulated or actual demonstration* (~~simulated or actual~~) following self independent study. Examination to cover only the self independent study materials made available, and will be equivalent in scope to the written examination. To be made available to persons unable to demonstrate the required competence by means of paragraphs 1 through 3 above.

5. Fact finding interview. This method of competency demonstration is available only for emergency certification as provided in subsection C paragraph 5 above.

All determinations of competency shall be made by the commissioner or his authorized agent.

Regulation 28

§ 25. Standards for application of pesticides classified for restricted use by noncertified applicators.

A. Application of pesticides classified for restricted use may be made by noncertified applicators, provided ~~such that the applicator is a competent person(s)~~ *person* acting under the direct supervision of (as defined in § 3.1-212.1 of the law Code of Virginia) of a certified applicator whose certification permits such application. The certified applicator acting in a supervisory role shall be available to the noncertified applicator in the event if he is needed. It shall be the responsibility of the certified applicator ~~applicator's responsibility~~ to keep the noncertified applicator ~~person~~ fully aware of all directions for use and cautions necessary for safe use and application of any restricted-use pesticide he may be directed to apply.

B. In addition, all noncertified applicators applying using any pesticide classified for restricted use, under the direct supervision of a certified applicator shall have available at the application site ~~or and~~ at the loading and mixing site, if different from the application site:

1. Detailed written or printed directions for applying the restricted-use pesticide. Pesticide product label may suffice.

2. Detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, or other persons, and/or unreasonable adverse effects on the environment. Pesticide product label may suffice.

3. Detailed instructions for contacting the certified applicator under whose supervision the noncertified applicator is working (i.e. name, location, telephone number, radio contact, etc.). Such instructions, when followed, shall result in *produce* direct communication with the certified applicator.

C. For the purpose of this regulation, "under the direct supervision of" shall include the receipt by the noncertified applicator of verifiable specific and individual job or work assignments and instructions from the *his* certified supervisor applicator under whose direct and control the non-certified applicator is functioning prior to the use and application of a pesticide classified for restricted use.

D. In other situations, as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

Regulation 29

§ 26. Evidence of financial responsibility.

A. As provided in § 3.1-249.9 of the Code of Virginia, each applicant for a commercial applicator's license, or his employer, shall ~~furnish~~ *provide evidence* to the commissioner evidence of financial responsibility prior to issuance of such license before the license is issued.

B. ~~Such~~ *This* financial responsibility shall consist of liability insurance or surety bond, issued by an insurance or surety company authorized to do business in this state Commonwealth, conditioned to liability resulting from caused by the handling, storage, application, or use and/or misuse, or disposal of any restricted-use pesticide.

C. The minimum coverage for liability insurance shall be:

1. In the amount of \$50,000 coverage for bodily injury or death to each person, and \$100,000 for each occurrence.

2. In the amount of \$100,000 ~~property damage coverage for each occurrence~~ of property coverage for each occurrence of property damage.

D. ~~In lieu~~ *Instead* of insurance coverage, a surety bond to the commissioner conditioned for payment in the same amounts and under the same circumstances as required in a policy(s) of bodily injury and property damage liability insurance, as required in subsections A and B above, is acceptable.

E. ~~Such~~ *This* financial responsibility shall be maintained at the minimum required coverage at all times during the license period. The commissioner shall be notified at least 10 days prior to any reduction at the request of the applicant or cancellation of ~~such~~ the liability insurance or

Final Regulations

surety bond.

F. Certification of financial responsibility shall be ~~furnished~~ provided by the surety or insurance company on appropriate forms.

Regulation 30-

§ 27. Service container labeling.

A. Containers other than the original registrant's or manufacturer's containers (Article 3, § 3.1-233(2) of the Code of Virginia, notwithstanding) used for the temporary storage ~~and/~~ or transportation of pesticide concentrates or end-use dilutions, shall bear abbreviated labeling as elaborated below:

PESTICIDE CONCENTRATE

If the pesticide to be temporarily stored ~~and/~~ or transported is a concentrate to be further diluted, the container shall bear a *securely attached* label ~~securely attached~~ with the following information:

1. Product name (brand names from product label);
2. EPA registration number (from product label);
3. Name and percentage of active ingredient(s) from the product label; *and*
4. Appropriate signal word; i.e., Poison, Danger, Warning, Caution (from product label).

B. The above labeling is required for concentrate service containers, regardless of container type, size, or capacity.

PESTICIDE END-USE DILUTIONS OR END-USE CONCENTRATES

A. If the pesticide to be temporarily stored ~~and/~~ or transported is to be applied without further dilution, the container shall bear a ~~label~~ *securely attached label* with the following information:

1. Product name (brand name from product label) preceded by the word "Diluted" or "End-Use Concentrate";
2. EPA registration number from concentrate product label;
3. Name of active ingredient(s) and percentage(s) of end-use dilution; *and*
4. Appropriate signal word: i.e., Poison, Danger, Warning, Caution (from product label).

B. Abbreviated labeling is not required for the following:

1. End-use dilution containers not exceeding three gallons liquid or three pounds dry capacity, when such containers are used as application devices; i.e., hand-held sprayers, dusters, puffers, etc.

2. Containers used by farm supply dealers for the temporary storage ~~and/~~ or transportation of pesticide concentrate or end-use dilutions, provided *that* sales invoices ~~and/~~ or delivery tickets adequately identifying the pesticide(s) ~~containers therein~~ accompany each shipment or delivery.

3. On farm concentrate or end-use dilution containers or application equipment used for the temporary storage ~~and/~~ or transportation of such pesticides for agricultural use.

4. Aircraft-mounted containers used for temporary storage ~~and/~~ or transportation of concentrate or end-use dilution pesticides, provided *that* aircraft logs or other documents adequately identifying the pesticide(s) ~~contained therein~~ accompany the aircraft.

Regulation 31-

§ 28. Mixtures.

A. General sale. *Regardless of type container* mixtures of pesticides with fertilizers or with other pesticides, when offered for general sale to the public *regardless of type container*, shall be registered prior to sale, distribution, or use. In addition, any pesticide/fertilizer mixture shall be registered ~~and/~~ or labeled as required by the Virginia Fertilizer Law. All bulk containers shall bear the registered pesticide product label and a copy of ~~such~~ *the* label shall accompany each shipment or delivery.

B. Custom mixtures. Pesticides may be mixed with fertilizers or with other pesticides without label registration when the pesticide product is duly registered, and when such mixtures are not prohibited by the registered pesticide label.

C. ~~Provided, however,~~ When ~~such~~ *these* mixtures are intended for the production of agricultural commodities, the person making ~~such~~ *the* mixtures shall ~~make available~~ *provide the following written or printed information* to the applicator ~~and/~~ or customer; ~~if other than the applicator,~~ *the following written or printed information*:

1. Brand name(s) and EPA registration no.(s) of pesticide product(s);
2. Percentage(s) by weight of active ingredient(s);
3. Directions for application, use ~~and~~, harvest limitations and cropping restrictions; *and*
4. Precautionary and warning statements sufficient to ensure proper, safe use, and disposal of ~~such~~ *the* mixture.

Final Regulations

D. The registered pesticide product label(s) will suffice. All such labeling shall be subject to approval by the commissioner.

* * * * *

Title of Regulation: VR 115-04-05. Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law.

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

Effective Date: May 28, 1986

Summary:

This 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.

Nontechnical changes were made in 105 rules to improve sentence structure and clarity. No additional requirements were added.

VR 115-04-05. Rules and Regulations for the Enforcement of the Virginia Commission Merchants Law.

§ 1. Definitions. Whenever used in this regulation:

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

The "Buyer bill" shall mean that means the document generated by the licensee showing the tobacco purchased by each buyer at each sale.

The "Check register" shall mean means the daily journal that is maintained by the licensee to record each check issued by the warehouse covering tobacco sales.

The "Coupon" shall mean means any one of the copies of the ticket.

The "Long and short" document shall be that means the document granted provided by the buyer showing the adjustment in the buyer to reflect tobacco received and paid for by the buyer.

The "Ticket" shall mean means the document which is used to identify a single sale unit in the auction system.

The "Tobacco sale bill" or "Floor sheet" shall mean means the document that is used to record the data from the ticket covering the sales transaction of individual sellers.

"Virginia Weights and Measure Law" means regulations promulgated under the requirements of Chapter 35 (§ 3.1-919 et seq.) of the Code of Virginia.

§ 2. Applicability.

These regulations shall apply to tobacco auction warehouses licensed under the Commission Merchants Law, Article 2, (§ 3.1-692 et seq.) Chapter 26 of Title 3.1 of the Code of Virginia.

§ 3. Records to be kept.

A. For the purpose of meeting complying with § 3.1-713(h) of the Law Code of Virginia, and in order to give a true account of sales as required in § 3.1-709(c) of the Code of Virginia, the following records shall be kept by the licensee and made available for inspection by the Commissioner of the Department of Agriculture and Consumer Services. (This does not preclude the inclusion of other information needed by the licensee or others) :

1. Sequentially numbered tickets covering sales transactions. A sale transaction shall be regarded is defined as a transaction appearing on the tobacco sales bill for which the seller received payment.
2. Preprinted sequentially numbered tobacco sale bills, including voided tobacco sale bills.
3. Check registers.
4. Buyer bills or recap sheet of buyers bills.
5. Long and short documents.

B. The licensee shall accurately record on the ticket:

1. Seller identification. (Grower's name or crop number).
2. Warehouse number or name.
3. Ticket number - preprinted sequential numbers meet this requirement for flue-cured. Sale bill number plus line number suffix and basket number meets this requirement for burley.
4. Tobacco sale bill number.
5. Date of weighing.
6. Net weight.
7. Buyer.
8. Price.

And provide space for the USDA inspector to record:

9. USDA grade.

Final Regulations

10. Date of grading.

11. Grader identification.

C. The licensee shall accurately record on the tobacco sale bill:

1. Tobacco sale bill number - preprinted sequential numbers meet this requirement.

2. Sale date.

3. Seller identification.

4. Warehouse identification.

5. The following information for each ticket covered by the tobacco sale bill:

- a. Ticket number or basket number.
- b. Buyer.
- c. Net weight.
- d. Price per pound.
- e. Sale extension - amount.

6. Warehouse charges.

7. Excise tax deduction.

8. Amount paid seller.

D. The licensee shall accurately record in the check register or other comparable record the following information:

1. Check number.

2. Date of issue.

3. Tobacco sale bill number.

4. Amount paid.

E. The licensee shall accurately record on the buyer bill the following information on the buyer bill for each sale unit purchased by the buyer:

1. Ticket or basket number.

2. Net weight.

3. Price.

4. Tobacco sale extension - amount.

§ 4. Accountability for alterations to records.

A. Alterations.

Section 3.1-713(h) of the *Law Code of Virginia* requires that "any record which is altered in any fashion must

bear the full signature of the person authorized to make, and who is responsible for, the alteration". For the purpose of this regulation, alterations to such records shall apply only to tickets and tobacco sale bills. Such alterations made by the warehouse owner, operator, ticket marker, or bookkeeper may be identified by their initials, provided *that* their full signature and *the* initials to be used are posted in the tobacco warehouse office.

1. Ticket.

Alterations to the ticket shall apply only to the weight, buyer, or price ; and shall have the full signature or initials as permitted in *subsection A of § IV 4.* of the person authorized to make , and who is responsible for , the alteration.

2. Tobacco sale bill.

Alterations on tobacco sale bills shall apply only to the weight, buyer, price, or total net amount due to the seller ; and shall have the full signature ; or initials as permitted in *subsection A of § IV 4 ;* of the person authorized to make , and who is responsible for , the alteration.

a. Full signature.

For the purpose of § 3.1-713(h) of the *Code of Virginia* and this regulation , the following examples are considered full signatures:

- (1) John Henry Jones
- (2) John H. Jones
- (3) John Jones
- (4) J.H. Jones
- (5) J. Jones

§ 5. Sales rejected by the seller.

For the purpose of meeting the requirements of § 3.1-713(h) of the *Code of Virginia*, any record which is altered because of a rejected sale by the seller shall be so indicated on the tobacco sale bill by the word "rejected" , or the letter "R" , and properly initialed as permitted by *subsection A of § IV 4.* of this regulation. The rejected sale ticket or coupon is not required to be kept.

§ 6. Authorization from consignor for licensee to buy tobacco for his own account except during auction.

For the purpose of § 3.1-718(e) of the *Code of Virginia*, prior authority from the consignor in writing is required only when the licensee purchases the tobacco for his own account except at auction. Where prior written authority has not been obtained from the consignor, a telephone conversation or other oral authorization by the consignor permitting the licensee to buy his tobacco for his own account shall be permitted , provided *that* written authorization is given by the consignor signing the ticket or other appropriate statement before a final sale is

consummated.

The licensee does not need written authorization to act in behalf of a producer by rejecting a sale and making disposition of the tobacco in accordance with § VIII 8 as follows:

1. Holding for resale at auction.
2. Reselling to the original buyer at a higher price.
3. Reselling to another buyer at the same or a higher price.

§ 7. Replacement ticket.

Any replacement ticket must be clearly identified as a replacement, and in such a way that the ticket it replaces can be identified. Such terms as "replaces", "duplicate", and "in lieu of" would meet this requirement. The replacement ticket must indicate the ticket number it replaces.

§ 8. Alterations to tickets and tobacco sales bills.

Alterations to weight, buyer, price, or total amount due the producer may be made by ~~person~~ persons authorized to make, and who are responsible for, such alterations under the following conditions and requirements:

1. Weight on ticket.

Only persons authorized by ~~Regulation No. 4 § 18.~~ of the Virginia Weights and Measures Law may alter weights on tickets. Changes shall be initialed as provided in Weights and Measures Regulation No. 4 § 18.

2. Buyer or price on ticket during auction.

As long as the auctioneer controls the sale, the ticket marker is authorized to make, and is responsible for, alterations on the ticket as to the buyer or price. Changes must be initialed by the ticket marker.

3. Buyer or price on ticket after auction.

When the auctioneer is no longer in control of the sale, alterations on the ticket as to the buyer or price may be made by the person outlined below with signature as indicated:

a. When the producer rejects a sale, the following disposition of the sales unit may be made:

- (1) Producer may hold for resale - no signature required.
- (2) Producer may sell to original buyer at a higher price. The original buyer must sign the ticket.

(3) Producer may sell to another buyer. The producer and the new buyer must sign the ticket.

b. When the original buyer finds a sale unit to be objectionable, the following disposition of the sale unit may be made:

(1) The original buyer may sell the sale unit to another buyer who may be the licensee. Both the original buyer and the new buyer, including the licensee; if he is the new buyer, must sign the ticket; or

(2) In the event the sale unit is found to be nested, unsound or unsafe ~~order~~, or contains foreign matter or inferior tobacco to the extent that the quality of the sale unit is significantly lowered, the buyer may ask for a reinspection by the USDA grader; ~~and~~. If the sale unit is determined by the grader to be of lower quality, the buyer may reject the sale unit, which would then be held by the licensee for disposition by the seller. The original buyer must sign the ticket.

c. When the licensee rejects a sale on behalf of a producer, the following disposition of the sale unit may be made:

(1) Without written authorization for the producer, as required in § 3.1-718(e) of the Code of Virginia to buy tobacco for his own account, the licensee:

(a) May hold for future sale.

(b) May resell to the original buyer at a higher price. The original buyer must sign the price alteration.

(c) May sell to another buyer, other than himself. The original buyer must sign to release the sales unit, and the new buyer must sign to accept the sales unit.

(2) With written authorization from the producer, as required by § 3.1-718(e) of the Code of Virginia to buy tobacco for his own account, the licensee may, in addition to the options listed in ~~3(a)~~ paragraph c (1) above, reject the sale and purchase the tobacco for his own account, provided that the licensee signs the ticket.

* * * * *

Final Regulations

Title of Regulation: VR 115-04-06. Rules and Regulations for Enforcement of the Virginia Commercial Feed Law.

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

Effective Date: May 28, 1986

Summary:

These regulations define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels. Without these regulations, firms or persons who process or manufacture commercial feed ingredients, manufacture or sell commercial feeds or purchase and use commercial feeds in the production of meat, milk, and eggs for human consumption in Virginia, would not have an understanding of the terms used in the Virginia Commercial Feed Law or the criteria for listing the required information on commercial feed labels.

Changes were made in 102 requirements to improve sentence structure and clarity only and 33 requirements were deleted. No new requirements were added to these regulations.

VR 115-04-06. Rules and Regulations for Enforcement of the Virginia Commercial Feed Law.

Regulation 1: Words in Singular Form:

Regulation 2:

§ 1. Definitions.

A. Words used in the singular form in these regulations shall include the plural, and vice versa, as the case may require appropriate.

B. All terms used in these regulations shall have the meaning set forth for such in the law. In addition, such ~~construed~~ the following words and terms shall have the following meaning, unless the context clearly indicates otherwise:

"Animal" means any animate being which is not human endowed with the power of voluntary action .

"Adulteration" means a commercial feed is adulterated if :

1. If Enough of any ~~poisonous, deleterious~~ harmful or non-nutritive ingredient has been added in sufficient amount to render it injurious to endanger animal health when fed used according to labeling directions.

b. If any valuable constituent has been in whole or part omitted or abstracted therefrom or any inferior substance substituted therefor.

2. Any part of an essential component has been omitted, removed, or replaced with an inferior substance.

C. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

3. The composition or quality of the feed fails to conform to its representation in the labeling.

4. If It was prepared or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to animal health .

5. If It ~~consists in whole or in part of~~ contains any filthy, putrid, decomposed, tainted, unsound or unwholesome substance.

6. If Its container is composed of any injurious or deleterious substance which may render cause the feed injurious to endanger animal health.

"Board" means the Virginia Board of Agriculture and Consumer Services. ~~(Amended November 30, 1966 and July 1, 1978)~~

"Brand" means the term, design, or trademark and other specific designation under which an individual commercial feed is distributed in Virginia.

"Canned animal food" means all materials packed in metal cans, in glass containers, or in any airtight container ; with a moisture content of 70% or more which are distributed for use as food for animals other than ~~man~~ humans .

"Commercial feed" means includes all mixed or unmixed feed feeding stuffs, mixed or unmixed, such as including concentrates, supplements, molasses, minerals mixtures, and all other materials used for their nutritional or physical properties for feeding to animals other than ~~man~~, except those materials exempted by the Law.

"Commissioner" means the Virginia Commissioner of Agriculture and Consumer Services or his delegated assistant or agent. ~~(Amended November 30, 1966 and July 1, 1978)~~

"Distribute" means to offer for sale, sell, or barter.

"Distributor" means a person who offers for sale, sells, or barter commercial feeds.

"Feed ingredient" means each of the constituent materials making up a commercial feed.

"Inert mineral matter" means Inert material is mineral matter that does not contribute dietary factors has no nutritional value .

"Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed. The invoice or delivery slip with which a commercial feed is distributed in bulk is the label.

"Labeling" means all labels and any written, printed, graphic or advertising matter any written, printed, graphic, or advertising information pertaining to the commercial feed which is :

1. Upon the commercial feed or any of its containers or on the invoice or delivery slip. On the commercial feed or any of its containers,
2. Accompanying the commercial feed at any time. On the invoice or delivery slip, or
3. Pertaining whatsoever to the commercial feed including registration. Accompanying the commercial feed at any time .

"Law" means Chapter 28 of Title 3.1 of the Code of Virginia, hereinafter known as the Virginia Commercial Feed Law.

"Materials of little or no feeding value" means those materials either organic or inorganic materials ; which, in the proportions present, are recognized by nutritionists as having little or no nutritional value for the purpose intended .

"Medicated feed" means a product obtained by mixing a drug, as defined in § 3.1-829 of Chapter 20 of Title 3 of the Code of Virginia, and a commercial feed ; and . It is subject to all provisions of this Law the Virginia Commercial Feed Law . (Amended November 7, 1968)

"Misbranding" means a commercial feed is misbranded if :

1. Unless the label bears The label does not include :
 - a. The name and principal address of the manufacturer, distributor, or person responsible for placing such the commercial feed on the market.
 - b. The name, brand or trade-mark under which the commercial feed is sold.
 - c. An accurate statement of the net weight of the contents.
 - d. An accurate statement of the minimum percentage of crude protein.
 - e. An accurate statement of the minimum percentage of crude fat.
 - f. An accurate statement of the maximum percentage of crude fiber.

g. The English name of each ingredient or the statement, "Ingredients as filed with the State", in lieu of the list of ingredients. (Amended November 7, 1968 and September 22, 1980)

h. Adequate warnings against use in these under normal or pathological conditions whether pathological or normal; where its use may be dangerous to the endanger animal health of animals , or against unsafe use or application as necessary for the protection of animals.

2. If Labeling is false or misleading in any particular.
3. If It is distributed under the name of another commercial feed.
4. If Its container is so made, formed or filled as to be deceptive or misleading as to the amount of contents.
5. If Its labeling bears any reference to registration or license under the Law. (Amended November 7, 1968 and February 26, 1981)
6. If It purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the board.
7. If Any word, statement or other information required by Law or under authority of the Law to appear on the label or labeling is not prominently placed thereon with such conspicuousness upon the label so conspicuously (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"Official sample" means any sample of feed taken by the commissioner and designated as "Official" by the commissioner.

"Person" means an individual, partnership, association, corporation, firm, agent or authorized group of individuals whether incorporated or not.

"Prohibited noxious-weed seeds" means the seeds of perennial weeds which not only reproduce by seed but which also spread by underground roots and stems; and which, when established, are highly destructive and are not controlled in the State Commonwealth by cultural practices commonly used commonly used cultural practices . These include but are not limited to the seeds of Field bindweed *Convolvulus arvensis*, Quackgrass *Agropyron repens*, Canada thistle *Cirsium arvense*, Johnson grass *Sorghum [halepense spp Perennial,]* and Plumeless thistle, which includes Musk thistle and Curled thistle *Carduus spp.* . (Amended November 7, 1968)

Final Regulations

"Restricted noxious-weed seeds" means the seeds of such weeds as which are very objectionable in fields, lawns and gardens in this State Commonwealth and are difficult to control by cultural practices commonly used cultural practices . These include but are not limited to seeds of Dodder *Cuscuta spp.*, Bermuda grass *Cynodon dactylon*, Wild onion bulblets, Wild garlic bulblets *Allium spp.*, Wild mustard *Brassica spp.*, Giant foxtail *Setaria faberiana*, Wild radish *Raphanus raphanistrum*, and Annual bluegrass *Poa annua*. (Amended November 7, 1968)

"Sell" means "Sell" (or "Sell") includes exchange sales, barter, or exchange .

"Ton" means a net weight of two thousand 2,000 pounds, avoirdupois.

Regulation 3.

§ 2. Brand names.

A. The name of a brand must shall not tend to mislead the purchaser with respect to any quality of the feed. If the brand name indicates that the feed is made for a specific use, the character of the feed must shall conform therewith to that use . A mixture labeled "Dairy Feed," for example must shall be adapted for that purpose.

B. A brand name shall not be derived from one or more ingredients of a mixture. A distinctive name shall not be one representing represent any component of a mixture.

C. The word "vitamin" or a contraction thereof, or any word suggesting vitamin, may be used in the brand name of a feed only in the case of a feed represented solely to be a vitamin supplement, and which is labeled with the minimum vitamin content guaranteed as specified in Regulation 4 B subsection B of § 3 .

D. The term "Mineralized" shall not be used in the brand name of a feed except for "Trace Mineralized Salt." When so used, the product must shall contain significant amounts of trace minerals which are recognized as essential for the nutrition of animals. The ingredients shall be stated in the form in which used The mineral compound source of each mineral except salt (NaCl) shall be stated in the ingredient statement .

E. When the brand name carries a percentage value, it shall be understood to signify minimum crude protein content. If any other percentage values are used in brand names, they must shall be followed by the proper description.

F. Cattle feeds, unless specifically labeled "to be fed to beef cattle," must meet the minimum standards with respect to protein, fat, and fiber content established by the Board for a dairy feed.

G. F. If the brand name of a feed includes the word

"candy," "sweet," or some comparable term, the product must shall contain a minimum of 5 .0 percent % total sugars, calculated as invert sugar. If molasses is used, the type must shall be declared.

H. G. "Screenings." If to any unmixed by product feed there should be added screenings, either ground or unground, bolted or unbolted, such brand shall be so labeled and sold as clearly to indicate this fact If screenings, either ground or unground, bolted or unbolted, are added to any unmixed by-product feed, the brand shall be labeled clearly to indicate this fact . The word "Screenings" shall appear as part of the name of brand and shall be printed in the same size type and face of type as the remainder rest of the brand name. (Amended February 26, 1981).

I. H. "Labels for Wheat Bran and Wheat Shorts Containing Screenings." The admixture of any proportion of wheat screenings requires a declaration to that effect in the brand name , and in type of which shall be printed in the same size and type face as the remainder rest of the brand name ; . and In no case shall the admixture exceed mill run of screenings.

1. Wheat Bran with Ground Wheat Screenings.

2. Wheat Shorts with Ground Wheat Screenings.

Regulation 4.

§ 3. Expression of guarantees.

A. The sliding scale method of expressing guarantees (for example, "Protein 15-18%") is prohibited , except as specifically provided allowed in the law or in these regulations.

B. Vitamins, when guaranteed, shall be expressed in milligrams per pound of feed , except that:

1. Vitamin A shall be stated in USP units, except for precursors of Vitamin A.

2. Vitamin D, when used in products for poultry feeding, shall be expressed in International Chick Units.

3. Vitamin D for other uses shall be expressed in USP units.

4. Vitamin E shall be expressed in USP or International Units per pound of feed.

C. The common feed and/ or mineral guarantees are not required for any product represented solely to be a vitamin supplement and which is labeled with a minimum vitamin guarantee as specified in Regulation 4 B subsection B of § 4 .

D. Calcium - When a minimum and maximum percent

of calcium is guaranteed, the maximum percent of calcium shall not exceed by more than 20 percent % the minimum percent of calcium. (Example: Calcium minimum, 10 percent %, maximum 12 percent %), provided that in the event that the minimum percent of calcium is 5.0 percent % or less, the maximum percent of calcium may exceed the minimum by one percent 1.0% of calcium. (Example: Calcium minimum 3.0 percent %, maximum 4.0 percent %).

E. When guaranteed, minerals ; except salt (NaCl) when guaranteed , shall be stated in terms of percentage of the element.

Regulation 5:

§ 4. Ingredient statement.

A. The term "dehydrated" may precede the name of any product that has been artificially dried.

B. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

C. Inert Mineral Matter and Charcoal - In the case of feeds containing inert grit, other added inert mineral matter or charcoal, the ingredient statement must include the kind and percentage of grit or each other added inert mineral matter, charcoal, etc. In case the percentage of inert grit, other mineral matter and/ or charcoal, separately or together, is five percent 5.0% or more, the brand name must shall also include the name and percent of such matter, such as "With% Grit," "With% Charcoal," and With% Charcoal and Bentonite," etc.

D. No declaration of vitamin potency of a feed or feed supplement shall appear in the ingredient statement or any other part of the label, excepting that such statement is a guarantee of minimum vitamin potency of the entire product given in terms as specified in Regulation 4 B subsection B of § 3 .

Regulation 6:

§ 5. Labeling.

A. The information required in § 3.1-807 of the Law Code of Virginia , with the exception of the net weight, must shall appear in its entirety on one side of a label or on one side of the container ; . providing. However, that in case a tag is used, the directions for use and warnings against misuse may appear on the other side thereof of the tag . (Amended November 7, 1968)

B. When ingredients are listed, the names of all feed ingredients must shall be shown in letters or type of the same size.

C. When feeds carry label information in more than one position on the container, there shall be no variance with respect to name, ingredients, or guaranteed composition.

D. The term "Degermed" must precede the name of any product from which the germ has been wholly or partially removed.

E. No printed or written matter or design of any kind shall be attached to or appear on or be packed with feed, if such matter contains any statement which is incorrect, or which is at variance in any respects with the information on the principal label All printed or written information attached to or packed with feed must conform in all respects to the information printed on the principal label .

F. Labeling which suggests or implies that the presence of added enzyme-bearing materials improves improve the utilization of a product will not be accepted is prohibited unless the claims are substantiated by scientific evidence.

G. The term "Bond Phosphate of Lime," "Bone Phosphate of Lime (BPL)," or "BPL" shall not be used in connection with the labeling of feed ingredients.

Regulation 7:

§ 6 Minerals.

A. When the word "Iodized" is used in connection with a feed ingredient, the ingredient shall contain not less than 0.007 percent % of iodine, uniformly distributed.

B. Phosphatic materials for feeding purposes shall be labeled with a guarantee of the minimum and maximum percentages of calcium, the minimum percentage of phosphorous, and the maximum percentage of fluorine.

C. The fluorine content of any mineral or mineral mixture which is to be used directly for feeding of animals shall not exceed 0.30 percent % for cattle; 0.35 percent % for sheep; 0.45 percent % for swine; and 0.60 percent % for poultry.

D. Soft phosphate with colloidal clay, rock phosphates, or other fluorine-bearing ingredients may be used only in such amounts that they will not raise the fluorine concentration of the feed above the following amounts: 0.009 percent % for cattle; 0.01 percent % for sheep; 0.014 percent % for swine; and 0.035 percent % for poultry.

Regulation 8:

§ 7. Nonprotein nitrogen.

Urea, ammonium salts of carbonic and phosphoric acids , and ammoniated products defined by the Association of American Feed Control Officials are acceptable ingredients in proprietary cattle, sheep, and goat feeds only ; . These materials shall be considered adulterants in proprietary feeds for other animals and for birds ; . The maximum percentage of equivalent protein from nonprotein nitrogen must shall appear immediately below the crude protein in

Final Regulations

the chemical guarantees; and the name of the substance supplying the nonprotein nitrogen ~~must shall~~ appear in the ingredient list. If the equivalent protein from nonprotein nitrogen in a feed exceeds one-third of the total crude protein, or if more than 8.75% equivalent protein is from nonprotein nitrogen, the label shall bear a statement of proper usage ; . and The label shall also bear the following statement in ~~type of such conspicuousness as to render it likely to be read and understood by ordinary individuals under customary conditions of purchase and use conspicuous type~~ :

WARNING: This feed should be used only in accordance with the directions furnished on the label.

Regulation 9:

§ 8. Ingredients.

A. Commercial feed shall not be ~~mixed with nor~~ adulterated with any of the following materials: Chaff ~~and/~~ or Dust, Cocoa Meal, Moldy Grain, Dirt, Elevator Chaff, Flax Plant Refuse, Coconut Shell, Humus, Peat, Sand, Sawdust, Screening Refuse, Spaghum Moss, Leather, or any ~~other~~ material of little or no feeding value.

B. Commercial feeds shall not be ~~mixed with nor~~ adulterated with any whole ~~and/~~ or viable prohibited noxious-weed seeds , nor with any whole ~~and/or~~ viable restricted noxious-weed seeds. (~~Amended November 7, 1968~~).

Regulation 10:

§ 9. Methods of sampling and analysis.

Where applicable , the latest printed Official Methods of Analysis of the Association of Official Analytical Chemists, Incorporated, shall be used ; ~~where applicable,~~ for the sampling and analysis of commercial feeds. (~~Amended November 7, 1968~~)

Regulation 11:

§ 10. Definitions and standards.

The definitions, standards, and recommendations of the Association of American Feed Control Officials shall be followed in the administration of Law, except where they conflict with the provision of , the Law or with regulations promulgated ~~thereunder,~~ under the law .

Regulation 12:

§ 11. Cancellation of registration and license.

The following causes are sufficient to justify the cancellation of ~~registrations a registration~~ of commercial feeds ~~feed~~ and of a license to manufacturer ~~and/~~ or distribute commercial feed ; . ~~provided, that~~ However , no registration or license shall be cancelled until the

registrant, manufacturer, or distributor ~~shall have~~ *has* been given an opportunity for a hearing by the commissioner ~~when~~ : (~~Amended February 26, 1981~~)

1. ~~When~~ The brand name of the feed is found to be misleading in any respect.

2. ~~When~~ The feed is found to contain an ~~injurious enough of a harmful~~ ingredient ~~insufficient amount~~ to render it ~~injurious to~~ *endanger* animal health when fed according to labeling directions.

3. ~~When~~ Packages are ~~incorrectly labeled with regard to ingredients~~ *The ingredients are incorrectly stated on the label* .

4. ~~When~~ The analyses of samples establish the fact of misbranding or adulteration.

5. ~~When~~ Labels on packages contain any statement, design, or device which tends to mislead the purchaser.

6. ~~When~~ False, fraudulent, or misleading claims concerning the feed are ~~disseminated made~~ by any medium ~~whatsoever means~~ .

Regulation 13:

§ 12. Additives.

A. ~~Preservations Preservatives.~~ No added ~~preservatives preservative~~ of any kind may be used in the manufacture of a feed until its use, and the condition of its use, ~~shall have~~ *has* been approved by the commissioner.

B. Artificial Color. No artificial color may be used in feeds unless the color has been shown to be harmless to animals , and has been approved by the Federal Food and Drug Administration.

No material shall be used to enhance the natural color of a feed or feed ingredient ~~whereby to conceal~~ *inferiority would be concealed* .

Regulation 14:

§ 13. Crude fiber standards.

Whenever crude fiber standards are designated in definitions of various grain or cereal products, such standards shall apply also if screenings are added.

Regulation 15:

§ 14. Applications for registration of commercial feeds.

Applications for registration of commercial feeds shall be accompanied by two copies of the proposed label. A statement of claims made or to be made which differ from the label submitted shall be filed with the

commissioner prior to *before* use.

Regulation 16.

The minimum nutritive values and definitions for special purpose feeds as established by the Association of Southern Feed Control Officials shall be followed except the Commissioner may make exceptions when data is presented to prove to the satisfaction of nutritionists at Virginia Polytechnic Institute and State University, that deviations are nutritionally sound. (Amended October 30, 1962; December 3, 1964; and November 7, 1968.)

Regulation 17. Dried Poultry Waste.

Dried poultry waste is processed poultry excreta, with or without litter, collected from the commercial production of poultry, which is thermally dried so as to contain not more than 15% moisture, not less than 15% crude protein, not more than 18% crude fiber, not more than 30% ash and not more than 2% feathers. Dried poultry waste shall be free of pathogenic organisms and shall not contain unsafe levels of pesticide or drug residues and shall be free of extraneous materials such as, but not limited to, wire, glass, nails, and metal.

Dried poultry waste may be used as an ingredient in commercial feeds, except for commercial feeds intended to be fed 15 day prior to or during the food production period to dairy animals producing milk or laying hens producing eggs, unless by poultry production records it can be established and certified that the dried poultry waste intended to be fed to milk producing animals or laying hens is from poultry which have not received medicants.

The product shall be sold by the name "Dried Poultry Waste" and labeled to show a guarantee of minimum crude protein, maximum equivalent crude protein from nonprotein nitrogen, minimum crude fat, maximum crude fiber, maximum moisture, and maximum ash. Its labeling shall include directions for use and when recommended for sheep the label shall also include a guarantee for copper which shall not exceed 25 ppm.

The label for "Dried Poultry Waste" and any other commercial feed in which dried poultry waste is an ingredient shall, except as otherwise provided by this regulation, carry the following warning statement: "Warning - Do not feed 15 days prior to or during food production periods to dairy animals producing milk or to laying hens. Discontinue use 15 days prior to the slaughter of animals for human consumption." Dried poultry waste from sources known to be free of drugs by poultry production records is exempted from the preceding warning statements and, in lieu thereof, shall be labeled "Certified free of drug residues."

The label for any commercial feed intended for feeding to nonruminant animals in which dried poultry waste is an ingredient shall state parenthetically following the crude protein guarantee the maximum equivalent crude protein

from nonprotein nitrogen which is not nutritionally available as follows:

Crude Protein, minimum : : : : : %

This includes not more than $\frac{\dots}{\dots}$ equivalent crude protein from nonprotein nitrogen which is not nutritionally available to (state species of animals for which the feed is intended).

(Adopted April 22, 1976)

§ 15. Materials of Little or No Feeding Value Accepted for Specific Use by the Commissioner.

A. The following materials may be used as ingredients of horse and mule feed, and ingredients of ruminant feed, but not as ingredients of any other feeds, except as otherwise accepted for specific use by the Commissioner in this Appendix: barley hulls, buckwheat hulls, corn cobs, cottonseed hulls, extracted chrysanthemum residue, flax plant product, flaxseed hulls, oat hulls, peanut hulls, soybean hulls, rice hulls, and rice mill by product.

B. Hydrolyzed poultry feathers may be used as an ingredient in commercial feeds.

C. Oat hulls, soybean hulls, peanut hulls, rice hulls, rice mill by product, and/or corn cobs may be used as an ingredient of low protein, high fiber pullet or young turkey hen developers, intended to be fed to replacement pullets or to young turkey hens to delay sexual maturity and onset of egg production.

D. Materials of little or no feeding value may be accepted, in at the discretion of the Commissioner, as ingredients of commercial feeds when used solely as carriers for drugs or other desirable substances. When so accepted, the commercial feeds shall be labeled, with respect to such materials, as specified by the Commissioner.

E. Soybean mill feed may be used as an ingredient in chicken feeds and turkey feeds.

F. Soybean hulls may be used as an ingredient in dog foods.

G. Peanut hulls may be used as an ingredient in special diet dog foods intended to facilitate weight loss in adult dogs.

H. Soybean hulls, soybean mill feed, soybean mill run, oat hulls and/or rice hulls may be used as an ingredient in swine feeds.

I. Rice hulls, oat hulls, peanut hulls, and/or soybean hulls may be used as an ingredient in laying rations.

J. Soybean hulls, rice hulls, peanut hulls, cottonseed hulls and/or corn cobs may be used as an ingredient in

Final Regulations

rabbit rations.

* * * * *

Title of Regulation: VR 115-04-07. Rules and Regulations Governing the Virginia Animal Remedies Law.

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

Effective Date: May 28, 1986

Summary:

These regulations (i) establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, (ii) establish the criteria for storage of biologicals, and (iii) specify the methods of analysis to be used.

VR 115-04-07. Rules and Regulations Governing the Virginia Animal Remedies Law.

Regulation 1:

§ 1. Equipment and Supervision

If and when requested by At the request of the Commissioner of the Department of Agriculture and Consumer Services , a registrant shall furnish provide a description of his equipment and a listing list of the qualifications of his supervisory personnel. Such reports, together with further investigation if necessary, will form the basis for determining if the requirements of § ~~3.1-839~~ 3.1-837(c) of the Law as to Code of Virginia are being met as they apply to adequate equipment and proper qualification for supervision are being met supervisory qualifications .

Regulation 2:

§ 2. Biologicals.

No Any biological product shall be sold or which is offered for sale unless it has must have been properly stored under such conditions, including refrigeration if necessary, as may be required to preserve its efficacy and safety in use, during the entire time it has been in the possession of the person selling it or offering it for sale, during the entire time that it has been in the seller's possession. Proper storage includes any conditions required to preserve the safety and effectiveness of the product, including refrigeration if necessary.

Regulation 3:

§ 3. Methods of sampling and analysis.

A. The latest printed Official Methods of Analysis of the Association of Official Agricultural Chemists, Incorporated, shall be used, where applicable, for the sampling and analysis of animal remedies Where applicable, sampling

and analysis of animal remedies shall conform to the latest printed edition of the "Official Methods of Analysis" from the Association of Official Analytical Chemists, Incorporated .

B. At the request of the commissioner, the applicant for registration of any animal remedy whose label or labeling , of which includes quantitative claims as to an ingredient or ingredients , shall ; upon request, furnish the Commissioner provide a satisfactory analytical method for the verification of such claims.

* * * * *

Title of Regulation: VR 115-04-08. Rules and Regulations for the Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law.

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

Effective Date: May 28, 1986

Summary:

Preventing misunderstanding between produce growers and produce buyers is essential in maintaining a wholesome marketing atmosphere.

This regulation requires (i) the licensee to declare, at the time application is made for a license, the conditions under which the licensee intends to operate; requires (ii) the license to be conspicuously posted in the licensee's place of business; requires (iii) "Conditional Buyers" to provide additional information to the producer when shipment is rejected; requires (iv) proper accounting of receipt and delivery of products; requires (v) that all contracts be filed with the Department of Agriculture and Consumer Services; and (vi) prescribes rules for filing complaints of violations.

VR 115-04-08. Rules and Regulations for the Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law.

Regulation 1: of Terms and Phrases.

§ 1. Definitions.

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

"Buyer or shipper" means a dealer who purchases any agricultural product from a producer, and who takes possession at the buyer's place of business or at the producer's place of business at an agreed price without conditions or contingencies.

"Conditional buyer" means a dealer who purchases any agricultural product from a producer by quoting a fixed

net price ; or fixed gross price less handling charges ; . to the producer and The purchase is conditioned upon the arrival of the product at the first point of delivery in the grade specified at the time of purchase. (Grade shall include size, quality, and soundness.)

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Grower's agent or broker" means a dealer who negotiates the sale of agricultural produce on behalf of the producer pursuant according to the terms of an agreement between the parties. Written agreements are recommended but not required.

"Handling for the account of" means a dealer who accepts agricultural products from a producer to be sold directly to a specific and identified purchaser, exclusive of intermediate dealers, agents or brokers, for which the dealer charges a fixed percentage commission on gross returns, or a fixed fee per unit of product, with or without additional charges such as grading, packing, etc.

"Virginia Agricultural Products Dealers Licensing and Bonding Law" means Article 3 (§ 3.1-722.1 et seq.) of Chapter 26 of Title 3.1 of the Code of Virginia.

Regulation 2:

§ 2. License to operate as a dealer.

Every person who applies for a license to operate as a dealer under the Virginia Agricultural Products Dealers Licensing and Bonding Law shall declare, at the time of applying for a license, the conditions (one or more) as defined in § 1. under which he intends to operate, and the license issued shall be limited to the conditions declared. All such licenses issued shall be conspicuously posted in the dealers place of business.

Regulation 3:

Any dealer acting as a conditional buyer who experiences a rejection of any lot of produce shall notify the producer by telephone or direct verbal communication of the rejection as soon as possible but not more than 96 hours from the time the produce was shipped from the conditional buyers place of business or from the producers place of business and shall establish with the producer new conditions of handling the produce in question. Under such conditions, the conditional buyer shall revert to status of either "Handling for the account of" or "Grower agent or broker" as defined in Regulation 1 as mutually agreed between the dealer and producer. Such telephone or verbal communication shall be confirmed in writing, including the new conditions of handling which is agreed upon, to the producer by the conditional buyer within 48 hours. All such rejection shall be substantiated by an official USDA inspection at the point of rejection, unless waived by the producer in writing.

§ 3. Notification of rejected produce.

If any lot of produce is rejected, the conditional buyer shall notify the producer as soon as possible, either by telephone or in person. This notification must be made within 96 hours of the time the produce was shipped from the producer's or conditional buyer's place of business. The conditional buyer and the producer shall establish new conditions for handling the produce in question. Under such conditions, the conditional buyer shall assume the status of either "Handling for the account of" or "Grower agent or broker," as decided by the producer and the dealer. All verbal communication concerning the rejection and new conditions for handling shall be confirmed in writing, by the dealer to the producer, within 48 hours. All such rejection shall be confirmed by an official USDA inspection at the point of rejection, unless confirmation is waived by the producer in writing.

Regulation 4:

Every dealer shall furnish the producer, for each lot of produce received or accepted, under any condition, a written receipt in the form of a delivery receipt or invoice accounting specifying the conditions under which the produce is being handled in accordance with one of the terms defined in Regulation 1. Such accounting to the producer shall be made as expediently as possible but not later than 72 hours from the time of receipt or acceptance by the dealer, his employee, his agent or the buyer whichever occurs first.

§ 4. Receipt of acceptance.

Every dealer shall give a written receipt to the producer for each lot of produce received or accepted. Such receipt may be either a delivery receipt or an invoice which specifies the conditions under which the produce is handled (see § 1.). Such receipt shall be made within 72 hours of the time the produce is received or accepted by the dealer, his employee, his agent, or the buyer, whichever comes first.

Regulation 5:

§ 5. Failure to comply.

Any producer aggrieved by the failure of a dealer to comply with §§ 3 and 4 shall file a complaint with the department within five days after discovery of the failure.

Regulation 6:

§ 6. Filing of contracts.

Copies of all contracts made pursuant to § 3.1-722.14 of the Code of Virginia shall be filed with the Regulatory Inspection Service Section, Virginia Department of Agriculture and Commerce Consumer Services, 203 N. Governor Street 1100 Bank Street, Richmond, Virginia.

Final Regulations

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Title of Regulation: VR 115-04-11. Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law.

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

Effective Date: May 28, 1986

Summary:

The amendments to the Virginia Agricultural Liming Materials Regulations were for clarification and simplicity as follows:

1. Nontechnical changes were made to 10 rules to improve sentence structure and to add clarity and simplicity to the regulation;

2. No additional requirements were added. The provision exempting lime procedures from the 20 mesh, 95% standards on ground limestone expired January 1, 1977. The language of the exemption was deleted to bring the regulation up to date with current operating procedures; and

3. No changes were made to existing policy or operating procedures.

VR 115-04-11. Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law.

Regulation I:

§ 1. ~~Definitions and Classification~~ minimum screening standards.

All agricultural liming materials shall be labeled in terms of fineness by one of the following standards:

A. 1. Pulverized limestone:

Mesh screen	Minimum guaranteed to pass
20	90%
100	70%

B. 2. Ground limestone:

Mesh screen	Minimum guaranteed to pass
20	90%
60	50%
100	30%

Adopted by the State Board of Agriculture and Consumer Services, May 8, 1979.

Regulation II:

§ 2. Minimum calcium carbonate equivalent.

A. Agricultural liming materials shall be labeled to show a minimum Calcium Carbonate equivalent as listed below:

Material	Calcium carbonate equivalent
Burnt lime	Not less than 140%
Hydrated lime	Not less than 110%
Limestone	Not less than 85%
Shells	Not less than 85%
Burnt Shell	Not less than 100%

Regulation III:

§ 3. Investigational allowances or Tolerances and penalties.

A. A penalty shall be assessed against the registrant when the Virginia Department of Agriculture and Commerce Consumer Services analysis indicates a deficiency of ~~five percent (5%)~~ 5.0% or more of the label statement for neutralizing value. The registrant shall refund to the purchaser a penalty equal to two times the actual cash value of the deficiency based on the delivered retail price. The minimum penalty shall be .50 cents per ton.

B. A penalty of .50 cents per ton shall be assessed against the registrant for each 5.0% variation below the labeled screen size. The registrant shall refund these penalties to the purchasers.

C. A penalty shall be assessed against the registrant when the Virginia Department of Agriculture and Commerce Consumer Services analysis of available potash, in lime potash mixtures, indicates a variation of ~~ten percent (10%)~~ or more below the label statement. The registrant shall refund to the purchaser a penalty equal to two times the actual cash value of the deficiency based on delivered retail price. The minimum penalty shall be .50 cents per ton.

D. A penalty shall be assessed against the registrant when the Virginia Department of Agriculture and Commerce Consumer Services analysis indicates a variation of ~~ten percent (10%)~~ or more below the label statement for one or more of the following: Calcium Oxide, Magnesium Oxide, Calcium Carbonate, or Magnesium Carbonate. The registrant shall refund the purchaser at the rate of ~~one dollar \$1.00~~ \$1.00 per ton.

Regulation IV:

§ 4. Methods of analysis and sampling.

Test methods shall be those published in the latest edition of the Association of Official Analytical Chemist "Book of Methods".

AOAC Test Method

A. Sampling Procedures	§ 1. Method No. 1.00 & 1
B. Screen Analysis	§ 1. Method No. 1.002
C. Magnesium Analysis	§ 2. Method No. 2.007 2.109 thru 2.113
D. Calcium Analysis	§ 1. Method No. 1.01 & 9
E. Calcium Carbonate Equivalent	§ 1. Method No. 1.004 and No. 1.005

Regulation V.

§ 5. Results of official agricultural liming materials analysis.

A. The Commissioner shall report annually to all registrants of agricultural liming materials the results of official samples. The Commissioner of the Department of Agriculture and Consumer Services shall report the results of official samples to all registrants of agricultural liming materials annually.

Regulation VI. Exemption.

A. Any producer of agricultural liming materials existing as of January 1, 1975, who cannot meet the 20 mesh, 95% standards on ground limestone may be granted an exemption by the Commissioner for up to two (2) years provided he:

1. Files an acceptable plan of future compliance.
2. Agrees to meet at least an 85% guaranteed to pass through a 20 mesh screen subject to Regulation III Section 3-B. and so labels all products.

NOTE: Procedures used in sample preparation and analysis for enforcement of these regulations are available from:

Association of Official Analytical Chemists
1111 North 29th Street
Suite 210
Arlington, Virginia 22209

Title of Regulation: VR 115-04-13. Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act.

Statutory Authority: §§ 3.1-1052 and 3.1-1054 of the Code of Virginia.

Effective Date: May 28, 1986

Summary:

These regulations prescribe the requirements and conditions under which a permit may be issued. It prescribes record keeping requirements for permittees;

production reporting requirements; and security measures to deter unauthorized use of equipment or removal of ethanol. It also clarifies denaturing requirements for industrial ethanol; prescribes warning statements for denatured ethanol; prescribes minimum size containers; prescribes conditions for transporting undenatured ethanol; and requires an identifying mark on any distilling apparatus existing under the authority of the Virginia Industrial Ethanol Act. Pursuant to the Governors Regulatory Review Process, these regulations were reviewed and 59 changes were made to improve clarity. No substantial changes were made.

VR 115-04-13. Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act.

Regulation I.

§ 1. Definition.

"Industrial ethanol" shall mean means all ethyl produced by any means under a permit issued pursuant according to § 3.1-1051 ; of the Code of Virginia. and shall It does not include ethyl alcohol produced or distributed for beverage purposes subject to the control of the Department of Alcoholic Beverage Control.

"Virginia Industrial Ethanol Act" means Chapter 41 (§ 3.1-1050 et seq.) of Title 3.1 of the Code of Virginia.

Regulation II.

§ 2. Permit to manufacture industrial ethanol.

Any person or corporation that desires to manufacture ethanol for industrial use as industrial ethanol shall file an application , under oath , on forms provided by the Department of Agriculture and Consumer Services. The application shall include:

A. 1. A copy of the federal permit issued by the United States Bureau of Alcohol, Tobacco and Firearms , and all documents filed to obtain such the permit.

B. 2 The application shall set forth The names and address of all parties having an interest in the proposed industrial ethanol - producing plant ; or if it is a corporation, shall set forth the names and addresses of its principal officers and directors , and of the individuals owning 5.0% or more of the stock.

C. 3 The application shall state with specificity Each and every specific location at which the manufacture and storage is to occur.

D. 4 The application shall include An accurate plan of the plant premises, identifying roads, streams, building buildings , and other structures, including any ethanol fuel facilities. The plan must be in sufficient detail to locate the operation. There shall also be furnished A

Final Regulations

description of the type of still, still manufacturer, serial number of the still and capacity in proof gallons per 24-hour period *shall also be given*. Further, if the ethanol is to be denatured on the premises, the kind and quantity of materials which will be added to each lot must be specified.

~~E. 5 The application shall set forth~~ The names and addresses of the chief executive officer or other person charged with management of the firm's activities involving industrial ethanol.

The Department of Agriculture and Consumer Services may deny a permit to a person or to a corporation whose officers have been convicted of a felony ; or of a violation of the State Alcoholic Beverage Control laws involving the manufacture, transportation, possession, use or sale of alcoholic beverages ; or of any crime or offense involving moral turpitude within the last five years. A permit granted under these regulations shall be a continuing , one conditioned upon compliance with all applicable state and federal laws and regulations.

Regulation III.

§ 3. Record keeping.

For each production run, or for each 24-hour period in the case of continuous operation in the production of ethanol, the ~~permittee~~ *permit holder* shall maintain a record showing the date of production, quantity and proof of ethanol produced; the proof gallons of ethanol on hand and quantities of any undenatured ethanol received; the quantities and types of denaturants used; the date and manner of disposition (including names and addresses of recipients) ; ; and the proof gallons of ethanol disposed of. ~~Such~~ The records shall be maintained for a period of three years from the date of the last entry made thereon , and shall be subject to examination ~~in accordance with~~ *according to* § 3.1-1053 of the ~~Industrial Ethanol Act Code~~ *of Virginia* .

Regulation IV.

§ 4. Reports.

All permittees shall report annually on forms provided by the Department or in lieu thereof a copy of the report required by the federal Bureau of Alcohol, Tobacco and Firearms showing the quantity of ethanol produced and the manner of disposition of all production. Failure to file such a report within 30 days of the end of the calendar year shall be grounds for suspending or revoking the permit ~~All permit holders shall file an annual report of the quantity of ethanol produced and the manner of disposition of all production. The report may be either a copy of the report required by the Federal Bureau of Alcohol, Tobacco, and Firearms, or on forms provided by the Department of Agriculture and Consumer Services. Failure to file the report within 30 days of the end of the calendar year shall be grounds for suspending or revoking~~

the permit .

Regulation V.

§ 5. Security.

Proprietors shall provide security adequate to deter the unauthorized use of equipment or removal of ethanol. The proprietor shall store ethanol either in a building, a storage tank , or within an enclosure which the proprietor will ~~keep~~ *be kept* locked when operations are not being conducted. Under no circumstance shall the still be moved without approval by the Department of Agriculture and Consumer Services.

~~All ethanol produced must be denatured before being removed from the plant premises according to a formula approved by the federal Bureau of Alcohol, Tobacco and Firearms, except as provided in Regulation VI~~ *Before being removed from the plant premises, all ethanol produced must be denatured according to a formula approved by the Federal Bureau of Alcohol, Tobacco, and Firearms, except as provided in § 6 .*

The proprietor shall conspicuously and permanently mark or securely label each container of ethanol as follows: WARNING - FUEL ALCOHOL - MAY BE HARMFUL OR FATAL IF SWALLOWED.

The mark or label shall be placed on the head or side of the container, and shall be in plain, legible letters. Proprietors may place other marks or labels on containers so long as they do not obscure the required mark.

Undenatured ethanol may not be filled at ethanol plants ~~dispensed~~ *dispensed* into containers holding less than five gallons at ethanol plants , except that smaller containers may be used for bona fide samples for testing or analysis , provided that the containers are marked as for samples.

Regulation VI.

§ 6. Sale, delivery, or removal of undenatured ethanol.

No person shall sell, deliver, transport, or remove ~~from the property on which the still is located~~ any undenatured ethanol ~~from the still property~~ without first having received a permit issued for that purpose by the Department of Agriculture and Consumer Services. Justification for issuance of the permit shall be evidence submitted by the applicant that denaturing the ethanol would render it unfit for the intended legal use ~~The permit shall be issued only if the applicant submits satisfactory evidence that denaturing the ethanol would make it unfit for its intended legal use .~~

The permittee ~~permit holder~~ shall prepare , at least ~~in triplicate, three~~ *in triplicate, three* copies of a commercial invoice or shipping document to cover each shipment of undenatured ethanol. ~~The permittee shall enter on~~ The document *shall show* the consignee's name and address, the quantity of undenatured

ethanol transferred, a description of the shipment (for example, number and size of drums or barrels, tank truck, etc.), the name and address of the permittee permit holder, and the serial numbers of any seals, locks, or other devices used to secure the conveyance. The permittee permit holder shall forward the original and one copy of the document to the consignee with the shipment, and retain keep a copy as a record. The consignee shall determine the quantity of ethanol received, and record the quantity and the date received on both copies of the document covering the shipment. The consignee shall return one receipted copy to the permittee permit holder and retain keep one copy as a record of receipt required by the Federal Bureau of Alcohol, Tobacco and Firearms.

Anyone transporting industrial ethanol, as defined in these regulations, shall comply with Title 40, Code of Federal Regulations, Part 172.400 (administered by the United States Department of Transportation) governing the transportation of hazardous materials, and all other applicable state and federal laws and regulations.

Regulation VII:

§ 7. Identification of distilling apparatus.

Any distilling apparatus used or existing under the authority of the Virginia Industrial Ethanol Act shall be marked by the Virginia Department of Agriculture and Consumer Services with an identifying mark or etching for the purpose of maintaining the identify of such device, except in cases where the distilling apparatus it bears a manufacturer's permanent serial number or other appropriate identifying markings.

* * * * *

Title of Regulation: VR 115-04-15. Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law.

Statutory Authority: § 3.1-188.35 of the Code of Virginia.

Effective Date: May 28, 1986

Summary:

The amendments to the Plants and Plant Products Inspection Law require:

1. Nursery establishments to keep a copy of their license or registration on file instead of posting;
2. One section of the White Pine Blister Rust Quarantine (WPBRQ) (recommended for repeal) that prohibits the importation of European Black Currants (EBC) into Virginia is being incorporated, intact, with this regulation since EBCs carry a very destructive disease organism to white pines. The remaining parts of the WPBRQ are being repealed as they refer to destructive current varieties no longer commercially

available.

3. Nontechnical changes were made to 11 rules to improve sentence structure and to add clarity and simplicity to the regulations.

4. No additional requirements were added; and

5. No changes were made to existing policy or operating procedures.

VR 115-04-15. Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law.

Regulation 1:

A certificate of registration issued by the Commissioner pursuant to Section 3-1-143 shall be conspicuously displayed to the public at the location where nursery stock is being offered for sale.

Regulation 2:

§ 1. Nursery registration.

A registered nursery with one or more sales locations separated from the parent nursery shall not be required to register each separate sales location, but shall have a copy of the registration certificate displayed available at each separate sales location.

Regulation 3:

§ 2. Nursery shipments out of the state Commonwealth.

Pursuant to Section 3-1-236 (6) As authorized by Article 7 (§ 3.1-188.32 et seq.) of Chapter 13 of Title 3.1 of the Code of Virginia, known as the Plants and Plant Products Inspection Law, Narcissus plants, and bulbs, and vegetable transplants destined for shipment out of the state Commonwealth are nursery stock. Narcissus bulbs inspected during the growing season, and again after they are dug and cleaned, may be eligible for certification.

Regulation 4:

Narcissus bulbs inspected during the growing season and again after they are dug and cleaned may be eligible for certification.

Regulation 5:

§ 3. Field-grown vegetable transplants.

Field-grown vegetable transplants inspected during the growing season, and again when pulled and packed, may be eligible for certification.

§ 4. European black currant plants.

Since European black currant plants, "Ribes nigrum",

Final Regulations

are capable of harboring and disseminating the destructive disease of white pine, commonly known as White Pine Blister Rust, "*Cronartium ribicola*", European black currant plants may not be moved to any destination in Virginia.

* * * * *

Title of Regulation: VR 115-04-16. Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act.

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

Effective Date: May 28, 1986

Summary:

The amendments to the Virginia Petroleum Products Franchise Regulations were for clarification and simplicity as follows:

1. Nontechnical changes were made to 36 rules to improve sentence structure and to add clarity and simplicity to the regulation;
2. No additional requirements were added and none were deleted; and
3. No changes were made to existing policy or operating procedures.

VR 115-04-16. Rules and Regulations for the Enforcement of the Virginia Petroleum Franchise Act.

Regulation I:

§ 1. Conditions under which a producer/refiner may temporarily operate a franchised retail outlet.

A. A producer or refiner may temporarily operate a previously franchised dealer-operated retail outlet which is within one and one-half miles of any franchised dealer-operated outlet for a period not to exceed 60 days ; provided that the franchise is lawfully terminated or not renewed under any provisions of the Virginia Petroleum Products Franchise Act, § 59.1-21.14 , Chapter 22, §§ 59.1-28.8 through 59.1-21.18:1 of the Code of Virginia, or the Petroleum Marketing Practices Act, 15 U.S.C. § 2801 ; or . In the case of illness or personal injury of the franchised dealer, a producer/refiner may operate the franchised outlet when mutually agreed by both parties for a period up to ~~1~~ one year , subject to certification upon the request of the Secretary or the agency delegated to administer these regulations commissioner .

B. A producer/refiner may operate such the outlet for additional 30-day periods , provided that he can show that a good faith effort has been made and no new franchise can be found. A good faith effort shall be not less than considered advertising in a newspaper of general circulation in the area where the establishment is located

for three consecutive days during each 30-day period of operation by the producer/refiner . The producer/refiner shall document the advertising and maintain a file or respondents or other potential franchisees and further shall upon request of the Secretary or the Agency delegated to administer these regulations . He shall also certify upon request that no acceptable franchisees responded during each 30-day period of operation.

Regulation II:

§ 2. Rebuilding and relocating of producer or refiner operated retail outlets.

A. Relocating:

A retail outlet lawfully operated by a producer/refiner on or before July 1, 1979, may relocate such operation at a distance not to exceed 10 miles, but not closer than may be relocated at a distance of not more than 10 miles; but it must be at least one and one-half miles of from any other franchised retail outlet of the same brand . (All distance shall be measured by the nearest primary road or street) provided the . This move shall be allowed if the retail outlet location is lost through :

1. Involuntary condemnation by state or other political subdivision for any reason;
2. The nonrenewal by the owner of the property lease under which the station was operating , and such this nonrenewal can be certified by the property owner; or
3. Denial of building permit or prohibited zoning by any political subdivision.

B. Rebuilding:

Producer/refiner locations may be rebuilt at the same location , or in reasonable proximity thereto , when the station is lost to fire, other disasters, or remodeling being remodeled or renewing renewed . For the purposes of this section , reasonable proximity shall not be more than 1000 feet in any direction from the current property line.

Regulation III:

§ 3. Producer/refiner and franchise dealers shall file a listing of retail outlets operated.

A. Each producer/refiner and each franchised dealer shall, for each outlet operated on July 1, 1979, provide on forms furnished by the Department of Agriculture and Consumer Services; the name under which the location is operated; the street address or such other designation which identifies the exact location of the outlet and the correct mailing address including the zip code. Such forms shall be certified by a responsible persons who is authorized to represent the producer/refiner or the franchised dealer For each outlet operating on July 1, 1979, each producer/refiner and each franchised dealer

shall provide the name under which the location is operated, the street address or other designation which identifies the exact location, and the correct mailing address including the zip code. Forms shall be provided by the Department of Agriculture and Consumer Services. These forms shall be certified by a responsible person who is authorized to represent the producer/refiner or the franchised dealer .

1. All retail outlets existing July 1, 1979, shall be reported to the Virginia Department of Agriculture and Consumer Services (VDACS) not later than August 31, 1979.

2. Any retail outlets newly created after July 1, 1979, shall be reported to VDACS as outlined above within 10-days by of:

a. Any franchisee entering into an agreement with a producer/refiner ~~or within 10 days of~~ ;

b. The issuance of a building permit to any producer/refiner for any new location ; or

c. The acquisition of any current facility by a producer/refiner to be operated by the producer/refiner as a retail outlet.

B. The transfer or assignment of a franchise by a dealer to a qualified transferee shall be filed with the Virginia Department of Agriculture and Consumer Services by the new franchisee within 30 days after the normal contractual transfer.

C. Failure to register as ~~provided required~~ may mean loss of protection provided by the Virginia Petroleum Products Franchise Act, § 59.1-21.16:2 ~~and of the Code of Virginia~~ or the rules and regulations for the enforcement of ~~said that Act~~.

Regulation IV. Delegation of Administration to the Commissioner of the Virginia Department of Agriculture and Consumer Services

The duties and responsibilities for implementing and administering these regulations are hereby delegated to the Commissioner of the Virginia Department of Agriculture and Consumer Services and his authorized agents. The Commissioner shall make information from the list filed under these regulations available to the public during normal business hours for inspection and copying.

This is a certified full, true, and correctly dated copy.

AND MAIL TO:

Division of Product and Industry Regulation
203 N. Governor Street
Richmond, VA 23219

VIRGINIA PETROLEUM PRODUCTS RETAIL LOCATIONS

The following information is being filed in accordance with the requirements of Section 59.1-21.16:2 of the Code of Virginia and the Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act.

I. Producer/Refiner - Name: _____
Operator Retail Outlet Address: _____ phone: _____

II. Franchise Dealer - Name: _____
Operator Retail Outlet Address: _____ phone: _____
Name of Producer/Refiner with whom Dealer has franchise relationship: _____

III. Name Under Which Location is Operated: _____
Exact Location of Outlet: _____
Mailing Address: _____
(Street or P. O. Box) (City) (State) (Zip Code)

IV. If this location has been previously operated under another person, company or corporation name, please provide the following information: (Applicable only to location changing operation after August 31, 1979)
Name Previously Operated Under: _____

V. Certification: I hereby swear and affirm under penalty of perjury this to be a full and correct report.
Signature: _____ (Title) Representing: _____ Date: _____

NOTE: Use one form for each retail outlet
Fill in either I or II but not both
Mail to address shown at top of form
Examples of exact location: (a) North East Corner of Broadway and Boulevard
(b) 3/10 mile west of town limits of Appomattox on US Route 460

RECEIVED AND FILED BY VDACS ON: _____ (date)
BY: _____

* * * * *

NOTE: The Department of Agriculture and Consumer Services has REPEALED the four regulations listed below:

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

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

Effective Date: May 28, 1986

Summary:

The Barberry and Black Stem Rust Quarantine is repealed because:

1. *Rust-susceptible varieties of barberry and mahonia plants are no longer commercially available;*
2. *The USDA no longer enforces the federal quarantine for this organism; and*
3. *There is only minimal hazard that the black stem rust disease will spread to grain crops in Virginia.*

* * * * *

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

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

Effective Date: May 28, 1986

Summary:

The regulations for Enforcement of Noxious Weed Law are repealed because:

1. *This weed has not spread significantly in the 10 years since its discovery and has not caused any major problems;*
2. *Eradication is not likely since the weed, Salpichroa organifolia, reproduces vegetatively as well as by seed; and*
3. *Experience over the last 10 years shows that this weed can be effectively controlled by readily available herbicides.*

* * * * *

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

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-188.24

of the Code of Virginia.

Effective Date: May 28, 1986

Summary:

The White Pine Blister Rust Quarantine is repealed because:

1. *Most of the varieties of disease carrying currants and gooseberries are no longer commercially available;*
2. *Requests for shipment of currants and gooseberries into the protected 33 counties have significantly decreased over the last several years; and*
3. *That part of the regulation prohibiting the importation of the most destructive variety of currants, European black currant, into Virginia, is being incorporated into another regulation titled "Rules and Regulations for Enforcement of the Plants and Plant Products Inspection Law."*

* * * * *

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

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

Effective Date: May 28, 1986

Summary:

The Tomato Plant Disease Quarantine is repealed because:

1. *States exporting tomato plants now employ good inspection programs;*
2. *Tomato growers in Virginia have not requested inspection of plants received for over two years; and*
3. *The authority to deal with any diseased plants already exists under the Virginia Plants and Plant Products Inspection Law. This regulation duplicates that authority.*

Final Regulations

VIRGINIA FIRE BOARD AND THE DEPARTMENT OF FIRE PROGRAMS

Title of Regulation: VR 310-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.

Statutory Authority: § 9-155 of the Code of Virginia.

Effective Date: June 1, 1986

Summary:

The Virginia Fire Board adopted Public Participation Guidelines pursuant to the authority of § 9-155 of the Code of Virginia.

These regulations establish in writing those procedures which the board and department will use to solicit input from interested individuals, groups and organizations prior to and during the preparation and adoption of proposed regulations and amendments to existing regulations.

In addition, the guidelines specify how interested individuals, groups and organizations will be identified and notified, and establishes procedures for soliciting public participation prior to and during the regulation development and promulgation process.

VR 310-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.

§ 1. Introduction.

The Virginia Fire Board and the Department of Fire Programs are committed, as they have been in the past, to soliciting comments and suggestions from interested individuals, groups and organizations concerning development of new regulations and amendments to existing regulations. Such comments and suggestions shall be actively solicited by the board and the department.

Persons, organizations and associations interested in participating in the regulation development process should immediately notify the department in writing. Such notification of interest should be sent to the Executive Director, Department of Fire Programs, 17th Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

§ 2. Identification of interested parties.

Prior to the development of any new regulation or amending any existing regulation, the department shall identify any individuals, groups and organizations whom it believes would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

A. Request from the Secretary of the Commonwealth, on

an annual basis, the list of all persons, groups, associations or others who have registered as lobbyists for the General Assembly session. This list will then be used to identify parties, at the discretion of the department, who may be interested in the subject matter of the proposed or amended regulation.

B. Utilize department mailing lists of known individuals, groups and organizations who have a vested interest in or are the subject of the cause of the regulation.

C. Prepare and utilize a list, compiled by the department, of persons who have previously participated in similar public proceedings on a regular basis.

§ 3. Notification of interested parties.

A. Notice of intent.

The department shall prepare a notice of intent to develop or amend a regulation prior to the development or amendment of any regulation. The notice shall identify the subject matter and purpose for the development of a new regulation or amendment of an existing regulation and shall specify a time deadline for receipt of responses from persons interested in participating in the development or amending process.

B. Dissemination of notice.

The notice of intent to develop or amend a regulation shall include, but not be limited to the following steps:

1. Notice shall be sent to those individuals, groups and organizations, as identified in § 2 of this regulation who may have an interest in the regulation;

2. The notice shall be published in the Virginia Register of Regulations; and

3. Persons, organizations, and associations to whom the notice is sent are further requested to advertise such notice in any newsletters or publications to their membership or constituents.

§ 4. Public participation.

A. Development of regulations.

Upon receiving the comments and suggestions from the interested parties as a result of the notice, the department will analyze the results and determine the level of interest. If sufficient interest exists, the department may schedule informal meetings prior to the development or amendment of any regulation to determine the specific area(s) of concern or level(s) of interest of the subject matter of the regulation. As an alternative the department may, at its discretion, establish advisory or ad hoc committees to assist in analyzing the input received from any interested parties and make certain recommendations.

B. Preparation of draft regulations.

Following receipt of the public input as outlined above, the department shall prepare the "draft regulations" or "draft amendments to regulations," whichever is applicable. A copy of the "draft regulations" or "draft amendments to regulations" will then be mailed to those interested parties identified in § 2 (A, B and C) of these guidelines. Persons who receive a copy of the "draft regulations" or "draft amendments to regulations" will be invited to submit written comments on the draft. If response warrants a further examination of the draft, the department may schedule additional informal meetings or request the advisory or ad hoc committees to review the responses received.

C. Preparation for adopting proposed regulations.

Following completion of the development process as outlined above, the department shall prepare the regulation for compliance with the Administrative Process Act (APA). The department shall furnish a copy of the proposal as submitted for compliance with the APA to all parties who received a copy of the "draft regulations" or "draft amendments to regulations" as identified in § 4 B of this regulation. Along with a copy of the proposal, a copy memorandum will be provided to all interested parties identified, setting forth a notice of scheduled public hearings. The cover memorandum will clearly specify the date, time and location of the public hearing as well as the date by which persons intending to participate in the public hearing should notify the department of their intentions and interest. Persons who have indicated a desire to participate in the public hearing will be encouraged to submit their comments in writing prior to, or at the public hearing, to ensure an accurate reflection of their comments in the official transcript of the public hearing. If a nonsubstantive regulation is being adopted or amended, the department may restrict public comment to written submittals instead of conducting a public hearing. If public comment will be restricted to written submittals, the cover memorandum will clearly specify the date and place to which such submittals should be forwarded.

D. Adoption and publication of a regulation.

The department shall print and distribute the final adopted regulation. Such regulation shall also be available to any interested persons. Dissemination of the regulation will be made to assist in advising all interested parties of current requirements and soliciting voluntary compliance.

§ 5. Effective date.

These guidelines for Public Participation in Regulation Development and Promulgation shall be effective on and after June 1, 1986, and until amended or rescinded.

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-3. Maximum Resource Limit in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.

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

Affective Date: July 1, 1986

Summary:

As set forth in § 63.1-25 of the Code of Virginia, the State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for operation of public assistance programs in the Commonwealth. The State Board of Social Services approved on February 20, 1986, the maximum resource limit in the Aid to Dependent Children (ADC) and General Relief (GR) Programs of \$1,000.

The General Assembly in the 1986 session appropriated funds for this change in policy. It was the position of the board that in light of the increases in the cost of living, since January 1, 1978, the resource limit should be increased to allow applicants/recipients of Aid to Dependent Children (ADC) and General Relief (GR) to retain a more reasonable amount of resources while remaining eligible for assistance.

Due to the fact that the majority of the comments received during the public comment period supported the proposed regulation as presented, the final regulation is identical to the proposed regulation which was published in the June 24, 1985, issue of the Virginia Register of Regulations.

VR 615-01-3. Maximum Resource Limit in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.

PART I.

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

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.

"Available resource" means real and personal property, both liquid and nonliquid, including cash, bank accounts, the cash value of life insurance, trust funds, stocks, bonds, mutual funds or any other financial instruments which the assistance unit has the right, authority or power to liquidate.

"Exempted resource in the Aid to Dependent Children (ADC) Program" means the home in which the assistance

Final Regulations

unit lives and its contents; one motor vehicle with an equity value of \$1,500, or less; income producing farm and business equipment; cash and other assets, the total of which do not exceed the established resource maximum of ~~600~~ \$1,000 ; one burial plot per assistance unit member; and burial funds and/or funeral arrangements with an equity value of \$1,500, or less, per assistance unit member.

"Exempted resource in the General Relief (GR) Program" means the home in which the assistance unit lives and its contents; one motor vehicle, regardless of its value; the cash value of life, retirement or other related insurance policies with total face value not in excess of \$1,500, owned by an assistance unit member 21 years of age, or over; real property in litigation; income-producing farm and business equipment; income-producing real property, other than the home, unless the assistance unit's equity in the property is \$5,000, or more; cash and other assets, the total of which do not exceed the established resource maximum of ~~600~~ \$1,000 ; burial plots owned by the assistance unit; burial funds and/or funeral arrangements with an equity value of \$900, or less, per assistance unit member;

PART II.

§ 2.1. Any assets, real or personal, owned by an assistance unit, other than those specifically exempted, must be evaluated as an available resource and the value thereof considered in relation to the ~~600~~ \$1,000 maximum resource limit. The value of nonliquid real and/or personal property to be deemed an asset to the assistance unit is their equity in the property. When the assistance unit has available resources totaling more than ~~600~~ \$1,000 , eligibility does not exist.

§ 2.2. In the Aid to Dependent Children (ADC) Program, the assistance unit's equity in a motor vehicle in excess of the exempted \$1,500 is considered in relation to the ~~600~~ \$1,000 allowable reserve. In the Aid to Dependent Children (ADC) and General Relief (GR) Programs, the assistance unit's equity in burial funds and/or funeral arrangements in excess of the exempted amount is to be considered in relation to the ~~600~~ \$1,000 allowable reserve.

STATE WATER CONTROL BOARD

NOTICE: due to its length, the Water Quality Standards filed by the State Water Control Board, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, explaining the amendments to the Water Quality Standards, is being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the State Water Control Board.

Title of Regulation: Basin and Section Description Table (Shenandoah River Subbasin), Natural Trout Waters in

Section 5 D.

Statutory Authority: § 62.1-44.15(3)a of the Code of Virginia.

Effective Date: May 28, 1986

Background:

Water quality standards consist of narrative statements that describe water quality requirements in general terms and of numerical limits for specific physical, chemical and biological water quality indicators such as bacteria. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

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 are 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.

Summary:

This final amendment restores the original natural trout water designation to Skidmore Fork (Rockingham County), Section 5D, in the Shenandoah River Subbasin. The following standards will apply to Class VI Natural Trout Waters:

	<u>DISSOLVED OXYGEN (mg/l)</u>	<u>pH</u>	<u>MAX. TEMP.(0°)</u>
Minimum	Daily Average		
6.0	7.0	6.0 - 9.0	20

This amendment to Skidmore Fork would ensure the Environmental Protection Agency's (EPA) approval of the 1984 amendments to Virginia's Water Quality Standards.

Basin and Section Description Table (Shenandoah River Subbasin), Natural Trout Waters in Section 5 D.

Section	Basin and Section Description	Special Class Standards
	POTOMAC RIVER BASIN Shenandoah River Subbasin	
5D	Dry River and its tributaries from 5 miles above Harrison-burg's raw water intake to its headwaters (with the exception	VI pH-6.5-9.5

Final Regulations

of Skidmore Fork which is Class
IV Mountainous Zone Waters.)

Natural Trout Waters in
Section 5d VI pH-6.5-9.5

Dry River (Rockingham County)
from 5 miles above Harrison-
burg's raw water intake to its
headwaters.

Laurel Run (Rockingham County)
from its confluence with Dry
River to its headwaters. Little
Laurel Run from its confluence
with Dry River 3.2 miles upstream.

Low Place run from its confluence
with Dry River 2.5 miles upstream.

Miller Spring Run from its confluence
with Dry River 2.7 miles upstream.

Sand Run from its confluence with
Dry River 1.8 miles upstream.

Skidmore Fork from its confluence
with Dry River to its headwaters.

* * * * *

Title of Regulation: § 1.10 B.2 Water Quality Standards
and Policy for Mercury in Freshwater.

Statutory Authority: § 62.1-44.15(3)a of the Code of
Virginia.

Effective Date: May 28, 1986

Background:

Water quality standards consist of narrative statements that describe water quality requirements in general terms and of numeric limits for specific physical, chemical and biological water quality indicators such as bacteria. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

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 are 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.

Summary:

The final amendment to § 1.10 B.2 of the Water Quality Standard and Policy for Mercury in Freshwater revises the standard to require reporting levels of mercury in edible fish tissue in freshwater as "methyl" rather than "total" mercury.

In the November 19, 1984, issue of the Federal Register, the Food and Drug Administration (FDA) announced that a suitable analytical method now exists for determining methyl mercury content in fish for enforcement purposes. Consequently, the action level for mercury in edible fish tissue was changed. This change was made because methyl mercury had long been recognized as the hazard to the consumer, but until recently no suitable analytical enforcement method existed.

The Food and Drug Administration (FDA) recently announced that a suitable analytical enforcement method now exists for analyzing the methyl mercury content in fish tissue. Due to this announcement by the FDA, the Health Department has indicated that it will require the reporting of all fish tissue data as methyl mercury rather than total mercury. In order to ensure compliance with the Health Department's new reporting requirement, the State Water Control Board will report all fish tissue data on the methyl mercury content. Enforcement actions will also be based on the methyl mercury content of the fish samples. Accordingly, § 1.10 B.2 of the Water Quality Standards will be amended to ensure compliance with the Health Department's new reporting requirement.

EMERGENCY REGULATION

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-13. Time Limitations on Eligibility in the Refugee Resettlement Program (RRP).

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

Effective Date: April 1, 1986 through January 1, 1987

PREAMBLE

The Virginia Department of Social Services (DSS) receives a grant from the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (HHS) to provide for the effective resettlement of refugees. Federal regulations at 45 CFR 400.62 (f) specify that, subject to the availability of funds, expenditures for certain types of cash and medical assistance will be reimbursed for a limited number of months (as specified by ORR) beginning with the month the refugee entered the United States.

As a result of funding reductions to ORR monies imposed under the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman), which went into effect March 1, 1986, the amount of money available for the operation of Virginia's Refugee Resettlement Program has also been decreased.

The Department of Social Services has been notified by ORR that the funding reduction is to be accommodated by shortening the period of time state/local expenditures for certain refugees will be reimbursed. Thus, the department must take action to reduce the period, beginning with the month of entry, during which assistance may be granted to refugees determined eligible for cash or medical assistance under the Refugee ADC, Refugee GR, or Refugee Medicaid Categorically Related components of the Refugee Resettlement Program. This reduction will not result in any reduction in assistance to refugees since local welfare/social services agencies will transfer affected cases to the Aid to Dependent Children (ADC) Program, General Relief (GR) Program, or Medicaid Program to continue receipt of assistance.

The Department of Social Services finds that an emergency situation exists necessitating 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, Virginia Code § 9-6.14:1 et seq., and that emergency promulgation of this regulation is permitted in accordance with § 9-6.14:4.1 of the Code of Virginia.

Emergency approval of the Governor is necessary in order to avoid a delay of several months in issuing revised policy to local welfare/social services agencies. Such a delay would result in an increased administrative workload at both the state and local

levels since it will be necessary to identify cases receiving assistance to which they were not entitled, correct state and local records, and repay federal funds that were incorrectly received.

The emergency regulation shall be in effect beginning April 1, 1986, and will expire on January 1, 1987, or upon the earlier effective date of similar regulations to be promulgated under the Administrative Process Act.

The Department of Social Services 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 615-01-13. Time Limitations on Eligibility in the Refugee Resettlement Program (RRP).

PART I. DEFINITIONS.

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

"Department" means the Virginia Department of Social Services.

"Refugee ADC" means financial assistance to refugees who meet the eligibility requirements of the Aid to Dependent Children (ADC) Program. It is one of the components of the Refugee Resettlement Program.

"Refugee GR" means financial assistance to refugees who meet the eligibility requirements of the General Relief Program. It is one of the components of the Refugee Resettlement Program.

"Refugee Medicaid Categorically Related" means medical assistance to refugees who meet the eligibility requirements of the Medicaid Program. It is one of the components of the Refugee Resettlement Program.

"Refugee Resettlement Program" means the program established in Virginia, using federal funds, for effectively resettling refugees in accordance with Public Law 96-212 and amendments.

PART II. ELIGIBILITY REQUIREMENTS.

§ 2.1. In establishing eligibility for assistance in the Refugee Resettlement Program (RRP), the number of months a refugee has been in the United States must be considered. Refugees may qualify for assistance under the Refugee ADC, Refugee GR, or Refugee Medicaid Categorically Related components of the Refugee Resettlement Program, provided they have been in the United States less than 31 months.

Emergency Regulation

Submitted by: /s/ William L. Lukhard, Commissioner
Department of Social Services

Approved: /s/ Gerald L. Balles, Governor
Date: April 1, 1986

Filed: /s/ Joan W. Smith, Registrar of Regulations
Date: April 2, 1986 - 3:13 p.m.

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 1, 1986

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI850266

Ex Parte: In re: Regulation Governing
Savings Institution Holding Companies.

ORDER DIRECTING NOTICE OF A PROPOSED REGULATION

Chapter 425 of the 1985 Acts of the Virginia General Assembly enacted a new Chapter 3.01, the "Virginia Savings Institutions Act", in Title 6.1 of the Code of Virginia. Section 6.1-195.87 of the new Act replaces § 6.1-195.5:1 relating to the same subject matter, *i.e.*, savings institution (formerly, savings and loan association) holding companies.

The Commissioner of Financial Institutions has proposed a regulation, designated "Virginia Savings Institution Regulation III-1, Savings Institution Holding Companies," to supersede the existing regulation on that subject. The proposed regulation governs acquisitions by and the regulation of savings institution holding companies within Virginia; it does not apply to interstate transactions or the regulation of inter-jurisdictional holding companies. The new regulation takes into account certain changes in terminology, scope and procedures in the new act. The proposed regulation is attached and made part of this order.

In accordance with Rule 4:12 of the Rules of Practice and Procedure of the State Corporation Commission, which rule requires reasonable notice of the content of a regulation before its adoption by the Commission,

IT IS ORDERED:

(1) That the Bureau of Financial Institutions promptly send a copy of the proposed regulation to each state-chartered savings institution with a letter soliciting comments and requests for a hearing, if desired;

(2) That the Bureau cause to be published the following notice:

NOTICE TO THE PUBLIC - SAVINGS INSTITUTION HOLDING COMPANIES

The Commissioner of Financial Institutions has proposed a regulation governing savings institution holding companies in Virginia, designated "Regulation III-1 - Savings Institution Holding Companies."

The regulation governs in-state (not regional) savings institution holding companies and provides for: approval by the State Corporation Commission prior to

any acquisition of a state savings institution and sets forth the procedure for obtaining such approval and the basis for approval. The regulation also provides for examination, as necessary, of holding companies; reporting by holding companies to the Bureau of Financial Institutions; the keeping of holding companies' books and records; and the Commission's ordering a holding company to cease any unsafe or unsound practice. A copy of the full text of the regulation may be obtained from the Bureau of Financial Institutions, P.O. Box 2AE, Suite 1600, 701 East Byrd Street, Richmond, Virginia 23205; telephone (804) 786-3657.

Written comments on the proposed regulation may be submitted to the Bureau until May 13, 1986. Such comments should refer to Case No. BFI850266.

Anyone who wishes to be heard by the Commission on the subject of this regulation must request a hearing by writing the Bureau no later than May 6, 1986. If no substantive objection or request for hearing is submitted, the Commission may adopt the regulation administratively (without a hearing) after considering all written comments submitted.

STATE CORPORATION COMMISSION OF VIRGINIA

The foregoing notice shall be published as display advertising in a newspaper of general circulation in each of the following cities: Alexandria, Norfolk, Richmond and Roanoke. Publication shall appear not later than April 15, 1986;

(3) That the Bureau compile and report on all written comments received and advise the Commission promptly, if it should determine that a hearing on the regulation is necessary or desirable;

(4) That the Bureau present a final regulation for approval on May 20, 1986, or as soon thereafter as possible. In presenting the final regulation, the Bureau shall submit evidence that the instructions for notice prescribed herein have been complied with.

* * *

REGULATION III - 1 SAVINGS INSTITUTION HOLDING COMPANIES

Statutory Authority: Title 6.1, Chapter 3.01, § 6.1-194.87 of the Code of Virginia.

§ 1. Definitions.

"Company" means any corporation, partnership, trust, joint-stock company, or similar organization.

"Control" means the ownership, control, or power to vote 25% or more of the voting shares of a state savings institution or other company, the ability to elect a majority

State Corporation Commission

of the directors of such an institution or company, or, as determined by the Commission on the basis of evidence, actual control of the management or policies of such an institution or company.

"Financial institution" means any bank, trust company, savings and loan association, industrial loan association, consumer finance company, or credit union. (Code § 6.1-2.1.)

"Person" means a company, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, individual or any other entity not specifically listed.

"Savings institution" means a savings and loan association, building and loan association, building association, or savings bank, whether organized as a capital stock corporation or a nonstock corporation, which is authorized by law to accept deposits and to hold itself out to the public as engaged in the savings institution business.

"Savings institution holding company" means any person that directly or indirectly, or acting in concert with one or more other companies or persons (including one or more subsidiaries or affiliates) controls one or more stock savings institutions, or that controls in any manner the election of a majority of the directors of such an institution.

"State savings institution" means a savings institution granted a certificate of authority pursuant to the laws of the Commonwealth. (The term is identical to "state association" as defined in Code § 6.1-194.2.)

"State savings institution holding company" means a savings institution holding company that controls one or more state savings institutions, but that is not a "regional savings institution holding company" as defined in § 6.1-194.96.

§ 2. Scope.

This regulation shall govern intra-state acquisitions of control of state savings institutions and state savings institution holding companies, and the examination, supervision and regulation of state savings institution holding companies. This regulation shall not be applicable to acquisitions authorized by Article 11 of Chapter 3.01 [Title 6.1 of the Code of Virginia], or to the reporting, examination, supervision, and regulation of any regional savings institution holding company.

§ 3. Requirement of an application.

A. Except as provided in subsection B of this section, no person shall take any action, or consummate any transaction, directly or indirectly, or through or in concert with one or more other persons, that would result in the creation of a state savings institution holding company, and

no person shall acquire control of a state savings institution or state savings institution holding company, unless such person first (i) files a satisfactorily completed application with the Bureau of Financial Institutions using the form prescribed from time to time for such purpose; (ii) delivers to the Bureau such other information as the Bureau may require, certified or verified as may be deemed appropriate by the Bureau; (iii) pays an application fee of \$3,000; and (iv) receives prior written approval of the action, transaction or acquisition from the Commission.

B. In instances in which the action to be taken is limited to the formation of a corporation by a state savings institution for the purpose of acquiring and holding the stock of such state savings institution, and the shareholders of the state savings institution will become the shareholders of the resulting state savings institution holding company, no application fee shall be required.

C. No state savings institution holding company shall acquire control of any additional financial institution, or of any other company which is not a financial institution, unless such state savings institution holding company first (i) files a satisfactorily completed application with the Bureau of Financial Institutions using the form prescribed from time to time for such purpose; (ii) delivers to the Bureau such other information as the Bureau may require, certified or verified as may be deemed appropriate by the Bureau; (iii) pays an application fee of \$3,000; and (iv) receives prior written approval of the acquisition from the Commission.

§ 4. Standard for approval.

A. No application that involves the acquisition of control of a state savings institution or a state savings institution holding company, other than applications of the types described in subsections B and C of § 3 of this regulation, shall be approved unless the Commission determines that:

1. The proposed acquisition would not be detrimental to the safety and soundness of the applicant or of the state savings institution or state savings institution holding company which the applicant seeks to acquire or control;

2. The applicant, its directors and officers (if applicable), and any proposed new directors and officers of the state savings institution or state savings institution holding company which the applicant seeks to control, are qualified by character, experience and financial responsibility to control and operate a state savings institution or state savings institution holding company.

3. The proposed acquisition would not be prejudicial to the interests of the depositors, creditors, beneficiaries of fiduciary accounts or shareholders of the state savings institution holding company or any state savings institution which the applicant seeks to acquire

State Corporation Commission

or control; and

4. The acquisition is in the public interest.

B. No application that involves the circumstances described in § 3. B or § 3. C of this regulation shall be approved unless the Commission determines that the proposed action or transaction would not be detrimental to the soundness of any state savings institution affected by the action or transaction.

§ 5. The application process.

Upon receiving a satisfactorily completed application, the Bureau will accept it as filed, investigate the proposed transaction, and present the matter to the Commission for action.

In every case the Commission will act within 90 days after an application has been filed, unless such time is extended. The 90-day investigation period may be extended if the Commission determines that the applicant has not furnished all the information necessary to make the determinations required herein or that the information submitted is substantially inaccurate or misleading.

Within the prescribed investigation period (or any extension thereof), and upon request of the applicant or any state savings institution or state savings institution holding company which the applicant seeks to acquire or control, or upon its own motion, the Commission may order a hearing concerning the proposed acquisition. Within the prescribed investigation period (or any extension thereof), the Commission, by giving written notice of its decision and the reasons therefor to the applicant and to the state savings institution or state savings institution holding company which the applicant seeks to acquire or control, may: (i) approve the application, (ii) disapprove the application, or (iii) impose such conditions on the acquisition as the Commission may deem advisable to effect the purposes of this section.

The 90-day investigation period may be shortened or waived by the Commission, as it deems appropriate, if the Commission finds that it must act immediately in order to prevent the probable failure of a state savings institution affected by the application.

§ 6. Reporting.

Every state savings institution holding company shall report by filing with the Bureau a copy of every report such holding company submits to the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board. Any person that is a state savings institution holding company but that is not subject to FSLIC reporting requirements shall file such reports as the Bureau may direct.

§ 7. Books and records.

The Bureau may require every state savings institution holding company to maintain its books and records in such form as the Bureau deems necessary for its determination that every state savings institution subject to the control of such holding company is being operated in a safe and sound manner.

§ 8. Examination of holding company.

The Bureau may examine any state savings institution holding company and any subsidiary or affiliate of such a holding company when such examination is deemed necessary or appropriate to the proper supervision of any state savings institution. The cost of any such examination shall be borne by the holding company. Every state savings institution holding company, and every affiliate or subsidiary thereof, shall make available to the Bureau such books and records as the Bureau may require.

§ 9. Cease and desist orders.

If the Commission finds that any action or activity, current or proposed, of a state savings institution holding company, or of any affiliate or subsidiary thereof, is detrimental to the safety or soundness of any state savings institution, the Commission, after reasonable notice to the holding company and an opportunity for it to be heard, may order the holding company to cease and desist from such action or activity.

* * * * *

AT RICHMOND, APRIL 4, 1986

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Case No. PUE860024

Ex parte, in the matter of
adopting Commission policy regarding
natural gas industrial
rates and transportation policies

ORDER ESTABLISHING RULEMAKING PROCEEDING

The natural gas industry is rapidly undergoing significant transformation which apparently is leading to a more competitive environment. It is crucial that regulators take measures to integrate regulatory and market forces to enhance the performance of gas companies. Several factors have played a leading role in the movement to this new environment. The industry has experienced partial decontrol of most wellhead gas prices. A reduction in demand, resulting in large part from competitive alternate fuel prices and conservation, has contributed to the growth of a spot market and the need for utilities to respond to market demands.

Significant regulatory changes, particularly at the federal

State Corporation Commission

level, have moved towards competition, most recently by establishing contract carriage programs. The Federal Energy Regulatory Commission, by Order 436, dated October 18, 1985; Order 436-A, dated December 12, 1985; Order 436-B dated February 14, 1986, and various related orders of clarification, has provided a program for open access to the interstate transportation market in an attempt to facilitate a movement of natural gas to all markets.

Accordingly, state regulation must change to maintain reliable and adequate service during this transition period and beyond. Over the last six months, the Commission has seen several specific examples of the increased interest in natural gas transportation by large volume industrial customers and distribution companies. Many more parties are demanding access to alternative sources of natural gas supply, and the Commission encourages utilities to seek the most economic reliable source of supply.

In August 1985, Commission staff conducted informal and informational meetings with representatives from industrial consumers interested in transportation and with representatives from local distribution companies in Virginia. Although several industrial customers expressed a preference to purchase from local distribution companies, they explained that economic considerations have forced them to the broader gas supply market. They stressed that transportation must be available as a necessary alternative to traditional local distribution in the present competitive environment. Moreover, they resoundingly supported unbundling costs and developing cost of service transportation rates.

The utility representatives had mixed positions on transportation and particularly on a reasonable approach to rate design. Several parties expressed support for cost based rates; however, the majority of representatives advocated using the nongas margin of the retail sales rates to derive transportation rates. The gas companies also expressed concern with balancing transportation volumes and with shipper demands for uncompensated backup service.

In addition to the comments received at the informal meeting, the Commission has received many informal inquiries relative to special transportation arrangements. The Commission has also received several formal petitions for action in specific cases.¹ Further, some Protestants have raised transportation rate design issues in the context of both expedited and general rate cases.²

In those rate cases, Protestants interested in natural gas transportation have urged the Commission to consider cost-based transportation rates and have specifically taken issue with the suggestion that any portion of the purchased gas demand component be included in the interruptible transportation rate. These rate design issues raised in specific rate cases are clearly of general interest. They are not unique to the individual company's rate design principles.

Accordingly, the Commission directed staff to conduct a general investigation of natural gas transportation and industrial rate design and related transportation issues. Such investigation has been ongoing as a prerequisite to establishing a hearing schedule to facilitate the orderly development of coherent and uniform policies relative to natural gas transportation and industrial sales rate structures in Virginia.

The purpose of this order is to docket this investigation, establish a schedule for the case, provide notice to the general public and identify the areas of interest.

Alternative methodologies of designing both transportation rates and industrial sales rates, primarily flexible interruptible rates, must be addressed. One alternative methodology under consideration for developing transportation rates is cost of service based rates. There is a strong argument supporting unbundling the costs of providing transportation-only service. Advocates of such a rate design submit that the methodology allows utilities to retain and recover price sensitive industrial load.

A related issue which must be addressed in any cost analysis is the appropriate allocation of demand. If an interruptible customer does not contribute to the fixed costs of capacity associated with peak demand, many parties would argue that the interruptible customer should pay none or only a small fraction of the demand charge associated with those fixed costs. It is generally agreed that interruptible service is inferior to firm service in that it may be interrupted to provide capacity for service to firm customers. On the other hand, interruptible gas service is provided through the same facilities as firm service.

Another alternative rate design methodology for transportation rates which should be addressed in this proceeding is a nongas margin approach. This approach starts with the retail sales rate schedule under which the potential transportation customer would have purchased gas directly from the Virginia gas utility company. Since the customer would now be purchasing its gas elsewhere, the average system commodity cost of gas would be subtracted from the total rate to arrive at a nongas margin under this method. If the purpose of the margin is to recover the company's cost of providing the distribution network, moving the gas, and other factors which must be considered in allocating part of the aggregate revenue requirement to that industrial class, the margin could be considered essentially a transportation charge. The Commission recognizes, however, that the appropriateness of existing margins may be subject to dispute.

An advantage of this approach to transportation rate design is the revenue neutrality of the rate design. A gas company would receive the same revenue from service to an industrial user, whether the customer takes a full sales service or a transportation only service. As to the propriety of existing margins, staff and any interested parties in this proceeding should address the general

State Corporation Commission

policy of a movement towards more parity in rate design among customer classes.

An alternative basis for designing transportation rates is a value of service approach. The Supreme Court of Virginia recently reiterated that:

"cost is only one of the factors to be considered in allocating rate increases and that cost is not always a critical factor . . . factors which are considered in setting the level of rates are the costs of providing the service, the relationship between classes of customers, value of the service, marketability, encouragement of efficient use of facilities, broad availability of service and a fair distribution of charges among the users." (Citations omitted).¹

In addition to transportation rates, the Commission will also review in this proceeding interruptible industrial sales rates. Existing flexible rates available to large volume customers with alternate fuel capability most closely align with a value of service rate design methodology. The flexible rate design takes many factors into consideration; however, foremost among those concerns is the ability of the gas company to effectively respond to the nonregulated markets with which it competes. The Commission has said on several occasions that all ratepayers are best served by implementation of a rate mechanism which allows the company to respond to and retain its elastic customers. Flexible rates have been in effect for several gas utility companies in Virginia for up to three years. That historic period provides the Commission and the industry with a good basis for review of the success or failure of the mechanism and the particular problems which arise with implementation of the concept. One such problem may be finding a means of assuring that costs do not shift to firm customers by operation of the mechanism. Flexible interruptible rates have been approved as one approach to recognize the elastic industrial customers' contribution to the overall stability of the local distribution system. It is, in fact, price discrimination in favor of the most elastic or price sensitive customers. However, the underlying theory assumes that a smaller contribution to the fixed costs of utility service is better than none from that elastic class of customers, as long as the inelastic customer is not required to subsidize the elastic customers. That is, the Commission must constrain cross-subsidization in residual monopoly markets.

Although the above rate design methodologies do not represent the only approaches which could be employed to develop industrial rates, the Commission believes they represent the major alternatives which must be considered in this proceeding. Any interested party with a viable alternative for rate design is encouraged to present it in the course of this proceeding and investigation.

In addition to rate design issues, there are several major issues related to natural gas transportation which can best be addressed on a general basis. Those issues include standby service and reservation fees; bypass of local

distribution companies; the existence or lack of a public service obligation to transport gas; appropriate penalties and balancing provisions for transportation volumes; accountability; and appropriate time periods for contract terms.

As a practical matter, and to facilitate effective practices, it appears reasonable to expect a customer who elects transportation service as an alternative to traditional sales service from its local distribution company to be required to relinquish its right to call on the system supply of the local distribution company, or to pay a surcharge or reservation fee for such standby service. Any such fee should allow the gas company to recover the cost of contracting for backup volumes and should be compensatory to avoid subsidization by other customers.

The changes in FERC policy regarding open access transportation and existing transportation rates in Virginia have contributed to an increased desire of end-users to completely bypass the local distribution company. In fact, the Commission has had two petitions before it requesting bypass in specific cases. Uneconomic bypass or bypass despite the ability of the local distribution company to provide the service more economically than the upstream pipeline should be avoided. Bypass could have a significant and undesirable impact on the captive customers of a local distribution company and result in substantial cost shifts to those customer classes. On the other hand, prohibition of economic bypass could have an adverse impact on the general economy of Virginia. Any consideration of the bypass issue must also necessarily include an analysis of the nature of the franchises given to utility companies in Virginia.

Another critical question which must be addressed is the extent, if any, of a public utility company's service obligation to transport gas, as distinguished from its traditional distribution activities. This question involves the debate over the subject of voluntary contract carriage versus mandatory carriage. Moreover, it also raises the issue of the Commission's jurisdiction and authority to mandate transportation.

Finally, many technical problems have been expressed by interested parties in reviewing the transportation programs. Those problems include appropriate balancing provisions for transportation volumes and compensatory penalties for extreme variance between nominations and deliveries. Some variance is to be expected; however, it is not appropriate to allow shippers access to the pipeline network if they routinely cause delivery in an irresponsible and unpredictable manner. Such extreme behavior is detrimental to system operation and remaining customers.

The Commission encourages and looks forward to the meaningful input and contribution by interested parties in development of appropriate rate design and transportation policies. We anticipate that there are many gas utility companies and customers interested in participating in this

State Corporation Commission

proceeding. To facilitate an organized presentation and hearing process and to eliminate unnecessary duplication, the Commission expects parties with similar interests to participate in groups with a representative or representatives serving as spokesman for the group. Accordingly,

IT IS ORDERED:

(1) That this investigation be docketed and given Case No. PUE860024;

(2) That staff file its report and analysis on the aforementioned alternatives and issues and any related issues on or before April 28, 1986;

(3) That any interested parties who intend to actively participate in this proceeding provide notice of that intent by filing with Document Control Center on or before May 9, 1986;

(4) That on or before June 2, 1986, any interested parties shall file any testimony and exhibits or comments which they intend to present at the public hearing;

(5) That a public hearing shall commence on June 17, 1986, at 11:00 a.m. in the Commission's courtroom to receive evidence relative to the rate design of industrial gas rates and natural gas transportation policies;

(6) That pursuant to Code § 12.1-28, notice be given to all interested parties, together with an opportunity to introduce evidence and to be heard with regard thereto. In this regard, the Commission's Division of Energy Regulation forthwith shall cause a copy of the following notice to be published in newspapers of general circulation throughout the state:

NOTICE OF A PROCEEDING TO REVIEW NATURAL GAS INDUSTRIAL RATES AND TRANSPORTATION POLICIES FOR LOCAL DISTRIBUTION COMPANIES AND PIPELINES IN VIRGINIA

The Virginia State Corporation Commission has initiated an investigation and proceeding to review and develop an appropriate rate design for transportation and industrial rates and transportation policies of natural gas distribution companies and pipelines subject to the Commission's jurisdiction. A public hearing on the investigation has been scheduled to begin on June 17, 1986, at 11 a.m. in the Commission's courtroom on the 13th Floor, Jefferson Building, Bank and Governor Streets, Richmond, Virginia.

The order establishing the rulemaking proceeding and any documents subsequently filed in the case may be examined in the Commission's Document Control Center, Floor B1, Jefferson Building, Bank and

Governor Streets, Richmond, Virginia, and at the business offices at which customer bills may be paid of each natural gas utility subject to the investigation.

Any parties desiring to actively participate in this proceeding by submitting testimony and cross-examining witnesses must provide notice of that intention by filing with the Commission's clerk on or before May 9, 1986.

Interested persons may also submit written comments on the investigation or staff report on or before June 2, 1986, by writing to George W. Bryant, Jr., Clerk, Virginia State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23216 with reference to Case No. PUE860024. Any person desiring to make a statement at the public hearing need only appear in the Commission's courtroom at 10:30 a.m. on the day of the hearing and identify himself or herself as a public witness.

(7) That each gas utility company subject to the jurisdiction of this Commission in Virginia make a copy of this order, and subsequent filings, available for public inspection during normal business hours at business offices where bills may be paid.

¹ Petition of Badische Corporation, Case No. PUE850025; Petition of Reynolds Metal, Case No. PUE850069; Petition of Commonwealth Gas Services, Case No. PUE840037.

² Application of Columbia Gas of Virginia, Case No. PUE840036, and Case No. PUE850053; Virginia Natural Gas, Division of Virginia Electric and Power Company, Case No. PUE850036 and PUE860004; Application of Commonwealth Gas Pipeline Corporation, Case No. PUE850052.

³ Westvaco Corporation v. Columbia Gas of Virginia, Inc. et al., Record No. 850579, Slip Opinion issued January 17, 1986, p.4. Rehearing denied March 7, 1986.

GENERAL NOTICES/ERRATA

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

NOTICES OF INTENDED REGULATORY ACTION

Floor, Richmond, Va., telephone (804) 225-3140.

DEPARTMENT FOR THE AGING

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider the promulgation of regulations entitled: **Regulations Implementing Title V of the Older Americans Act and Section 124 of the Job Training Partnership Act**. The purpose of the proposed regulations is to determine resource allocations to Virginia's 25 Area Agencies on Aging under Title V of the Older Americans Act (as amended) and Section 124 of the Job Training Partnership Act.

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider promulgating, amending or repealing regulations entitled: **Polygraph Examiners Regulations**. The purpose of the proposed action is to amend the Standards of Conduct to require polygraph examiners to produce two charts before rendering a conclusion; limit to 12 the number of examinations an examiner may perform in any 24-hour period; limit examiners to three evaluations of examination (deception indicated, no deception indicated and inconclusive); prohibit examiners from making hiring or retention recommendations; prohibit accusatory interrogation as well as knowing coercion and intimidation in employment examinations; prohibit asking questions dealing with the sexual preference or sexual activities of the examinee; limit the number of questions which may be asked on any examination; require a minimum time interval between questions; require each polygraph chart to be marked in a specific manner.

Public hearings will be held. Copies of the proposed regulations to be considered are available after April 14, 1986.

Statutory Authority: § 2.1-373 of the Code of Virginia.

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

Written comments may be submitted until June 27, 1986.

Written comments may be submitted until May 28, 1986.

Contact: William Peterson, Human Resources Developer, Virginia Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219-2797, telephone (804) 225-3140.

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)

Notice of Intended Regulatory Action

VIRGINIA EMPLOYMENT COMMISSION

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider amending regulations entitled: **State Plan for Aging Services funded under Title III of the Older Americans Act, as amended - October 1, 1985, through September 30, 1987**. The purpose of the proposed regulations is to revise the intrastate formula for allocation of Title III Older Americans Act funds to the 25 Area Agencies on Aging throughout Virginia. Public hearings will be held.

† Notice of Intended Regulatory Action

Statutory Authority: § 2.1-373 of the Code of Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Employment Commission intends to consider promulgating, amending or repealing regulations entitled: **Rules and Regulations Affecting Unemployment Compensation**. The scope of the proposed action is not limited to unemployment compensation matters; rather, it shall cover all phases of the agency's operations. The Commission will

Written comments may be submitted until June 27, 1986.

Contact: Williams Peterson, Human Resources Developer, Virginia Department for the Aging, 101 N. 14th St., 18th

General Notices/Errata

receive public comment on existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost compliance and will also receive public comment on the need for any new rules or regulations affecting agency operations.

Statutory Authority: § 60.1-34 of the Code of Virginia.

Written comments may be submitted until June 15, 1986.

Contact: Joseph L. Hayes, Special Assistant, Commission Appeals, Virginia Employment Commission, P.O. Box 1358, Richmond, Va. 23211, telephone (804) 786-7554

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the Virginia Board of Funeral Directors and Embalmers intends to consider promulgating regulations entitled: **Rules and Regulations of the Virginia Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to begin the promulgative process of board rules and regulations governing funeral practice in the Commonwealth. Substantial amendments and proposals will include: (i) reorganization of regulations in accordance with § 9-6.20 of the Code of Virginia; (ii) deletion of unnecessary, archaic, or duplicative language; (iii) promulgation of public participation guidelines; and (iv) proposal of a fee increase for professional licenses and permits.

Statutory Authority: § 54-260.69 of the Code of Virginia

Written comments may be submitted until May 30, 1986.

Other pertinent information: The board has completed a comprehensive self-study of these rules and regulations in conjunction with the Governor's Regulatory Review Process.

Contact: Mark L. Forberg, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0076

VIRGINIA BOARD OF GEOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Geology intends to consider amending regulations entitled:

Virginia Board of Geology. The purpose of this action is to review current regulations and provide new regulations consistent with § 54-1.7 of the Code of Virginia and this agency's public participation guidelines. The amendments may address but will not be limited to the use of a seal and replacement of a wall certificate and any necessary language changes in the regulations.

An information proceeding in accordance with the public participation guidelines will be held on May 7, 1986, Room 395, Travelers Building, 3600 West Broad Street, Richmond, Virginia at 9 a.m.

Statutory Authority: § 54-1.28 and Chapter 30; §§ 9-6.14:7; 9-6.14:7.1; 9-6.14:25 of the Code of Virginia.

Written comments may be submitted until May 2, 1986.

Contact: Johnsie Williams, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555 (toll-free number 1-800-552-3016).

BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Virginia Medical Care Facilities Certificate of Public Need**. The purpose of the proposed regulation is to exempt from review certain medical care facility projects as described in § 32.1-102.1 of the Code of Virginia.

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Written comments may be submitted until May 2, 1986.

Contact: Marilyn H. West, Director, Division of Resources Development, James Madison Bldg., Room 1005, Richmond, Va. 23219, telephone (804) 786-7463

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **Regulations for the Senior Citizens Higher Education Program**. The regulations to be promulgated will stipulate the requirements under which senior citizens may take courses at Virginia's state-supported institutions of higher education

General Notices/Errata

without paying tuition or fees. The Senior Citizens Higher Education Act, as amended in 1984, provides that courses taken for credit are free if a senior citizen has a taxable income of less than \$7,500. Noncredit courses may be taken without charge regardless of income. Effective July 1, 1986, institutions may count these enrollments in their census of full-time equivalent students (FTES).

Statutory Authority: § 23-9.6:1 (m) of the Code of Virginia.

Written comments may be submitted until May 28, 1986.

Contact: Barry M. Dorsey, Associate Director, Council of Higher Education, James Madison Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2632

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT with the VIRGINIA FIRE BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development with the Virginia Fire Board intends to consider promulgating, amending or repealing regulations entitled: **Statewide Fire Prevention Code**: The purpose of the proposed action is to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire and explosion arising from the improper maintenance of life safety and fire prevention/protection materials, devices, and systems, in buildings and structures; and the unsafe storage, handling, and use of substances, materials and devices wherever located.

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

Written comments may be submitted until June 1, 1986 to Neal J. Barber, Director, Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219

Contact: Howard H. Summers, Jr., State Fire Marshal, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines the the Department of Medical Assistance Services intends to consider the promulgation of regulations entitled: **Home and**

Community-Based Care Model Waiver Request for the Provision of Services to Certain Chronically Ill Children Who Require Long-Term Use of Ventilators, Oxygenators, Apnea Monitors, and/or Parenteral/Enteral Nutrition.

The purpose of the proposed regulation is to request model waiver approval from the Department of Health and Human Services that will enable the Virginia Department of Medical Assistance Services to provide reimbursement for home and community-based services to certain chronically ill children who would otherwise require the level of care provided in a hospital or skilled nursing facility, the cost of which would be reimbursed under the State Medicaid Plan.

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

Written comments may be submitted until April 30, 1986.

Contact: Charlotte C. Carnes, Manager, Community-Based Care, Department of Medical Assistance Services, 109 Governor St., 11th Floor, Richmond, Va. 23219, telephone (804) 786-1465.

VIRGINIA STATE BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Board of Medicine intends to consider promulgating regulations entitled: **Rules and Regulations for the Healing Arts - Foreign Medical Schools and Other Foreign Institutions**. The purpose of the regulation is to establish the requirements for approving Foreign Medical Schools and Other Foreign Institutions that teach the Healing Arts. The approval of the institutions will be a prerequisite to licensure of the graduates for those insitutions to ensure that they are sufficiently prepared to practice their branch of the Healing Arts competently and safely.

Statutory Authority: § 54.291 of the Code of Virginia.

Written comments may be submitted until May 28, 1986.

† Notice of Intended Regulatory Action

Notice is hereby given that the Virginia State Board of Medicine intends to consider promulgating, amending or repealing regulations entitled: **Rules and Regulations Relating to the Healing Arts for Medicine, Osteopathic Medicine, Podiatry, Chiropractic, Clinical Psychology, Physical Therapy, Physician Assistants, Respiratory Therapy Practitioners, and Correctional Health Assistants**. The purpose of the proposed regulations is to establish the requirements for licensure for Doctors of Medicine, Osteopathic Medicine, Chiropractic, Podiatry,

Clinical Psychology, and Physical Therapy and certification requirements for Physicians Assistants, Respiratory Therapy Practitioners and Correctional Health Assistants to ensure that the course of instruction provided training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until May 28, 1986.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation intends to consider amending regulations entitled: **Virginia Minerals Other Than Coal Surface Mining Reclamation Regulations**. The purpose of the proposed regulations is to establish general and specific rules for surface mining permits, bonds, operations, and reclamation procedures, roads, revegetation, drainage, and other matters related to minerals other than coal mining.

Statutory Authority: Chapter 16, § 45.1-180.3, Title 45.1 of the Code of Virginia.

Written comments may be submitted until April 29, 1986.

Contact: William O. Roller, Compliance Manager, Division of Mined Land Reclamation, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602.

VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to consider promulgating or repealing regulations entitled: **Regulations Governing the Certification of Substance Abuse Counselors**. The purpose of the proposed regulations is to establish the requirements for certification as substance abuse counselors in Virginia, to regulate the certification of substance abuse counselors

and to discharge the duties required of the board pursuant to § 54-929 of the Code of Virginia in protecting the health, safety, and welfare of the citizens of the Commonwealth.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted until May 28, 1986.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to consider promulgating or repealing regulations entitled: **Regulations Governing the Practice of Professional Counseling**. The purpose of the proposed regulations is to establish the requirements for licensure as professional counselors in Virginia, to regulate the licensure of professional counselors and to discharge the duties required of the board pursuant to § 54-929 of the Code of Virginia in protecting the health, safety and welfare of the citizens of the Commonwealth.

Written comments may be submitted until May 28, 1986.

Other pertinent information: The regulations to be proposed follow a comprehensive review of existing regulations in 1984 and 1985.

Contact: John W. Braymer, Executive Director, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-7702

VIRGINIA BOARD OF PSYCHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Psychology intends to consider promulgating or repealing regulations entitled: **Regulations Governing the Practice of Psychology**. The purpose of the proposed regulations is to establish the requirements for licensure as a psychologist, school psychologist and clinical psychologist in Virginia, to regulate the licensure of psychologists and school psychologists and to discharge the duties required of the board by § 54.929 of the Code of Virginia in protecting the health, safety and welfare of the citizens of the Commonwealth.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted until May 28, 1986.

Other pertinent information: The regulations to be proposed follow a comprehensive review of existing regulations in 1984 and 1985.

General Notices/Errata

Contact: John W. Braymer, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-3434

VIRGINIA BOARD OF SOCIAL WORK

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Social Work intends to consider promulgating or repealing regulations entitled: **Regulations Governing the Practice of Social Work and Clinical Social Work**. The purpose of the proposed regulations is to establish the requirements for licensure as clinical social workers and social workers in Virginia, to regulate the licensure of clinical social workers and social workers and to discharge the duties required of the board pursuant to § 54-929 of the Code of Virginia in protecting the health, safety and welfare of the citizens of the Commonwealth.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted no later than May 28, 1986.

Other pertinent information: The regulations to be proposed follow a comprehensive review of existing regulations in 1984 and 1985.

Contact: John W. Braymer, Executive Director, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-7703

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-10-49.2. Innovative High Technology Industries and Research (Virginia Retail Sales and Use Tax Regulation)**. The purpose of the proposed regulation is to formally adopt under the Administrative Process Act an emergency regulation adopted on January 16, 1986, and published in the February 17, 1986, issue of the Virginia Register of Regulations. The regulation will set forth the application of the sales and use tax to high technology businesses, including the broad industrial manufacturing and research and development exemptions generally available to such businesses.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written Comments: This date has been extended from

April 16 until May 28, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Water Quality Standards (Basin and Section Description Tables), Section 5, Potomac River Subbasin**. The proposed change would establish Quantico Bight and its tidal tributaries as a separate Section, 5C, Class II water, no special standards, Potomac River Subbasin. Section 5 would be amended to exclude Quantico Bight from this section.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until May 12, 1986 to Cindy M. Berndt, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230

Other pertinent information: This amendment would remove the Potomac Embayment Standards from Quantico Bight.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Commonwealth of Virginia Water Quality Standards**. The purpose of considering the proposed amendments is to ensure that the standards protect water quality and beneficial water uses, conform to federal regulations and that obsolete standards are cancelled.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia and § 303 of the Federal Clean Water Act.

Other pertinent information: The board's Water Quality Standards are reviewed every three years, as mandated by state and federal law.

Contact: Stu Wilson, Water Resource Ecologist, State Water Control Board, P.O. Box 11143, Richmond, Va. 23220, telephone (804) 257-0387

GENERAL NOTICES

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

Notice to the Public

Pursuant to its Public Participation Guidelines contained in § 5.1 of VR 125-01-1, the board intends to consider the amendment or adoption of regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. § 3 of VR 125-01-2. Advertising; exterior; signs; trucks; uniforms.

a. Subject of proposal - Amend regulation to permit more than two directional signs not farther than one mile from the licensed establishment.

b. Entities affected - Manufacturers and wholesalers, including wineries and farm wineries.

c. Purpose of proposal - To allow more than two directional signs away from the premises of such winery and farm winery.

d. Issues involved - Is the current restriction of two directional signs not farther than one-half mile from the licensed establishment sufficient for advertising to the general public or would additional advertising cause an unsightly proliferation of signage?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-69 of the Code of Virginia.

This requested by Virginia Wineries Association.

2. § 9 of VR 125-01-2. Coupons.

a. Subject of proposal - To allow wholesalers of wine and beer to attach refund coupon pads, sweepstakes and contest pads to cut case cards at the retail premises, if done for all retail licensees equally.

b. Entities affected - Manufacturers and distributors of wine and beer, retailers and the general public.

c. Purpose of proposal - This would provide another source for the public to obtain refund coupons or to participate in sweepstakes and contests. Currently, refund coupons may be obtained from the product, in the print media, or by direct mail to the consumer from the manufacturer.

d. Issues involved - Should wholesalers be permitted to provide this additional service for retailers and

the general public?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-69, 4-98 and 4-103(b) and (c) of the Code of Virginia.

3. § 9 of VR 125-01-2. Coupons.

a. Subject of proposal - Amend the regulation to limit the value of wine or beer refund coupons to not more than 50% of the normal retail price.

b. Entities affected - Manufacturers and distributors of wine and beer, retailers and the general public.

c. Purpose of proposal - To limit the value of a refund coupon to not more than 50% of the normal retail price.

d. Issues Involved -

(1) Is it in the best interest of the public to place a limit on the value or refund coupons?

(2) Would a refund of more than 50% of the normal retail price constitute an inducement to purchase alcoholic beverages?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-69, 4-98 and 4-103(b) and (c) of the Code of Virginia.

This requested in part by the Virginia Wine Wholesalers Association, Inc.

4. § 2 of VR 125-01-3. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

a. Subject of proposal - Amend regulation to allow wholesale licensees to provide shelf-space plans to retailers on an equal basis.

b. Entities affected - Wholesale and retail licensees.

c. Purpose of proposal - To authorize wholesale licensees to provide a limited service to retail licensees for the purpose of providing schematic drawings outlining proposed shelf and space layout space layout for the retailer.

d. Issues involved - Should this limited service be authorized as a clarification to Circular Letter 84-8?

e. Applicable laws or regulations - Section 4-79 of the Code of Virginia.

5. § 2 of VR 125-01-3. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

a. Subject of proposal - To allow wholesalers to mark or affix retail prices to their products.

General Notices/Errata

b. Entities affected - Wholesale and retail licensees.

c. Purpose of proposal - To permit wholesalers to provide additional services to retailers and further deregulation by the board.

d. Issues involved -

(1) Should wholesalers be permitted to provide further services for retail licensees?

(2) Would this add an additional burden to small wholesalers?

e. Applicable laws or regulations - Section 4-79 of the Code of Virginia.

6. § 6 of VR 125-01-3. Certain transactions to be for cash; "cash" defined; reports by sellers; payments to the board.

a. Subject of proposal - Amend regulation to eliminate the requirement that wholesalers report to the board on or before the fifteenth day of each month any invalid checks received during the preceding month.

b. Entities affected - Wholesalers.

c. Purpose of proposal - To remove a burden on wholesalers to submit such report when no invalid checks were received from retailers.

d. Issues involved - Should a wholesaler be required to submit an invalid check report to the board when there are no such invalid checks to report to the board?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-44, 4-60(h) and (f) of the Code of Virginia.

This requested by Mr. Al Weed, Chairman, Legislative Committee, Virginia Wineries Association.

7. § 9 of VR 125-01-3. Inducement to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards.

a. Subject of proposal - Amend to permit a wine wholesaler to exchange wine on an identical quantity, brand or package basis for quality control purposes.

b. Entities affected - Wine wholesalers and retail licensees.

c. Purpose of proposal - To permit wine wholesalers to exchange wine on an identical quantity, brand or package basis for quality control purposes and to ensure that fresh stock is maintained in retail establishments.

d. Issues involved.

Should wine wholesalers be permitted to exchange wine for quality control purposes, now permitted for beer wholesalers?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-22.1, 4-33(d), 4-37(e), 4-79, 4-103(b) and 4-115 of the Code of Virginia.

This requested by the Virginia Wine Wholesalers Association, Inc.

8. § 9 of VR 125-01-3. Inducements to Retailers; Tapping Equipment; Bottle or Can Openers; Banquet Licenses; Cut Case Cards.

a. Subject of proposal - Amend regulation to permit the furnishing of wine table tents, wine bottle openers, wine knobs, wine clip-ons, nitrogen gas or compressed air to retail licensees. Also, to permit manufacturers or wholesalers to provide beer cut case cards to retailers as presently provided for wine cut case cards.

b. Entities affected - Wine and beer manufacturers, wholesalers and retail licensees.

c. Purpose of proposal - To clarify and define the limitations and restrictions in which these materials and equipment may be furnished to retailers by manufacturers and wholesalers of alcoholic beverages.

d. Issues involved - Should wholesalers be restricted to the furnishing of such equipment and materials to retailers as presently provided in § 9 of VR 125-01-3?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

This requested in part by the Virginia Beer Wholesalers Association.

9. § 10 of VR 125-01-3. Routine business entertainment; definition; permitted activities; conditions.

a. Subject of proposal - Amend the regulation to permit routine business entertainment by manufacturers to retail licensees and to define such entertainment.

b. Entities affected - Manufacturers, wholesalers and retailers of alcoholic beverages.

c. Purpose of proposal - To permit manufacturers to entertain retailers in a similar manner as wholesalers are permitted to do by § 4-79 (a2) of the Code of Virginia and § 10 of VR 125.01-3.

General Notices/Errata

d. Issues involved - What limits should be placed on entertainment that a licensed manufacturer of alcoholic beverages may furnish to licensed retailers?

e. Applicable laws or regulations - Section 4-79 of the Code of Virginia.

This requested by the Virginia Beer Wholesalers Association, Inc.

10. § 2 of VR 125-01-4. Wines, qualifying procedures, disqualifying factors; samples; exceptions.

a. Subject of proposal - To amend the regulation to permit artificial coloring in wine coolers containing 14% or less alcohol by volume and in sangria-type wines.

b. Entities affected - Manufacturers, wine importers, wholesalers, retailers of wine and the general public.

c. Purpose of proposal - This is simply a housekeeping measure. The board adopted an emergency regulation effective August 7, 1985, permitting artificial coloring to be added to wine coolers and sangria-type wines.

d. Issues involved - Should manufacturers of wine coolers and sangria-type wines be permitted to add artificial coloring which is now allowed by the federal authorities.

e. Applicable laws or regulations - Sections 4-7(h) and (1), and 4-11(a) of the Code of Virginia.

11. § 2 of VR 125-01-5. Determination of legal age of purchaser.

a. Subject of proposal - To eliminate identification cards issued by a college or university as acceptable identification of proof of age for the purchase of alcoholic beverages.

b. Entities affected - Retail licensees and the general public.

c. Purpose of proposal - To reduce the types of valid identification acceptable by retail licensees as proof of age.

d. Issues involved -

(1) Will the elimination of college and university identification cards reduce the instances of sales of alcoholic beverages to persons less than the legal drinking age?

(2) Will the elimination of such identification cards cause a hardship to those persons not possessing

operator's licenses?

(3) Can college and university identification cards be easily altered or forged to procure alcoholic beverages?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-62, 4-98.14 and 4-103(b) of the Code of Virginia.

12. § 4 of VR 125-01-6. Idemnifying bond required of wholesale wine distributors.

a. Subject of proposal - Amend regulation to eliminate federal, state and municipal bonds in lieu of surety for wholesale wine distributors. Further, amend the section to provide for waiver of bond and surety by wholesale wine distributors.

b. Entities affected - Wholesale wine licensees.

c. Purpose of proposal - To eliminate federal, state and local bonds in lieu of surety bond and authorize the board to waive the requirement of both the surety and the bond in cases where the wholesaler has previously demonstrated his financial responsibility as provided by a change in § 4-31 of the Code of Virginia at the 1986 General Assembly.

d. Issues involved - Whether the board should waive the requirement of both the surety and the bond in cases where the wholesaler has previously demonstrated his financial responsibility.

e. Applicable laws or regulations - Sections 4-7(a), (b) and (1), 4-11(a) and 4-31(g) of the Code of Virginia.

13. § 6. of VR 125-01-6. Beer importer licenses; conditions for issuance and renewal.

a. Subject of proposal - Amend regulation to require that all persons applying for the issuance or renewal of a wine importer's license shall file with the board a list of the brands of wine they intend to sell and deliver or ship into this state, along with a corresponding list of the names of the owners of such brands and copy of the written permission from the brand owner, or its designated agent. Also, subsequent to the issuance or renewal of a wine importer's license, the licensee shall make a supplemental filing with the board identifying such additional brands, brand owner and providing the required evidence of authorization by the brand owner.

b. Entities affected - Wine importers and wine wholesalers.

c. Purpose of proposal - To eliminate transshipping of wine products. Transshipping is defined as

General Notices/Errata

unauthorized persons shipping wine into the state to wholesalers without the brand owner's approval.

d. Issues involved -

(1) Do wine importers and wholesalers need the same safeguards now afforded to beer importers?

(2) Will the proposal prevent "transshipping" or "boot legging" of wine to wholesalers in Virginia by obtaining a brand of wine and selling it in the state without the permission of the brand owner, which is usually the winery?

Applicable laws or regulations - Sections 4-7(b) and (1), 4-11 and 4-25(g) of the Code of Virginia.

This requested by the Virginia Wine Wholesalers Association.

14. § 6 of the VR 125-01-7. Alcoholic beverages for hospitals, industrial and manufacturing users.

a. Subject of proposal - Amend regulation to eliminate the requirement of a transportation permit, which is currently required to accompany the shipment of alcoholic beverages or other alcoholic beverages to the permittee.

b. Entities affected - Hospitals, nursing homes, industrial and manufacturing users.

c. Purpose of proposal - To remove a regulatory burden from the shipper or carrier of a transportation permit.

d. Issues involved -

(1) Will the elimination of the transportation permit to the shipper or carrier create an enforcement problem relating to the control of alcohol or alcoholic beverages coming into or through Virginia?

(2) Will a bill of lading or a complete and accurate memorandum accompanying the shipment of alcohol or alcoholic beverages to the permittee be sufficient as is currently the practice?

(3) Should a copy of the bill of lading or memorandum be submitted to the board by the permittee after delivery?

e. Applicable laws or regulations - Sections 4-7(a), (b) and (1), 4-11(a), 4-489a) and 4-72.1 B. of the Code of Virginia.

15. § 6 of VR 125-01-7. Alcoholic beverages for hospitals, industrial and manufacturing users.

a. Subject of proposal - Amend regulation to eliminate references to "markup" and insert "permit

fee" throughout regulation.

b. Entities affected - Hospitals, nursing homes, industrial and manufacturing users.

c. Purpose of proposal - Regulatory clarification as a result of the removal of the board's authority to sell wine.

d. Issues involved - Is the elimination of references to "markup", which applied to wine sales by the board, appropriate since the board no longer has authority to sell wine after June 30, 1986?

e. Applicable laws or regulations - Sections 4-7(a), (b) and (1), 4-11(a), 4-15.02 (effective July 1, 1986) and 4-48(a) of the Code of Virginia.

This is requested by Mr. John R. Metz, Martha Jefferson Hospital, Charlottesville.

16. § 15 of VR 125-01-7. Wholesale alcoholic beverage and beverage sales; discounts, price-fixing; price increases; price discrimination; retailers.

a. Subject of proposal - Amend regulation to allow a winery or brewery to reduce its prices either throughout the Commonwealth or within specific market areas.

b. Entities affected - Wineries, breweries, wholesale and retail licensees, and the general public.

c. Purpose of proposal - To permit wineries and breweries to reduce its prices to wholesalers within specific geographical markets to meet marketing conditions regardless of the existing "competing price" exceptions in the regulations.

d. Issues involved -

(1) Would the reduced prices given to wholesalers in a specific market area be fair to all other wholesalers representing the same winery or brewery?

(2) Are the present exceptions for reduced prices in the current regulations, i.e., a bona fide difference in the cost of sale or delivery, or where a lower price was charged in good faith to meet an equally low price charged by a competing winery or brewery or wholesaler or adequate to accommodate the marketplace?

(3) Would the provisions of the Wine and Beer Franchise Acts against discrimination be affected?

e. Applicable laws or regulations - Sections 4-7(1), 4-11(a), 4-103(b), 4-118.12, 4-118.12:1, 4-118.15, 4-118.32, 4-118.33 and 4-118.36 of the Code of Virginia.

General Notices/Errata

This requested in part by Miller Brewing Company.

17. § 17 of VR 125-01-7. Farm Wineries; percentage of Virginia products; other agricultural products; remote outlets.

a. Subject of proposal - Amend regulation to make it clear that a vineyard must be at the site of the winery and to further define a cooperative formed by an association.

b. Entities affected - Farm wineries.

c. Purpose of proposal - To ensure that cooperatives meet the guidelines established for farm winery licensees.

d. Issues involved -

(1) Should cooperatives have to meet the same conditions and restrictions imposed on other farm winery licensees?

(2) Should it be mandatory that a vineyard be located on land owned by or leased by individual members of the cooperative?

e. Applicable laws or regulations - Sections 4-2(10a), 4-11(a) and 4-25.1 of the Code of Virginia.

18. Adopt a new regulation concerning caterer's licenses.

a. Subject of proposal - Adopt a regulation to provide guidelines and clarification concerning requirements for a mixed beverage caterer's license.

b. Entities affected - Mixed beverage caterer licensees.

c. Purpose of proposal - To permit and define mixed beverage caterers licenses and qualifications.

d. Issues involved -

(1) To whom should such a license be issued?

(2) What specific restrictions should be placed against such a licensee?

e. Applicable laws or regulations - Section 4-98.2(c) of the Code of the Virginia. (Amended by Senate Bill 254, 1986 General Assembly)

Regulations are adopted by the board pursuant to authority contained in §§ 4-11, 4-98.14, 4-103 and 4-6.14 et seq. of the Code of Virginia.

The board requests that all persons interested in the above described subjects please submit comments in writing by May 29, 1986, to the undersigned, P.O. Box 27491, Richmond, Virginia 23261 or attend the public

meeting scheduled below.

The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia at 10 a.m. on May 29, 1986.

Contact Robert N. Swinson if you have questions, at the above address or by phone at (804) 257-0617.

Virginia Alcoholic Beverage Control Board

/s/ Robert N. Swinson
Assistant Secretary

COMMISSION OF GAME AND INLAND FISHERIES

Notice to the Public

The Commission of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29-125, 29-126 and 29-127 of the Code of Virginia, the following proposed amended Commission regulation applicable Statewide. A public hearing on the advisability of adopting, or amending and adopting, the proposed regulation, or any part thereof, will be held at the Virginia Beach School Board Building, Virginia Beach, Virginia, beginning at 9:30 a.m. on Friday, May 16, 1986, at which time any interested citizens present shall be heard. If the Commission is satisfied that the proposed regulation, or any part thereof, is advisable, in the form in which published or as amended as a result of the public hearing, the Commission may adopt such proposals at that time, in whole or in part.

DEPARTMENT OF MINES, MINERALS, AND ENERGY

(Delegation of Authority)

MEMORANDUM

SUBJECT: Delegation of Powers and Duties of the Director and Authorization to Exercise Powers and Duties of the Department of Mines, Minerals and Energy

Under the authority granted to me by § 45.1-1.3, I hereby delegate and authorize the exercise of the following powers and duties of the Director and the Department of Mines, Minerals and Energy:

A. To the Assistant Director for Mining the authority:

1. To direct the mission, goals and objectives of the Division of Mines and Division of Mined Land

General Notices/Errata

Reclamation, subject to the Director's continuing oversight.

2. To exercise the general powers of the Department of Mines, Minerals and Energy as set out in §§ 45.1-1.3(1) through (3).

3. To serve as the Director's representative on boards, commissions, committees, etc., within the Division of Mines and Division of Mined Land Reclamation.

4. To review decisions of the hearing officers under Chapters 17, 19, and 23 of Title 45.1 of the Code of Virginia, as set out in Virginia Surface Mining Regulations Sections V787.11(c), V843.13(e) and V843.16(d)

5. To represent the Director and his interests at meetings with the energy and minerals industry, federal government, members of the Governor's office and other state agencies, members of the General Assembly, special interest groups and individual citizens of the Commonwealth.

B. To the Chief of the Division of Mines is delegated all other powers and duties of the Director and of the Department of Mines, Minerals and Energy not delegated to the Assistant Director necessary and convenient for the administration and enforcement of the mine safety laws of Virginia, Virginia Code § 45.1-1.10 et seq. and the Division of Mines.

C. To the Commissioner of the Division of Mines Land Reclamation is delegated all other powers and duties not delegated to the Assistant Director necessary and convenient for the administration and enforcement of Chapters 16, 17, 19 and 23 of Title 45.1 of the Code of Virginia and the Division of Mined Land Reclamation, except the power and duty to promulgate regulations under those chapters.

This delegation supercedes and makes null and void all previous delegations made by me as Director of the Department of Mines, Minerals and Energy to the Commissioner of the Division of Mines Land Reclamation and the Chief of the Division of Mines. This delegation shall remain in effect until a subsequent delegation of authority either expressly or by necessary implication supercedes this delegation or the statutes setting out the powers and duties of the Director, Department and the Division is amended in such a way as to render these delegations null and void.

/s/ Gene Dishner

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

ERRATA

BOARD OF CORRECTIONS VR 230-40-001
BOARD OF EDUCATION VR 270-01-003
DEPARTMENT OF MENTAL HEALTH and MENTAL RETARDATION VR 649-02-1
DEPARTMENT OF SOCIAL SERVICES VR 615-29-02

Title of Regulation: VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children of the Board of Corrections (~~VR 230-40-001~~), Board of Education (VR 270-01-003), and the Department of Mental Health and Mental Retardation (VR 649-02-1)

Issue: 2:13, V.A.R., pages 1293, 1331, 1355, March 31, 1986

Correction to the final regulations is as follows:

Effective Date: July 1, 1986

CALENDAR OF EVENTS

Symbol Key †

† Indicates entries since last publication of the Virginia Register

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

BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 22, 1986 - 10 a.m. – Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board 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 Board of Agriculture and Consumer Services intends to amend 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.** These regulations govern the production, processing, and transportation of raw milk, the labeling of commercial bulk shipping containers for dairy products and the labeling of consumer packaged products.

STATEMENT

Basis: The Somatic Cell Count Standard for individual herd raw milk has been a recognized measure of quality in the "manufacturing" milk industry and a part of Virginia regulations at a level recognized as being current and in conformance with U.S. Regulations and Recommended Standards is essential so as not to jeopardize the marketability of Virginia produced "manufacturing" raw milk in interstate and intrastate commerce.

Purpose: The proposed amendments will lower the

maximum acceptable somatic cell count from 1,500,000 cells to 1,000,000 cells per milliliter in individual milk. This will bring Virginia's regulations into conformance with current regulations and recommendations of the United States Department of Agriculture. Also, it will ensure the marketability of a higher quality Virginia produced "manufacturing" milk in interstate commerce and within the Commonwealth of Virginia.

Impact: There are 160 "manufacturing" milk producers and four "manufacturing" milk plants in Virginia. The proposed amendments will enhance their ability to retain or expand their markets involved in interstate commerce. The Department of Agriculture and Consumer Services should not experience any additional cost in the implementation and enforcement of the proposed amendments if adopted by the board.

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

Written comments may be submitted until May 16, 1986, to Raymond D. Vaughan, Secretary, 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 and Consumer Services, Division of Dairy and Foods, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

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May 22, 1986 - 10 a.m. – Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board 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 Board of Agriculture and Consumer Services intends to amend the 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.** These regulations govern the production, processing, labeling and distribution of Grade "A" Market Milk, Grade "A" Market Milk Products and certain milk products within the Commonwealth of Virginia.

STATEMENT

Basis: The Somatic Cell Count Standard for individual producer Grade "A" raw milk for pasteurization has been a recognized measure of quality in Grade A milk industry

Calendar of Events

and a part of Virginia's regulations for a number of years. Its continuance in Virginia regulations at a level recognized as being current and in conformance with U.S. recommended standards is essential so as not to jeopardize the marketability of Virginia produced Grade "A" raw milk for pasteurization in interstate and intrastate commerce.

Purpose: The proposed amendment will lower the maximum allowable somatic cell count from 1,500,000 cells to 1,000,000 cells per milliliter on individual producer Grade "A" raw milk for pasteurization. This will bring Virginia regulations into conformance with current recommendations of the United States Public Health Service and the Food and Drug Administration. Also, it will ensure the marketability of a higher quality Virginia produced Grade "A" raw milk for pasteurization in interstate commerce and within the Commonwealth of Virginia.

Impact: There 1554 Grade "A" producers and 3 milk marketing cooperatives operating in Virginia. This amendment will enhance their ability to retain or expand their markets involved in interstate commerce. The Department of Agriculture and Consumer Services should not experience any significant additional cost in the implementation and enforcement of the proposed amendment if adopted by the board.

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

Written comments may be submitted until May 16, 1986, to Raymond D. Vaughan, Secretary, 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 and Consumer Services, Division of Dairy and Foods, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

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May 22, 1986 - 1 p.m. - Public Hearing
Washington Building, 1100 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 Board of Agriculture and Consumer Services intends to amend regulations entitled: **Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia.** The proposed amendments would require that certain female calves entering Virginia for feeding or breeding purposes be vaccinated for brucellosis, an infectious and contagious disease of cattle and other species, including man.

STATEMENT

Statement of Purpose: The proposed regulations would require that certain female calves entering Virginia for feeding or breeding purposes be vaccinated for brucellosis. Brucellosis, an infectious and contagious disease of cattle and man, poses a serious health threat to man and a devastating threat to herds that become affected. There are 39,000 cattle herds within the Commonwealth. The immunization of female cattle, while calves, enhances their value; requiring such immunization before a cow enters the state reduces the risk to all Virginia cattle of contracting brucellosis.

Estimated Impact:

a) Number and types of regulated entities or persons affected—While it would be virtually impossible to enumerate the livestock markets, registered cattle associations, cattle dealers, and livestock sales managers in other states affected (and the impact of the proposed regulations would be on entities outside Virginia), the impact should be minimal, since already 24 states require such vaccination for cattle entering their borders. An estimated 12,000 cattle pass through Virginia each year that would be subject to this proposed regulations, but already approximately 75% have been vaccinated for brucellosis in a manner consistent with the proposed regulation. This regulation would deal with the remaining 25%.

b) Projected cost to regulated entities (and to the public, is applicable for implementation and compliance—see Item "a", above.

c) Projected cost to agency for implementation and enforcement—None.

d) Source of funds - Since there are no known costs to the agency, there is no need for additional funds for the implementation of these proposed regulations.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until May 21, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23209

Contact: Dr. A. J. Roth, Chief, Bureau of Veterinary Services, Washington Bldg., 1100 Bank Street, Suite 600, Richmond, Va. 23209, telephone (804) 786-2483

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May 22, 1986 - 2 p.m. - Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board 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 Board of Agriculture and Consumer Services intends to adopt the

Calendar of Events

regulations entitled: Rules and Regulations Governing the Transportation of Companion Animals and Horses. These regulations establish standards for transportation of impounded companion animals, companion animals moving in commerce, and loads of horses being transported to a commercial slaughter facility.

STATEMENT

Substance:

Part I - Transportation of companion animals.

Transportation of companion animals regulates transportation of impounded companion animals and those companion animals moved in commerce. Standards are set forth for primary enclosures, primary conveyances, terminal facilities, food and water requirements, care in transit and handling.

Part II - Transportation of horses.

Transportation of horses regulates transportation of loads of more than six horses being transported to a commercial slaughter facility. Standards are set forth for vehicles, loading and unloading, cleaning and disinfection, protection during transport, food, water and exercise, grouping of horse, and handling of injured or physically disabled horses.

Issues: Issues to be considered include: 1. The need for such regulations. 2. What standards are necessary to accomplish the purpose of these regulations. 3. The economic impact of these regulations on regulated entities and the public.

Basis: Numerous instances of inhumane treatment of animals during transport and the inability to deal with these using existing enforcement measures requires the promulgation of these regulations.

Purpose: The purpose of these regulations is to specify those requirements to be met when transporting live companion animals and horses that will preclude the inhumane treatment of these animals and foster handling and care practices that will enhance their well-being during periods of transit within the state.

Statutory Authority: § 29-213.37 of the Code of Virginia.

Written comments may be submitted until May 22, 1986 to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia

Contact: Dr. Tonya K. Higgins, Animal Welfare Veterinarian, Virginia Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

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May 22, 1986 - 11 a.m. - Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board 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 Department of Agriculture and Consumer Services intends to amend regulations entitled: Rules and Regulations for the Enforcement of the Virginia Seed Law. The purpose of the amendments is to establish a specific noxious weed seed list for lawn and turf seed and distinguish it from noxious weed seed in agricultural seed.

STATEMENT

Statement of Purpose and Impact: This regulation is to ensure that all lawn and turf seeds are truthfully labeled within testing tolerance of the labeler's guarantee for the presence of noxious weed seeds. It will establish a fair and equitable marketing system whereby both the labeler and consumer can identify quality seed from the information that appears on the label. To ensure the smallest amount of disruption in the same marketing area, the regulation conforms in every respect to those adopted in Pennsylvania and proposed for adoption in Maryland, Delaware and New Jersey.

Impact: This regulation affects all persons who market lawn and turf seed in Virginia to include approximately 120 seed producers, processors or labelers, and 32 registrants of lawn and turf products. Purchasers of lawn and turf seed affected include a major portion of the 1.1 million home owners, 30 sod producers, 240 golf courses, approximately, 800 public schools, 80 colleges, approximately 100 federal, state and municipal parks or recreation areas, other state agencies, airports, apartment complexes, business establishments and all areas maintained in turf for aesthetic value. This regulation was specifically and meticulously designed to disrupt to the smallest extent possible that lawn and turf seed already on the market. All seed presently marketed can continue to be marketed, but the label will reveal by name and rate of occurrence the noxious weed seed which are present in lawn and turf seed.

Statement of Basis: To ensure that seed identified as lawn and turf seed be labeled with the name and number per ounce or per pound of restricted noxious weed seeds under the heading of Noxious Weed Seed or Undesirable Grass Seed, if any are present. Provide the labeler of lawn and turf seed an opportunity to label and market uncontaminated seed in fair competition with all other on the market. Provide information to the purchaser that is not available from any other source.

For the above reasons, it is necessary to establish a noxious weed seed list specifically for lawn and turf seed that is different from agricultural seed. In addition, it is necessary to maintain an inspecting, sampling, and testing

Calendar of Events

program that will monitor lawn and turf seed sold in order that the purchaser will be protected.

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

Written comments may be submitted until May 20, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, 1100 Bank Street, Room 210, Richmond, Virginia 23219

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

STATE AIR POLLUTION CONTROL BOARD

May 5, 1986 - 10 a.m. - Public Hearing
Town of Abingdon Municipal Building, Council Chambers,
133 West Main Street, Abingdon, Virginia

May 5, 1986 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Valley of Virginia
Regional Office, Executive Office Park, Suite A, 5338
Peters Creek Road, Roanoke, Virginia

May 5, 1986 - 10 a.m. - Public Hearing
Auditorium of the Recreation Center, 301 Grove Street,
Lynchburg, Virginia

May 5, 1986 - 10 a.m. - Public Hearing
State Capitol, House Room 1, Richmond, Virginia.
(Location accessible to handicapped.)

May 5, 1986 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Hampton Roads Regional
Office, Pembroke Office Park, Pembroke IV, Suite 409,
Virginia Beach, Virginia. (Location accessible to
handicapped.)

May 5, 1986 - 11:00 a.m. - Public Hearing
State Air Pollution Control Board, National Capital
Regional Office, 6320 Augusta Drive, Springfield Towers -
Suite 502, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and the requirements of § 110(a)(1) of the Federal Clean Air Act that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (VR 120-01)**. The regulations establish limits on sources of air pollution to the extent necessary to achieve and maintain levels of air quality as will protect human health and welfare.

STATEMENT

Subject: Documents incorporated by reference.

Substance: The amendments establish a new appendix to the agency's regulations which provide a consolidated list of documents incorporated by reference. The list includes the name, reference number and edition for each document. The edition is the latest available. Also included for each document is the name and address of the organization from whom it can be obtained.

Purpose: The purpose of the intended amendments is to change the agency's regulations to provide the latest edition of referenced documents and to provide a consolidated list of referenced documents to facilitate easy location.

Basis: The basis for incorporating documents by reference is § 9-6.18 of the Code of Virginia.

Issues: The issue is whether the regulation should specify the most current edition of any documents incorporated by reference.

Statutory Authority: § 10-17.18(B) of the Code of Virginia.

Written comments may be submitted until May 5, 1986 to the Director of Program Development.

Other pertinent information: Location of Draft. The proposals and any supporting documents may be examined by the public in Room 825, Ninth Street Office Building, Richmond, Virginia and at any of the agency's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the day of the hearing. While the proposed regulations and supporting documents are available at all offices of the Board, the specific documents incorporated by reference are only available for inspection by the public at the central office of the State Air Pollution Control Board, Room 825, Ninth Street Office Building, Richmond, Virginia.

Southwestern Virginia Regional Office
State Air Pollution Control Board
121 Russell Road
Abingdon, Virginia 24210,
telephone (703) 628-7841

Valley of Virginia Regional Office
State Air Pollution Control Board
Executive Office Park - Suite A,
5338 Peters Creek Road,
Roanoke, Virginia 24019
telephone (703) 982-7328

Central Virginia Regional Office,
State Air Pollution Control Board
7701-03 Timberlake Road,
Lynchburg, Virginia 24502,
telephone (804) 528-6641

State Capital Regional Office
State Air Pollution Control Board,
8205 Hermitage Road,

Calendar of Events

Richmond, Virginia 23228,
telephone (804) 265-3067

Hampton Roads Regional Office,
State Air Pollution Control Board
Pembroke Office Park, Pembroke Four - Suite 409
Virginia Beach, Virginia 23462,
telephone (804) 499-8845

National Capital Regional Office
State Air Pollution Control Board
Springfield Towers - Suite 502
6320 Augusta Drive
Springfield, Virginia 22150,
telephone (703) 644-0311

Nature of Proceedings: Persons desiring to testify at the hearings shall furnish the agency with two copies of their presentation and the original of any exhibit relied upon. Written comments may also be submitted to the agency, at any of its regional offices, no later than the day of the hearing. All testimony, exhibits and documents received are matters of public record.

Contact: M. E. Lester, Division of Program Development,
State Air Pollution Control Board, P.O. Box 10089,
Richmond, Va. 23240, telephone (804) 786-7564

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

May 6, 1986 - 9:30 a.m. - Open Meeting
May 12, 1986 - 9:30 a.m. - Open Meeting
May 20, 1986 - 9:30 a.m. - Open Meeting
June 3, 1986 - 9:30 a.m. - Open Meeting
June 9, 1986 - 9:30 a.m. - Open Meeting
June 17, 1986 - 9:30 a.m. - Open Meeting
Virginia Alcoholic Beverage Control Board, 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

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

May 16, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 3rd Floor, Room 395, Richmond, Virginia.
(Location accessible to handicapped.)

An informational proceeding will be held to take any

comments regarding suggested changes in the board's
regulations in accordance with the public participation
guidelines. This will be followed by the board's
regular meeting to be held in the board room on the
5th floor. The board will meet to (i) approve minutes
of the March 14, 1986, meeting; (ii) discuss
regulations; and (iii) review investigative cases.

Board of Architects

May 2, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 5th Floor, Richmond, Virginia. (Location
accessible to handicapped.)

The board will meet to (i) approve minutes of March
7, 1986 meeting; (ii) review investigative cases; (iii)
discuss regulations; and (iv) review applications.

Board of Certified Landscape Architects

June 24, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 5th Floor, Richmond, Virginia. (Location
accessible to handicapped.)

Board members grading exam.

Board of Professional Engineers

May 2, 1986 - 2:30 p.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 5th Floor, Richmond, Virginia. (Location
accessible to handicapped.)

Board members will review exam appeals.

Contact: Johnnie Williams, Assistant Director, Department
of Commerce, 3600 W. Broad St., Richmond, Va. 23220,
telephone (804) 257-8512

VIRGINIA AUCTIONEERS BOARD

May 13, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, Conference Room 3, Richmond, Virginia.
(Location accessible to handicapped.)

These meetings will be held to discuss certification
examinations.

June 24, 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

An open board meeting to consider (i) status of certification examination; (ii) development of examination; and (iii) complaints.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8508

VIRGINIA CAVE BOARD

May 10, 1986 - 1 p.m. - Open Meeting
Longwood College, 163 East Ruffner, Board Room, Farmville, Virginia. (Location accessible to handicapped.)

Business of the board will include current issues and problems concerning the preservation, conservation, and protection of Virginia's cave resources.

Contact: Ms. Evelyn Bradshaw, Chairperson, 1732 Byron St., Alexandria, Va. 22303

CHESAPEAKE BAY COMMISSION

† May 2, 1986 - 9 a.m. - Open Meeting
Hotel Hershey, Hershey, Pennsylvania

Topics on the agenda will include (i) discussion of the legislative and budgetary actions of the 1986 sessions of the Maryland, Virginia and Pennsylvania General Assemblies; (ii) the impact of federal actions and legislation on Chesapeake Bay related activities; (iii) Phase II of the Chesapeake Bay Restoration and Protection Plan; and (iv) other matters related to the Chesapeake Bay clean-up effort.

Contact: Margaret Johnston, Executive Director, 60 W. St., Suite 200, Annapolis, Md. 21401

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† May 6, 1986 - 10 a.m. - Open Meeting
Koger Executive Center, 8007 Franklin Farms Drive, Blair Building, Conference Rooms A and B, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The council will review requirements and training session of the Rate Review Appeals Panel and hearing officers pursuant to § 2.1-703 of the Code of Virginia and review its budget and plans for the year 1986-1987.

Contact: Nancy Bockes, P.O. Box 434, Independence, Va. 24348, telephone (703) 773-2452

Coordinating Committee

May 9, 1986 - 8 a.m. - Open Meeting
Department of Corrections, 4615 West Broad Street, Room 105, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to discuss (i) the annual plan; (ii) extended licensure; and (iii) the training plan.

June 11, 1986 - 10 a.m. - Open Meeting
Department of Social Services, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room A, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to (i) elect officers; (ii) discuss revision of by-laws; (iii) report on After Action Report for Social Workers Visiting Facilities; and (iv) report on establishment of subcommittee to study needs for children removed from their homes.

Contact: Sandra G. Davis, 8007 Discovery Dr., Blair Bldg., Richmond, Va. 23229-8699, telephone (*04) 281-9025

DEPARTMENT OF COMMERCE

April 30, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet for the purpose of administering the Virginia Polygraph Examiner Licensing Examination to eligible licensed examiner interns.

Contact: Iva B. Frizzell, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/8563

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Falls of the James Advisory Committee

† May 23, 1986 - Noon - Open Meeting
Richmond City Hall, 900 East Broad Street, 3rd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting to discuss general business and issues affecting the portion of the James River that runs through the City of Richmond.

Contact: Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Capitol Square,

Calendar of Events

Richmond, Va. 23219, telephone (804) 225-3004

Virginia Soil and Water Conservation Board

May 15, 1986 - 9 a.m. - Open Meeting
203 Governor Street, Room 200, Richmond, Virginia.
(Location accessible to handicapped.)

A regular bi-monthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206,
Richmond, Va. 23219-2094, telephone (804) 786-2064

BOARD OF CORRECTIONS

May 14, 1986 - 10 a.m. - Open Meeting
June 18, 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 to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 4615 W.
Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone
(804) 257-6274

CRIMINAL JUSTICE SERVICES BOARD

† **May 7, 1986 - 1:30 p.m. - Open Meeting**
General Assembly Building, Senate Room A, Capitol
Square, Richmond, Virginia. (Location accessible to
handicapped.)

The board will meet to consider matters related to the
board's responsibilities for criminal justice training and
improvement of the criminal justice system.

Contact: Dr. Jay W. Malcan, Staff Executive, Department
of Criminal Justice Services, 805 E. Broad St., Richmond,
Va. 23219, telephone (804) 786-4000

STATE BOARD OF EDUCATION

May 5, 1986 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Room D,
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 State Board of
Education intends to amend regulations entitled:
**Regulations Governing Special Education Programs
for Handicapped Children and Youth in Virginia.**

These regulations are being amended to include Part
V, Procedures For Identification of Children in Mental
Health and Mental Retardation Facilities Eligible to be
Appropriately Placed in Public School Programs. Only
Part V of these regulations is to be open for public
comment and deals with the identification of children
residing in mental health and mental retardation
facilities who can be placed in public day school
program.

STATEMENT

Summary: Part V, Procedures for Identification of Children
in Mental Health and Mental Retardation Facilities Eligible
to be Appropriately Placed in Public School Programs is a
proposed amendment to the Regulations Governing Special
Education for Handicapped Children and Youth in Virginia.
Only Part V of the above regulations will be open for
review and public comment. The 1985 General Assembly
enacted legislation which amended § 22.1-215 of the Code
of Virginia requiring the Board of Education to promulgate
these regulations.

Basis and Purpose: The proposed amendment is to identify
children, ages two to 21, inclusive, residing in mental
health and mental retardation facilities who are eligible
for placement within a public school program.

Statutory Authority: Article II (§ 22.1-215) of Chapter 13 of
the Code of Virginia.

Written comments may be submitted until May 1, 1986.

Contact: James T. Micklem, Director, Division of Special
Education Programs and Pupil Personnel Services, P.O.
Box 6Q, Richmond, Va. 23216-2060, telephone (804)
225-2861

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **April 28, 1986 - 4 p.m. - Open Meeting**
Department of Health Regulatory Boards, 517 West Grace
Street, Richmond, Virginia

The executive committee and senior member of the
board will meet to certify and adopt the Public
Participation Guidelines promulgated as emergency
regulations.

† **May 14, 1986 - 9 a.m. - Open Meeting**
Department of Health Regulatory Boards, 517 West Grace
Street, Main Board Room, Richmond, Virginia

The Informal Fact-Finding Conference Committee will
meet to hear disciplinary matters.

† **May 19, 1986 - 1 p.m. - Open Meeting**
† **May 20, 1986 - 9 a.m. - Open Meeting**

Calendar of Events

† May 21, 1986 - 9 a.m. - Open Meeting
Holiday Inn, 3200 West Broad Street, Richmond, Virginia

Committee meetings, examinations, and board meetings.

Contact: Mark L. Forberg, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va., telephone (804) 786-0076

COMMISSION OF GAME AND INLAND FISHERIES

† May 16, 1986 - 9:30 a.m. - Public Hearing
Virginia Beach School Board Building, Municipal Center, Virginia Beach, Virginia

The commission will take action on a proposal to amend regulation VR 325-04-1. § 1, pertaining to the adoption of federal regulations and rules concerning boating safety equipment and lights applicable to vessels in Virginia. General administration matters will be considered also.

Contact: Norma G. Adams, Administration, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 257-1000

VIRGINIA STATE BOARD OF GEOLOGY

May 7, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia. (Location accessible to handicapped.)

In accordance with the board's public participation guidelines, it will conduct an informational proceeding to take any comments regarding suggested changes in the board's regulations. This will be followed by the board's regular meeting to be held in the board room on the 5th floor. The board will approve the minutes of the February 12, 1986, meeting, review and discuss regulations, and review applications.

Contact: Johnnie Williams, Assistant Director, Geology, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† May 2, 1986, 10 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

The council will advise the director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: Dorothy E. Ivankoe, Department of General Services, 209 Ninth St. Office Bldg., Richmond, Va. 23219, telephone (804) 786-3311

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

April 28, 1986 - 10:30 a.m. - Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

This is a general meeting of the council and is open to the public.

Contact: Gladys Walker, Governor's Employment and Training Department, P.O. Box 12083, Richmond, Va., telephone (804) 786-8085

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

May 30, 1986 - 1 p.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference 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 Statewide Health Coordinating Council intends to amend regulations entitled: Virginia State Health Plan 1980-84: Magnetic Resonance Imaging; Virginia State Health Plan 1980-84, Amendment Number 4, Volume 1, pp 528, 533-540, 545, 547-549 and Volume 2, pp. 183-193. These standards evaluate Certificate of Public Need applications to establish or expand computed tomography or magnetic resonance imaging services.

STATEMENT

Basis: Section 32.1-120 of the Code of Virginia authorizes the Virginia Statewide Health Coordinating Council to revise as necessary the State Health Plan, which contains both nonregulatory and regulatory material. Related laws include § 32.1-102.1, et seq. of the Code of Virginia and the National Health Planning and Resources Development Act of 1974 (P.L. 93-641), as amended.

Purpose: The purpose of these proposed regulations is to contain the cost of health care in Virginia by promoting an efficient distribution of efficacious computed tomography and magnetic resonance imaging services,

Calendar of Events

consistent with the population's need for reasonable access to such services.

These regulations are expected to reduce the cost of complying with the Medical Care Facilities Certificate of Public Need law by setting forth specific standards and criteria for the evaluation of applications. The regulations are intended to avoid the high cost of preparing and analyzing superfluous and subjective information that would otherwise be submitted to defend a project, and to avoid the preparation and analysis of applications for projects that would not normally be approved.

Summary: Computed tomography (CT) and magnetic resonance imaging (MRI) services are highly sophisticated technologies by which cross-sectional images of the human anatomy may be constructed with the assistance of computer analysis. Under state law, a medical care facility may not acquire or place in service a CT or MRI device without having obtained a Certificate of Public Need. A major reference document pertaining to the evaluation of Certificate of Public Need applications is the State Health Plan, as amended, which presently contains standards specific to CT and MRI services. Considerable experience with these technologies has been gained, however, since the promulgation of those standards.

The proposed new standards are the result of a review of recently published information on CT and MRI services as well as information provided by an ad hoc advisory panel of interested parties consistent with the council's Guidelines for Public Participation in the Development of Regulations. This information led to a number of proposed changes that would focus the regulations primarily upon efficient use of resource capacity, logical distribution of resources, and efficacy of operations.

Proposed deletions from the present CT standards are requirements that all applicants must be hospitals that (alone or in combination with other health service providers) offer 24-hour ER services with physician on duty, offer a radiology department that has at least three full time radiologists and performs at least 30,000 examinations annually, and have active nuclear medicine and ultrasound facilities that are effectively utilized.

Two other current CT standards are proposed to be deleted. These require the proposed owner to provide written assurances that CT services will be available for emergency cases at all times, and that no patient referred for an indicated study will be denied timely access to the service. The proposed standards would require supervision of a CT service by one or more qualified physicians rather than by radiologists.

The current CT standards require a projected annual utilization of 2,500 HECTs (Head Equipment Computed Tomograms) as a condition of approval, but do not specify how that projection is to be derived. The proposed standards would set forth a specific formula for projecting HECTs and would raise the required number to 3,000.

Since the present CT standards were developed prior to the introduction of MRI services, they fail to address the impact of one upon the other. The American Hospital Association estimates that at least 34% of current CT service volume will be replaced by MRI. Accordingly, the proposed regulations preclude the addition of a stationary CT scanner to an existing CT service if the facility also offers MRI services (or is approved to do so), but whose MRI services have not been in operation for at least one year.

Three elements of the current MRI standards are proposed to be deleted. First, the site would no longer need to be a hospital; however, the service would have to be under the operational control of one or more hospitals that meet standards similar to those currently required. Second, there would no longer be a restriction of actions by parties to a previous shared service agreement. Third, there would no longer be a reduced standard for placement for an MRI device at a hospital with an AMA-accredited residency training program in diagnostic radiology that proposes to perform a significant amount of MRI work within a formal investigational program.

Impact: These regulations would apply to any medical care facility desiring to establish or expand CT or MRI services. While general hospitals are the most likely such facilities (they numbered 108 as of January, 1986), a small number of private physicians' offices could also be affected. These regulations will expand opportunities for small businesses interested in providing CT and MRI services compared with such opportunities under the current regulations, primarily through recognition of mobile technology.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Written comments may be submitted until May 30, 1986

Contact: John P. English, Health Planning Consultant, Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-4891

STATE BOARD OF HEALTH

May 2, 1986 - 10 a.m. - Public Hearing
Hampton City Council Chambers, 22 Lincoln Street,
Hampton, 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 Board of Health intends to amend regulations entitled: **Prohibiting the Taking of Finfish in Designated Portions of the James River and Its Tributaries (VR 355-22-1.1)**. Proposed amendment 2 to these regulations prohibits certain kinds of commercial finfishing activities because of kepone contamination.

Calendar of Events

STATEMENT

Basis and Authority: Chapter 7, Title 28.1 authorizes the State Health Commissioner to limit or set boundaries on taking shellfish, finfish, or crustacea where pollution conditions render the produce unfit for market, and may establish standards by which fish, shellfish, and crabmeat are sanitary and fit to market. The State Board of Health, § 32.1-248 of Title 31.1, is authorized to adopt regulations closing any river in which a toxic substance is present in such a manner as to constitute a present threat to public health and to amend said regulations without application of the Administrative Process Act where the threat has been abated in part.

Purpose: The State Board of Health and State Health Commissioner promulgate these amended regulations to restrict taking, distribution, and consumption of finfish from designated portions of the James River and its tributaries because of contaminant levels in finfish above the action level for kepone. Levels of kepone, a toxic pesticide, have been found to constitute a threat to public health in specified finfish species.

Summary and Analysis: The proposed amendment slightly revises the regulations which became effective on July 1, 1982. By this amendment 2, recreational finfishing and crabbing continues without restriction in all portions of the James River and its tributaries. As in the previous regulations, commercial fishing for Striped Bass, Croaker, and Eel not depurated is prohibited throughout the effective period of this amendment. All previous restrictions on commercial crabbing, removed from the regulations, continue to be suspended in this amendment 2. As in the previous amendment, Spot are not restricted for commercial finfishing between July 1, and December 31.

Changes reflected in this amendment deal with simplifying and clarifying language, as required by the Registrar of Regulations for all regulations promulgated in Virginia.

Unless specifically restricted, all other finfish may be taken commercially and marketed.

Impact: The amendment continues the kepone ban on the James River as it has existed for the past two years under amendment 1.

Limitations on Striped Bass and Croaker constitute a continuing economic impact to the industry. An estimated 200 working watermen are affected by the fishing limitations of this amended ban.

Monitoring costs to the Commonwealth will be approximately \$300,000 during the effective period. There is no adverse impact to local government anticipated from this amendment.

Forms: None required

Evaluation: Quarterly review of monitoring data is

required to be submitted to the Commissioner, and to the Board of Health, to assure closure for the minimum resource. Enforcement is vested with the Virginia Marine Resources Commission.

Statutory Authority: §§ 28.1-176, 28.1-177 and 32.1-248 of the Code of Virginia.

Written comments may be submitted until May 2, 1986.

Contact: Robert B. Stroube, M.D., Assistant Health Commissioner, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6029

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 28, 1986 - 9:30 a.m. - Open Meeting

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., telephone (804) 786-6371

BOARD OF HEARING AID DEALERS AND FITTERS

April 28, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The board will (i) review disciplinary cases; (ii) review correspondence; (iii) review public comments regarding regulatory action; and (iv) administer examination.

Contact: Roberta L. Banning, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220, telephone (804) 257-8505

STATE COUNCIL ON HIGHER EDUCATION FOR VIRGINIA

May 7, 1986 - 9 a.m. - Open Meeting
Lynchburg College, Lynchburg, Virginia

A monthly council meeting. The agenda is available on request.

Contact: Grace I. Lessner, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, Va. 23219, telephone (804) 225-2638

Calendar of Events

STATE HIGHWAY AND TRANSPORTATION BOARD

May 15, 1986 - 10 a.m. - Open Meeting
Virginia Department of Highways and Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

These monthly meetings will be held 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., Director of Administration, Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† May 19, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to solicit input (both oral and written) on the development of standards for amusement ride safety, to safeguard life and property from hazards incident to design, construction, maintenance and use.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va., telephone (804) 786-5041

May 19, 1986 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

Following the regulatory hearing at 10 a.m. a meeting will be held to receive public comment on:

1. Proposed challenges to the recommendations of the BOCA Code Change Committees on the proposed 1986 BOCA Code changes. Copies may be obtained from the Office of Uniform Building Code.
2. Proposed changes to the BOCA model codes based on differences between BOCA and the 1984 edition of the Uniform Statewide Building Code. Copies may be obtained from the Office of Uniform Building Code.
3. A recommendation that the current BOCA code change cycle be lengthened from one to two years so as to permit adequate time for study and reaction by all interested persons and groups in Virginia to the very large number of changes that are being offered each year.
4. A recommendation that BOCA be requested to establish

a study committee to develop scoping requirements for the BOCA model building code for use with the referenced standard, ANSO A117.1, specifications for making buildings and facilities accessible to and usual by physically handicapped people.

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

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May 19, 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 Board of Housing and Community Development intends to amend regulations entitled: **Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code, 1984.** Volume II Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use.

STATEMENT

Subject and Substance: Proposed amendment by the Board of Housing and Community Development of § 100.5.1 of the 1984 edition of the Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code.

Issue: 1. Estimated impact with respect to number of persons affected: All citizens of Virginia who own buildings will be affected.

2. Projected costs for implementation and compliance: Because the amendment further limits the amount of retrofit required under the Building Maintenance Code, the cost of compliance will be reduced.

Basis: §§ 36-97 through 36-119 of the Code of Virginia.

Purpose: It is the intent of the amendment to limit changes required by the Building Maintenance Code to existing buildings in good repair, to those that are necessary to maintain compliance with the standards under which they were constructed, and with the Virginia Public Building Safety Regulations.

Reporting Forms: None required.

The public hearing is being held to afford interested persons and groups an opportunity to submit data, views and arguments regarding a proposed amendment to the 1984 edition of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code in response

Calendar of Events

to a legislative objection filed by the House General Laws Committee and published in the February 3 edition of the Virginia Register of Regulations.

Anyone wishing to speak or offer written statements relating to the proposed amendment will be given an opportunity to do so on the day of the hearing. Written statements may be prefiled with the agency if received by May 19, 1986.

Statutory Authority: Article 1 (§ 36-97 et seq.) of Chapter 6 of the Code of Virginia.

Written comments may be submitted until May 19, 1986.

Contact: C. S. Mullen, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND DEPARTMENT OF FIRE PROGRAMS

† May 6, 1986 - 10 a.m. - Open Meeting
Fire Station #1, 80 Maryland Avenue, Harrisonburg, Virginia. (Location accessible to handicapped.)

† May 7, 1986 - 10 a.m. - Open Meeting
Thomas Nelson Community College, 99 Thomas Nelson Drive, Peninsula Room (Cafeteria Building), Hampton, Virginia. (Location accessible to handicapped.)

† May 9, 1986 - 10 a.m. - Open Meeting
Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia. (Location accessible to handicapped.)

† May 12, 1986 - 10 a.m. - Open Meeting
Virginia Polytechnic Institute and State University, Donaldson Brown Center for Continuing Education, Conference Rooms D & E, Blacksburg, Virginia. (Location accessible to handicapped.)

† May 14, 1986 - 10 a.m. - Open Meeting
South Hill Fire Department, 114 North Brunswick Avenue, South Hill, Virginia. (Location accessible to handicapped.)

† May 15, 1986 - 10 a.m. - Open Meeting
James Madison Building, 109 Governor Street, 1st Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

To solicit input (both oral and written) on the development of a Statewide Fire Prevention Code to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire and explosion arising from the improper maintenance of life safety and fire prevention/protection materials, devices, and systems,

in buildings and structures, and the unsafe storage, handling, and use of substances, materials and devices wherever located.

Contact: Howard H. Summers, Jr., State Fire Marshal, Department of Housing and Community Development, 205 N. Fourth St., Va. 23219, telephone (804) 786-4751

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

April 30, 1986 - 10 a.m. - Open Meeting
State Capitol, House Room 4, Richmond, Virginia. (Location accessible to handicapped.)

The Virginia Safety and Health Codes Board will address VEPCO's request for a variance from Virginia Code § 40.1-51.10 regarding frequency of internal boiler inspections of all power boilers which are located in Virginia and used for the generation of electric power (increase the inspection interval from 12 months to 18 months).

The board will address the proposed adoption of: (i) an amendment to the Virginia Cotton Dust Standard; (ii) an amendment to the Virginia Hazard Communication Standard which would amend the definition of "trade secret", and provide access to trade secrets for employees and their representatives.

The board will receive the Department of Labor and Industry's study on the feasibility of adopting amendments to the Virginia Hazard Communication Standard (expanding the scope and permitting occupational health nurses access to trade secrets in nonemergency situations).

Contact: Margaret T. Gravett, Administrative Staff Specialist, Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-9877

COMMISSION ON LOCAL GOVERNMENT

April 28, 1986 - 10 a.m. - Open Meeting
City of Emporia, Greenville County area, (site to be determined)

Oral presentations regarding the proposed consolidation of the City of Emporia and Greenville County.

April 28, 1986 - 7:30 p.m. - Public Hearing
City of Emporia, Greenville County area, (site to be determined)

A public hearing regarding the proposed consolidation

Calendar of Events

of the City of Emporia, Greenville County area.

May 13, 1986 - 9 a.m. - Open Meeting

Commission on Local Government offices, Room 901, Ninth Street Office Building, Richmond, Virginia. (Location accessible to handicapped.)

A regular bi-monthly meeting of the commission to consider such matters as may be presented.

Contact: Barbara W. Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

VIRGINIA STATE LIBRARY BOARD

April 28, 1986 - 11 a.m. - Open Meeting

Virginia State Library, State Librarian' Office, 11th Street at Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

The board will hold its regular quarterly meeting to discuss administrative matters.

Contact: Jean Reynolds, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

LONGWOOD COLLEGE

Board of Visitors

† May 15, 1986 - 9 a.m. - Open Meeting

† May 16, 1986 - 9 a.m. - Open Meeting

Longwood College, Virginia Room, Farmville, Virginia. (Location accessible to handicapped.)

A quarterly meeting to discuss routine matters necessary for action at this particular time in the school year.

Contact: Janet D. Greenwood, Ph.D, President, Longwood College, Farmville, Va. 23901, telephone (804) 329-9211

MARINE RESOURCES COMMISSION

† May 27, 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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Governor's Advisory Committee on Medicare and Medicaid

† May 20, 1986 - 2 p.m. - Open Meeting Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the February 25 meeting; (ii) discuss State Plan amendments on exception to 21-day limit; Cooperative agreements between Title XIX and Title IV-D; Nursing Home/Hospital Reimbursement Plan changes; and (iii) other business pertinent to the Governor's Advisory Committee.

Contact: Jacquie M. Fritz, Department of Medical Assistance Services, 109 Governor Sts., Suite 800, Richmond, Va. 23219, telephone (804) 786-7933

BOARD OF MEDICAL ASSISTANCE SERVICES

May 21, 1986 - 9 a.m. - Public Hearing James Madison Building, 109 Governor Street, Main Floor Conference 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 Board of Medical Assistance Services intends to amend regulations entitled: Nursing Home Payment System. These regulations are contained in the Medicaid State Plan as Supplement to Attachment 4.19D, and define the payment methodology for nursing homes. These regulations also address industry concerns about specific requirements needing clarification and updating.

STATEMENT

Basis and Authority: Section 32.1-325 of the Code of

Calendar of Events

Virginia gives the State Board of Medical Assistance Services the authority to prepare and amend the State Plan for Medical Assistance (Medicaid), subject to the Governor's approval. The Code of Federal Regulations requires annual reviews of reimbursement policies determining providers payment rates. The Federal Code also requires public notice of changes in statewide methods and standards for setting payment rates at 42 CFR 447.205.

Purpose: The purpose of the proposed is to ensure that nursing homes which provide patient care under Title XIX of the Social Security Act are adequately reimbursed for certain costs incurred by providing such care.

Summary and Analysis: The Virginia Reimbursement System for Nursing Homes as presently written contains certain regulations and limits pertinent to allowable reimbursable costs. The Virginia Health Care Association, as representative of the nursing homes, has brought to the attention of the department's director, areas of the system's reimbursement which the providers feel do not provide adequate reimbursement of costs incurred while providing services to Virginia Medicaid recipients. The board has, to the extent possible, incorporated the recommended changes into these proposed regulations. The Virginia Health Care Association has undertaken a survey of its members to support other recommended changes but the received data has not yet been sufficiently evaluated to enable the board to incorporate these changes in the proposed regulations. These other recommendations include the limitations on interest rates on long and short term borrowings. During the public comment stage of regulatory revision, the board shall consider the results of this survey and make further changes to these regulations.

Impact: Impact of these and other modifications still under development is dependent on the survey information received by the association.

Forms: No new forms will be required by these regulatory changes.

Evaluation: The board will monitor the regulations to assure only allowable costs for patient care are reimbursed.

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

Written comments may be submitted until 5 p.m. on May 21, 1986.

Contact: N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistance Services, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-7931

VIRGINIA STATE BOARD OF MEDICINE

Chiropractic Examination Committee

† May 13, 1986 - Noon - Open Meeting
Department of Health Regulatory Boards, Board Room, 517 West Grace Street, Richmond, Virginia

The committee will meet in open and closed session pursuant to § 2.1-344 of the Code of Virginia. Executive or closed meetings; subsection a.(9). Discussion or consideration of tests or examinations or other documents excluded from this chapter pursuant to § 2.1-342 (b) (8).

Informal Conference Committee

† May 23, 1986 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, Board Room, 517 West Grace Street, Richmond, Virginia

The committee composed of three members of the Virginia Board of Medicine will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344. Executive or closed meetings; subsection A(6) of the Code of Virginia.

Podiatry Examination Committee

† May 15, 1986 - 9 a.m. - Open Meeting
Key Bridge Marriott, 1401 Lee Highway, Arlington, Virginia. (Location accessible to handicapped.)

The committee will meet in open and closed session to review, classify, and prepare the board's June Podiatry examination at the Key Bridge Marriott.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Forensic Issues Advisory Committee

† May 2, 1986 - 10 a.m. - Open Meeting
Central State Hospital, Administration Building - #113 Conference Room, Petersburg, Virginia. (Location accessible to handicapped.)

A regular scheduled meeting to discuss items generally related to the delivery of forensic mental health

Calendar of Events

services in Virginia.

Contact: Russell C. Petrella, Ph.D, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-4837

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY; DIVISION OF CONTINUING EDUCATION, AND OFFICE OF CONTINUING MEDICAL EDUCATION

May 29-30, 1986 - Open Meeting
Conference Center, Colonial Williamsburg, Williamsburg, Virginia. (Location accessible to handicapped.)

Ninth Annual Symposium on Mental Health and the Law

An annual symposium addressing issues related to mental health and the law. 8.5 hours in Category 1 and 1.2 CEU credits applied for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Blue Ridge Hospital, Box 100, Charlottesville, Va. 22901, telephone (804) 924-5435

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

May 1, 1986 - 10 a.m. - Open Meeting
7705 Timberlake Road, Lynchburg, Virginia. (Location accessible to handicapped.)

The Division of Mined Land Reclamation has drafted proposed amended rules for the Minerals Other Than Coal Mining and Reclamation program. A public meeting is scheduled for the purpose of reviewing both existing and the proposed amended regulations.

Contact: William O. Roller, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602

VIRGINIA MUSEUM OF FINE ARTS

Board of Trustees

† **May 2, 1986 - 9 a.m. - Open Meeting**
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

The Education in the Arts Committee will hold its annual meeting to award grants to arts applicants.

Contact: Mrs. Lee Schultz, c/o Mrs. Emily Robertson, Department of Education and Outreach, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, Va. 23221, telephone (804) 257-0553, 327-0553 SCATS

West Wing Building Committee

April 30, 1986 - 12:30 p.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Payne Room (Members' Suite), Richmond, Virginia. (Location accessible to handicapped.)

A regularly scheduled meeting to review issues relating to closing out the building project.

Contact: Emily C. Robertson, Secretary, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553, 327-0553 SCATS

STATE BOARD OF NURSING

† **May 19, 1986 - 9 a.m. - Open Meeting**
† **May 20, 1986 - 9 a.m. - Open Meeting**
† **May 21, 1986 - 9 a.m. - Open Meeting**
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia

A regular meeting of the State Board of Nursing to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board.

Contact: Corinne F. Dorsey, R.N., Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-0377

STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

June 12, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. (Location accessible to handicapped.)

An open board meeting to conduct (i) administering the examination; and to consider (ii) complaints; (iii) regulatory review; and (iv) discussion of the state written exam.

Contact: Geralde W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8508

Calendar of Events

VIRGINIA STATE BOARD OF OPTICIANS

† May, 2, 1986 - 9:30 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 5th Floor, Conference Room 3, Richmond,
Virginia. (Location accessible to handicapped.)

A meeting to review (i) applications for reinstatement
of licenses and examination; (ii) review investigative
reports of complaints and determine disposition; and
(iii) consider general correspondence pertinent to the
operation of the board.

Contact: Olliver O. Trumbo, II, Assistant Director, 3600 W.
Broad St., Richmond, Va. 23230, telephone (804) 257-8509

VIRGINIA BOARD OF OPTOMETRY

May 28, 1986 - 9:30 a.m. - Open Meeting
May 29, 1986 - 9:30 a.m. - Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, 1st Floor, Room 4,
Williamsburg, Virginia. (Location accessible to
handicapped.)

A general business meeting and review of the state
board examination.

† July 16, 1986 - 8 a.m. - Open Meeting
R. Blackwell Smith Pharmacy Building, 410 North 12th
Street, Richmond, Virginia. (Location accessible to
handicapped.)

The board will administer the State Practical
Examination.

† July 17, 1986 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 517 West Grace
Street, Board Room, Richmond, Virginia

A general business meeting.

Contact: Moria C. Lux, Executive Director, Virginia Board
of Optometry, P.O. Box 27708, Richmond, Va. 23261,
telephone (804) 786-0131

STATE PERINATAL SERVICES ADVISORY BOARD

† June 12, 1986 - 12:30 p.m. - Open Meeting
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia. (Location accessible
to handicapped.)

A regular meeting of the board. The agenda will be
provided upon request two weeks prior to the meeting.

Contact: Alice S. Linyear, M.D., Director, Bureau of
Maternal and Child Health, 109 Governor St., 6th Floor,

Richmond, Va. 23219, telephone (804) 786-7367

STATE BOARD OF PHARMACY

April 29, 1986 - 9 a.m. - Open Meeting
April 30, 1986 - 9 a.m. - Open Meeting
Howard Johnson Motor Lodge, 3207 North Boulevard,
Richmond, Virginia. (Location accessible to handicapped.)

A board meeting and reciprocity interviews.

Contact: J. B. Carson, Executive Director, 517 W. Grace
St., P.O. Box 27708, Richmond, Va. 23261, telephone (804)
786-0182

RADFORD UNIVERSITY

Board of Visitors

† April 28, 1986 - 8:30 a.m. - Open Meeting
Radford University, Preston Hall, Board Room, Radford,
Virginia. (Location accessible to handicapped.)

The board will meet to discuss general university
policies. More information is available from the Office
of Public Information and Relations.

Contact: Deborah L. Brown, Director of Public Information
and Relations, Radford University, Radford, Va., telephone
(703) 731-5324

VIRGINIA REAL ESTATE BOARD

May 6, 1986 - 10 a.m. - Open Meeting
Radford Circuit Court, 619 Second Street, Radford, Virginia

The board will meet to conduct a formal
administrative hearing: Virginia Real Estate Board v.
Anna W. Edwards.

May 7, 1986 - 10 a.m. - Open Meeting
Radford Circuit Court, 619 Second Street, Radford, Virginia

The board will meet to conduct a formal
administrative hearing: Virginia Real Estate Board v.
Lowell D. Clay.

May 15, 1986 - Open Meeting
May 16, 1986 - Open Meeting
Department of Commerce, Travelers Building, 3600 West
Broad Street, 5th Floor, Conference Room 1, Richmond,
Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal

Calendar of Events

administrative hearing: Virginia Real Estate v. Audrey T. Payne.

May 19, 1986 - 10 a.m. - Open Meeting
Ramada Oceanside Tower, Dolphin Room, 57th Street and Ocean Front, Virginia Beach, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Donald M. Leneski.

May 28, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Lloyd N. Dallas.

May 29, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board vs. Walter H. Loving.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF REHABILITATIVE SERVICES

† **May 23, 1986 - 10 a.m. - Open Meeting**
† **June 27, 1986 - 10 a.m. - Open Meeting**
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

The board will hold a regular meeting to conduct the business of the department.

Evaluation Committee

† **May 16, 1986 - 1 p.m. - Open Meeting**
† **June 20, 1986 - 1 p.m. - Open Meeting**
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss policy and procedures.

Finance Committee

May 22, 1986 - 3 p.m. - Open Meeting

† **June 26, 1986 - 3 p.m. - Open Meeting**
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss budgetary matters.

Program Committee

† **May 22, 1986 - 1 p.m. - Open Meeting**
† **June 26, 1986 - 1 p.m. - Open Meeting**
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review, discuss and, when appropriate, recommend to the board necessary policies governing the vocational rehabilitation and independent living rehabilitation programs and services administered and/or coordinated by the Department of Rehabilitative Services.

Contact: Jim Hunter, 4901 Fitzhugh Ave., Richmond, Va. 23220, telephone (804) 257-6446 (toll-free number 1-800-522-5019)

VIRGINIA RESOURCES AUTHORITY

† **May 13, 1986 - 10 a.m. - Open Meeting**
Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet (i) to approve minutes of the March 11, 1986, board meeting; (ii) to review the authority's operations for the prior months; and (iii) to 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

April 30, 1986 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

April 30, 1986 - 10 a.m. - Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisor's Room, Christiansburg, Virginia.

Calendar of Events

May 28, 1986 - 9 a.m. - Open Meeting
James Monroe Building, 101 N. 14th Street, Conference Room C, Richmond, Virginia. (Location accessible to handicapped.)

June 25, 1986 - 9 a.m. - Open Meeting
James Monroe Building, 101 N. 14th Street, Conference Room E, Richmond, Virginia. (Location accessible to handicapped.)

To hear and render a decision on all Appeals of Denials of On-Site Sewage Disposals System Permits.

Contact: P.M. Brooks, 502 Madison Bldg., Richmond, Va. 23219, telephone (804) 786-1931

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

May 20, 1986 - 9 a.m. - Public Hearing
Sheraton Inn, Route 29 Expressway, Lynchburg, Virginia

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 a.m., the authority will conduct its regular business meeting.

Contact: Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg, Richmond, Va., telephone (804) 786-3791

VIRGINIA BOARD OF SOCIAL WORK

† **May 16, 1986 - 9:30 a.m. - Open Meeting**
517 West Grace Street, Richmond, Virginia

A meeting to (i) 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

† **July 8, 1986 - 10 a.m. - Public Hearing**
General Assembly Building, House Room C, Capitol Square, 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 the regulation entitled: VR

630-2-322. Virginia Taxable Income (Individual Income Tax Regulation). This regulation sets forth the method for computing the Virginia taxable income of individuals, including the various additions, subtractions, deductions, and modifications provided by law.

STATEMENT

Basis: This regulation is issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: As revised, this regulation sets forth the procedure for the subtraction of qualified agricultural contributions from the taxable income of individuals, as well as the other steps necessary to compute Virginia taxable income.

Issues: § 58.1-402 of the Code of Virginia provides for the subtraction from taxable income of qualified agricultural contributions made between January 1, 1985, and December 31, 1988. Contributions eligible for subtraction are those of crops that are donated by an individual engaged in the trade or business of raising such crops. Furthermore, the crops must be donated to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and the crops must be fit for human consumption, the use of the crops by the donee must be related to the purpose or function constituting the basis for the donee's exemption under § 501(c)(3) of the Internal Revenue Code, the contribution cannot be made in exchange for money, property, or service, and the donor must receive from the donee a written statement stating how the donated crops will be used. The value of a donation for purposes of the subtraction is the lowest wholesale market price of the donated product in the nearest regional market during the month in which the contribution is made, regardless of the grade or quality of the product. Lastly, the total subtraction computed must be reduced by the amount of any charitable contribution deduction claimed for federal and state income tax purposes on contributions qualifying for subtraction.

Substance: Applying the statutory subtraction available from January 1, 1985, to December 31, 1988, this regulation sets forth the procedure for subtracting qualified agricultural contributions from taxable income. Under the regulation, the word "crop" is limited in meaning to products of the soil; thus, the word excludes animal products. Also, the meaning of the term "fit for human consumption" is limited to edible products. For purposes of computing the actual subtractible value of donated crops, this regulation requires the use of the lowest wholesale market price, regardless of grade or quality, published for the donated crop by the U. S. Department of Agriculture in the regional market closest to the donor's place of business.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 8, 1986.

Calendar of Events

† July 8, 1986 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square,
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 the regulation entitled: VR 630-3.402. Virginia Taxable Income (Corporation Income Tax Regulation). This regulation sets forth the method for computing the Virginia taxable income of corporations, including the various additions, subtractions, deductions, and modifications provided by law.

Basis: This regulation is issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: As revised, this regulation sets forth the procedure for the subtraction of qualified agricultural contributions from the taxable income of corporations, as well as the other steps necessary to compute Virginia taxable income.

Issues: § 58.1-402 of the Code of Virginia provides for the subtraction from taxable income of qualified agricultural contributions made between January 1, 1985, and December 31, 1988. Contributions eligible for subtraction are those of crops that are donated by a corporation engaged in the trade or business of raising such crops. Furthermore, the crops must be donated to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and the crops must be fit for human consumption, the use of the crops by the donee must be related to the purpose or function constituting the basis for the donee's exemption under § 501(c)(3) of the Internal Revenue Code, the contribution cannot be made in exchange for money, property, or service, and the donor must receive from the donee a written statement stating how the donated crops will be used. The value of a donation for purposes of the subtraction is the lowest wholesale market price of the donated product in the nearest regional market during the month in which the contribution is made, regardless of the grade or quality of the product. Lastly, the total subtraction computed must be reduced by the amount of any charitable contribution deduction claimed for federal and state income tax purposes on contributions qualifying for subtraction.

Substance: Applying the statutory subtraction available from January 1, 1985, to December 31, 1988, this regulation sets forth the procedure for subtracting qualified agricultural contributions from taxable income. Under the regulation, the word "crop" is limited in meaning to products of the soil; thus, the word excludes animal products. Also, the meaning of the term "fit for human consumption" is limited to edible products. For purposes of computing the actual subtractible value of donated crops, this regulation requires the use of the lowest wholesale market price, regardless of grade or quality, published for

the donated crop by the U. S. Department of Agriculture in the regional market closest to the donor's place of business.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 8, 1986.

† July 8, 1986 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square,
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 the regulation entitled: VR 630-10-24.4. Common Carriers of Property or Passengers by Railway (Retail Sales and Use Tax Regulation). This regulation sets forth the application of the sales and use tax to tangible personal property used or consumed by common carriers of property or passengers by railway.

STATEMENT

Basis: This regulation is issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: This regulation sets forth the application of the sales and use tax to the use or consumption of tangible personal property by common carriers of property or passengers by railway.

Issues: § 58.1-608 of the Code of Virginia exempts from the sales and use tax tangible personal property used or consumed directly by a common carrier of property or passengers by railway in the rendition of its public service. The Virginia Supreme Court in Commonwealth v. Community Motor Bus Company, 214 Va. 155, 198 S.E. 2d 619 (1973) held that an item of tangible personal property, to be exempt under the statute, must be indispensable to and used immediately in the actual rendition of a carrier's public service. Under the court's opinion, convenient or facilitative items are not exempt as well as items that are essential to the operation of a business but not an immediate part of the performance of a carrier's public service.

Substance: Utilizing the direct use or consumption concept, the proposed regulation would exempt the track, roadbed, signals, passenger and freight train locomotives and cars, among other items of tangible personal property, of railway common carriers. Among the other exempt items are materials used to construct or erect railway bridges, piers, wharves, and docks (except for the foundations of such structures). Tangible personal property used to repair and maintain exempt property would also be exempt from the tax. Taxable under this regulation would be tangible personal property used in administrative, managerial and record keeping functions, tangible personal property used

Calendar of Events

for the comfort or convenience of employees, and other tangible personal property used indirectly in the rendition of common carrier service. Other taxable items include materials used to construct or erect railway tunnels (except rails and roadbed), station and office building structures, structures designed to carry public or private roads over, under, or across railway tracks, and similar structures used indirectly in the rendition of common carrier service.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 8, 1986.

* * * * *

† July 8, 1986 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 19-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend the regulation entitled: **VR 630-10-3. Advertising (Retail Sales and Use Tax Regulation)**. This regulation sets forth the application of the sales and use tax to charges for the provision of concept, writing, graphic design, mechanical art, photography, and production supervision in the planning, creating, or placing or advertising in the media.

Basis: This regulation is issued under authority granted by § 58.1-203 of the Code of Virginia.

Purpose: This regulation sets forth the application of the sales and use tax to the planning, creating or placing of advertising in the media.

Issues: The 1985 General Assembly counteracted, effective July 1, 1986, the existing sales and use tax regulations which impose a tax on all charges for advertising where a tangible product is produced. In doing so, the General Assembly substantially broadened the exemption which existed prior to July 1, 1985, to include not only ads prepared and placed in the media by the preparer, but also any other ads sold to purchasers who then place the ads in the media themselves. This regulation explains this change and provides examples of taxable and exempt transactions.

Substance: This regulation specifies that charges by an advertising business for professional services in the planning, creating or placing of advertising in newspapers, magazines, billboards, direct mail, television, radio and other media, are not subject to the tax, regardless of how such charges are computed, and whether the advertising business itself, or its client actually places the ad in the media.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 3, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, P.O. Box 6-L, Richmond, Va., 23282, telephone (804) 257-8010

THE GOVERNOR'S COMMISSION ON TRANSPORTATION IN THE TWENTY-FIRST CENTURY

† April 28, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

COMMISSION MEETING #3

Capacity of construction industry
Impacts of demand changes on price structure
In-house construction capacity

† May 12, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

COMMISSION MEETING #4

Updated needs inventory
Critical needs criteria

† May 27, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

COMMISSION MEETING #5

Reports on highway trust fund split
VDH&T maintenance and budgeting procedure

† June 9, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

COMMISSION MEETING #6

Review of alternative financing
Approaches and legal constraints

† July 7, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

COMMISSION MEETING #7

Development of recommendations for funding transportation needs

† July 21, 1986 - 10 a.m. - Open Meeting

Calendar of Events

General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. (location accessible to handicapped.)

COMMISSION MEETING #8

Review of final report

Contact: Jewel A. Paige, Administrative Assistant, Ninth Street Office Bldg., 10th Floor, Richmond, Va. 23219, telephone (804) 786-2405

DEPARTMENT OF THE TREASURY AND TREASURY BOARD

June 19, 1986 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, First Floor, 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 the Treasury and Treasury Board intends to adopt regulations entitled: **Guidelines for Public Participation in Regulation Development and Promulgation.**

STATEMENT

Basis The Department of Treasury and the Treasury Board have under law, responsibilities related to the deposits of the Commonwealth's monies and the security of those deposits and depositories that receive state funds.

Purpose To establish procedures and guidelines under which interested citizens, professional associations and industry associations can participate in the development and promulgation of regulations related to the deposit, security and disposition of the Commonwealth's monies.

Impact Currently, 90 banks representing about 1200 deposit locations, 65 savings and loan institutions, other members of the financial community as well as entities of state and local government could, individually or collectively, be interested in or affected by regulations promulgated by the Department of the Treasury or the Treasury Board.

Summary The Department of the Treasury and the Treasury Board may determine that regulations are necessary to meet their responsibilities under law for the receipt, disbursement, management and safekeeping of the Commonwealth's monies. The proposed Public Participation Guidelines will allow citizens, professional associations and industry associations to participate in the process of regulations.

Statutory Authority: §§ 2.1-180, 2.1-364, 55-200.1 and 5-210.27 of the Code of Virginia.

Contact: Joseph K. Reid, Director of Planning, P.O. Box 6-H, Richmond, Va. 23215, telephone (804) 225-2142

VIRGINIA COMMONWEALTH UNIVERSITY

Board of Visitors

May 22, 1986 - 9 a.m. - Open Meeting
Virginia Commonwealth University, University Meeting Center, 101 North Harrison Street (corner of Harrison and Floyd), Richmond, Virginia. (Location accessible to handicapped.)

Regularly scheduled meetings of the board to discuss issues regarding Virginia Commonwealth University. Agendas for these meetings will be available 5 working days prior to the meeting through Carole Roper's office.

Contact: Carole Roper, University Relations, 826 W. Franklin St., Richmond, Va. 23284, telephone (804) 257-1231, (804) 786-7329

VIRGINIA BOARD OF VETERINARY MEDICINE

June 18, 1986 - 1 p.m. - Open Meeting
Best Western-Market Place Hotel, 7th & Marshall Streets, Chesapeake Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss general board business and informal conferences.

June 19, 1986 - 8 a.m. - Open Meeting
Medical College of Virginia, Sanger Hall, 1101 East Marshall Street, Rooms 1-044 and 2-020, Richmond, Virginia. (Location accessible to handicapped.)

Veterinarian examinations (Room 2-020); Animal Technician examinations (Room 1-044).

June 20, 1986 - 9 a.m. - Open Meeting
Medical College of Virginia, Sanger Hall, 1101 East Marshall Street, Room 1050, Richmond, Virginia. (Location accessible to handicapped.)

A general board business meeting.

Contact: Moria C. Lux, Virginia Board of Veterinary Medicine, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

Calendar of Events

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† April 30, 1986 - 8:30 a.m. - Open Meeting
† May 1, 1986 - 8:30 a.m. - Open Meeting
Central Virginia Community College and Lynchburg Hilton,
Lynchburg, Virginia

8:30 a.m. (CVCC) - Orientation Session for Program
Visits: Remarks from Central Virginia Community
College and Lynchburg public school officials on
vocational programs and from Virginia VIEW
representative.

9:30 a.m. - Visits to vocational programs in the
Lynchburg public schools and at Central Virginia
Community College.

2:00 p.m. (CVCC) - General Session: Update on the
development of an assessment system for vocational
education.

8:30 a.m. (Lynchburg Hilton) - Business Session:
Reports from the council's standing committees, the
Department of Education, the Virginia Community
College System, and the Governor's Job Training
Coordinating Council

Contact: Goerge S. Orr, Jr., Executive Director, Virginia
Council on Vocational Education, P.O. Box U, Blacksburg,
Va. 24060, telephone (703) 961-6945

STATE WATER CONTROL BOARD

† May 20, 1986 - 3 p.m. - Public Hearing
Newport News City Council Chambers, 2400 Washington
Avenue, Newport News, Virginia

A public hearing to receive comments on the proposed
NPDES permit reissuance for Newport News
Shipbuilding and Drydock Company, located in
Newport News, Virginia. Newport News Shipbuilding
and Drydock Company is shipbuilding and repair
industry with existing cooling water and drydock
discharges to the James River.

Contact: Doneva A. Dalton, State Water Control Board,
Office of Policy Analysis, P.O. Box 11143, Richmond, Va.
23230, telephone (804) 257-6869

LEGISLATIVE

HOUSE APPROPRIATIONS COMMITTEE

† May 19, 1986 - 9:30 a.m. - Open Meeting
Varina High School, 7900 Messer Road, Virginia

A regular monthly meeting to consider budget issue
and education.

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., Capitol Square, 9th
Floor, Richmond, Va. 23219, telephone (804) 786-1837

PRIVILEGES AND ELECTIONS SPECIAL SUBCOMMITTEE

May 2, 1986 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. (Location accessible to handicapped.)

Subcommittee will meet to determine action to be
taken on carryover legislation.

Contact: Dr. Jack Austin, Division of Legislative Services,
General Assembly Bldg., 2nd Floor., Richmond, Va. 23219,
telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

April 28

Funeral Directors and Embalmers, Virginia Board of
Governor's Job Training Coordinating Council
Hearing Aid Dealers and Fitters, Board of
Library Board, Virginia State
Local Government, Commission on
Radford University, Board of Visitors
Transportation in the Twenty-First Century, The
Governor's Commission on

April 29

Local Government, Commission on
Pharmacy, State Board of

April 30

Commerce, Department of
Labor and Industry, Department of
- Safety and Health Codes Board
Museum of Fine Arts, Virginia
- West Wing Building Committee
Pharmacy, State Board of
Sewage, Handling and Disposal Appeals Review
Board, State
Vocational Education, Virginia Council

May 1

Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation
Vocational Education, Virginia Council

Calendar of Events

May 2

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architect, State Board of

- Board of Architects
- Board of Professional Engineers

Chesapeake Bay Commission
General Services, Department of

- Art and Architectural Review Board

Mental Health and Mental Retardation, Department of

- Forensic Issues Advisory Committee

Museum of Fine Arts, Virginia

- Board of Trustees

Opticians, Virginia State Board of

May 6

Alcoholic Beverage Control Board, Virginia
Children's Facilities, Interdepartmental Council on Rate Setting
Housing and Community Development, Department of and Fire Programs, Department of
Real Estate Board, Virginia

May 7

Criminal Justice Services Board
Geology, Virginia State Board of
Higher Education for Virginia, State Council on
Housing and Community Development, Department of and Fire Programs, Department of
Real Estate Board, Virginia

May 9

Children's Residential Facilities, Interdepartmental Licensure and Certification of

- Coordinating Committee

Housing and Community Development, Department of and Fire Programs, Department of

May 10

Cave Board, Virginia

May 12

Alcoholic Beverage Control Board, Virginia
Housing and Community Development, Department of and Fire Programs, Department of
Transportation in the Twenty-First Century, The Governor's Commission on

May 13

Auctioneers Board, Virginia
Local Government, Commission on
Medicine, Virginia State Board of

- Chiropractic Examination Committee

Resources Authority, Virginia

May 14

Corrections, Board of
Funeral Directors and Embalmers, Virginia Board of
Housing and Community Development, Department of and Fire Programs, Department of

May 15

Conservation and Historic Resources, Department of

- Virginia Soil and Water Conservation Board
Highway and Transportation Board, State
Housing and Community Development, Department of and Fire Programs, Department of
Longwood College, Board of Visitors
Medicine, Virginia State Board of

- Podiatry Examination Committee

Real Estate Board, Virginia

May 16

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
Longwood College, Board of Visitors
Rehabilitative Services, Board of

- Evaluation Committee

Social Work, Virginia Board of
Real Estate Board, Virginia

May 19

Funeral Directors and Embalmers, Virginia Board of
House Appropriations Committee
Housing and Community Development, Department of and Fire Programs, Department of
Nursing, State Board of
Real Estate Board, Virginia

May 20

Alcoholic Beverage Control Board, Virginia
Medical Assistance Services, Department of
Governor's Advisory Committee
Nursing, State Board of
Water Control Board, State

May 22

Rehabilitative Services, Board of

- Finance Committee
- Programs Committee

Virginia Commonwealth University

- Board of Visitors

May 23

Conservation and Historic Resources, Department of

- Falls of the James Advisory Committee

Medicine, Virginia State Board of

- Informal Conference Committee

Rehabilitative Services, Board of

May 27

Marine Resources, Commission
Transportation in the Twenty-First Century, The Governor's Commission on

May 28

Health Service Cost Review Council, Virginia
Optometry, Virginia Board of
Real Estate Board, Virginia
Sewage Handling and Disposal Appeals
Review Board, State

May 29

Mental Health and Mental Retardation, Department of;

Calendar of Events

University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education; and Office of Continuing Medical Education
Optometry, Virginia Board of
Real Estate Board, Virginia

May 30

Mental Health and Mental Retardation, Department of; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education; and Office of Continuing Medical Education

June 3

Alcoholic Beverage Control Board, Virginia

June 9

Alcoholic Beverage Control Board, Virginia
Transportation in the Twenty-First Century, The Governor's Commission on

June 11

Children's Residential Facilities, Interdepartmental Licensure and Certification of

June 12

Nursing Home Administrators, State Board of Examiners for
Perinatal Services Advisory Board, State

June 17

Alcoholic Beverage Control Board Virginia

June 18

Corrections, Board of
Veterinary Medicine, Virginia Board of

June 19

Veterinary Medicine, Virginia Board of

June 20

Rehabilitative Services, Board of
- Evaluation Committee
Veterinary Medicine, Virginia Board of

June 24

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- Board of Certified Landscape Architects
Auctioneers Board, Virginia

June 25

Sewage Handling and Disposal Appeals
Review Board, State

June 26

Rehabilitative Services, Board of
- Finance Committee
Programs Committee

June 27

Rehabilitative Services, Board of

July 7

Transportation in the Twenty-First Century, The Governor's Commission on

July 16

Optometry, Virginia Board of

July 17

Optometry, Virginia Board of

July 21

Transportation in the Twenty-First Century, The Governor's Commission on

PUBLIC HEARINGS

April 28

Local Government, Commission on

May 2

Health, State Board of

May 5

Air Pollution Control Board, State
Education, State Board of

May 16

Game and Inland Fisheries, Commission on

May 19

Housing and Community Development, Board of

May 20

Small Business Financing Authority, Virginia

May 21

Medical Assistance Services, Board of

May 22

Agriculture and Consumer Services, Board of

May 30

Health Coordinating Council, Virginia Statewide

June 19

Treasury, Department of the, and Treasury Board

July 8

Taxation, Department of