

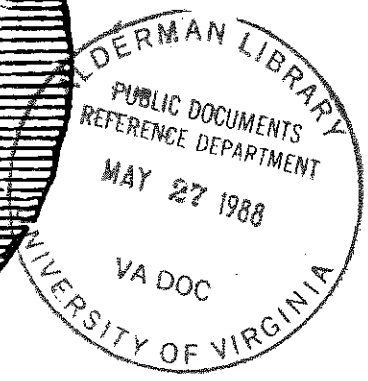
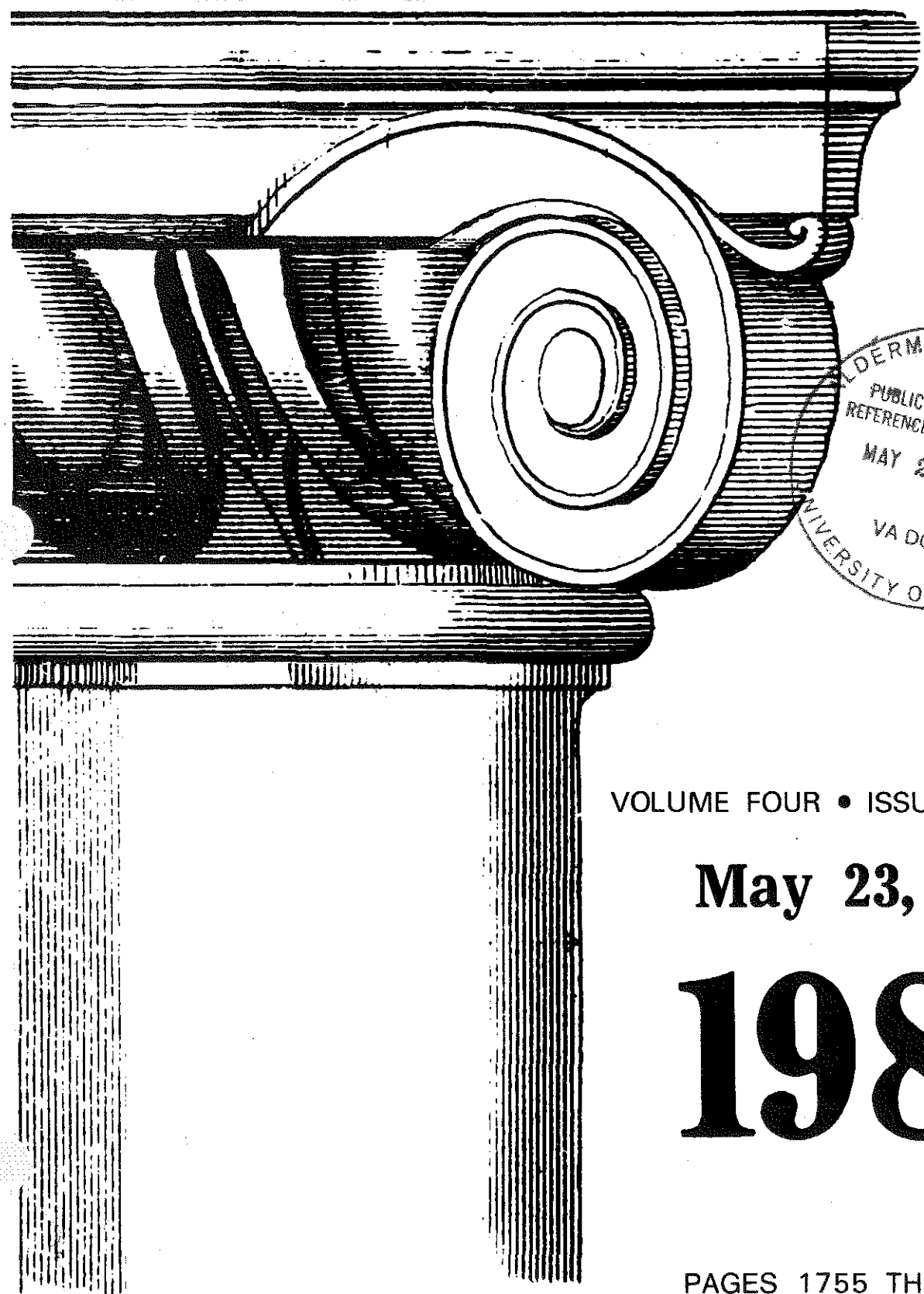
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# THE VIRGINIA REGISTER

OF REGULATIONS

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# 1988

PAGES 1755 THROUGH 1862

# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

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

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

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative

objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

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January 1988 through March 1989

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## NOTICE:

Due to a power failure; the May 23rd issue of the Virginia Register and the newspaper notices publicizing public hearings is late.

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For information concerning Proposed Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**Title of Regulation:** VR 115-01-02. Standards for Classification of Real Estate as Devoted to Agricultural Use and Horticultural Use Under the Virginia Land Use Assessment Law.

**Statutory Authority:** § 58.1-3229 et seq. of the Code of Virginia.

**Public Hearing Date:** July 15, 1988 - 1:30 p.m.  
(See Calendar of Events section for additional information)

### Summary:

*The purpose of the proposed amendments is to clarify existing requirements, simplify validation procedures for local commissioners of revenue and local assessing officers, and strengthen eligibility requirements for real estate devoted to a bona fide production for sale of plants and animals.*

VR 115-01-02. Standards for Classification of Real Estate as Devoted to Agricultural Use and Horticultural Use Under the Virginia Land Use Assessment Law.

Pursuant to Under the authority of § 58-769.4 et seq., § 58.1-3229 et seq. of the Code of Virginia (1950) as amended, the Commissioner of Agriculture and Consumer Services adopts these Standards for Classification of Real Estate As Devoted to Agricultural Use and to Horticultural Use Under the Virginia Land Use Assessment Law to: cited on the Virginia Land Use Assessment Law; and

Pursuant to the declared objective of the Law, as set forth in Section 58-769.4 thereof, "...

- (a) 1. To Encourage the proper use of such real estate in order to assure a readily available source of agricultural, horticultural, and forest products, and of open space within reach of concentrations of population.
- (b) 2. To Conserve natural resources in forms that will prevent erosion.
- (c) 3. To Protect adequate and safe water supplies.
- (d) 4. To Preserve scenic natural beauties and open spaces.
- (e) 5. To Promote proper land use planning and the

orderly development of real estate for the accommodation of an expanding population.

(f) 6. To Promote a balanced economy and ameliorate ease pressures which force the conversion of real estate to more intensive uses.

Pursuant According to the specific authority and responsibility conveyed by §§ 58-769.5 (a) and (b), and 58-769.12 58.1-3230 and 58.1-3240 of the law, directing the Commissioner of Agriculture and Consumer Services is directed to provide; a statement of the standards which shall be applied uniformly throughout the Commonwealth to determine if real estate is devoted to agricultural or horticultural uses. After holding public hearings, the statement shall be sent to the Commissioner of the Revenue or and a duly appointed assessor of each locality adopting an ordinance pursuant to in compliance with Article 4 of Chapter 32 of Title 58.1 this article, a statement of the standards which shall be applied uniformly throughout the state in determining whether real estate is devoted to agricultural (or) horticultural uses. The area must shall be a minimum of five acres and shall meet all of the following standards to qualify for agricultural or for horticultural use.

Now, therefore, the standards to qualify for agricultural or for horticultural use as set forth hereinbelow are hereby adopted to become effective on December 15, 1978.

§ 1. Previous and current use, and exceptions.

A. Previous use.

The real estate sought to be qualified must shall have been devoted, for at least for five consecutive years previous, to the production for sale of plants or animals, or to the production for sale of plant or animal products useful to man, or devoted to another qualifying use including, but not limited to:

1. Aquaculture
2. Forage crops
3. Commercial sod and seed
4. Grains and feed crops
5. Tobacco, cotton, and peanuts
6. Dairy animals and dairy products

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## 7. Poultry and poultry products

8. Livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of any or all such animals

## 9. Bees and apiary products

## 10. Commercial game animals or birds

11. Trees or timber products of such quantity and so spaced as to constitute a forest area meeting standards prescribed by the Director of the Department of Conservation and Economic Development *State Forester*, if less than 20 acres, and produced incidental to other farm operations

## 12. Fruits and nuts

## 13. Vegetables

## 14. Nursery products and floral products.

If a tract of real estate is converted from nonproduction to agricultural and/or horticultural production, the tract may qualify without a five year history of agricultural or horticultural use only in the event that if the operator makes such change in use to expand expands or replace replaces production enterprises existing on other tracts of real estate owned by the applicant.

### B. Current use.

The real estate sought to be qualified must shall be currently be devoted to the production for sale of plants or animals, or to the production for sale of plant or animal products useful to man, or devoted to another qualifying use including, but not limited to, the items in § 1.A above; ; except that no real estate devoted to the production of trees or timber products may qualify unless:

1. The real estate is less than 20 acres.

2. The real estate meets the technical standards prescribed by the Director of the Department of Conservation and Economic Development *State Forester*, and

3. The real estate is producing tree or timber products incidental to other farm operations.

### C. Exceptions Exceptions .

1. Conversions by farm operator - *nonqualifying real estate* . If a tract of real estate is converted from other uses or nonproduction to agricultural and/or horticultural production, the tract may qualify without the five year history of agricultural or horticultural use when the operator makes such change in use to expand expands or replace replaces production enterprises existing on other tracts of real estate

owned by the applicant, regardless of location.

2. *Conversions by farm operator - qualifying real estate*. If a tract of real estate is converted from a qualifying use (forestry or open space) to agricultural or horticultural production, the tract may qualify without the five year history of agricultural or horticultural use.

2- 3. Government action. If a tract of real estate which has previously qualified for agricultural use taxation is not devoted to agricultural and/or horticultural production because of governmental actions, the tract or portions thereof shall be considered productive for that period of time.

§ 2. Conservation of land resources, management and production, and certification .

#### A. Conservation of land resources.

To qualify for agricultural or horticultural use, the applicant shall certify that the real estate is being used in a planned program of soil management and soil conservation practices which is intended to:

1. Reduce or prevent soil erosion by best management practices such as terracing, cover cropping, strip cropping, no-till planting, sodding waterways, diversions, water impoundments, and other best management practices which prevent soil erosion and improve water quality.

2. Maintain soil nutrients by the application of soil nutrients (organic and inorganic) needed to produce average yields of agricultural crops or as recommended by soil tests.

3. Control brush, woody growth, and noxious weeds on row crops, hay, and pasture by the use of herbicides, biological controls, cultivation, mowing, or other normal cultural practices.

NOTE: It is recommended that each locality consider a procedure that the applicant for assessment according to use provide a map showing the acres of property in the tract for each Soil Conservation Service land capability classification. Soil management and soil conservation planning services to landowners are available from representatives of local soil and water conservation districts, Virginia Soil and Water Conservation Commission, USDA Soil Conservation Service in Virginia, and the Virginia Cooperative Extension Service.

#### Section 3: Management and Production.

##### A: Field Crops.

That field crop production be primarily for commercial uses and that the average crop yield per acre on each

crop grown on the real estate during the immediate three (3) years previous, shall be equal to at least one-half of the county (city) average for the past three (3) years; except that the local government may prescribe lesser requirements when unusual circumstances prevail and such requirements are not realistic.

NOTE: Each locality might consider a procedure that the applicant records to indicate acres or units, yield and use of crops, except timber, and livestock produced during the previous calendar year and that plans be available on production intentions on crops, livestock, poultry, and timber for the year the application concerns.

## B. Production of Livestock, Livestock Products, Poultry and Poultry Products:

That when field crops have been produced primarily for on farm consumption or feed during the previous year, or when the real estate is used primarily for commercial production of livestock, livestock products, poultry, or poultry products, there shall be a minimum of twelve (12) animal unit months of commercial livestock or poultry per five (5) acres of open land in the previous year. One (1) animal unit to be one (1) cow, one (1) horse, five (5) sheep, five (5) swine, one hundred (100) chickens, sixty six (66) turkeys, one hundred (100) other fowl. (An animal unit month means one (1) mature cow or the equivalent on five (5) acres of land for one (1) month; therefore, twelve (12) animal unit months means the maintenance of one (1) mature animal on each five (5) acres for twelve (12) months, or any combination of mature animals and months that would equal twelve (12) animal unit months such as three (3) mature animals for four (4) months, four (4) mature animals for three (3) months, two (2) mature animals for six (6) months, etc.)

Since some properties are primarily concerned with livestock feeding, poultry production, and similar operations wherein feed and other materials are produced or purchased, these standards are to provide evidence on bona-fide production for sale.

## C. Horticultural Products:

That at least five (5) acres shall be devoted to one of the following purposes, and combination of such purposes, or in rotations of crops for such purposes:

### 1. Nursery:

The real estate be used for the propagating, growing, and handling of ornamental trees, shrubs, vines, and fruit trees that are grown in rows of specific species or other such manner that facilitates commercial production rather than personal ornamental display by the owner or operator.

### 2. Greenhouse:

The real estate be used for the propagating, growing,

and handling of plants indoors for the purpose of producing cut flowers, nursery products, and vegetable products for commercial production rather than personal use by the owner or operator.

### 3. Cut Flower Production:

The real estate be used for the propagating, growing, and handling of floral products in rows by specific species or other such manner that facilitates production for commercial purposes rather than personal use by the owner or operator.

### 4. Plant Material Production:

The real estate be used for propagating, growing, and handling of seedlings, root stock, and other plant materials in rows by specific species or other such manner that facilitates commercial production rather than personal use by the owner or operator.

### 5. Orchards, Vineyards, and Small Fruit Production:

The real estate be used for growing, harvesting, and handling commercial fruit or for long term commercial fruit production in future years.

## D. Production of Timber Products:

That timber production, in addition to crop and livestock production on the real estate, meet standards prescribed by the Director of the Department of Conservation and Economic Development for forest areas except those for minimum acres.

NOTE: Portions of the real estate that meet such standards for forest areas are expected to be assessed at use values for forestry purposes.

## B. Management and production.

To qualify for agricultural and horticultural use, the applicant shall certify that the real estate is being used in a planned program of management and production of field crops, livestock, livestock products, poultry, poultry products, dairy, dairy products, aquaculture products, and horticultural products for sale.

Field crop production shall be primarily for commercial uses and the average crop yield per acre on each crop grown on the real estate during the immediate three years previous, shall be equal to at least 1/2 of the county (city) average for the past three years; except that the local government may prescribe lesser requirements when unusual circumstances prevail and such requirements are not realistic.

Livestock, dairy, poultry, or aquaculture production shall be primarily for commercial sale of livestock, dairy, poultry and aquaculture products. Livestock, dairy and poultry shall have a minimum of 12 animal unit months of



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commercial livestock or poultry per five acres of open land in the previous year. One animal unit to be one cow, one horse, five sheep, five swine, 100 chickens, 66 turkeys, 100 other fowl. (An animal unit month means one mature cow or the equivalent on five acres of land for one month; therefore, 12 animal unit months means the maintenance of one mature animal on each five acres for 12 months, or any combination of mature animals and months that would equal 12 animal unit months such as three mature animals for four months, four mature animals for three months, two mature animals for six months, etc.)

Aquaculture production shall be primarily for commercial sale of freshwater fish and shellfish under controlled conditions for food.

Horticultural production includes nursery, greenhouse, cut flowers, plant materials, orchards, vineyards and small fruit products.

Timber production, in addition to crop, livestock, dairy, poultry, aquaculture, and horticultural production on the real estate must meet the standards prescribed by the Department of Forestry for forest areas and will be assessed at use value for forestry purposes.

## § 3. Certification procedures.

### A. Documentation.

The local assessing officer may require the applicant to certify that the real estate is devoted to the bona fide production for sale of agricultural and horticultural products being used in a planned program of soil management and a planned program of management and production of field crops, livestock, dairy, poultry, aquaculture, horticultural crops, and timber products. The Commissioner may find one or both of the following documents useful in making his determination:

1. The assigned USDA/ASCS farm number, and evidence of participating in a federal farm program, or

2. Federal tax forms (1040F) Farm Expenses and Income, (4835) Farm Rental Income and Expenses, or (1040E) Cash Rent for Agricultural Land, or

\* 3. A Conservation Farm Management Plan prepared by a professional.

\*\* 4. Gross sales averaging more than \$1,000 annually over the previous three years.

\* The 1985 Food Policy Act (Farm Bill) requires farmers participating in federal farm programs to have a farm conservation plan proposed by the USDA Soil Conservation Service by 1990 and fully implemented by 1995.

\*\* The Agriculture Census defines a farm as a place where agricultural products were sold or normally would have been sold annually averaging more than \$1,000.

Adopted Effective December 15, 1978.

S. Mason Carbaugh  
Commissioner  
Department of Agriculture and Consumer Services

NOTE: The following procedures are to be used by officials to obtain opinions from the Commissioner in doubtful cases:

PROCEDURES TO BE FOLLOWED BY OFFICIALS WHEN OBTAINING OPINIONS FROM THE COMMISSIONER OF AGRICULTURE AND CONSUMER SERVICES WHEN DETERMINING THE ELIGIBILITY OF AGRICULTURAL AND HORTICULTURAL REAL ESTATE FOR USE VALUE TAXATION.

### B. Interpretation of standards.

In cases of uncertainty on the part of the local assessing officer, the law authorizes him to request an opinion from the Commissioner of Agriculture and Consumer Services as to whether a particular property meets the criteria for agricultural or horticultural classification. The procedure for obtaining such an opinion is as follows:

A. 1. The local assessing officer shall address a letter to the Commissioner, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia ; 23209, describing the use and situation, and requesting an opinion as to whether or not it qualifies as agricultural or horticultural real estate for the purpose of use value taxation. Such The letter should include the following:

1. a. Owner's name and address.

2. b. Operator's name and address.

3. c. Total number of acres, acres in crops, acres in pastures, acres in soil conservation programs (ASCS, SCS, Agricultural Stabilization and Conservation Service, Soil Conservation Service, Division of Soil and Water Conservation Commission programs) and acres in forest.

4. d. If more than one tract of real estate, the number of acres in each tract ; Are tracts and whether the tracts are contiguous ? .

5. Number of animal units.

6. e. A copy of application for land use assessment taxation.

B. 2. The commissioner may request additional information , if needed , directly from the applicant ;

or he may hold a hearing at which the applicant and others may present additional information.

3. The commissioner will issue an opinion as soon as possible after all necessary information has been received. An appeal from of any opinion which does not comport comply with the these standards set forth herein may be taken made as provided by § 58-769.12 58.1-3240 of the Code of Virginia ; Chapter 15 of Title 58; Article 1.1 of the Code of Virginia .

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0020. Classifications of Expenditures.

Statutory Authority: §§ 22.1-92 and 22.1-115 of the Code of Virginia.

Public Hearing Date: July 28, 1988 - 1:15 p.m. (See Calendar of Events section for additional information)

Summary:

The regulations are prescribed for use by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools. The classification of expenditures is being consolidated from 13 classifications to five.

VR 270-01-0020. Classifications of Expenditures.

The following major classification of expenditures is prescribed for use by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools.

Regular Day Schools

Administration

1. Instruction

Salaries

Other Instructional Costs

Attendance and Health Services

Pupil Transportation Services

School Food Services

Maintenance and Operation

Fixed Charges

Other Costs of Education

Summer Schools

Adult Education

Other Educational Programs

Capital Outlay

Debt Service

Refunds of Revenue (prior periods)

2. General Support

3. Noninstructional Operation

4. Other Uses of Funds

5. Facilities

Authority - Code of Virginia § 22.1-92

DEPARTMENT OF FORESTRY

Title of Regulation: VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law.

Statutory Authority: § 58.1-3229 et seq. of the Code of Virginia.

Public Hearing Date: July 15, 1988 - 1:30 p.m. (See Calendar of Events section for additional information)

Summary:

The purpose of the proposed amendments is to clarify existing requirements, strengthen eligibility requirements and limit participation in the program to landowners managing forest land for the bona fide production of forestry resources.

VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law.

Pursuant to Under the authority of § 58-769.4, et seq., § 58.1-3229 et seq. of the Code of Virginia, 1950 as amended the State Forester adopts these Standards for Classification of Real Estate As Devoted to Forest Use cited on under the Virginia Land Use Assessment Law ; and to :

Pursuant to the declared objective of the Law, as set forth in Section 58-769.4 thereof,":

A: 1. To Encourage the proper use of such real estate in order to assure a readily available source of

# Proposed Regulations

agricultural, horticultural, and forest products, and of open space within reach of concentrations of population.

B. 2. To Conserve natural resources in forms that will prevent erosion.

C. 3. To Protect adequate and safe water supplies.

D. 4. To Preserve scenic natural beauties and open spaces.

E. 5. To Promote proper land use planning and the orderly development of real estate for the accommodation of an expanding population.

F. 6. To Promote a balanced economy and ameliorate ease/lessen the pressures which force the conversion of real estate to more intensive uses. --<sup>2</sup>

The area must be a minimum of twenty acres and meet all of the following standards to qualify for forest use.

Pursuant According to the specific authority and responsibility conveyed by §§ 58-769.5(e) and 58-769.12 § 58.1-3240 of the law, directing the director of the Department of Conservation and Economic Development to provide the State Forester is directed to provide ; a statement of the standards which shall be applied uniformly throughout the state to determine if real estate is devoted to forest use. After holding public hearings, the statement shall be sent to the commissioner of the revenue or and a duly appointed assessor of each locality adopting an ordinance pursuant to this article in compliance with Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia. a statement of the standards which shall be applied uniformly throughout the state in determining whether real estate is devoted to forest use. The area shall be a minimum of 20 acres and shall meet all the following standards to qualify for forestry use.

A. § 1. Technical standards.

A. Productive forest land.

is land devoted The real estate sought to be qualified shall be devoted to forest use which has existent on it, and well distributed, commercially valuable trees of any size sufficient to compose at least 40% normal stocking of forest trees, or formerly having such tree cover, as shown in Table 1. Land devoted to forest use that has been recently harvested of merchantable timber and not currently developed for nonforest use shall be eligible . It must be growing a commercial forest crop that is accessible for harvesting.

B. Nonproductive forest land is land devoted to forest use but which is not capable of growing a crop of industrial wood because of inaccessibility or adverse site conditions such as steep outcrops of rock and , shallow soil on steep mountain sides, excessive steepness, heavily

eroded areas, coastal beach sand, tidal marsh and other conditions which prohibit the growth and harvesting of a crop of trees suitable for commercial use.

C. Tree is a single woody stem of a species presently or prospectively suitable for commercial industrial wood products.

D. Stocking is the number of trees three inches and larger in diameter ; breast high (d.b.h.- at a point on the tree trunk outside bark 4 1/2 feet from ground level) required to equal a total basal area (area in square feet of a cross section of the tree at d.b.h.) of 75 square feet per acre, or where such trees are not present, there shall be present tree seedlings, or tree seedlings and trees in any combination sufficient to meet the 40% stocking set forth in the following Table 1 .

TABLE 1.

Minimum Number of Trees Combination Thereof to Determine 30 Square Feet of Tree Basal Area of 40% Stocking Required to be Classified as Forest Land.

D.B.H. Range	D.B.H. in 2' Classes	Basal Area Per Tree	Per Acre	Per 1/5 Acre	Per 1/10 Acre
up to 2.9''	Seedlings		400	80	40
3.0-4.9''	4	0.0873	400	80	40
5.0-6.9''	6	0.1964	153	31	15
7.0-8.9''	8	0.3491	86	17	9
9.0-10.9''	10	0.5454	55	11	6
11.0-12.9''	12	0.7854	38	8	4
13.0-14.9''	14	0.0690	28	6	3
15.0- +''	16+	1.3963	21	4	2

NOTE: (a) Area 1/5 acre; circle, diameter 105'4"; square 93'4" per side

(b) Area 1/10 acre; circle, diameter 74'6"; square 66'

(c) Number of seedlings present may qualify on a percentage basis; Example, 100 seedlings would be equivalent of 7.5 square feet of basal area (25% X 30 = 7.5).

B. § 2. Productive earning power.

The forest land productive earning power will be determined by soil series classification and current market prices average of the preceding five year market price for each county and city. The base species will be selected according to the major forest type of greatest economic

value in the county or city.

The annual productive earning power will be computed by converting the estimated acre volume yields for a rotation to dollar yields. The cost for land management and stand establishment is then subtracted from the gross income, leaving a net worth of the timber crop. The forest use value is then calculated by dividing the net worth by a determined capitalization rate.

*§ 3. Conservation of land resources, management and production, and certification.*

*A. To qualify for forest use, the applicant shall certify that the real estate is being used in a planned program of timber management and soil conservation practices which is intended to:*

- 1. Enhance the growth of commercially desirable species through generally accepted silvicultural practices.*
- 2. Reduce or prevent soil erosion by best management practices such as logging road layout and stabilization, streamside management zones, water diversion practices and other best management practices which prevent soil erosion and improve water quality.*

*B. Certification of intent by the owner can be shown by:*

- 1. A signed commitment to maintain and protect forestland by documenting land use objectives to include methods of resource management and soil and water protection or;*
- 2. Submitting a plan prepared by a professional forester.*

*§ 4. Opinions.*

Section ~~58-760-12~~ *58.1-3240* of the Code of Virginia (1950), as amended, authorizes an assessing officer to request from the ~~Director of the Department of Conservation and Economic Development~~ *State Forester* to determine whether a particular property meets the criteria for forest use in cases of reasonable doubt. The ~~Director~~ *State Forester* will arrange for an onsite inspection by the department official in company with the assessor and the applicant. The ~~Director~~ *State Forester* will issue his opinion as quickly as possible after all necessary information has been received. An appeal ~~from~~ *of* any opinion which does not ~~comport~~ *comply* with ~~the~~ *these* standards set forth herein may be ~~taken~~ *made* as provided by ~~law~~ *§ 58.1-3240 of the Code of Virginia*.

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF COMMERCE

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to conform to changes in this Code where no agency discretion is involved. The Department of Commerce will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 190-04-1. Private Security Services Businesses.

**Statutory Authority:** §§ 54-1.28(5) and 54-729.30 of the Code of Virginia.

**Effective Date:** July 1, 1988

### Summary:

*The amendments to the Private Security Services Businesses Rules and Regulations are necessary for compliance with House Bill 231, passed during the 1988 Session of the General Assembly, which amended and reenacted §§ 54-729.29, 54-729.33, and 54-729.34 of the Code of Virginia, relating to the regulation of private security services.*

*The regulations apply directly to approximately 17,000 private security registrants, security services businesses, and compliance agents.*

VR 190-04-1. Private Security Services Businesses.

## PART I. GENERAL.

### § 1.1. Definitions.

The following definitions shall apply in these regulations unless the content clearly requires a different meaning.

"Armed private security services business personnel" means a registrant who has complied with the firearms training and firearms retraining requirements of these regulations and the regulations of the Department of Criminal Justice Services.

"Code" means the Code of Virginia.

"Date of application" means the date on which a person first performs functions as an employee of a licensed

private security services business in a registration category.

"Handgun certification" means the method of regulation used by the department to acknowledge a registrant's successful completion of all handgun-related firearms training and retraining requirements established by the regulations of the Department of Criminal Justice Services.

"Licensee" means a licensed private security services business.

"Registrant" means any individual who has met the requirements for registration in any of the categories listed under "Registration category."

"Registration" means a method of regulation allowing a natural person to perform duties defined in § 54-729.29 of the Code of Virginia after satisfying the training requirements.

"Registration category" means any one of the following categories:

- Armed guard
- Armored car personnel
- Courier
- Guard dog handler
- Private investigator/private detective
- Unarmed guard

"Shotgun certification" means the method of regulation used by the department to acknowledge a registrant's successful completion of all shotgun-related firearms training and retraining requirements established by the Department of Criminal Justice Services.

~~"Temporary registration" means a method of regulation allowing natural persons to perform duties defined in § 54-729.29 of the Code of Virginia prior to satisfying the training requirements.~~

"Training certification" means the method used by training schools approved by the Department of Criminal Justice Services to report a natural person's successful completion of the training requirements to the Department of Commerce.

"Training requirements" means requirements for minimum training for registrants adopted by the Department of Criminal Justice Services.

"Unarmed private security services personnel" means a registrant who has not complied with the firearms training

and firearms retraining requirements of these regulations and the regulations of the Department of Criminal Justice Services.

## § 1.2. Application fee for licensing.

Upon application the fee for a private security services business license shall be \$550.

## § 1.3. Renewal of license.

Licenses issued to private security services businesses shall expire unless renewed on or before October 31 of each year.

## § 1.4. Renewal fee.

The fee for renewal of a private security services business license shall be \$150. Failure to receive notice of renewal shall not relieve the licensee of the responsibility to renew.

## § 1.5. Penalty for late renewal.

If the renewal fee is not received by the department, or its agent, within one month after the expiration date noted on the license, a penalty fee of \$150 shall be required in addition to the renewal fee.

## § 1.6. Failure to renew.

Licensees who fail to renew within six months after the expiration date on their license shall not be eligible to renew. They shall be required to apply for licensure anew.

## § 1.7. Fee nonrefundable.

All fees shall be nonrefundable.

## PART II. ENTRY REQUIREMENTS FOR BUSINESSES.

### § 2.1. License application.

Any person wishing to obtain the required license as a private security services business shall file application on forms provided by the department.

### § 2.2. Surety bond or insurance required.

Each person wishing to apply for or maintain a license as a private security services business shall secure a surety bond in the amount of \$25,000, executed by a surety company authorized to do business in Virginia, or a certificate of insurance showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 and \$300,000.

### § 2.3. Irrevocable consent.

Each nonresident applicant for license or nonresident

licensee shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all action filed in any court in this Commonwealth.

### § 2.4. Compliance agent required.

Each firm applying for or maintaining a license as a private security services business shall employ a compliance agent who is not designated as the compliance agent of any other licensee.

### § 2.5. Qualifications for compliance agents.

A. Compliance agents shall pass an examination determining their knowledge of the regulations and laws governing private security service businesses, except those who were qualifying agents under department regulations on October 31, 1984.

B. Compliance agents shall meet the training requirements and hold a registration with the department in at least one registration category corresponding to a category in which the firm offers private security services.

### § 2.6. Fingerprints required.

Upon application of the firm, all compliance agents, directors, officers, and proprietors of a private security services business shall submit their fingerprints to the department.

### § 2.7. Compliance agent examination fee.

Each request to sit for the Compliance Agent Examination shall be accompanied by a nonrefundable fee of \$25.

## PART III. REQUIREMENTS FOR INDIVIDUAL REGISTRATION.

### § 3.1. Registration application.

Any natural person wishing to obtain the required registration to be employed to perform duties defined under § 54-729.27 of the Code of Virginia shall file an application for ~~temporary registration or for~~ registration and shall cause to be filed a training certification with the department on forms provided by the department.

### § 3.2. Fees.

The application fee for ~~temporary registration and~~ registration shall be \$30. The fee for any training certification not submitted with an application for registration shall be \$15.

### § 3.3. Background investigation of registrants.

The department shall conduct a background investigation on each applicant for registration.

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## § 3.4. Fingerprint cards required.

Each applicant for registration shall submit fingerprint cards to the department.

## § 3.5. Temporary registration application expiration.

Any natural person granted temporary registration who fails to meet the training requirements within six months after his original date of application as defined in § 1.1 of this regulation shall be required to satisfactorily complete training and apply for registration. He shall not be eligible for a second temporary registration.

## § 3.6. Temporary registration.

Any temporary registration granted shall expire 120 days from the original date of application as defined in § 1.1.

## § 3.7. § 3.5. Registration, handgun certification, shotgun certification.

Registration, handgun certification and shotgun certification shall be issued in the following manner:

A. Registration shall be issued to those granted temporary registration upon receipt by the department of training certification in at least one registration category (as defined in § 1.1) and the training certification fee (§ 3.2) within six months after the date of application (§ 1.1).

B. A. Registration shall be issued upon receipt of an application for registration containing training certification in a least one registration category (as defined in § 1.1) and the registration fee (§ 3.2).

C. B. Registration in additional categories shall be issued to those already granted registration upon receipt by the department of training certification in at least one additional registration category (as defined in § 1.1) and the training certification fee (§ 3.2).

D. C. Handgun certification shall be issued to those granted temporary registration or registration upon receipt by the department of a training certification of handgun classroom training and handgun range firing and the training certification fee (§ 3.2).

E. D. Shotgun certification shall be issued to those granted temporary registration or registration upon receipt by the department of a training certification of handgun classroom training, shotgun classroom training, and shotgun range firing and the training certification fee (§ 3.2).

## § 3.8. § 3.6. Minimum age.

Applicants for registration must be at least 18 years old.

## § 3.9. § 3.7. Firearms training.

No natural person granted temporary registration or registration may be armed or have immediate access to a firearm until he has completed the required firearms training.

## § 3.10. § 3.8. Registration denial.

The department may refuse to issue and may deny and withdraw a temporary registration or registration when it finds that:

1. The applicant has failed to accurately and completely disclose and explain his record of criminal conviction on his application for temporary registration or registration; or
2. The applicant for temporary registration or registration has been convicted of a criminal offense directly related to the occupation; or
3. The applicant has applied for registration as an armed private security services business personnel and is prohibited by the Commonwealth or federal law from possessing a firearm.

## § 3.11. § 3.9. Expiration and renewal of registration.

A. Effective December 31, 1986, all registrations issued prior to November 1, 1986, are void.

B. Natural persons who held a valid registration will be required to pay a renewal fee by December 31, 1986, in a manner to implement a staggered renewal system, whereby approximately an equal number of registrants will be renewed each month over a two-year cycle beginning in July, 1987. Renewal notices will be mailed in the fall of 1986, and will indicate the amount of fee due and the expiration date of the renewal registration.

C. Renewal fees to be paid by registrants by December 31, 1986, will be determined based on the following schedule:

Registration Expiration Date	Amount of Renewal Fee
1. July 31, 1987 .....	\$7
2. August 31, 1987 .....	\$8
3. September 30, 1987 .....	\$9
4. October 31, 1987 .....	\$10
5. November 30, 1987 .....	\$11
6. December 31, 1987 .....	\$13
7. January 31, 1988 .....	\$14
8. February 28, 1988 .....	\$15
9. March 31, 1988 .....	\$16
10. April 30, 1988 .....	\$17
11. May 31, 1988 .....	\$18
12. June 30, 1988 .....	\$19
13. July 31, 1988 .....	\$20
14. August 31, 1988 .....	\$21
15. September 30, 1988 .....	\$22

16. October 31, 1988 .....	\$23
17. November 30, 1988 .....	\$24
18. December 31, 1988 .....	\$25
19. January 31, 1989 .....	\$26
20. February 28, 1989 .....	\$27
21. March 31, 1989 .....	\$28
22. April 30, 1989 .....	\$29
23. May 31, 1989 .....	\$30
24. June 30, 1989 .....	\$31

D. All registrations expiring after July 1, 1987, shall be renewed for a two-year period. The amount of renewal fee shall be \$25.

E. The department will mail a renewal notice to the registrant's last known home address outlining the procedures for renewal, approximately 45 days prior to the expiration date of the registration. However, failure to receive this notice shall not relieve the registrant of the obligation to renew.

F. All original registrations issued on or after November 1, 1986, shall expire two years from the last day of the month in which they were issued, as indicated on the registration.

G. Prior to the expiration date shown on the registration, each registrant desiring to renew his registration shall return to the department, or its agent, the renewal notice and a renewal fee of \$25.

H. If the renewal fee is not received by the department, or its agent, within one month after the expiration date noted on the registration, a penalty fee of \$25 shall be required in addition to the renewal fee.

I. Any registrant failing to renew his registration within six months after the expiration date on his registration shall not be eligible to renew his registration or apply for registration under § 3.1 of these regulations. The department may reinstate such registrations upon receipt of a \$50 reinstatement fee and evidence that the training requirements have been completed since the registration expiration date. The department may make an exception for good cause.

§ 3.12. § 3.10. Handgun certification and shotgun certification expiration and retraining.

A. Handgun certification and shotgun certification shall expire two years from the last day of the month in which they were issued, as indicated on the certification.

B. The department will mail a retraining notice to the last known home address of each registrant holding a handgun certification or shotgun certification approximately 90 days prior to the expiration date of the certification. However, failure to receive this notice shall not relieve the registrant of the obligation to receive the required retraining.

C. Prior to the expiration date shown on the handgun certification, each registrant desiring to renew his certification shall cause a training certification of handgun classroom training and handgun range firing and a fee of \$15 to be received by the department.

D. Prior to the expiration date shown on the shotgun certification, each registrant desiring to renew his certification shall cause a training certification of handgun classroom training, shotgun classroom training, and shotgun range firing and a fee of \$15 to be received by the department.

## PART IV. STANDARDS OF PRACTICE.

### § 4.1. Registration of employees required.

Each licensee shall assure that all persons employed to perform duties defined under § 54-729.27 of the Code of Virginia possess a current and valid registration or ~~temporary registration~~ issued by the department.

### § 4.2. Records.

Each private security services business shall maintain *documentary* evidence of compliance with § 4.1, employment and payroll records and shall have them available to the Department of Commerce within a reasonable time after the request for them is made.

### § 4.3. Responsibilities of compliance agents.

The compliance agent shall assure the licensed firm's compliance with the statute and regulations governing private security services businesses.

### § 4.4. Termination of employment of compliance agent.

A. Upon termination of employment of a compliance agent, the licensed firm shall notify the department by certified mail within five business days. The licensed firm shall have 60 calendar days from the date of termination to employ a replacement compliance agent.

B. Upon the death or disability of a compliance agent who was engaged in a proprietorship or who was the only compliance agent in a corporation or partnership, his estate, an adult member of his family, or an employee of the firm may be granted approval by the department to carry on the business of the deceased or disabled compliance agent for 120 days following the death or disability of the compliance agent solely for the purpose of concluding the business or becoming qualified to be a compliance agent. In the event no such person is available or suitable, the department may appoint any other suitable person to terminate the business within 120 days. In no event shall such firm initiate any new business while operating under the terms of this regulation.

### § 4.5. Change of owner, partners or officers.



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The compliance agent shall notify the department by certified mail within 15 business days of any change of ownership, change of partners or associates in a partnership or association, or change of officers or directors in a corporation. The notification shall contain the fully executed forms required by § 2.1. Change of ownership shall not change the requirements for licensure and shall not relieve the licensee from the responsibility for complying with the Code or these regulations.

## § 4.6. Licenses nontransferable.

Private security services business licenses shall not be transferable.

## § 4.7. Registration cards, property of department.

All ~~temporary registration and~~ registration cards shall remain the property of the department. Any ~~temporary registration or~~ registration card reported lost and later recovered shall be returned to the department.

## § 4.8. Registration card, carried on duty.

The registration card shall be carried on the person of the registrant at all times while on duty.

## § 4.9. ~~Temporary registration card, carried on duty.~~

~~The temporary registration card shall be carried on the person of the temporary registrant at all times while on duty until registration is obtained.~~

## § 4.10. § 4.9. Registration card, replacement.

Replacement of a lost, destroyed, or damaged registration ~~or temporary registration~~ card may be made by the department upon receipt of a statement from the registrant explaining how the card was lost, destroyed, or damaged and a fee of \$10.

## § 4.11. § 4.10. Display of uniform, badge, or registration card.

No person engaged in the private security services business shall display his uniform, badge, or registration card except within the scope of his employment or while traveling immediately before and after the period of actual duty between such areas and the residence of the individual.

## § 4.12. § 4.11. Grounds to refuse issuance, suspend, revoke or modify a license or registration or to deny renewal of a license or registration.

The department may refuse to issue a license or registration, suspend or revoke a license or registration, or deny renewal of a license or registration, or modify any registration or license if it finds that:

1. The applicant, registrant, compliance agent, director,

officer, proprietor, partner or associate of any licensed firm has had his license or registration suspended, revoked, or denied renewal in any jurisdiction of the United States, or has been convicted of a felony or misdemeanor directly related to the occupation or has violated any regulation directly related to the occupation;

2. There has been any fraud or material misrepresentation by the applicant, licensee or registrant in obtaining a license, license renewal, registration or registration renewal;

3. The applicant, licensee or registrant has failed to provide information requested by the department within a reasonable period of time;

4. The applicant, licensee or registrant has violated, or aided or abetted others in violating §§ 54-729.27 through 54-729.34 of the Code of Virginia, regulations adopted by the Department of Criminal Justice Services, or these regulations;

5. The applicant, compliance agent, licensee or registrant has performed an act resulting in loss, injury or death to any person when such loss, injury or death has resulted from negligent or improper conduct; or

6. The licensee has shown a pattern of employing temporary registrants with no intent to provide the mandatory training.

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**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14.4.1 C 4(a) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to conform to changes in this Code where no agency discretion is involved. The Department of Commerce will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 190-05-1. Asbestos Licensing Regulations.

**Statutory Authority:** § 54-145.5 of the Code of Virginia.

**Effective Date:** July 1, 1988

### Summary:

*The amendments to the Virginia Asbestos Licensing Regulations are necessary for compliance with House Bill 400 and Senate Bill 258, passed during the 1988 Session of the General Assembly, which amended §§ 54-145.4 through 54-145.11 of Chapter 7.01 of Title 54 of the Code of Virginia.*

*The amendments to House Bill 400 relate to the licensing of asbestos inspectors, management planners and project designers. Senate Bill 258 amends the Code of Virginia relating to exemptions from licensure for asbestos work.*

VR 190-05-1. Asbestos Licensing Regulations.

## PART I. DEFINITIONS.

### § 1.1. Definitions.

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

"ACM" means asbestos containing material.

"Asbestos" means any material containing more than 1.0% asbestos by weight, which is friable or which has a reasonable probability of becoming friable in the course of ordinary or anticipated building use.

"Asbestos abatement" means any activity involving job set-up, removal, encapsulation, enclosure, renovation, repair, demolition, construction, alteration, or maintenance of asbestos-containing material.

"Asbestos contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts for a project to remove or encapsulate asbestos.

"Asbestos containing material (ACM)" means any material or product which contains more than 1.0% asbestos.

"Asbestos inspector" means any person performing on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential, all friable and nonfriable asbestos containing materials located within a structure.

"Asbestos management planner's license" means an authorization issued by the department permitting a person to develop and implement an asbestos management plan.

"Asbestos project" means an activity involving the inspection for removal or encapsulation of asbestos.

"Asbestos project designer's license" means an authorization issued by the department permitting a person to design an asbestos abatement project.

"Asbestos worker" means any person who engages in an asbestos abatement activity.

"Asbestos worker's license" means an authorization issued by the Department of Commerce permitting an individual to work on an asbestos project.

"Department" means the Department of Commerce.

"Director" means the Director of the Department of Commerce.

"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means the construction or installation over or around the ACM of any solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"EPA" means Environmental Protection Agency.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"Removal" means the physical removal of ACM from a building and disposal thereof in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to contain fiber release.

"Supervisor" means any asbestos abatement worker who has been licensed by the Department of Commerce under these regulations as a supervisor. A licensed supervisor must be present at each jobsite.

## PART II. ASBESTOS WORKERS LICENSING REQUIREMENTS.

### § 2.1. License application.

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

Assistant Director

Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos workers training course approved by the Department of Commerce.

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C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure a license will be mailed to the address indicated on the application.

## § 2.2. Qualifications for licensure.

Each individual applying to the Department of Commerce for licensing as an asbestos worker shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## § 2.3. Fees.

A. A completed application (as defined in Part II, § 2.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos workers license will be

established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 2.4. Expiration.

Asbestos workers licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 2.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee equal to the regular renewal fee, shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current educational and examination requirements as specified in Part II, § 2.1 of this regulation.

## § 2.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 2.7. Interim licensure.

Individuals who have successfully completed an EPA approved three-day (24 hours) asbestos worker's training course and have passed an EPA approved asbestos worker's examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the

12 month interim license period, a Virginia approved asbestos worker's refresher training course must be successfully completed and the individual must apply for a Virginia asbestos worker's license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos worker's license must have successfully completed a Virginia approved asbestos worker's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos worker's license, an interim license will be mailed to the address indicated on the application.

F. Fees.

1. A completed application (as required in Part II, § 2.7 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

2. The fee for an asbestos worker's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

3. All fees will be nonrefundable.

4. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART III. ASBESTOS CONTRACTORS AND SUPERVISORS LICENSING.

### § 3.1. License application.

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

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos contractor/supervisor training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement action has been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction or any state or federal court.

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2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

## § 3.2. Qualifications for licensure.

Each individual or business applying to the Department of Commerce for licensing as an asbestos contractor/supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall have all licenses necessary and required by state statute or local ordinance to transact the business of an asbestos contractor/supervisor in addition to those requirements as set forth in these regulations.

3. Applicant shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## § 3.3. Fees.

A. A completed application (as required in Part III, § 3.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos contractor/supervisor license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 3.4. Expiration.

Asbestos contractors/supervisors licenses issued under

these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 3.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate fee. Should the licensee fail to receive a renewal notice, a copy of the license may be submitted with the required fee.

B. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee equal to the regular renewal fee, shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part III, § 3.1 of these regulations.

## § 3.6. License certificate.

A copy of a current asbestos contractors and supervisors license certificate shall be available at all times for review by the Department of Labor and Industry, and the Department of Commerce, at each asbestos jobsite.

## § 3.7. Maintenance of licensing records at asbestos jobsite.

It shall be the responsibility of the contractor/supervisor to maintain at each jobsite, a list of the licensed asbestos workers, the current license number, and the license expiration date of those workers. Records maintained at the jobsite shall be available for review by the Department of Labor and Industry, and the Department of Commerce, and all other agencies having jurisdiction to inspect an asbestos jobsite.

## § 3.8. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 3.9. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos contractor/supervisor training course and have passed an EPA approved asbestos contractor/supervisor examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos contractor/supervisor refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos contractor/supervisor license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos contractor/supervisor license must have successfully completed a Virginia approved asbestos contractor/supervisor training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos contractor/supervisor licensure, an interim license will be mailed to the address indicated on the application.

## § 3.10. Fees.

A. A completed application (as required in Part III, § 3.9 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos contractor/supervisor's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART IV. ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

### § 4.1. License application.

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

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos inspector training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

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1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

## § 4.2. Qualifications for licensure.

A. Each individual or business applying to the Department of Commerce for licensing as an asbestos inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## § 4.3. Fees.

A. A completed application (as required in Part IV, § 4.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos inspector's license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 4.4. Expiration.

Asbestos inspector licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 4.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of four hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee equal to the regular renewal fee, shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part IV of these regulations.

## § 4.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 4.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos inspector training and have passed an EPA approved asbestos inspector examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos inspector refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos inspector license as required in these regulations.

**"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989."** After July 1, 1989, all applicants for an asbestos inspector's license must have successfully completed a Virginia approved asbestos inspector's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce

3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform building inspections for asbestos containing materials has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos inspection might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos inspector's license, an interim license will be mailed to the address indicated on the application.

#### § 4.8. Fees.

A. A completed application (as required in Part IV, § 4.7 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos inspector's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for

licensure.

#### PART V. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

##### § 5.1. License application.

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

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos project designer training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

##### § 5.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos project designer shall have the following qualifications:



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1. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## § 5.3. Fees.

A. A completed application (as required in Part V, § 5.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos project designer's license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 5.4. Expiration.

Asbestos project designer licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 5.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee, equal to the regular renewal fee, shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall

not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part V of these regulations.

## § 5.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 5.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos project designer training course and have passed an EPA approved asbestos project designer examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos project designer refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos project designer license as required in these regulations. **NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989.** After July 1, 1989, all applicants for an asbestos project designer license must have successfully completed a Virginia approved asbestos project designer training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny any applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the

instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for an interim asbestos project designer license, an interim license will be mailed to the address indicated on the application.

#### F. Fees.

1. A completed application (as required in Part V, § 5.7 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

2. The fee for an asbestos project designer interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

3. All fees shall be nonrefundable.

4. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

### PART VI. ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

#### § 6.1. License application.

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

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos management planner training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to develop and implement an asbestos management plan has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be

required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos management planner activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

#### § 6.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos management planner shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

#### § 6.3. Fees.

A. A completed application (as required in Part VI, § 6.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos management planner's license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

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## § 6.4. Expiration.

Asbestos management planner licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 6.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee, equal to the regular renewal fee, shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part VI of these regulations.

## § 6.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 6.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos management planner training course and have passed an EPA approved asbestos management planner examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos management planner refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos management planner license as required in these regulations.

**NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989.** After July 1, 1989, all applicants for an asbestos management planner's license must have successfully completed a Virginia approved asbestos

management planner's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization as an asbestos management planner has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos management planner's license, an interim license will be mailed to the address indicated on the application.

## F. Fees.

1. A completed application (as required in Part VI, § 6.1 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

2. The fee for an asbestos management planner's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

3. All fees will be nonrefundable.

4. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART V VII . TRAINING COURSE REQUIREMENTS.

[ IN ALL OF THE FOLLOWING TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

### § 5-1: § 7.1. Worker training.

Asbestos abatement workers shall complete at least a three day (24 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination. The training shall address the following topics:

1. Physical characteristics of asbestos:
  - a. Identification of asbestos.
  - b. Aerodynamic characteristics.
  - c. Typical uses and physical appearance.
  - d. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
  - a. The nature of asbestos related diseases.
  - b. Routes of exposure, dose response relationships and the lack of a safe exposure level.
  - c. Synergism between cigarette smoking and asbestos exposure.
  - d. Latency period for disease.
3. Employee personal protective equipment:
  - a. Classes and characteristics of respirator types.
  - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
  - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
  - d. Qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors.
  - f. Factors that alter respirator fit (e.g., facial hair).

g. The components of a proper respiratory protection program.

h. Selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing.

i. Regulations covering personal protective equipment.

### 4. State-of-the-art work practices:

a. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.

e. Proper clean-up and disposal procedures.

f. Work practices for removal, encapsulation, enclosure, and repair.

g. Emergency procedures for sudden releases.

h. Potential exposure situations, and transport and disposal procedures.

i. Recommended and prohibited work practices.

### 5. Personal hygiene:

a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure.

### 6. Additional safety hazards:

a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

b. Scaffold and ladder hazards.

c. Slips, trips and falls.

d. Confined spaces.

### 7. Medical monitoring:

a. OSHA requirements for a pulmonary function test.

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b. Chest x-rays and a medical history for each employee.

## 8. Air monitoring:

a. Procedures to determine airborne concentrations of asbestos fibers.

b. Focusing on how personal air sampling is performed and the reasons for it.

9. Relevant federal, state and local regulatory requirements, procedures and standards, with particular attention directed at relevant EPA, OSHA, and state regulations concerning asbestos abatement workers.

10. Establishment of respiratory protection programs.

11. Course review. A review of key aspects of the training course.

## § 5-2. § 7.2. Examinations.

Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certificate indicating successful completion of the course. The following are the requirements for examination:

Asbestos abatement workers:

1. 50 multiple choice questions.
2. Passing score: 70% correct.

IN ALL REFRESHER TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

## § 5-2. § 7.3. Refresher training course.

Refresher courses shall be one day (8 hours) in length for asbestos abatement workers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course as set forth in Part V, § 5-1 Part VII, § 7.1 of these regulations. A written closed book examination of 50 multiple choice questions will be administered covering the topics included in the refresher course. A passing refresher examination score will be 70% correct. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

## § 5-4. § 7.4. Contractor/supervisor training.

Asbestos abatement contractors and supervisors shall complete a four day (32 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lecture, demonstrations, individual respirator fit testing, course review, examination, and at least six hours of hands-on training which allows contractors and supervisors the experience of performing actual tasks associated with asbestos abatement.

For purposes of approval, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. The contractor may designate a supervisor to serve as his agent for the purposes of meeting the requirements for approval.

The contractor and supervisor's training course shall adequately address the following topics:

1. The physical characteristics of asbestos and asbestos-containing materials:

- a. Identification of asbestos.
- b. Aerodynamic characteristics.
- c. Typical uses, physical appearance.
- d. A review of hazard assessment considerations.
- e. A summary of abatement control options.

2. Potential health effects related to asbestos exposure:

- a. The nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. Synergism between cigarette smoking and asbestos exposure.
- d. Latency period for disease.

3. Employee personal protective equipment:

- a. Classes and characteristics of respirator types.
- b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
- c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors.

- f. Factors that alter respirator fit (e.g., facial hair).
  - g. The components of a proper respiratory protection program.
  - h. Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.
  - i. Regulations covering personal protective equipment.
4. State-of-the-art work practices:
- a. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
  - b. Positioning of warning signs.
  - c. Electrical and ventilation system lock-out.
  - d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
  - e. Proper clean-up and disposal procedures.
  - f. Work practices for removal, encapsulation, enclosure and repair.
  - g. Emergency procedures for sudden releases.
  - h. Potential exposure situations, and transport and disposal procedures.
  - i. Recommended and prohibited work practices.
5. Personal hygiene:
- a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing, (gum or tobacco) in the work area.
  - b. Potential exposures, such as family exposure, shall also be included.
6. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants, other than asbestos, fire and explosion hazards.
  - b. Scaffold and ladder hazards.
  - c. Slips, trips and falls.
  - d. Confined spaces.
7. Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.
8. Air monitoring:
- a. Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, equipment and methods.
  - b. Reasons for air monitoring.
  - c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
9. Relevant federal, state, and local regulatory requirements, procedures and standards including:
- a. Requirements of TSCA Title II.
  - b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
  - c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
  - d. OSHA Asbestos Construction Standard (29 CFR 1926.58).
  - e. EPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
10. Respiratory protection programs and medical surveillance programs.
11. Insurance and liability issues:
- a. Contractor issues, worker's compensation coverage, and exclusions.
  - b. Third-party liabilities and defenses.
  - c. Insurance coverage and exclusions.
12. Recordkeeping for asbestos abatement projects:
- a. Records required by federal, state, and local regulations.
  - b. Records recommended for legal and insurance purposes.
13. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

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14. Contract specifications. Discussions of key elements that are included in contract specifications.

15. Course review. A review of key aspects of the training course.

## § 5.5. § 7.5. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive some form of a written certificate indicating successful completion of the course. The following are the requirements for examination:

Asbestos abatement contract supervisors:

1. 100 multiple choice questions.
2. Passing score: 70% correct.

## § 5.6. § 7.6. Refresher training course.

Refresher courses shall be one day (8 hours) in length for contractors/supervisors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part V, § 5.1 Part VII, § 7.4 of these regulations. A written closed book examination will be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

## § 5.7. § 7.7. Inspector training.

Asbestos inspectors shall complete a three day (24 hour) training course as outlined below. The course shall include lectures, demonstrations, four hours of hands-on training, individual respirator fit testing, course review and a written examination.

The inspector training course shall adequately address the following topics:

1. Background information on asbestos:
  - a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
  - b. Physical appearance of asbestos.
2. Potential health effects related to asbestos exposure:
  - a. The nature of asbestos-related diseases.
  - b. Routes of exposure, dose-response relationships

and the lack of a safe exposure level.

c. The synergistic effect between cigarette smoking and asbestos exposure.

d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.

## 3. Functions/qualifications and role of inspectors:

a. Discussions of prior experience and qualifications for inspectors.

b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.

c. Discussion of inspection process including inventory of ACM and physical assessment.

## 4. Legal liabilities and defenses:

a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.

b. Bonding and relationship of insurance availability to bond availability.

## 5. Understanding building systems:

a. The interrelationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.

b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.

c. Inspecting electrical systems, including appropriate safety precautions.

d. Reading building plans and as-built drawings.

## 6. Public/employee/building occupant relations:

a. Notifying employee organizations about the inspection.

b. Signs to warn building occupants.

c. Tact in dealing with occupants and the press.

d. Scheduling of inspections to minimize disruption.

- e. Education of building occupants about actions being taken.
7. Preinspection planning and review of previous inspection records:
    - a. Scheduling the inspection and obtaining access.
    - b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.
    - c. Consultation with maintenance or building personnel.
    - d. Review of previous inspection, sampling, and abatement records of a building.
    - e. The role of the inspector in exclusions for previously performed inspections.
  8. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:
    - a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.
    - b. Types of building materials that may contain asbestos.
    - c. Touching materials to determine friability.
    - d. Open return air plenums and their importance in HVAC systems.
    - e. Assessing damage, significant damage, potential damage, and potential significant damage.
    - f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.
    - g. Type of damage.
    - h. Accessibility.
    - i. Material's potential for disturbance.
    - j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.
  9. Bulk sampling/documentation of asbestos in schools:
    - a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5-85-030a October 1985) techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.
    - b. Techniques for bulk sampling.
    - c. Sampling equipment the inspector should use.
    - d. Patching or repair of damage done in sampling; and inspector's repair kit.
    - e. Discussion of polarized light microscopy.
    - f. Choosing an accredited laboratory to analyze bulk samples.
    - g. Quality control and quality assurance procedures.
  10. Inspector respiratory protection and equipment:
    - a. Classes and characteristics of respirator types.
    - b. Limitations of respirators.
    - c. Proper selection, inspection, donning, use maintenance, and storage procedures for respirators.
    - d. Methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.
    - e. Variability between field and laboratory protection factors.
    - f. Factors that alter respirator fit (e.g., facial hair).
    - g. The components of a proper respiratory protection program.
    - h. Selection and use of personal protective clothing.
    - i. Use, storage, and handling of nondisposable clothing.
  11. Recordkeeping and writing the inspection report:
    - a. Labeling of samples and keying sample identification to sampling location.
    - b. Recommendations on sample labeling.
    - c. Detailing of ACM inventory.
    - d. Photographs of selected sampling areas and examples of ACM condition.
    - e. Information required for inclusion in the management plan by TSCA Title II § 203 (i)(1).
  12. Regulatory review:
    - a. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G.
    - b. TSCA Title II.
    - c. OSHA Asbestos Construction Standard 29 CFR



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1926.58.

d. OSHA respirator requirements found at 29 CFR 1910.134.

e. The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.

(The above materials are incorporated by reference).

f. Applicable state and local regulations.

### 13. Field trip:

a. To include a field exercise including a walk-through inspection.

b. Discussion on information gathering and determination of sampling locations.

c. On-site practice in physical assessment.

d. Classroom discussion of field exercise.

14. Course review. A review of key aspects of the training course.

### § 5-8. § 7.8. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos inspectors:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

### § 5-9. § 7.9. Refresher training course.

Refresher courses shall be one-half day (4 hours) in length for inspectors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course as set forth in Part V, § 5-7 Part VII, § 7.7 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. Persons who pass the refresher course examination will receive some form of written certification indicating successful completion of the course.

### § 7.10. Abatement project designers.

Asbestos project designers shall complete either a

three-day abatement project designer training course as outlined below or the four-day asbestos abatement contractor and supervisor's training course as outlined in § 7. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day abatement project designer training course shall adequately address the following topics:

#### 1. Background information on asbestos:

a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.

b. Physical appearance of asbestos.

#### 2. Potential health effects related to asbestos exposure:

a. Nature of asbestos-related diseases.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. The synergistic effect between cigarette smoking and asbestos exposure.

d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

#### 3. Overview of abatement construction projects:

a. Abatement as a portion of a renovation project.

b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

#### 4. Safety system design specifications:

a. Construction and maintenance of containment barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Proper working techniques for minimizing fiber release.

e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.

#### 5. Field trip:

- a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.
  - b. Building walk-through inspection, and discussion following the walk-through.
6. Employee personal protective equipment:
- a. To include the classes and characteristics of respirator types.
  - b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
  - c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).
  - d. Qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).
  - f. Components of a proper respiratory protection program.
  - g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
  - h. Regulations covering personal protective equipment.
7. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them.
  - b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
8. Fiber aerodynamics and control:
- a. Aerodynamic characteristics of asbestos fibers.
  - b. Importance of proper containment barriers.
  - c. Settling time for asbestos fibers.
  - d. Wet methods in abatement.
  - e. Aggressive air monitoring following abatement.
  - f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.
9. Designing abatement solutions.
- a. Discussions of removal, enclosure, and encapsulation methods.
- b. Asbestos waste disposal.
10. Budgeting/cost estimation.
- a. Development of cost estimates.
  - b. Present costs of abatement versus future operations and maintenance costs.
  - c. Setting priorities for abatement jobs to reduce cost.
11. Writing abatement specifications.
- a. Means and methods specifications versus performance specifications.
  - b. Design of abatement in occupied buildings.
  - c. Modification of guide specifications to a particular building.
  - d. Worker and building occupant health/medical considerations.
  - e. Replacement of ACM with nonasbestos substitutes.
  - f. Clearance of work area after abatement.
  - g. Air monitoring for clearance.
12. Preparing abatement drawings:
- a. Use of as-built drawings.
  - b. Use of inspection photographs and on-site reports.
  - c. Particular problems in abatement drawings.
13. Contract preparation and administration.
14. Legal/liabilities/defenses.
- a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.
  - b. Claims-made versus occurrence policies.
15. Replacement of asbestos with asbestos-free substitutes.
16. Role of other consultants:
- a. Development of technical specification sections by industrial hygienists or engineers.
  - b. The multidisciplinary team approach to abatement design.

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## 17. Occupied buildings.

- a. Special design procedures required in occupied buildings.
- b. Education of occupants.
- c. Extra monitoring recommendations.
- d. Staging of work to minimize occupant exposure.
- e. Scheduling of renovation to minimize exposure.

## 18. Relevant federal, state and local regulatory requirements. Procedures and standards including:

- a. Requirements of TSCA Title II.
- b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
- c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
- d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.
- e. OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

## 19. A review of key aspects of the training course.

### § 7.11. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

#### Asbestos Project Designers:

1. 100 multiple choice questions.
2. Passing score: 70% correct.

### § 7.12. Refresher training course.

Refresher courses shall be one day (eight hours) in length for project designers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part V of these regulations. A written closed book

examination shall be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

### § 7.13. Management planner training.

Asbestos management planners seeking accreditation must complete an inspection training course as outlined above and a two day management planning training course. The two day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall adequately address the following topics:

#### 1. Course overview:

- a. The role of the management planner.
- b. Operations and maintenance programs.
- c. Setting work priorities; protection of building occupants.

#### 2. Evaluation/interpretation of survey results:

- a. Review of TSCA Title II requirements for inspection and management plans as given in § 203(i)(1) of TSCA Title II.
- b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

#### 3. Hazard assessment:

- a. Amplification of the difference between physical assessment and hazard assessment.
- b. The role of the management planner in hazard assessment.
- c. Explanation of significant damage, damage, potential damage, and potential significant damage and use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM.
- d. Relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

#### 4. Legal implications:

- a. Liability; insurance issues specific to planners.
- b. Liabilities associated with interim control measures, in-house maintenance, repair, and removal.
- c. Use of results from previously performed inspections.

## 5. Evaluation and selection of control options:

- a. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method.
- b. Response actions described via a decision tree or other appropriate method; work practices for each response action.
- c. Staging and prioritizing of work in both vacant and occupied buildings.
- d. The need for containment barriers and decontamination in response actions.

## 6. Role of other professionals:

- a. Use of industrial hygienists, engineers and architects in developing technical specifications for response actions.
- b. Any requirements that may exist for architect sign-off of plans.
- c. Team approach to design of high-quality job specifications.

## 7. Developing an operations and maintenance (O&M) plan:

- a. Purpose of the plan.
- b. Discussion of applicable EPA guidance documents.
- c. What actions should be taken by custodial staff: proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming.
- d. Reducing disturbance of ACM.
- e. Scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM.
- f. Boiler room maintenance.
- g. Disposal of ACM.
- h. In-house procedures for ACM: bridging and penetrating encapsulants, pipe fittings, metal sleeves, polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement.
- i. Discussion of employee protection programs and staff training.
- j. Case study in developing an O&M plan (development, implementation process, and problems that have been experienced).

## 8. Regulatory review:

- a. Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.58.
- b. The National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
- c. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II.
- d. Applicable state regulations.

## 9. Recordkeeping for the management planner:

- a. Use of field inspector's data sheet along with laboratory results.
- b. On-going recordkeeping as a means to track asbestos disturbance.
- c. Procedures for recordkeeping.

## 10. Assembling and submitting the management plan:

- a. Plan requirements in TSCA Title II § 203(i)(1).
- b. The management plan as a planning tool.

## 11. Financing abatement actions:

- a. Economic analysis and cost estimates.
- b. Development of cost estimates.
- c. Present costs of abatement versus future operations and maintenance costs.
- d. Asbestos School Hazard Abatement Act grants and loans.

## 12. A review of key aspects of the training course.

### § 7.14. Examinations.

Upon completion of an approved management planner training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the management planner training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the management planner training course. The following are the requirements for examination:

#### Asbestos Management Planners:

1. 50 multiple choice questions.

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2. Passing score: 70% correct.

## § 7.15. Refresher training course.

Management planners shall attend the inspector refresher course of one-half day (four hours) in length plus an additional half-day (four hours) on management planning. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the inspector and management planner training courses as set forth in Parts IV and VI of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector and management planner refresher courses. Persons who pass the asbestos inspector and management planner refresher course examinations will receive some form of written certification indicating successful completion of the course.

## PART VI. VIII. TRAINING COURSE APPROVAL.

### § 6.1. § 8.1. Training course approval requirements.

All approved training courses shall meet the minimum requirements as outlined in Part V. VIII of these regulations. Individuals, businesses, agencies, or institutions wishing to sponsor training courses to prepare applicants for licensure requirements shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Sponsor's name, address and phone number.
2. The course curriculum.
3. A narrative explanation that clearly indicates how the course meets the requirements for approval in the following areas:
  - a. Length of training in hours.
  - b. Amount and type of hands-on training.
  - c. Examinations (length, format and passing score).
  - d. Topics covered in the course.
  - e. Assurances as to test security and how exams are administered.
4. A copy of all course materials (student manuals, instructor notebooks, handouts, etc.).
5. A detailed statement about the development of the examination used in the course.
6. Names, qualifications (include education or experience, or both), and subject areas that each instructor will teach.

7. Teacher-student ratio.

8. Description and an example of numbered certificates that will be issued to students who successfully complete the course.

### § 6.2. § 8.2. Examination.

In order for courses to be approved by the Department of Commerce, they are required to have a monitored, final written examination which shall include a practical component to test skill in asbestos abatement techniques. Students must obtain a minimum exam grade of 70% correct. A record of each student's grades will be retained by each institution for a period of three years.

### § 6.3. § 8.3. Certificate of course approval.

Certificates of course approval shall be displayed in each approved school facility in a conspicuous place readily accessible to the public. An approved school shall maintain lists of students trained and the dates training occurred. These records shall be made available for Department of Commerce and Department of Labor and Industry review, and shall be maintained for three years.

### § 6.4. § 8.4. Refresher course approval.

Refresher courses shall be one day (8 hours) in length for contractors/supervisors and workers, and one-half day (4 hours) in length for inspectors. The refresher course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course. Individuals, businesses, agencies, or institutions wishing to sponsor refresher training courses shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Length of training.
2. Topics covered in the course.
3. A copy of all course materials.
4. Names and qualifications of course instructors.
5. An example of certificates issued to students who complete the refresher course.
6. Location and dates the training course is to be held.
7. A detailed statement about the development of the examination and assurances as to test security and how exams are administered.
8. Description and an example of numbered certificates issued to students who successfully complete the course.

~~§ 6-5.~~ § 8.5. Changes to an approved training course.

Once a training course has been approved, any change in topics covered, course materials, and instructors shall be submitted for approval by the Department of Commerce.

~~§ 6-6.~~ § 8.6. Suspension or revocation of approval of a training course.

The director may withdraw approval of any approved training program for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the director, and found in ~~Parts V and VI, §§ 5-2 through 6-5~~ Part VIII, § 8.1 of these regulations.
2. Field inspectors indicate an approved individual, business, agency, institution or sponsor is not conducting the training that meets the requirements as set forth in these regulations. Training course sponsors shall permit Department of Commerce and Department of Labor and Industry representatives to attend, evaluate, and monitor any training course.

Prior notice of attendance by agency representatives may or may not be given.

3. If the approval of a training course is revoked or suspended, the Department of Commerce will promptly notify the individual business, agency, institution, or sponsor in writing of the reason for the suspension or revocation. In the case of a suspension, the necessary steps that shall be taken to comply with the requirements as set forth in ~~Part V~~ Part VIII of the regulations will be specified.

## PART ~~VII.~~ IX. EXEMPTIONS.

~~§ 7-1.~~ § 9.1. Emergency exemption from licensing.

An exemption from the licensing requirements, as set forth in these regulations may be granted by the director, pursuant to § 54-145.10:6 of the Code of Virginia, based on a situation that requires immediate removal, repair or encapsulation of asbestos containing materials and a licensed contractor/supervisor and workers are not available to perform the abatement work. Notification shall be immediate and followed by a written description of:

1. The emergency situation.
2. The planned abatement project to include: description of abatement techniques, safety precautions, provisions for worker safety and protection, and safety equipment to be used in the abatement project.
3. The project shall not commence until the exemption

has been approved by the director.

~~§ 7-2.~~ § 9.2. "BUSINESS NECESSITY" WILL NOT QUALIFY FOR EMERGENCY EXEMPTION FROM LICENSING REQUIREMENTS.

~~§ 7-3.~~ § 9.3. Exemption from licensure (not an emergency exemption).

The director may exempt from licensure any employer and any employees of such employer, but only with respect to an asbestos project on premises owned or leased by such employer and only after the director has determined that the training course implemented by the employer for his employees meets all of the standards as set forth in Part ~~V~~ VII of these regulations. *However, the requirement that the premises be owned or leased by the employer shall not apply if the asbestos project is located on a ship or other vessel designed for operation on or underneath, and intended to be operated on or underneath, the water.* All exemptions from licensure will be reviewed on at least an annual basis. To aid the director in making a determination of exemption, the employer shall submit to the director the following information regarding the asbestos safety and training program of the employer:

1. Employer's name, address, phone number, and contact person.
2. A narrative explanation that clearly indicates how the course or training program is structured to meet the training course requirements as set forth in Part ~~V~~ VII of these regulations.

Upon the approval by the director of the request for exemption from licensing requirements, the employer will be notified in writing by the Department of Commerce.

Employers shall permit the Department of Commerce or Department of Labor and Industry representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives may or may not be given.

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Application for Asbestos Licensing

PLEASE PRINT Date \_\_\_\_\_ 19\_\_

Name \_\_\_\_\_ Phone No. (\_\_\_\_) \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_

IMPORTANT: Please Attach A Copy Of The Certificate Obtained After Successful Completion Of An Approved Asbestos Training Course.

Date of Training \_\_\_\_\_ Location \_\_\_\_\_ State \_\_\_\_\_

TYPE OF LICENSE REQUESTED: (only one type of license per application)

Worker (Reg. 2.3) Fee: \$35.00 _____	Management Planner Fee: \$35.00 _____
Supervisor (Reg. 3.3) Fee: \$35.00 _____	Project Designer Fee: \$35.00 _____
Inspector (Reg. 4.3) Fee: \$35.00 _____	

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA

License or authorization to perform Asbestos Work currently or previously held:

Type _____	License No. _____	Issued by _____
_____	_____	_____
_____	_____	_____

Applicant's signature below indicates that within the past 36 months license or authorization to perform Asbestos Abatement Work has not been suspended or revoked by any other state, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature \_\_\_\_\_

The reverse side of this application must be completed before license will be issued.

In the event an enforcement action has been taken against the applicant, the following information will be required as the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

AFFIDAVIT

THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF \_\_\_\_\_

City/County of \_\_\_\_\_

Subscribed and sworn to before me, the undersigned Notary Public in and for the City or County aforesaid this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Notary Public \_\_\_\_\_

(Seal)

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Application for Asbestos Contractor License

PLEASE PRINT Date \_\_\_\_\_ 19\_\_

Name \_\_\_\_\_  
Mailing or Business Address \_\_\_\_\_  
Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. (\_\_\_\_) \_\_\_\_\_

Virginia Contractor's License Number: \_\_\_\_\_

Type of Business: (check one)

Individual \_\_\_\_\_ Limited partnership \_\_\_\_\_ Other \_\_\_\_\_  
Corporation \_\_\_\_\_ Co-partnership \_\_\_\_\_

CONTRACTOR'S LICENSE FEE \$500.00

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

Applicant's signature below indicates that within the past 36 months license or authorization to perform Asbestos Abatement Work has not been suspended or revoked by any other state, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature \_\_\_\_\_

In the event an enforcement action has been taken against the applicant, the following information will be required as the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

The reverse side of this application must be completed before license will be issued.

AS REQUIRED BY CHAPTER 7.01 section 54-145.9:2 OF THE CODE OF VIRGINIA WHICH STATES A CONTRACTOR SHALL;

Demonstrate to the satisfaction of the Director that the applicant and his employees or agents are familiar with and are capable of complying fully with all applicable requirements, procedures and standards of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the Department of Labor and Industry, and the State Air Pollution Control Board covering any part of an asbestos project.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS CONTRACTORS.

**AFFIDAVIT**

THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Applicant's Tradename \_\_\_\_\_

THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF \_\_\_\_\_

City/County of \_\_\_\_\_

Subscribed and sworn to before me the undersigned Notary Public in and for the City or County aforesaid this \_\_\_\_\_ day of

\_\_\_\_\_ 19\_\_

(Seal)

\_\_\_\_\_  
Notary Public



# Final Regulations

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## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**Title of Regulation:** VR 270-01-0051. Regulations Governing Criteria to Identify Toxic Art Materials; Labeling; Use in Elementary Grades Prohibited.

**Statutory Authority:** § 22.1-274.1 of the Code of Virginia.

**Effective Date:** July 1, 1988

### Summary:

*Part I contains definitions of words and terms used in the regulations.*

*Part II contains general regulations pertaining to toxic art materials in the public schools. The Virginia General Assembly in its 1987 session enacted to amend the Code of Virginia by adding a section numbered 22.1-274.1 (Chapter 14, Article 2) entitled "Criteria to identify toxic art materials; labeling; use in elementary grades prohibited." On March 22, 1987, Governor Gerald L. Baliles signed the legislation into law. On January 14, 1988, a bill was adopted to amend and reenact § 22.1-274.1 of the Code of Virginia as follows:*

*Criteria to identify toxic art materials; labeling; use in certain grades prohibited. The State Department of Education, in cooperation with the State Department of Health, shall develop criteria to identify toxic art materials. These criteria shall be available by July 1, 1988.*

*After these criteria have been developed, the Department of Education shall require all school divisions to evaluate all art materials used in schools and identify those which are toxic. All art materials used in the public schools which meet the criteria as toxic shall be so labeled and the use of such art materials shall be prohibited kindergarten through grade 5.*

*Pursuant to the referenced section of the Code of Virginia, the Department of Education in cooperation with the Department of Health, developed criteria to identify toxic art materials. These criteria will be available by July 1, 1988.*

*Some art materials contain toxic substances which can cause acute or chronic health effects in humans. Such materials might be used by children in the schools. It is also likely that young children in schools may misuse the art materials via ingestion, inhalation, or skin contact. Thus, there exists a significant potential of risk to the health of children who are exposed to art materials containing toxic substances. Since many persons do not know the toxic substances in art materials with which they work, proper precautionary actions are usually not employed. Identification and labeling of toxic art materials and prohibition of use*

*of such materials in kindergarten through grade 5 in public schools will significantly minimize unnecessary risk to the health of children.*

*Labeling for acute health hazards including those associated with art materials, is enforced by the U.S. Consumer Product Safety Commission pursuant to § 21 of the Federal Hazardous Substances Act (15 U.S.C. 1276). However, at the present time there are no specific national standards for labeling art materials for chronic health hazard effects. A voluntary standard for chronic health hazard labeling of art materials, designated as D-4236 has been issued by the American Society for Testing and Materials (ASTM) and has been found to be acceptable by the Consumer Product Safety Commission as well as several states. Although many manufacturers comply with the ASTM Standard, the standard is still voluntary and does not have the force of the law. This standard is incorporated by reference in this regulation. Section 22.1-274.1 provides legal authority to the State Board of Education to enforce labeling requirements for art materials and provides protection to children in kindergarten through grade 5 from unreasonable risk of exposure to art materials containing toxic substances by prohibiting their use in certain grades.*

*Part III contains specific regulations pertaining to the labeling of art materials for procurement and usage in Virginia public schools.*

VR 270-01-0051. Regulations Governing Criteria to Identify Toxic Art Materials; Labeling; Use in Elementary Grades Prohibited.

### PART I. DEFINITIONS.

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

"Art material" means any raw or processed material or manufactured product marketed or represented by the manufacturer or repackager, as suitable for use in demonstration or the creation of any work of visual or graphic art of any medium.

1. Visual or graphic art techniques employing art mediums may include, but should not be limited to, ceramics, drawing, enamels, glass, jewelry, leather, painting, photography, plastic sculpture, sculpture, stained glass, and textile goods.

2. Art materials shall include, but not be limited to acrylic paints, adhesives, chalks, charcoal, clays, crayons, drawing inks, drawing pencils, enamel colors, fabric dyes, felt tip markers, finger paints, fixatives, glazes, glues, lacquers, modeling materials, oils, oil paints, oil pastels, pastes, pastels, printing inks, screen printing inks, shellacs, silver solder, solvents, spray

paints, tempera paints, varnishes, and watercolors.

3. The term does not include economic poisons subject to the Federal Insecticide, Fungicide and Rodenticide Act, or drugs, devices, or cosmetic subject to the Federal Food, Drug, and Cosmetic Act.

"Chronic illness" means of long duration, continuing, constant, prolonged, lingering disease or illness.

"[ Elementary Certain ] grades" means [ prekindergarten, junior kindergarten, ] kindergarten [ and grades 1 through 5 inclusive through grade five ] in Virginia public schools.

"Hazardous substance" means any chemical which is a health hazard.

"Health hazard" means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed children. The term health hazard includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

"Human carcinogen" means any substance for which there is sufficient evidence of carcinogenicity from epidemiological studies to support a causal association between exposure and cancer and which is listed as such by the International Agency for Research on Cancer or listed as a substance known to be carcinogenic by the National Toxicology Program of the United States Department of Health and Human Services.

"Ingredient" means something that is an element in a mixture or compound.

"Label" means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

"Potential human carcinogen" means any substance which does not meet the definition of a human carcinogen, but for which:

1. There is a limited evidence of carcinogenicity from studies in humans, which indicates that causal interpretation is credible, but that alternative explanations, such as chance, bias or confounding, could not adequately be excluded, or
2. There is sufficient evidence of carcinogenicity from studies in experimental animals which indicates that there is an increased incidence of malignant tumors (i) in multiple species or strains; (ii) in multiple experiments (preferably with different routes of administration or using different dose levels); or (iii)

to an unusual degree with regard to incidence, site or type of tumor, or age at onset. Additional evidence may be provided by data concerning dose responses effects, as well as information on mutagenicity or chemical structure, or

3. Is listed such by the International Agency for Research on Cancer or listed as a substance that may reasonably be anticipated to be carcinogen by the National Toxicology Program of the United States Department of Health and Human Services, or

4. Any substance shown to be changed by the human body into a human carcinogen.

"Purchaser" means the acquisition of art materials through the payment of money or its equivalent by a school division, school administrator, classroom teacher, or art teacher.

"Toxic substance" means any substance or mixture in a gaseous, liquid, or solid state which, when ingested, inhaled, or absorbed through the skin, is capable of producing an injury that persists and develops over time from a single, prolonged, or repeated exposure to the substance. This would include substances which are human carcinogens, potential human carcinogens, and those substances which can cause birth defects, harm to a developing fetus or to a nursing infant, allergic sensitization, sterility, damage to the nervous system, or a persistent adverse effect on any other organ system.

## PART II. GENERAL REGULATIONS.

§ 2.1. An art material shall be considered toxic if such material contains an ingredient which is a toxic substance, to include human carcinogen and potential human carcinogen causing chronic illness if the ingredient, whether an intentional ingredient or an impurity, is 1.0% or more by weight of the art material.

§ 2.2. If an art material complies with labeling standard ASTM [ 4236 D-4236 ] and its revision, if any, of the American Society for Testing [ on and ] Materials, the material shall be deemed to comply with provision of this criteria.

§ 2.3. All art materials used in the public schools which meet the criteria as toxic shall be so labeled.

§ 2.4. Use of art materials evaluated under ASTM [ 4236 D-4236 ] to be toxic shall be prohibited in the elementary grades.

§ 2.5. The ASTM 4236 standard is incorporated by reference in this regulation.

## PART III. LABELING.

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§ 3.1. The following information, in accordance with ASTM [ 4236 D-4236 ], shall be stated on all art materials purchased for usage in Virginia public schools.

1. The name and place of business of the manufacturer, packer, distributor, or seller;

2. The common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard;

3. The signal word shall be visible and set in bold capital letters, such as one of the following:

**DANGER;**

**WARNING;**

**CAUTION;**

**POISON.**

4. An affirmative statement of the principal hazard or hazards, such as one of the following:

**MAY CAUSE STERILITY;**

**CONTACT MAY CAUSE PERMANENT EYE DAMAGE;**

**MAY BE HARMFUL BY BREATHING VAPORS OR DUST;**

**MAY BE HARMFUL IF SWALLOWED;**

**MAY BE HARMFUL BY SKIN CONTACT;**

**MAY PRODUCE BIRTH DEFECTS IN THE DEVELOPING FETUS;**

**MAY BE EXCRETED IN HUMAN MILK;**

**MAY CAUSE HARM TO THE NURSING INFANT;**

**CANCER AGENT! EXPOSURE MAY PRODUCE CANCER;**

**CANCER AGENT BASED ON TESTS WITH LABORATORY ANIMALS;**

**POSSIBLE CANCER AGENT BASED ON TESTS WITH LABORATORY ANIMALS;**

**MAY PRODUCE ALLERGIC REACTIONS BY INGESTION/INHALATION/SKIN CONTACT;**

**MAY PRODUCE NUMBNESS OR WEAKNESS IN THE EXTREMITIES;**

**EXPOSURE MAY CAUSE (SPECIFY THE**

**ORGAN(S)) DAMAGE;**

**HEATING/COMBUSTION MAY CAUSE HAZARDOUS DECOMPOSITION PRODUCTS.**

5. Precautionary measures describing the action to be followed or avoided; instructions for handling and storage of packages which require special care in handling or storage, such as:

Keep out of reach of children;

When using do not eat, drink, or smoke;

Wash hands immediately after use;

Avoid inhalation/ingestion/skin contact;

Avoid fumes from combustion;

Keep container tightly closed when not in use;

Store in well-ventilated area;

Wear protective clothing (specify type);

Wear protective goggles/face shield;

Wear NIOSH-certified mask for dusts/mists/fumes;

Wear NIOSH-certified respirator with an appropriate cartridge for (specify);

Wear NIOSH-certified supplied-air respirator;

Use window exhaust fan to remove vapors and ensure adequate cross-ventilation (specify explosion proof if necessary);

6. Instruction, when necessary or appropriate, for first-aid treatment;

§ 3.2. Statements of conformance accepted by Virginia Department of Education and Virginia Department of Health:

1. Conforms to ASTM Practice D-4236;

2. Conforms to ASTM D-4236;

3. Conforms to the health requirements of ASTM D-4236.

§ 3.3. The purpose of the conformance statement is to inform the purchaser, at the time of purchase, of the products compliance with the standard. To accomplish this purpose the conformance statement should appear whenever practical on the product; however, it shall also be acceptable to place the statement on one or more of the following:

1. The individual product package;
2. A display or sign at the point of purchase;
3. Separate explanatory literature available on request at the point of purchase;
4. A response to a formal request for bid or proposal.

## DEPARTMENT OF LABOR AND INDUSTRY

### APPRENTICESHIP COUNCIL

**Title of Regulation:** VR 425-01-27. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia: Biennial Program Sponsor Evaluation (XI).

**Statutory Authority:** § 40.1-118 of the Code of Virginia.

**Effective Date:** July 1, 1988

#### Summary:

*Effective July 1, 1988, the Program Sponsor Evaluation Procedure will be used when program sponsors are evaluated once every two years to determine their compliance with the intent of the Voluntary Apprenticeship Act. The Apprenticeship Council may cancel apprenticeship programs where preexisting criteria are not met.*

VR 425-01-27. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia: Biennial Program Sponsor Evaluation (XI).

#### § 1. Purpose of regulation.

This regulation establishes procedures and standards for the approval and registration of apprenticeship programs and agreements in accordance with Chapter 6, Title 40.1 of the Code of Virginia. This regulation is intended to insure that apprenticeship training programs developed and registered with the Virginia Apprenticeship Council are of the highest possible quality in all aspects of on-the-job training and related instruction and that all apprenticeship programs provide meaningful employment and relevant training for all apprentices.

#### § 2. Definitions.

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

"Apprentice" means a person as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeable occupation" means an occupation as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in § 5 of these regulations.

"Apprenticeship council" or "council" means the Virginia Apprenticeship Council established pursuant to § 40.1-117 of the Code of Virginia.

"Apprenticeship program" means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this regulation.

"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry.

"Sponsor" means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

"Supervisor of apprentices" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

§ 3. Eligibility for registration of programs and agreements.

A. Proposed apprenticeship programs conforming to § 4 of these regulations may be submitted to the council for approval and registration by any of the following potential program sponsors:

1. A Joint Apprenticeship Committee (Commonwealth, area or in plant).
2. An individual employer having no bargaining agreement with those of his employees engaged in the trade to which the standards apply.
3. An association of employers whose members participating under the standards have no bargaining agreement with their employees.
4. An individual employer or an association of employers where there is a collective bargaining agreement or other instrument that provides for union participation in any manner in the proposed program, and such participation is exercised. The sponsor ~~must~~ shall obtain from the collective bargaining agent written acknowledgement of the union agreement or a statement of no objection to the registration of the proposed program.

(NOTE: Where no such participation is evidenced and practiced, the employer or association of employers shall simultaneously furnish to the union, which is the collective bargaining agent of the employees to be trained, a copy of the apprenticeship program. The

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council will allow 60 days for receipt of union comments, if any, before final action is taken on the application for approval and registration.)

5. An organization of employees when the employer or employer association waives participation in the standards.

6. Apprenticeship programs and standards to employers and unions in other than the building and construction industry, which jointly form a sponsoring entity on a multistate basis and are registered, pursuant to all requirements of Title 29, Part 29 of the Code of Federal Regulations, by any recognized State Apprenticeship Agency/Council or the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be accorded registration upon request by the sponsoring entity.

B. Apprentices must *shall* be individually registered under a registered program. Such registration may be effected:

1. By program sponsors filing copies of each apprenticeship agreement; or

2. By program sponsors filing a master copy of such agreement followed by a listing of the name and other required data of each individual when apprenticed.

C. The council may refuse to accept a program proposed for registration if, in its judgment, the program, the sponsor or any participants are unable to conduct the program in accordance with this regulation.

D. Approved apprenticeship programs shall be accorded registration, evidenced by written notification of registration.

## § 4. Standards for apprenticeship programs.

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.

2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of which will be provided for the sponsor who will make it available to the apprentice for review, upon request.

3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.

4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.

5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in § 5 of this regulation.

6. A term of apprenticeship not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.

7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either party. Full credit will be given for the initial probationary period toward completion of the apprenticeship program.

8. The designation of the supervisor of apprentices whose duties shall include.

a. Maintaining adequate records of the progress of each apprentice;

b. Assurance of qualified training personnel and adequate supervision on the job;

c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;

d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;

e. Making arrangements with the local vocational education authorities for the required related

instruction;

f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. All related and supplemental instruction will be approved by the director of vocational education. A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. The numeric ratio of apprentices to journeymen consistent proper supervision, training, safety and continuity of employment and applicable provisions contained in collective bargaining agreements or an industry area practice. The ratio language shall be specific and clear as to application in terms of job site, work force, department or plant. (Where there is no bargaining agreement or existing area practice, the ratio shall not exceed one apprentice to every three journeymen or a fraction thereof.) Emergency ratios exceeding area practice or the ratio stated above may be granted for specified periods of time as determined justifiable.

15. A procedure for lay-off suspension, cancellation and reinstatement of apprentices. Apprentices may be

laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification ~~must~~ shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with these regulations.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's

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responsibilities as an employee.

## § 5. Standards for apprenticeship agreements.

The apprenticeship agreement shall contain explicitly or by reference:

1. Names and signatures of the contracting parties (apprentice and sponsor) and the signature of a parent or guardian if the apprentice is a minor.

2. The date of birth, sex, race, social security number and veteran status of the apprentice.

3. Name and address of the sponsor, apprentice and the Virginia Apprenticeship Council.

4. The trade or craft in which the apprentice is to be trained, and the beginning date and duration of the apprenticeship.

5. The number of hours to be spent by the apprentice in work on the job and the number of hours to be spent in related or supplemental instruction.

6. A schedule of the work processes in the trade or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A graduated scale of wages to be paid the apprentice contingent upon satisfactory performance and whether or not the apprentice will be paid for attendance at related or supplemental instruction.

### 8. Statements providing:

a. For a specific initial probationary period conforming to subsection B, paragraph 7 of § 4 of these regulations;

b. That after the initial probationary period, the apprenticeship agreement and as it may be amended or modified during the period of the agreement.

9. A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended or modified during the period of the agreement.

10. A statement that the employment and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, sex or physical handicap which is unrelated to the person's qualification and ability to perform the job.

11. The educational level of the apprentice.

12. Credit for previous experience granted the apprentice.

13. A provision that a sponsor who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the council, transfer such contract to any other sponsor, provided the apprentice consents and such other sponsor agrees to assume the obligations of the apprentice agreement.

## § 6. Deregistration procedure.

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

### A. Voluntary deregistration.

The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.

2. That within 15 days of the date of the acknowledgement, the sponsor shall:

a. Notify all apprentices of such cancellation and the effective date;

b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and

c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

### B. Involuntary deregistration.

Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with these regulations, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Where it appears a program is not being operated in accordance with these regulations, the council will notify the sponsor in writing.

2. The notice shall:

a. Be sent by registered or certified mail, with return receipt requested;

b. State the violation(s) and the remedial action required; and

c. State that deregistration proceedings will be initiated unless corrective action is effected within 30 days of the receipt of the notice.

3. Upon request by the sponsor and for good cause, the 30-day term may be extended for another 30 days. During the period of correction, the sponsor shall be assisted by the council in every reasonable way to achieve conformity.

4. If the council determines that the required correction is not effected within the allotted time, a notice will be sent to the sponsor, by certified or registered mail, return receipt requested, stating the following:

a. The notice is sent pursuant to this subsection;

b. Certain deficiencies or violations (stating them) were called to the sponsor's attention and remedial measures requested, with dates of such occasions and letters, and that the sponsor has failed to effect correction;

c. Based upon the stated deficiencies and failure of remedy, the program will be deregistered, unless within 15 days of the receipt of this notice, the sponsor requests a hearing before the council;

d. If a request for a hearing is not made, the program will be deregistered.

## § 7. Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to these regulations may be reinstated upon presentation of adequate evidence that the program is operating in accordance with these regulations. Such evidence shall be presented to the council.

## § 8. Hearings.

All hearings will be held in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1, § 9-6.14:11 of Title 9, of the Code of Virginia.

## § 9. Limitations.

Nothing in these regulations or in any apprenticeship agreement shall operate to invalidate:

1. Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

2. Any special provisions for veterans, minority persons or females in the standard apprentice

qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by state or federal law, executive order or other regulation adopted pursuant thereto.

## § 10. Complaints.

A. This section is not applicable to any complaint concerning discrimination or equal opportunity matters; all such complaints will be processed in accordance with the provisions in the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

B. Except for matters described in subsection A of this section, any controversy or difference arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice or his authorized representative within 60 days after the local decision to the council for review. Matters covered by a collective bargaining agreement are not subject to review.

C. The complaint ~~must~~ shall be in writing and signed by the complainant or his authorized representative. It shall state the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

D. The council shall render an opinion within 90 days after receipt of the complaint. During such 90 day period, the council shall make reasonable efforts to effect a satisfactory resolution between the parties involved.

E. If so resolved, the parties shall be notified that the case is closed. Where an opinion is rendered, copies of same shall be sent to all interested parties.

## § 11. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

### PROGRAM SPONSOR EVALUATION PROCEDURE

#### A. Statement of Purpose.

*Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of*



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the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to the below procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

## B. General Program Information.

Sponsor Name:

Address:

Apprenticeship Supervisor:

Craft(s)/Trade(s):

Number of Apprentices:

Training Ratio Requested:

Is there a collective bargaining agreement in place?

DLI Apprenticeship Representative:

## C. Compliance with Standards of Apprenticeship.

1. Date of adoption:

2. Has the program sponsor adhered to the Equal Opportunity Pledge, and when applicable, conformed to the Virginia State Plan for Equal Employment Opportunity in Apprenticeship?

3. Does the program sponsor award proper credit for previous experience?

4. Have apprenticeship agreements been properly executed?

5. Are the terms of the apprenticeship, in practice, in accordance with the Virginia Voluntary Apprenticeship Act?

6. Have the apprentices been:

- a. punctual and regular in attendance?
- b. proper in conduct?
- c. working diligently toward learning the craft?

7. Has the Supervisor of Apprentices:

- a. kept adequate records of the progress of each apprentice?
- b. monitored the apprentice's experience in the work processes outlined in the Training Program?
- c. submitted/received the periodic reports concerning the aptitude, skill, and progress of each apprentice?

d. ensured that the apprentice is given instruction in safe and healthful working methods in each operation as it is encountered throughout the term of apprenticeship?

8. Has a schedule of work processes necessary to develop a skilled journey person in the trade been updated as necessary and adhered to?

9. Have the apprentices enrolled and received the required amount of related instruction? If so, have they submitted or the school provided, to their supervisor, evidence of satisfactory participation and progress in the required related instruction?

10. Has the apprentice supervisor conducted periodic evaluations of each apprentice's job performance and related instruction?

11. Are the regular hours of work the same for apprentices as for other employees in the craft or trade?

12. Are the apprentice wages progressively increased as the apprentice progresses in skill and productivity?

13. Are apprentices that are laid off entitled to seniority privileges and reinstated in the seniority standing before any new apprentices are registered?

14. Have certificates of completion of apprenticeship been requested by the program sponsor in a timely fashion?

15. Have any provisions of the standards of apprenticeship been submitted to the Apprenticeship Council for interpretation? If so, explain.

16. Have any apprentices been transferred or reregistered with credit for previous training to a different program sponsor?

17. Has the sponsor complied with the qualifications set for apprenticeship?

18. Has the sponsor complied with the initial probationary period?

19. What ratio of apprentices to journeymen did the program sponsor request?

20. Has the program sponsor promptly notified the Apprenticeship Council of modifications to their apprenticeship programs?

## D. Qualitative Measures.

1. Complaint Resolution.

Have any complaints been lodged against the program sponsor? If so, how many? Were the

complaints resolved?

## 2. Program Results (During the past two years).

a. How many apprentices completed the sponsor's program in the past two years?

b. How many of the sponsor's apprenticeship graduates are still employed by the program sponsor?

c. How many apprentices voluntarily terminated the program?

d. How many apprentices were dismissed due to:

(a) failure to attend related instruction?

(b) poor job performance?

(c) other (specify)?

e. Is there a pattern to the dismissals? If so, explain.

## 3. Apprentice Interviews (Randomly Selected/Sliding Scale).

Do interviews with randomly selected apprentices indicate general satisfaction or dissatisfaction with the training program?

Cite the specific areas of satisfaction and dissatisfaction and how many apprentices so indicated.

### 1. Summary of Interviews:

E. Apprenticeship Representative's Comments Summarized.

F. Recommendations.

G. Commendations.

H. Sponsor's Comments.

## VIRGINIA BOARD OF PSYCHOLOGY

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

**Statutory Authority:** § 54-929 of the Code of Virginia.

**Effective Date:** June 22, 1988

### Summary

The Regulations Governing the Practice of Psychology protect the health, safety, and welfare of the citizens of the Commonwealth by establishing education, experience, and examination requirements for the licensure of psychologists, school psychologists, and

clinical psychologists. The regulations also establish the standards of practice for the delivery of psychological services in Virginia.

The regulations are the result of a comprehensive review of the existing regulations initiated in 1984 pursuant to Executive Order 52 (84) of Governor Charles S. Robb. This review resulted in proposals to repeal some existing regulations, including requirements established by the Virginia Board of Behavioral Science (abolished by the General Assembly in 1983), to amend other existing requirements, and to incorporate some new regulations.

The revisions made in response to public comment resulted in requirements less restrictive than those originally proposed by the board.

Notably, the board's regulations were revised to allow applicants for psychologist (clinical) and clinical psychologist licensure to be considered eligible for licensure if they have graduated from non-APA accredited doctoral programs until an established deadline of 1993.

The board maintains that accreditation of a doctoral psychology program by the American Psychological Association offers the assurance that a graduate training program meets the minimal educational criteria necessary for training qualified psychologists. However, the board recognizes that there are some training programs in departments of psychology that are of good quality but have not been APA accredited or may be in the process of seeking APA accreditation. Therefore, the board has established regulations that allow an applicant's program of study to be evaluated as an integrated program of study consistent with APA-accredited programs. This procedure is less restrictive, consistent with working practice in other states, and does not increase the potential harm to the public.

In response to comments received from Governor Gerald L. Baliles in a letter dated August 13, 1987, the board made certain definitions proposed in the regulations consistent with the corresponding definitions in the Code of Virginia (e.g., "measuring and testing," "counseling and psychotherapy").

In accordance with § 54-936 of the Code of Virginia, the board classifies licensees as psychologists, school psychologists, or clinical psychologists. Within the licensure classification of psychologist, the existing regulations provide for a number of specialty designations—psychologist (clinical), psychologist (counseling), psychologist (school), psychologist (industrial/organizational), and psychologist (academic/research). Under the existing regulations, a candidate for licensure as a psychologist has to declare a specialty, present documentation of the

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specialized doctoral training, and, if licensed, is licensed as a psychologist with a designated specialty. The board's Code of Ethics requires psychologists to recognize the boundaries of their specialized training and competence and to practice within their competency areas.

A notable change in the board's regulations as adopted and compared with the existing regulations is the provision for two general specialty designations for psychologists—psychologist (clinical) and psychologist (nonclinical). The board has eliminated the more restrictive specialty designations for psychologists. During a public comment period on the board's existing regulations in 1984, the board received a number of comments supporting the elimination of the specific specialty areas, especially as the regulations relate to the distinction made between psychologists (counseling) and psychologists (clinical). The regulations now provide for two general specialty areas for psychologist licensure, each requiring a different set of skills and knowledge.

The board's regulations provide for three licensure classifications: psychologist (clinical) and (nonclinical), school psychologist, and clinical psychologist. The psychologist (clinical) and (nonclinical) and clinical psychologist licenses require a doctorate in psychology with post-doctoral training. The school psychologist license requires a master's degree in school psychology, with a minimum of at least 60 semester credit hours and post-master's degree experience.

The board has also chosen to revise its oral examination requirements. The board has removed the work sample required in the board's existing regulations and the original set of proposed regulations. The board's oral examination process allows for a structured, experiential assessment of the candidate's clinical judgment, skill, and knowledge.

As a result of public comments received, minor changes were made in some sections of the regulations for additional clarity and uniformity. With these amendments, the Board of Psychology adopted the regulations on December 17, 1987.

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

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

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

"Applicant" means a person who submits a complete application for licensure with the appropriate fees.

"Board" means the Virginia Board of Psychology.

"Candidate for licensure" means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Clinical services" means the rendering of direct psychological services to individuals, families or groups involving the application of principles, methods or procedures of the science and profession of psychology and which includes but is not limited to:

[ 1. "Psychological assessment," which consists of the psychological evaluation of abilities, attitudes, achievements, adjustments, motives, personality dynamics or other psychological attributes of individuals, or groups of individuals, and the diagnosis of behavioral, emotional and nervous disorders by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology.

A. "Measuring and testing," which consists of the psychological assessment and evaluation of abilities, attitudes, aptitudes, achievements, adjustments, motives, personality dynamics or other psychological attributes of individuals, or groups of individuals by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology. ]

[ 2. B. ] "Counseling and psychotherapy," which consists of the application of [ psychological ] principles [ of learning and motivation ] in an interpersonal situation and with the objectives of [ treating behavioral, emotional and nervous disorders and mental diseases; eliminating symptomatic, maladaptive, or undesired behavior; and of improving interpersonal relationships, work and life adjustment, personal effectiveness and mental health; consisting of skills, techniques, and methods recognized by the science and profession of psychology. modification of perception and adjustment; consisting of highly developed skills, techniques, and methods of altering through learning processes, attitudes, feelings, values, self-concept, personal goals and adaptive patterns. ]

"Demonstrable areas of competence" means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or [ appropriate ] supervised experience.

"Internship" means supervised and planned practical experience obtained in an integrated training program in a clinical setting [ involving the application of the principles, methods and techniques learned in training or educational settings and recognized by the applicant's graduate training program included ] as an integral and required part of the

applicant's program of study.

"Nonclinical services" means such psychological services as consultation and evaluation to agencies, industry and other professionals, and shall not mean the assessment, diagnosis, or treatment of behavioral, emotional or nervous disorders.

"Professional psychology program" means an integrated program of doctoral study designed to train professional psychologists to deliver clinical [ health ] services in psychology.

"Regional accrediting agency" means one of the six regional [ commissions recognized by the Council on Postsecondary Accreditation accrediting agencies recognized by the United States Secretary of Education established ] to accredit senior institutions of higher education.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented [ face-to-face individual ] consultation, guidance and instruction with respect to the clinical skills and competencies of the person supervised.

"Supervisor" means an individual who assumes full responsibility for the [ professional clinical ] activities of a person in training and the supervision required by such person.

§ 1.2. Classification of licensees.

In compliance with § 54-936 of the Code of Virginia, the board classifies licensees as psychologists, clinical psychologists [ ; and or ] school psychologists.

A. Psychologist. The psychologist license covers the practice of psychology [ , as defined in § 54-936 of the Code of Virginia, ] which is divided into two [ areas of functioning designated specialties ] requiring different sets of skills and knowledge: (i) for providers of clinical services and (ii) for providers of nonclinical services. The psychologist license is designated accordingly as either psychologist (clinical) or psychologist (nonclinical). The licensee's scope of practice is delimited first by the designation of the license and further by the licensee's demonstrable areas of competence.

B. Clinical psychologist. This license pertains only to the practice of clinical psychology as defined in Chapter 12, § 54-273 and Chapter 28, § 54-936.f of the Code of Virginia. The candidate for this license, after [ investigation and ] examination by the board, is recommended to the Virginia State Board of Medicine for licensure.

C. School psychologist. This license pertains only to the practice of school psychology as defined in § 54-936.b of the Code of Virginia [ and refers to persons who specialize in problems manifested in and associated with educational

systems and who use psychological concepts and methods which attempt to improve learning conditions for students ].

§ 1.3. Fees required by the board.

A. The board [ has ] established [ fees for ] the following [ fees ]:

- [ 1. ] Registration of residency ..... \$100
- [ 2. ] Application processing for:
  - [ (a) ] Graduates of American institutions for licensure as:
    - [ (1) ] Psychologist (clinical or nonclinical) ... \$150
    - [ (2) ] School psychologist ..... \$150
    - [ (3) ] Clinical psychologist ..... \$350
  - [ (b) ] Graduates of foreign institutions (in addition to application processing fee) ..... \$150
- [ 3. ] Examinations ..... \$325
- [ 4. ] Reexamination:
  - [ Examination for Professional Practice in Psychology ..... \$125
  - (a) Nationally normed standardized examination ..... \$135 ]
  - [ (b) ] State written examination ..... \$100
  - [ (c) ] State oral examination ..... \$100
- [ 5. ] Initial license ..... pro-rated portion of \$150 biennial renewal fee
- [ 6. ] Biennial renewal of license ..... \$150
- [ 7. ] Late renewal ..... \$10
- [ 8. ] Registration of technical assistant ..... \$100
- [ 9. ] Biennial renewal of registration of technical assistant ..... \$100
- [ 10. ] Name change ..... \$10
- [ 11. ] Endorsement to another jurisdiction ..... \$10
- [ 12. ] Additional or replacement wall certificate . \$15
- [ 13. ] Returned check ..... \$15

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B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board.

## PART II. REQUIREMENTS FOR LICENSURE.

### § 2.1. Requirements, general.

A. No person shall practice [ as a psychologist psychology ] or school [ psychologist psychology ] in the Commonwealth of Virginia except as provided in the Code of Virginia and these regulations.

B. No person shall practice [ as a ] clinical [ psychologist psychology ] in the Commonwealth of Virginia except when licensed by the Virginia State Board of Medicine upon recommendation by the Board of Psychology.

C. Licensure of all applicants under subsections A and B of this section shall be by examination by this board.

D. Every applicant for examination by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 or § 2.3 of these regulations, whichever is applicable for the particular license sought; and

2. Submit to the executive director of the board, not less than [ 90 60 ] days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. [ Documented evidence Documentation ] of having fulfilled the experience requirements of § 2.2 or § 2.3 where applicable;

c. Endorsement letters from three persons familiar with the applicant's professional work, attesting to the applicant's professional competence and integrity; and

d. The application processing fee prescribed by the board; and

3. Have the institution that awarded the graduate degree(s) required in § 2.2 or § 2.3 submit directly to the executive director of the board, at least [ 90 60 ] days prior to the date of the written examination, official transcripts documenting:

a. The graduate work completed; and

b. The [ award of the ] degree(s) [ required awarded ].

### § 2.2. Education and experience requirements: Graduates

of American institutions.

A graduate of an American higher education institution who applies for examination for licensure shall meet the requirements of subsection A, B, or C of this section, whichever is applicable.

#### A. Psychologists:

##### 1. Psychologist (nonclinical).

[ a. Program of study. The applicant shall hold a doctorate in psychology from an institution accredited by a regional accrediting agency. Further, the applicant's program shall conform to the following criteria for doctoral programs in psychology:

(1) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(2) The psychology program shall stand as a recognizable, coherent organizational entity within the institution.

(3) There shall be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(4) The program shall be an integrated, organized sequence of study.

(5) There shall be an identifiable psychology faculty and a psychologist responsible for the program.

(6) The program shall have an identifiable body of students who are matriculated in that program for a degree. ]

[ a. b. ] Education. The [ applicant shall hold a doctorate in psychology from an institution accredited by a regional accrediting agency, which applicant's ] program shall have included at least one [ three ] semester [ -credit hour ] course in each of the following areas of study:

(1) Statistics and research design;

(2) Physiological psychology or sensation and perception;

(3) Learning/cognition;

(4) Social psychology;

(5) Study of the individual;

(6) History and systems; and

(7) Scientific and professional ethics and standards.

[ b. c. ] Experience. No supervised experience is required for licensure as a psychologist (nonclinical).

## 2. Psychologist (clinical).

a. [ ~~Education~~ ] The applicant shall hold a doctorate from a professional psychology program in a regionally accredited [ institution university ] , which [ program either ] :

(1) Was accredited by the American Psychological Association (APA) prior to the applicant's graduation from the program; or

(2) Was accredited by the APA within [ two four ] years after the applicant graduated from the program [ ; ] or [ ; ]

[ (3) ] If not APA accredited, was a program from which the applicant received the doctorate before January 1, [ 1985; provided that the program, in whichever of these two alternative categories is applicable, required successful completion by the applicant of all of the following elements of program content 1993, and which met the criteria outlined in § 2.2.A.1.a. Further, the program shall have required successful completion by the applicant of all the following ] :

(a) At least a one [ three ] semester [ -credit hour ] course in each of the areas of study prescribed in A.1. [ a b ] of this section for a psychologist (nonclinical);

(b) At least a one [ three ] semester [ -credit hour ] course in each of the following additional areas of study:

[ (i) ] Personality theory;

[ (ii) ] Diagnostic interviewing and behavioral assessment;

[ (iii) ] Psychometric, psychodiagnostic, and projective testing;

[ (iv) ] Psychopathology;

[ (v) ] Psychotherapy, both individual and group; and

[ (vi) ] Practicum: Supervision in assessment/diagnosis and psychotherapy; and

(c) A one-year, full-time internship approved by the [ APA American Psychological Association (APA) ]

or consistent with the requirements for APA approval and approved by the applicant's doctoral program.

b. Experience. Applicants shall possess post-doctoral experience as defined in this subparagraph and shall inform the board, [ at the time they make known their initial intent to apply, precisely when they apply, ] how they propose to meet this experience requirement. This requirement may be met in one of two ways:

(1) By waiver based on lengthy experience. Applicants possessing many years of relevant post-doctoral experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in A.2.b.(2) [ of this section, immediately following described below ] ; or

(2) By residency. The applicant under this provision shall have successfully completed [ or be approaching completion of ] a one-year full-time post-doctoral residency, or its equivalent in part-time experience, [ during for ] a period not to exceed three years consisting of supervised experience in the delivery of [ psychological clinical ] services and fulfilling the following conditions:

(a) [ The prospective applicant shall have completed the education requirements of A.2.a. of this section before residency training begins. Applicants shall apply for licensure before the board can approve the beginning of their residency training ] .

[ (b) Graduates of programs not accredited by the APA must apply for licensure before the board can approve the beginning of their residency training. ]

[ (c) (b) ] [ The prospective applicant and the proposed supervisor(s) shall, ] Prior to initiating the proposed residency training [ , the applicant shall ] : (i) register with the board [ and have filed with the board an official transcript of the applicant's educational record ] ; (ii) pay the registration fee [ prescribed by the board ] ; and (iii) submit an agreement signed by the applicant and proposed supervisor(s) stating the nature of the services to be rendered and the nature of the supervision.

[ (d) (c) ] Supervision [ will normally shall ] be provided by a licensed psychologist or clinical psychologist. However, in order for the applicant to obtain specialized training, up to one-half of the required supervision may be provided by a senior licensed mental health professional [ ; subject to board approval of the arrangement in advance ] .

[ (e) Activities during the residency period shall be representative of the activities the applicant will

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perform following licensure:

~~(f)~~ The applicant must obtain the experience in an appropriate setting (that is, a mental health facility, hospital or counseling center).

~~(g)~~ (d) ] The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education.

~~(h)~~ (e) ] There shall be a minimum of two hours of [ face-to-face individual ] supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the applicant receive less than one hour of [ face-to-face individual ] supervision per week.

~~(i)~~ (f) ] Residents may not call themselves psychologists [ or , ] solicit clients, or bill for services, or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in Psychology."

~~(j)~~ (g) ] At the end of the residency training period, the supervisor(s) shall submit to the board a written evaluation of the applicant's performance.

(h) The applicant shall not continue in full-time residency status for more than three years. ]

B. Clinical psychologist. The applicant for examination for licensure as a clinical psychologist shall possess the same educational qualifications and shall have met the same experience requirements as those prescribed for a psychologist (clinical) in A.2.a. and A.2.b. respectively of this section.

## C. School psychologist.

1. Education. The applicant shall hold at least a master's degree in school psychology, [ covering with a minimum of ] at least 60 semester credit hours, from a college or university accredited by a regional accrediting agency. The program requirements shall:

a. Reflect a planned, integrated, and supervised program of graduate study as outlined for programs approved by the American Psychological Association (APA) or by the National Council for the Accreditation of Teacher Education (NCATE); and

b. Include an internship approved by the [ National Council for the Accreditation of Teacher Education applicant's training program ].

2. Experience. Applicants shall possess post-master's

degree experience as defined in this [ paragraph section ] and shall inform the board [ ; at the time they make known their initial intent to when they ] apply [ ; precisely as to ] how they propose to meet this experience requirement. This requirement may be met in one of two ways:

a. By waiver based on lengthy experience. Applicants possessing many years of relevant post-master's degree experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in C.2.b. [ of this section, immediately following described below ] ; or

b. By residency. [ The Applicant under this provision shall, ] Subsequent to completing the graduate degree program, [ the applicant shall ] have completed [ or be approaching completion of ] a full-time residency of at least one school year, or the equivalent in part-time experience during a period not to exceed three years, consisting of supervised experience in the delivery of school psychological services and fulfilling the following conditions:

(1) [ The prospective applicant shall have completed the education requirements of paragraph C.1 of this section before residency training begins Applicants must apply for licensure before the board can approve the beginning of their residency training ].

~~(2)~~ Graduates of programs not accredited by the APA or NCATE must apply for licensure before the board can approve the beginning of their residency training. ]

~~(3)~~ (2) ] [ The prospective applicant and the proposed supervisor shall, ] Prior to [ undertaking initiating ] the proposed residency training [ , the applicant shall ]:

(a) Register with the board [ and file with the board an official transcript of the prospective applicant's educational record ];

(b) Pay the registration fee [ prescribed by the board; and ]

(c) Submit an agreement signed by the applicant and proposed supervisor(s) stating the nature of the services to be rendered and the nature of the supervision. ]

(4) The prospective applicant and the supervisor shall have a written letter of agreement signed by both parties covering the details of the supervision arrangement. ]

~~(5)~~ (3) ] The supervisor shall be a licensed school

psychologist, licensed psychologist or licensed clinical psychologist.

[ (6) The supervisor shall assume full responsibility for work activities of the prospective applicant for the duration of the residency period. ]

[ (7) (4) ] The supervisor shall not provide supervision for activities [ beyond ] the [ supervisor is not qualified to perform supervisor's demonstrable areas of competence ], nor for activities for which the [ resident applicant ] has not had appropriate education.

[ (8) (5) ] There shall be a minimum of two hours of [ face-to-face individual ] supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual [ face-to-face individual ] supervision per week.

[ (9) Unique individualized programs of supervision may be provided, subject to board approval of the arrangement in advance. ]

[ (10) (6) ] Residents may not call themselves school psychologists, [ or ] solicit clients, [ or ] bill for their services, or in any way represent themselves as professional school psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in School Psychology."

[ (11) (7) ] At the [ time of an applicant's formal application for licensure, the individual or agency providing the supervision end of the residency training period, the supervisor(s) ] shall submit to the board [ on forms provided by the board ] a written [ report evaluating evaluation of ] the applicant's [ relative strengths and weaknesses performance ].

[ (8) The applicant shall not continue in full-time residency status for more than three years. ]

## § 2.3. Graduates of foreign institutions.

A graduate of a foreign higher education institution who applies for examination for licensure as a psychologist or clinical psychologist shall:

1. Hold a doctorate in psychology;
2. Present [ documented evidence documentation ] that the degree is from a planned, integrated, and supervised program of graduate study that meets requirements judged by the board to be consistent with the requirements for approval by the American

Psychological Association (APA) or consistent with those requirements prescribed by the board and met by approved domestic institutions;

3. Meet the course and practicum requirements outlined in § 2.2; and

4. Pay the application processing fee prescribed in [ § 1-4 § 1.3 ] for graduates of foreign institutions.

## § 2.4. Out-of-state applicants with lengthy experience.

[ Upon demonstrating, through an application for licensure, educational credentials and a length of experience deemed adequate by the board, a licensee of another state may practice in Virginia in accordance with the provisions of this section.

[ A. Such an applicant shall within one year, take the examination(s) determined appropriate by the board in order to become licensed in this Commonwealth.

B. The applicant may not practice independently in Virginia until licensed by this Commonwealth to do so. ]

[ C. A. ] Until such time as the applicant receives a Virginia license, the applicant may practice [ in this Commonwealth ] only under the supervision of a Virginia licensee [ who is practicing in a setting for which a Virginia license is required ].

[ D. B. ] The supervised practice of the applicant shall be performed in accordance with all of the provisions prescribed in these regulations for a residency [ in the applicant's chosen area of practice (§ 2.1.A.2.b. for a psychologist (clinical) or § 2.2.C.2.b for a school psychologist) except for the duration specified for a residency. After a Virginia license is granted, the applicant may terminate residency status and begin independent practice ].

[ 1. As soon as the applicant receives a Virginia license, the applicant may terminate residency status and begin independent practice.

2. In no case shall the applicant continue in residency status for more than three years.

E. The requirements of this section together constitute the only arrangement the board will approve for practice in this Commonwealth by a licensee of another state. No licensee of another state shall practice in Virginia except as provided in this section.

C. The applicant shall take the examination(s) deemed appropriate by the board within one year of board approval of application.

D. The applicant may not practice independently until the Virginia license is granted. ]



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## PART III. EXAMINATIONS.

### § 3.1. General examination requirements.

A. In order to be licensed, each candidate shall take and pass the examination(s) determined by the board to be required according to the candidate's individual qualifications under the general provisions of this section. The complete examination process consists of [ ~~four~~ three ] components.

1. [ ~~The Examination for Professional Practice in Psychology (national)~~ A nationally normed standardized examination in the practice of psychology ];

2. The Board of Psychology written examination;

[ ~~3. A written work sample; and~~ ]

[ ~~4. 3. ] The Board [ of Psychology ] oral examination.~~

B. An applicant enrolled in an approved residency training program required in § 2.2 who has met all requirements [ ~~except completion of that program for licensure~~ ] shall be eligible to take both the national and state written examinations [ ~~and to submit the work sample~~ ].

### C. Waivers; modifications.

1. *Diplomate applicant.* The board may waive the written examination(s) [ ~~and the work sample~~ ] for an applicant who has been awarded a diploma by the American Board of Professional Psychology [ in either ( ) clinical, counseling or school psychology [ ] and who declares an intent to practice in this Commonwealth in the same area of specialty in which such diploma was awarded ].

2. *Endorsement.* The board may waive the written examination(s) for an applicant licensed or certified in another jurisdiction by standards and procedures equivalent to [ those of ] the [ ~~board's~~ board ].

### D. Examination schedules.

1. The written examinations shall be administered at least [ ~~once~~ twice ] a year.

2. The oral examination shall be scheduled after the results of the written examinations are known.

[ ~~3. Work samples may be submitted to the board at any time following the notification of candidate status, but must be received at least one month prior to the applicant's scheduled oral examination.~~ ]

### E. Notice.

1. At least 30 days prior to the date of examinations, the executive director will notify all candidates in writing of the time and place of examinations [ ~~for which they have been approved to sit, and of the fees for these examinations~~ ].

2. The candidate shall then submit the applicable fees.

3. If the candidate fails to appear for the examination without providing written notice at least [ ~~one~~ two ] week before the examination, the examination fee shall be forfeited.

### F. Deferrals by candidate: time limit.

A candidate approved by the board to sit for an examination shall take that examination within two years of the date of [ ~~such~~ the ] initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed:

1. The initial board approval to sit for [ ~~such~~ the ] examination shall then become invalid; and

2. In order to be considered for [ ~~such~~ the ] examination later, the applicant shall file a complete new application with the board [ ~~and pay the applicable fee~~ ].

### § 3.2. Written examinations.

A. [ ~~The Examination for Professional Practice in Psychology~~ The nationally normed standardized examination in the practice of psychology ].

1. This examination [ ~~consists~~ shall consist ] of multiple-choice questions that sample a broad range of psychology content areas.

2. A passing grade shall be a score that is no lower than one-half standard deviation below the national mean for doctoral-level examinees.

### B. The Board of Psychology [ written ] examination.

1. This examination consists of essay or [ ~~objective~~ multiple-choice ] questions related to:

a. The [ ~~professional services~~ practice area ] for which licensure is sought; and

b. Virginia laws and board regulations governing the practice of psychology.

2. A passing score shall be 65% of the total possible points in each of the two areas of [ the ] examination.

### [ § 3.3. Written work sample.

Candidates for licensure may submit work samples to the board at any time following the notification of

candidate status, but these must be received by the board at least one month prior to the applicant's scheduled oral examination. Candidates shall submit work samples prepared in accordance with the following guidelines:

A. *Psychologist (clinical) and clinical psychologist.* The work samples shall be an assessment or evaluation sample and an intervention sample, each covering a procedure completed by the candidate within the year prior to the examination and reflecting the candidate's proposed area of professional competence. All names shall be deleted to protect the identity of the clients involved. The evaluation and therapy plans shall be solely the product of the candidate's efforts. The samples shall be typed.

1. The candidate shall submit an evaluation or assessment work sample regardless of whether the candidate proposes to engage in the assessment area of psychological practice.

a. The assessment sample shall be in the form of a report and shall include diagnosis from the Diagnostic and Statistical Manual - Third Edition (DSM-III). The following areas of functioning shall be included in the assessment sample: cognitive, perceptual/motor, and personality and emotional (using both objective and projective measures). A copy of all raw data shall accompany the report.

b. Evaluations administered, scored, or interpreted by computer are not acceptable.

2. The intervention sample shall consist of a detailed intervention plan to include the nature of the presenting problem(s), client characteristics, rationale for the intervention plan, and a report on the progress of the treatment to date.

B. *School psychologist.* The sample shall be an assessment or evaluation sample covering a procedure completed by the candidate within the year prior to the examination and reflecting the candidate's proposed area of professional competence. All names shall be deleted to protect the identity of the clients involved. The assessment shall be based solely on the candidate's own work. The sample shall be typed.

1. The assessment sample shall be in the form of a report and shall include identification of handicapping condition(s) as described in Public Law 94-142. The following areas of functioning shall be included in the assessment sample: cognitive, perceptual/motor, personality, and emotional (using both projective and objective measures). A copy of all raw data shall accompany the report.

2. Evaluations administered, scored or interpreted by computer are not acceptable.

C. *Psychologist (nonclinical).* A sample of typical work such as a program evaluation, a research paper, or a

published report will be acceptable. ]

[ § 3.4. § 3.3. ] Oral examination.

A. [ Subject to the provisions of Except as provided in ] § 3.1.D, admission to the oral examination shall be contingent upon:

1. The candidate's having passed the written examinations;

2. Successful completion of any required residency training program in addition to all other requirements of § 2.2 [ ; and . ]

[ 3. Approval by the board of the candidate's work sample. ]

B. Candidates who pass the written examinations will be notified by the board of the time and place of the oral examination.

C. The oral examination will consist of a structured, experiential assessment of the candidates' abilities to apply their knowledge [ *in vivo* ] . The examination will be conducted by the board or its designees.

D. Candidates will be graded on their responses to the items of the oral examination and a passing grade shall be 65% of correct or appropriate answers.

[ § 3.5. § 3.4. ] Reexamination. Reexamination of candidates will be required only on the [ examination examinations ] failed.

A. After paying the reexamination fee, a candidate may be reexamined once within a 12-month period after the failed [ examination examinations ] without filing a formal reapplication and without presenting evidence of additional education or experience.

B. A candidate who fails any examination twice shall wait at least one year between the second failure and the next examination scheduled. Such candidate shall submit to the board:

1. An updated application;

2. [ Documented evidence Documentation ] of additional education or experience gained since the last failure; and

3. New application and examination fees as prescribed by the board.

## PART IV. LICENSURE.

§ 4.1. Licensure.

A. Upon payment of the prorated portion of the biennial

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licensure fee prescribed by the board, the board will issue to each successful [ ~~psychologist or school psychologist~~ ] candidate a license to practice [ as a psychologist ].

B. The board will recommend to the Board of Medicine each successful candidate the Board of Psychology examines for licensure as a clinical psychologist.

C. A psychologist, clinical psychologist or school psychologist who desires to practice in other areas of psychology shall obtain a license from this board for the additional area in which the licensee seeks to practice.

## PART V. LICENSURE RENEWAL; REINSTATEMENT; NAME CHANGE.

### § 5.1. Biennial renewal of licensure.

Every license issued by the board shall expire on June 30 of each odd-numbered year.

A. Every licensee who intends to continue to practice shall, by June 30 of each odd-numbered year, submit to the board:

1. A license renewal application on forms supplied by the board; and
2. The renewal fees prescribed in § 1.3.

B. Failure of a licensee to receive a renewal notice and application form(s) from the board shall not excuse the licensee from the renewal requirement.

### § 5.2. Late renewal; reinstatement.

A. A person whose license has expired may renew it within four years after its expiration date by paying the penalty fee prescribed in § 1.3 and the license renewal fee for each year the license was not renewed.

B. A person whose license has not been renewed for four years or more and who wishes to resume practice shall:

1. Present evidence satisfactory to the board regarding continued competency to perform the duties regulated by the board; and
2. Upon approval for reinstatement, pay the penalty fee and the license fee for each renewal period the license was not renewed, as prescribed by the board.

### § 5.3. Legal change of name.

A. An individual practicing under a license issued by the board shall ensure that the current license bears the current legal name of that individual.

B. A licensee whose name is changed by marriage or

court order shall promptly:

1. Notify the board of such change and provide a copy of the legal paper documenting the change;
2. Pay the "name change" fee prescribed in § 1.3;
3. Request and obtain from the board a new license bearing the individual's new legal name; [ and ]
4. Practice only under such new legal name.

## PART VI. TECHNICAL [ ~~ASSISTANTS ASSISTANCE~~ ] TO LICENSEES.

### § 6.1. Technical [ ~~assistants assistance~~ ] : general requirements.

A person holding at least a bachelor's degree from a regionally accredited institution with at least 30 semester hours of course work in psychology may serve as a technical assistant to a licensee in accord with the following provisions:

1. A technical assistant may begin performing services only upon approval of registration by the board.
2. A technical assistant may perform services only under the direct supervision of a psychologist licensed by the board.
3. To obtain board approval, the licensee [ and the applicant for technical assistant ] shall submit or have submitted to the board:

a. [ A completed board registration form The board's protocol ] documenting the relevant course work and training [ of the technical assistant applicant ] , specific duties and services to be performed by the applicant [ , ] and the supervisory responsibilities of the licensee;

b. An official transcript sent directly from the institution documenting [ the applicant technical assistant's ] course work [ and degree(s) awarded ] ; [ and ]

c. The registration fee prescribed by the board for technical assistants.

### § 6.2. Responsibilities of the licensee.

A licensee assumes complete responsibility for and provides direct supervision of the service provided by a technical assistant.

A. A licensee shall register no more than three technical assistants, whether full-time or part-time.

B. Supervision by the licensee shall be restricted to:

1. Those areas in which the licensee has had appropriate [ ~~education~~ coursework ] and training; and

2. Those areas in which the technical assistant has had appropriate [ ~~education~~ coursework ] and training.

C. [ ~~Any billing or~~ ] Documentation by the licensee of the provision of services by a technical assistant shall clearly show that the services were rendered by the technical assistant under the direct supervision of the licensee. Such documentation shall be signed by the technical assistant and countersigned by the licensee.

D. The licensee shall supervise the services provided by a technical assistant in every instance as prescribed in § 6.3.

[ ~~E. In any instance in which the licensee is uncertain of the appropriate use of the technical assistant, the licensee shall submit a proposal to the board for its review and guidance.~~ ]

[ ~~F. E.~~ ] A licensee shall, within 30 days of the termination of the supervisory agreement with a technical assistant, notify the board in writing of such termination.

## § 6.3. Duties of a technical assistant.

A. A technical assistant may render only those services provided for in the contracted protocol submitted to and approved by the board.

B. Direct counseling or psychotherapeutic intervention may be rendered by a technical assistant only in the physical presence of the licensee.

## § 6.4. Renewal of registration.

A. The registration of a technical assistant shall be renewed biennially [ ~~at the time for renewal of the license of the licensee in even years~~ ].

B. The licensee and the technical assistant shall:

1. Renew the registration on a form provided by the board; and

2. Pay the registration renewal fee prescribed by the board.

## PART VII. ADVISORY COMMITTEES.

### § 7.1. Advisory and examining committees.

A. The board may establish examining and advisory committees to assist it in evaluating the professional qualifications of applicants and candidates for licensure and in other matters.

B. The board may establish an advisory committee to

evaluate the mental or emotional competence of any licensee or candidate for licensure when such competence is at issue before the board.

## PART VIII. STANDARDS OF PRACTICE; UNPROFESSIONAL CONDUCT; DISCIPLINARY ACTIONS; REINSTATEMENT.

[ § 8.1. Standards of practice, general.

§ 54-929(g) of the Code of Virginia and the requirements of these regulations are the basis for the provisions of §§ 8.2, 8.3, and 8.4. The Ethical Principles of Psychologists of the American Psychological Association may serve as a guide for individuals. ]

[ § 8.2. § 8.1. ] Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed by the board shall:

1. Provide only services and use only techniques for which they are qualified by training and experience.

2. When advertising services to the public, ensure that such advertising is neither fraudulent nor misleading.

3. Represent accurately their competency, education, training and experience.

4. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services.

5. Make advance [ ~~written~~ ] financial arrangements that safeguard the best interests of and are clearly understood by their clients.

6. Refrain from undertaking any activity in which their personal problems are likely to lead to inadequate or harmful services.

7. Avoid dual relationships with clients that could impair professional judgment or compromise the client's well being (to include treatment of close friends, relatives, employees and sexual intimacies with clients).

8. Avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action.

9. Keep confidential their professional relationships with clients, including their records and reports, except when a client is [ ~~in a~~ ] danger to self or

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others, or when the licensee is under a court order to disclose such information.

10. Terminate a clinical or consulting relationship when it is clear that services are not benefiting the client.

11. Ensure that the welfare of clients is not compromised in any experimentation or research involving those clients.

12. Report to the board known [ or suspected ] violations of the laws and regulations governing the practice of psychology.

§ 8.3. Grounds for revocation, suspension, or denial of renewal of license.

A. In accordance with § 54-929(g) of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to renew a license for just cause.

B. Action by the board to revoke, suspend or decline to renew a license shall be taken in accord with the following conduct:

1. Conviction of a felony or misdemeanor involving moral turpitude.

2. Procuring of [ a ] license by fraud or misrepresentation.

3. Misuse of drugs or alcohol to the extent that it interferes with professional functioning.

4. Negligence in professional conduct or violation of practice standards.

5. Performing functions outside areas of competency.

6. Mental, emotional, or physical incompetence to practice the profession.

7. Violating or aiding and abetting another to violate any provision of Chapter 28 of Title 54 of the Code of Virginia; any other statute applicable to the practice of the profession [ regulated ] ; or any provision of these regulations.

C. Appeal of decision. An appeal may be made to the board for reinstatement upon good cause or as a result of [ additional substantial ] new evidence being obtained that would alter the determination reached in subsection B of this section.

§ 8.4. Reinstatement following disciplinary action.

A. Any person whose license has been suspended, revoked, or not renewed by the board under the provisions of § 8.2 may, two years subsequent to such board action, submit a new application to the board for

licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement, as prescribed by the board.

## VIRGINIA REAL ESTATE BOARD

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to conform to changes in this Code where no agency discretion is involved. The Department of Commerce will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 585-01-2. Condominium Regulations.

**Statutory Authority:** § 55-79.98(a) of the Code of Virginia.

**Effective Date:** July 1, 1988

### Summary:

The amendment to the Virginia Condominium Regulations is necessary for compliance with House Bill 356 passed during the 1988 Session of the General Assembly, which amended § 55-79.89 of the Code of Virginia.

Section 2.6, Filing Fee, of the Virginia Condominium Regulations is being added to establish filing fees to accompany all applications for registration of condominiums. Approximately 170 condominium developments are registered each year.

VR 585-01-2. Condominium Regulations.

### PART I. GENERAL.

§ 1.1. Purpose.

These condominium regulations govern the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Board by the Horizontal Property Act, § 55-79.1 et seq. of the Code of Virginia, and by the Condominium Act, § 55-79.39 et seq. of the Code of Virginia.

§ 1.2. Definitions.

The definitions provided in § 55-79.41 of the Code of Virginia, as they may be supplemented herein, shall apply to these condominium regulations. The corresponding meanings assigned to certain terms by § 55-79.41 of the Code of Virginia shall be applicable in these condominium regulations.

## § 1.3. Explanation of terms.

Each reference in these condominium regulations to a "declarant," "purchaser" and "unit owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural and to natural persons and organizations. The term "declarant" shall refer to any successors to the persons referred to in § 55-79.41 who come to stand in the same relation to the condominium as their predecessors in that they assumed rights reserved for the benefit of a declarant that (i) offers to dispose of his or its interest in a condominium unit not previously disposed of, (ii) reserves or succeeds to any special declarant right, or (iii) applies for registration of the condominium.

## § 1.4. Condominiums located outside of Virginia.

A. In any case involving a condominium located outside of Virginia in which the laws or practices of the jurisdiction in which such condominium is located prevent compliance with a provision of these condominium regulations, the board or its subordinate shall prescribe, by order, a substitute provision to be applicable in such case which is as nearly equivalent to the original provision as is reasonable under the circumstances.

B. The words "declaration," "bylaws," "plats" and "plans," when used in these condominium regulations with reference to a condominium located outside of Virginia, shall refer to documents, portions of documents or combinations thereof, by whatever name denominated, which have a content and function identical or substantially equivalent to the content and function of their Virginia counterparts.

C. The words "recording" or "recordation," when used with reference to condominium instruments of a condominium located outside of Virginia, shall refer to a procedure which, in the jurisdiction in which such condominium is located, causes the condominium instruments to become legally effective.

D. These regulations shall apply to a contract for the disposition of a condominium unit located outside of Virginia only to the extent permissible under the provisions of § 55-79.40 B of the Code of Virginia.

## § 1.5. Condominium advisory committee.

A condominium advisory committee, appointed by the board, may advise the board in the exercise of its powers and the performance of its duties under the Horizontal Property Act and the Condominium Act.

## § 1.6. Property registration administrator.

A property registration administrator, employed and designated as such by the Director of the Department of Commerce, shall function as a subordinate of the board within the meaning of § 9-6.14.4(g) of the Code of Virginia for the purpose of carrying out the routine daily operations of the board with respect to condominium regulations, including, without limitation, the entry of any orders provided for in these condominium regulations, the issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The administrator shall act as secretary of the condominium advisory committee.

## PART II. APPLICATION FOR REGISTRATION.

### § 2.1. Application for registration.

Application for registration of condominium units shall be filed at the offices of the board. The application shall contain all of the documents and information required by the standard application form.

### § 2.2. Applications not in proper form.

Upon receipt of an application for registration not in proper form, the board shall return the application to the declarant with a statement specifying the deficiencies in its form however, if the board has reason to believe that the application may readily be put into proper form it may retain the application and notify the declarant of the steps that must be taken to put the application in proper form.

### § 2.3. Form of the application; submission of documents.

The board may establish specific guidelines which establish the form for preparation of the application for registration. These guidelines shall set forth reasonable requirements for paper size, binding and organization which assure uniformity in the manner disclosures are made to prospective purchasers.

### § 2.4. Procedure upon receipt of application for registration.

A. Upon receipt of an application for registration and the fee required by § 55-79.89(d) of the Code of Virginia, the board shall issue the notice of filing required by § 55-79.92(a) of the Code of Virginia and shall conduct an inquiry and investigation to determine whether the prerequisites for registration set out in § 55-79.91 of the Code of Virginia and § 3.1 of these regulations have been met. In conducting such inquiry and investigation, the board shall take cognizance of any reliable information concerning the declarant or the condominium coming to the board's attention.

B. If any of the prerequisites for registration appear to

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the board not to have been met, the board may informally advise the declarant of such fact and indicate in detail the nature of the failure to meet the prerequisites.

C. If the document review conducted by the administrator reveals that the prerequisites for registration have not been met, the board shall issue the correction notification required by § 55-79.92(c) of the Code of Virginia.

D. A request for an extension of the 60-day application period shall be in writing and shall be delivered to the board prior to the expiration of the period being extended. The request shall be for an extension of definite duration. The board may grant in writing a request for an extension of the application period and it may limit the extension to a period not longer than is reasonably necessary to permit correction of the application. An additional extension of the application period may be obtained, subject to the conditions applicable to the initial request. A request for an extension of the application period shall be deemed a consent to delay within the meaning of § 55-79.92(a) of the Code of Virginia.

E. If the prerequisites for registration are not met within the application period or a valid extension thereof, the board shall, upon the expiration of such period, enter an order rejecting registration as required by § 55-79.92(c) of the Code of Virginia.

F. The board shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting registration.

G. At such time as the board affirmatively determines that the prerequisites for registration have been met, the board shall enter an order registering the condominium. The order shall designate the form and content of the public offering statement, substituted disclosure document or prospectus to be used and, in the case of application for registration made pursuant to § 8.3.D of these regulations shall provide that previous orders designating the form and content of the public offering statement, substituted disclosure document or prospectus to be used are superseded.

§ 2.5. Application for registration of expandable condominium.

In accordance with the practice contemplated by § 55-79.74(a) of the Code of Virginia, the declarant may register all units for which development rights have been reserved.

§ 2.6. Filing fee.

*Each application shall be accompanied by a fee in an amount equal to \$35 per unit, except that the initial application fee shall be not less than \$1,750 nor more than \$3,500, and the fee for any application for registration of additional units shall be not less than \$875 nor more than*

*\$3,500.*

## PART III. REGISTRATION.

§ 3.1. Prerequisites for registration.

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55-79.91 of the Code of Virginia.

1. The declarant shall own or have the right to acquire an estate in the land constituting or to constitute the condominium which is of at least as great a degree and duration as the estate to be conveyed in the condominium units.

2. The condominium instruments must be adequate to bring a condominium into existence upon recordation except that the certification requirements of § 55-79.58 of the Code of Virginia need not be complied with as a prerequisite for registration. This subsection does not apply to condominium instruments that may be recorded after the condominium has been created.

3. The declarant shall have filed with the board evidence of its ability to complete all proposed improvements on the condominium. Such evidence shall consist of the commitment of an institutional lender to advance construction funds to the declarant and, to the extent that any such commitments will not furnish all the necessary funds, other evidence, satisfactory to the board, of the availability to the declarant of necessary funds. A lender's commitment may be subject to such conditions, including registration of the condominium units and presale requirements as are normal for loans of the type and as to which nothing appears to indicate that the conditions will not be complied with or fulfilled. In the case of a condominium located in Virginia, proposed improvements are uncompleted improvements which the declarant is affirmatively and unconditionally obligated to complete under §§ 55-79.58 and 55-79.67(al) of the Code of Virginia and applicable provisions of the condominium instruments or which the declarant would be so obligated to complete, if plats and plans filed with the board in accordance with § 3.2 subsection A of these regulations were recorded. In the case of a condominium located outside of Virginia, "proposed improvements" are all uncompleted improvements which the declarant intends, without condition or limitation, to build or place on the condominium.

4. The current and planned condominium marketing activities of the declarant shall comply with § 18.2-216 of the Code of Virginia, and §§ 4.1, 4.3 and 4.4 of these regulations.

5. The declarant shall have filed with the board: (i) a proposed public offering statement which complies

with § 55-79.90(a) of the Code of Virginia and §§ 5.1 through 5.26 and §§ 7.1 through 7.12 of these regulations and, if applicable, § 55-79.94(a) of the Code of Virginia and §§ 6.1 through 6.7 of these regulations; (ii) a substituted disclosure document which complies with § 5.25; or (iii) a prospectus which complies with § 5.26 of these regulations.

## § 3.2. Requirements for plats and plans.

A. Except as provided in subsection C hereof, improvements shall be depicted on plats filed with the application for registration exactly as the declarant has depicted or intends to depict them on the recorded plats and "(NOT YET BEGUN)" and "(NOT YET COMPLETED)" labels shall be used with respect to such improvements exactly as the declarant has used or intends to use them on the recorded plats. Copies of plats and plans as recorded by the declarant shall be filed with the board if such plats and plans are different from those filed with the application for registration.

B. The requirement of § 55-79.58(b) of the Code of Virginia that plans shall show the location and dimensions of the boundaries of each unit shall be deemed satisfied, in the case of units which are identical (within normal constructions tolerances), by depiction of the location and dimensions of the vertical boundaries and horizontal boundaries, if any, of one such unit. The identifying numbers of all units represented by such depiction shall be indicated. Each structure within which any such units are located shall be depicted so as to indicate the exact location of each such unit within the structure.

C. In the case of a condominium located outside Virginia, certain materials may be filed with the application for registration in lieu of plats and plans complying with the provisions of § 55-79.58 of the Code of Virginia. Such materials shall contain, as a minimum, (i) a plat of survey depicting all existing improvements and all improvements which the declarant intends, without condition or limitation to build or place on the condominium and (ii) legally sufficient descriptions of each unit. Any improvements whose completion is subject to conditions or limitations shall be appropriately labeled to indicate that such improvements may not be completed. Unit descriptions may be written or graphic, shall demarcate each unit vertically and, if appropriate, horizontally, and shall indicate each unit's location relative to established points or datum.

D. The plats and plans must bear the form of the certification statement required by § 55-79.58(a) and (b) of the Code of Virginia. However, such certification may appear in a separate document to be recorded with the plats and plans. As stated in § 3.1.2 of these regulations, the statement need not be executed prior to recordation.

## § 3.3. Exemption from registration of nonresidential condominiums.

The exemption from registration of condominiums in which all units are restricted to nonresidential use provided in § 55-79.87(a) shall not be deemed to apply to any condominium as to which there is a substantial possibility that a unit therein other than a unit owned by the declarant or the unit owners' association will be used as permanent or temporary living quarters or as a site upon which vehicular or other portable living quarters will be placed and occupied. Residential use for the purposes of these regulations includes transient occupancy.

## PART IV. MARKETING.

### § 4.1. Preregistration offers prohibited.

A. No declarant or individual or entity acting on behalf of the declarant shall offer a condominium unit prior to its registration.

B. No condominium marketing activity shall be deemed an offer unless, by its express terms, it induces, solicits or encourages a prospective purchaser to execute a contract of sale of the condominium unit or lease of a leasehold condominium unit or perform some other act which would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

### § 4.2. Condominium marketing activities.

Condominium marketing activities shall include every contact for the purpose of promoting disposition of a condominium unit. Such contacts may be personal, by telephone, by mail or by advertisement. A promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity may be oral, written or graphic. With respect to condominiums located outside of Virginia, the application of these regulations is limited to those condominiums for which contracts are executed in Virginia as required by § 55-79.40 B of the Code of Virginia.

### § 4.3. Condominium marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a condominium marketing activity shall be made which is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the condominium or a condominium unit.

B. No promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity shall indicate that an improvement will be built or placed on the condominium unless the improvement is a proposed improvement within the meaning of § 3.1 3 of these regulations; except that, if the condominium is one for which no application for



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registration has been filed, there shall be no indication that an improvement will be built or placed on the condominium unless the declarant has sufficient financial assets and a bona fide intention to complete the improvement as represented.

C. No promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity and relating to a condominium unit not registered shall, by its express terms, induce, solicit or encourage a prospective purchaser to leave Virginia for the purpose of executing a contract for sale or lease of the condominium unit or performing some other act which would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

## § 4.4. Offering literature.

A. Offering literature is any written promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity mailed or delivered directly to a specific prospective purchaser, except that information printed in a publication shall not be deemed offering literature solely by virtue of the fact that the publication is mailed or delivered directly to a prospective purchaser.

B. Offering literature mailed or delivered prior to the registration of the condominium which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

Identification of the condominium has not been registered by the Virginia Real Estate Board. A condominium unit may be reserved on a nonbinding reservation agreement, but no contract of sale or lease may be entered into prior to registration.

C. Prior to registration a copy of every item of offering literature other than a personal communication shall be filed with the board prior to its use. A personal communication is a communication directed to a particular prospective purchaser which has not been and is not intended to be directed to any other prospective purchaser.

D. The declarant of a condominium shall provide with the application for registration a narrative description of the promotional plan for the condominium.

E. Offering literature or marketing activities violative of the Virginia Fair Housing Law, § 36-86 et seq. of the Code of Virginia, and the Virginia Condominium Act, § 55-79.52(c) of the Code of Virginia is prohibited.

F. Offering literature shall indicate that the property being offered is under the condominium form of ownership. The requirement of this subsection is satisfied by including the full name of the condominium in all

offering literature.

## § 4.5. Exemption from marketing regulations.

Nothing in §§ 4.1, 4.3 A, B and C, and § 4.4 shall apply in the case of a condominium exempted from registration by § 55-79.87 of the Code of Virginia, or condominiums located outside of Virginia for which no contracts are to be signed in Virginia.

## PART V. PUBLIC OFFERING STATEMENT.

### § 5.1. Scope of public offering statement.

A public offering statement shall make disclosure relative to a single offering and to the entire condominium in which the condominium units being offered are located. Not more than one version of a public offering statement shall be authorized for use or used at any given time with respect to a particular condominium.

### § 5.2. Offering defined.

As used in these condominium regulations, the word "offering" shall refer to the continuing act of the declarant in making condominium units owned by the declarant within a particular condominium available for acquisition by purchasers or, where appropriate, to the aggregate of the condominium units thus made available.

### § 5.3. Preparation of public offering statement.

The public offering statement shall be clear and legible with pages numbered sequentially. A blank cover or a cover bearing identification information only may be used. Except as elsewhere provided, no portion of the public offering statement may be printed in larger, heavier or different color type than the remainder of the public offering statement. The first page of the public offering statement shall be prepared to conform as closely as possible to the specimen appended as Appendix A to these regulations and made a part hereof.

### § 5.4. Nature of information to be included.

A. The provisions of §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia, and §§ 5.1 through 8.7 of these regulations shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the declarant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a condominium unit. The declarant shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to

encourage a misinterpretation of the facts or otherwise to mislead a purchaser.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available to an ordinary purchaser. Whenever required information is not known or not reasonably available, such fact shall be stated in the public offering statement with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be modified to accomplish the purpose of the requirement or the disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the declarant has reason to believe will occur or exist in the future or which the declarant intends to cause to occur or exist in the future. Disclosure relating to future facts, events, conditions or states of affairs shall be limited by the provisions of subsection F hereof.

E. The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the public offering statement be made so lengthy or detailed as to discourage close examination.

F. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ample foundation in fact for the opinion; provided, however, that this sentence shall not affect in any way the declarant's duty to set forth a projected budget for the condominium's operation.

G. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions of the condominium instruments or other documents. The purchaser's attention may be directed to pertinent portions of the declaration, bylaws or other documents attached to the public offering statement which are too lengthy to incorporate verbatim.

H. Maps, photographs and drawings may be utilized in the public offering statement, provided that such utilization promotes full and accurate disclosure.

## § 5.5. Readability.

The public offering statement shall be clear and understandable. Determinations as to compliance with the standards of this paragraph are within the exclusive discretion of the board.

## § 5.6. Summary of important considerations.

A. Immediately following the first page and before the table of contents, the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsection D hereof.

Other summary statements may be proposed by the declarant or included by order of the board for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the sole purpose of enhancing the sales appeal of condominium units.

B. The summary shall be titled as such and shall be introduced by the following statement: "Following are important matters to be considered in acquiring a condominium unit. They are highlights only. The narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to not more than three sentences except that the board may, by order, permit or require additional sentences.

C. Whenever the board finds that the significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier or different color type than the remainder of the public offering statement.

D. Summary statements shall be made of the substance of the following facts and circumstances, to the extent that each is applicable. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The condominium will be governed by a unit owners' association. Each unit owner will have a vote on certain decisions of the association and will be bound by all decisions of the association including those with which he disagrees.
2. Certain decisions of the unit owners' association will be made by an executive organ.
3. The expenses of operating the unit owners' association will be paid by the unit owners on the basis of a periodic budget. Each unit owner will pay a periodic assessment. A unit owner cannot reduce the amount of his assessment by refraining from use of the common elements.
4. If a unit owner fails to pay an assessment when due, the unit owners' association will have a lien against his condominium unit. Certain other penalties may be applied.
5. The declarant must pay assessments on unsold condominium units.

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6. The declarant, its predecessors or principal officer has undergone a debtor's relief proceeding.

7. The declarant will retain control of the unit owners' association for an initial period.

8. A managing agent will perform the routine operations of the unit owners' association. The managing agent is related to the declarant, director or officer of the unit owners' association.

9. The declarant may rent unsold condominium units. The right of any unit owner to rent his unit is subject to restrictions.

10. The declarant may expand or contract the condominium or convert convertible land or space without the consent of any unit owner.

11. The right of the unit owner to resell his condominium unit is subject to restrictions.

12. The units are restricted to residential use.

13. The unit owner may not alter the structure of his unit or modify the exterior of his unit without the approval of the declarant or unit owners' association.

14. The unit owners' association will obtain certain insurance benefiting the unit owner, but the unit owner should obtain other insurance on his own.

15. The unit owner will pay real estate taxes on his condominium unit.

16. The unit owner's right to bring legal action against the declarant is limited by certain provisions of the purchase contract; specifically the contract [requires the unit owner or the association to pay the attorney's fee of the declarant; requires the unit owner to waive a jury in any civil action against the declarant].

17. The condominium is [is not] subject to development as a time-share.

18. Marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law (Code of Virginia § 36-85 et seq.) and the Virginia Condominium Act (Code of Virginia § 55-79.52(c)).

## § 5.7. Narrative sections.

The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by §§ 5.8 through 5.23 of these regulations. Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature

of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier or different color type than the remainder of the public offering statement. A table of contents shall be utilized.

## § 5.8. Narrative sections; condominium concept.

The public offering statement shall contain a section captioned "The Condominium Concept." The section shall consist of a brief discussion of the condominium form of ownership. The section shall discuss the distinction among units, common elements and limited common elements, if any, and shall explain ownership of an undivided interest in the common elements. Attention shall be directed to any features of ownership of the condominium units being offered which are different from typical condominium unit ownership.

## § 5.9. Narrative sections; creation of condominium.

The public offering statement shall contain a section captioned "Creation of the Condominium." The section shall briefly explain the manner in which the condominium was or will be created and shall briefly describe each of the condominium instruments, their functions, and the procedure for their amendment. The section shall indicate where each of the condominium instruments or copies thereof may be found. In the case of a condominium located in Virginia or in a jurisdiction having a law similar to § 55-79.96 of the Code of Virginia, the section shall indicate the purchaser will receive copies of the recorded declaration and bylaws, or amendments, as appropriate, within the time provided for in the applicable statute.

## § 5.10. Narrative sections; description of condominium.

A. The public offering statement shall contain a section captioned "Description of the Condominium." The section shall contain a narrative description of the condominium. The description shall include statements of (i) the land area of the condominium; (ii) the number of units in the condominium; (iii) the number of units in the offering; (iv) the number of units in the condominium planned to be rented; and (v) whether at the time of registration the declarant intends to sell more than 20% of the units to persons who do not intend to occupy the units as their primary residence.

B. If the condominium is contractable, expandable or includes convertible land or space, the section shall contain a brief description of each such feature including the land area and the maximum number of units or maximum number of units per acre which may be added, withdrawn or converted, as the case may be, together with a statement of the declarant's plans for the implementation of each such feature. In the case of a contractable or expandable condominium, the section shall

contain the substance of the following statement: "The construction and development of the condominium may be abandoned or altered, at the declarant's option, short of completion and land or buildings originally intended for condominium development may be put to other uses or sold." In the case of a condominium including convertible land, the section shall contain the substance of the following statements: "Until such time as the declarant converts the convertible land into units or limited common elements, the declarant is required by the Virginia Condominium Act to pay for the upkeep of the convertible land. Once the convertible land has been converted, maintenance and other financial responsibilities associated with the land so designated become the responsibility of the unit owners and, therefore, may be reflected in the periodic assessment for the condominium." If the common expense assessments are expected to increase should convertible land be converted, this section shall also disclose an estimate of the approximate percentage by which such assessments are expected to increase by reason of any such conversion.

C. The section shall state whether or not the units are restricted solely to residential use and shall state where this and other use and occupancy restrictions are to be found in the condominium instruments.

#### § 5.11. Narrative section; individual units.

The public offering statement shall contain a section captioned "Individual Units." The section shall contain a general description of the various type units being offered, together with the dates on which substantial completion of unfinished units is anticipated. The section shall discuss what restrictions, if any, exist as to changes unit owners may make to the structure or exterior of their units, whether or not said exterior is a portion of the common elements.

#### § 5.12. Narrative sections; common elements.

A. The public offering statement shall contain a section captioned "Common Elements." The section shall contain a general description of the common elements.

B. A statement of the anticipated completion dates of unfinished common elements shall be included except that no such statement shall be necessary with respect to common elements which are completed or expected to be substantially complete when the units are completed.

C. With respect to common elements which the declarant intends to build or place on the condominium but which are not expected to be substantially complete when the units are completed, the section shall state: (i) In the case of a condominium located in Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments pursuant to §§ 55-79.58(a) and 55-79.67(a)(1) of the Code of Virginia and applicable provisions of the

condominium instruments and pursuant to § 55-79.58:1 of the Code of Virginia, the declarant has filed with the Virginia Real Estate Board a bond to insure completion of improvements to the common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments; and (ii) in the case of a condominium located outside of Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has incurred or intends to incur under the law of the jurisdiction in which the condominium is located.

D. The section shall describe any limited common elements which are assigned or which may be assigned and shall indicate the reservation of exclusive use. In the case of limited common elements which may be assigned, the section shall state the manner of such assignment or reassignment.

E. The section shall indicate the availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces.

#### § 5.13. Narrative sections; declarant.

A. The public offering statement shall contain a section captioned "The Declarant." The section shall contain a brief history of the declarant with emphasis on its experience in condominium development.

B. The following information shall be stated with regard to persons immediately responsible for the development of the condominium: (i) name; (ii) length of time associated with the declarant; (iii) role in the development of the condominium; and (iv) experience in real estate development. If different from the persons immediately responsible for the development of the condominium, the principal officers of the declarant shall be identified.

C. If the declarant or its parent or predecessor organization has, during the preceding 10 years, been adjudicated a bankrupt or has undergone any proceeding for the relief of debtors, such fact or facts shall be stated. If any of the persons identified pursuant to subsection B hereof has, during the preceding three years, been adjudicated a bankrupt or undergone any proceeding for the relief of debtors, such fact or facts shall be stated.

D. The section shall indicate any final action taken by an administrative agency or civil or criminal court which reflects adversely upon the performance of the declarant as a developer of real estate projects. The section shall also indicate any current or past proceedings brought against the declarant by any condominium unit owners' association or by its executive organ or any managing agent on behalf of such association or which has been certified as a class action on behalf of some or all of the unit owners. For the purposes of the previous sentence with respect to past proceedings, if the ultimate disposition of those proceedings is one which reflects adversely upon

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the performance of the declarant, that disposition shall be disclosed. The board has the sole discretion to require additional disclosure of any legal proceedings where it finds such disclosure necessary to assure full and accurate disclosure.

## § 5.14. Narrative sections; terms of offering.

A. The public offering statement shall contain a section captioned "Terms of the Offering." The section shall discuss the expenses to be borne by a purchaser in acquiring a condominium unit and present information regarding the settlement of purchase agreements as provided in subsections B through G hereof.

B. The section shall indicate the offering prices for condominium units or a price range for condominium units, if either is established.

C. The section shall set forth the significant terms of any financing offered by or through the declarant to purchasers. Such discussion shall include the substance of the following statement: "Financing is subject to additional terms and conditions stated in the loan commitment or instruments."

D. The section shall discuss in detail any settlement costs which are not normal for residential real estate transactions including, without limitation, any contribution to the initial or working capital of the unit owners' association to be paid by a purchaser at settlement.

E. The section shall discuss any penalties or forfeitures to be incurred by a purchaser upon default in performance of a purchase agreement which are not normal for residential real estate transactions. Penalties or forfeitures to be discussed include, without limitation, the declarant's right to retain sums deposited in connection with a purchase agreement in the event of a refusal by a lending institution to provide financing to a purchaser who has made proper application for same.

F. The section shall discuss the right of the declarant to cancel a purchase agreement upon failure of the declarant to obtain purchase agreements on a given number or percentage of condominium units being offered or upon failure of the declarant to meet other conditions precedent to obtaining necessary financing.

G. The section shall set forth the significant terms of the purchase agreement. Included in this discussion shall be a detailed description of provisions which limit the unit owners' rights to seek legal recourse against the declarant.

## § 5.15. Narrative sections; encumbrances.

A. The public offering statement shall contain a section captioned "Encumbrances." The section shall include the significant terms of any encumbrances, easements, liens and matters of title affecting the condominium as provided in subsections B through I hereof.

B. Except to the extent that such encumbrances are required to be satisfied or released by § 55-79.46(a) of the Code of Virginia, or a similar law, the section shall describe every mortgage, deed of trust, other perfected lien or choate mechanics or materialmen's lien affecting all or any portion of the condominium other than those placed on condominium units by their purchasers or owners. Such description shall identify the lender secured or the lienholder shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured and shall indicate the practical effect upon unit owners of failure of said party to perform the obligation.

C. Normal easements for utilities, municipal rights-of-way and emergency access shall be described only as such, without reference to ownership, location or other details.

D. Easements reserved to the declarant to facilitate conversion, expansion or sales shall be briefly described.

E. Easements reserved to the declarant or to the unit owners' association or its representatives or agents for access to units shall be briefly described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.

F. Easements across the condominium reserved to the owners or occupants of land located in the vicinity of the condominium including, without limitation, easements for the use of recreational areas shall be briefly described.

G. Covenants, servitudes or other devices which create an actual or potential restriction on the right of any unit owner to use and enjoy his unit or any portion of the common elements other than limited common elements shall be briefly described.

H. Any matter of title which is not otherwise required to be disclosed by the provisions of this section and which has or may have a substantial adverse impact upon units owners' interests in the condominium shall be described. Under normal circumstances, an easement for encroachments and an easement running in favor of unit owners for ingress and egress across the common elements shall be deemed not to have a substantial adverse impact upon unit owners' interest in the condominium.

I. The section need not include any information required to be disclosed by §§ 5.10 C, 5.11 or 5.16 of these regulations.

## § 5.16. Narrative sections; restrictions on transfer.

The public offering statement shall include a section captioned "Restrictions on Transfer." The section shall describe and explain any rights of first refusal, preemptive rights, limitations on leasing or other restraints on free alienability created by the condominium instruments or the rules and regulations of the unit owners' association and

which affect the unit owners' right to resell, lease or otherwise transfer an interest in his condominium unit.

## § 5.17. Narrative sections; unit owners' association.

A. The public offering statement shall contain a section captioned "Unit Owners' Association." The section shall discuss the manner in which the condominium is governed and administered and shall include the information required by subsections B through J hereof.

B. The section shall state in summary fashion the functions of the unit owners' association.

C. The section shall describe the organizational structure of the unit owners' association. Such description shall indicate (i) the existence of or provision for an executive organ, officers and managing agent, if any; (ii) the relationships between such persons or bodies; (iii) the manner of their election or appointment; and (iv) the assignment or delegation of responsibility for the performance of the functions of the unit owners' association.

D. The section shall describe the allocation of voting power among the unit owners.

E. The section shall discuss any retention by the declarant of control over the unit owners' association both during the declarant control period and after control of the provisions of the plan to ease the transition of this transfer shall also be described.

F. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the declarant or a member of the executive organ or an officer of the unit owners' association. The duration of any management agreement shall be stated.

G. Except to the extent otherwise disclosed in connection with discussion of a management agreement, the significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the condominium shall be stated. The section shall include a brief narrative statement of the effect of each such agreement upon a purchaser.

H. Rules and regulations of the unit owners' association and the authority to promulgate rules and regulations shall be discussed. Particular provisions of the rules and regulations shall not be discussed except as required by other provisions of these condominium regulations. The purchaser's attention shall be directed to the copy of rules and regulations, if any, attached to the public offering statement.

I. Any standing committees established or to be

established to perform functions of the unit owners' association shall be discussed. Such committees include, without limitation, architectural control committees and committees having the authority to interpret condominium instruments, rules and regulations or other operative provisions.

J. Unless required to be disclosed by § 9.15, subsection E, of these regulations any power of the declarant or of the unit owners' association or its representatives or agents to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated: (i) a unit may be entered without notice to the unit owner; (ii) the declarant or the unit owners' association or its representatives or agents are empowered to take actions or perform work in a unit without the consent of the unit owner; and (iii) the unit owner may be required to bear the costs of actions so taken or work so performed.

## § 5.18. Narrative sections; surrounding area.

The public offering statement shall contain a section captioned "Surrounding Area." The section shall briefly describe the zoning of the immediate neighborhood of the condominium. The section may indicate the existence and proximity of community facilities available to unit owners.

## § 5.19. Narrative sections; financial matters.

A. The public offering statement shall contain a section captioned "Financial Matters." The section shall discuss the expenses incident to the ownership of a condominium unit, excluding certain taxes, in the manner provided in subsections B through I hereof.

B. The section shall distinguish, in general terms, the following categories of costs of operation, maintenance, repair and replacement of various portions of the condominium: (i) common expenses apportioned among and assessed to all of the condominium units pursuant to § 55-79.83(c) of the Code of Virginia or similar law or condominium instrument provision (referred to elsewhere in these regulations as "regular common expenses"); (ii) common expenses, if any, apportioned among and assessed to less than all of the condominium units pursuant to § 55-79.83(a) and (b) of the Code of Virginia or similar law or condominium instrument provisions; and (iii) costs borne directly by individual unit owners. The section need not discuss taxes assessed against individual condominium units and payable directly by their owners.

C. A projected budget shall be prepared showing regular common expenses to be assessed for the first year of the condominium's operation or, if different, the latest year for which projections are available; provided, however, that in no event shall the year for which the budget is projected have commenced more than six months prior to the date application for registration is filed. The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention thereto. The section shall describe the manner in

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which the projected budget is established.

D. The section shall describe the manner in which regular common expenses are apportioned among the assessed to the condominium units. The section shall include the substance of the following statement, if applicable: "A unit owner cannot obtain a reduction of the regular common expenses assessed against his unit by refraining from use of any of the common elements."

E. The section shall describe budget provisions for reserves for capital expenditures and for contingencies, if any.

F. The section shall describe provisions for special assessments to be levied in the event that budgeted assessments provide insufficient funds for operation of the unit owners' association.

G. The section shall discuss any common expenses actually planned to be specially assessed pursuant to § 55-79.83(a) and (b) of the Code of Virginia or similar law or condominium instrument provisions.

H. The section shall indicate any fee, rental or other charge to be payable by unit owners other than through common expense assessments to any party for use of the common elements or for use of recreational or parking facilities in the vicinity of the condominium. As an exception to the provisions of this subsection, the section need not discuss any fees provided for in §§ 55-79.84(h) and 55-79.85 of the Code of Virginia, or similar laws or condominium instrument provisions or any costs for certificates for resale.

I. The section shall discuss the effect of failure of a unit owner to pay when due assessments levied against his condominium unit. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments and for acceleration of unpaid assessments. The section shall indicate the existence of a lien for unpaid assessments and where applicable the bond conditioned on the payment of assessments filed with the Commission in accordance with § 55-79.84:1 of the Code of Virginia. The section shall include, to the extent applicable, the substance of the following statement: "The unit owners' association may obtain payment of overdue assessments by foreclosure of the lien resulting in a forced sale of the condominium unit or by suing the unit owner."

## § 5.20. Narrative sections; insurance.

The public offering statement shall contain a section captioned "Insurance." The section shall describe generally the insurance on the condominium to be maintained by the unit owners' association. The section shall state, with respect to such insurance, each of the following circumstances, to the extent applicable: (i) property damage coverage will not insure personal property belonging to unit owners; (ii) property damage coverage will not insure improvements to a unit which increase its

value beyond the limits of coverage provided in the unit owners' association's policy, and (iii) liability coverage will not insure against liability arising from an accident or injury occurring within a unit or as a result of the act or negligence of a unit owner. The section shall indicate any conditions imposed by the condominium instruments or rules and regulations to which insurance obtained directly by unit owners will be subject. Such indication may be made by reference to pertinent provisions of the condominium instruments or rules and regulations.

## § 5.21. Narrative sections; taxes.

A. The public offering statement shall contain a section captioned "Taxes." The section shall describe all existing or proposed taxes to be levied against condominium units individually including, without limitation, real property taxes, sewer connection charges and other special assessments.

B. With respect to real property taxes, the section shall state the tax rate currently in effect. The section shall also state a procedure or formula by means of which the taxes may be estimated.

C. With respect to other taxes, the section shall describe each tax in sufficient detail as to indicate the time at which the tax will be levied and the actual or estimated amount to be levied.

## § 5.22. Narrative sections; governmental approval.

The public offering statement shall contain a section captioned "Governmental Approval." The section shall discuss approval of a site plan and issuance of a building permit by appropriate governmental authorities. The section shall also discuss compliance with all zoning ordinances, building codes, housing codes and similar laws affecting the condominium.

## § 5.23. Narrative sections; warranties.

The public offering statement shall contain a section captioned "Warranties." The section shall describe any warranties provided by or through the declarant on the units or the common elements. If any such warranty is different from the warranty provided by § 55-79.79(b) of the Code of Virginia or a similar applicable law, the section shall include the substance of the following statement: "Nothing contained in the warranty provided by the declarant shall limit the protection afforded by the statutory warranty."

## § 5.24. Documents to be included.

Copies of the following documents shall be attached as exhibits to the public offering statement: (i) the declaration; (ii) the bylaws; (iii) the projected budget; (iv) rules and regulations of the unit owners' association; (v) any management contract; (vi) any lease of recreational areas; and (vii) any similar contract or agreement

affecting the use, maintenance or access of all or any part of the condominium. Other pertinent documents may be attached to the public offering statement including, without limitation, a purchase agreement, a certificate of warranty, a warranty limitation agreement and a depiction of unit layouts.

## § 5.25. Documents from other jurisdictions.

A. A substituted disclosure document is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this paragraph in order to fulfill the disclosure requirements established for public offering statements by § 55-79.90(a) and, if applicable, § 55-79.94(a) of the Code of Virginia. A substituted disclosure document shall not be employed in the case of a condominium located in Virginia.

B. The substituted disclosure document shall be prepared by deleting from the original disclosure document: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the condominium; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgement of receipt or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information which is untrue, inaccurate or misleading with respect to marketing, offers or disposition of condominium units in Virginia.

C. The substituted disclosure document shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by §§ 55-79.90(a) and, if applicable, 55-79.94(a) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature which is different from the definitions provided in § 55-79.41 or which, for any other reason, may confuse purchasers in Virginia. Any information not required by §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia may be deleted, provided that such deletion does not render the required information misleading.

D. The first page of the substituted disclosure document shall be prepared to conform as closely as possible to the specimen appended as Appendix A to these regulations and made a part hereof. The three blanks in the first sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose laws it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. No portion of the substituted disclosure document may be underscored, italicized or printed in larger,

heavier or different color type than the remainder of the substituted disclosure document, except: (i) as required by subsection D hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the board in cases in which it finds that the significance to purchasers of certain information requires that such information be disclosed more conspicuously than by regular presentation in the substituted disclosure document.

F. The provisions of §§ 55-79.88(c), 55-79.90, and 55-79.94(a) of the Code of Virginia and §§ 5.1, 5.3, 5.4, 5.5, 5.24 and Part 11 of these regulations shall apply to substituted disclosure documents in the same manner and to the same extent that they apply to public offering statements.

## § 5.26. Condominium securities.

A prospectus used in lieu of a public offering statement shall contain or have attached thereto copies of documents, other than the projected budget required to be attached to a public offering statement by § 5.24. Such prospectus shall be deemed to satisfy all of the disclosure requirements of §§ 5.6 through 5.24 and Part 7 of these regulations. In the case of a conversion condominium, the prospectus shall have attached thereto, in suitable form the information required by §§ 6.4, 6.5 C and D, 6.6 and 6.7 of these regulations to be disclosed in public offering statements for conversion condominiums. The provisions of § 55-79.88(c) of the Code of Virginia shall apply to the delivery of the prospectus in the same manner and to the same extent that they apply to the delivery of a public offering statement.

## PART VI. CONVERSION CONDOMINIUMS.

### § 6.1. Public offering statement for conversion condominium; general instructions.

The public offering statement for a conversion condominium shall conform in all respects to the requirements of §§ 5.1 through 5.26 and Part VII of these regulations. In addition, the public offering statement for a conversion condominium shall (i) contain special disclosures in the narrative sections captioned "Description of the Condominium," "Terms of the Offering" and "Financial Matters"; and (ii) incorporate narrative sections captioned "Present Condition of the Condominium" and "Replacement Requirements." Provisions for such additional disclosure are set forth in §§ 6.3 through 6.7 of these regulations.

### § 6.2. Public offering statement for conversion condominium; special definitions.

As used in this paragraph and in §§ 6.3 through 6.7:

"Structural component" means a component constituting



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any portion of the structure of a unit or common element and in which a defect would reduce the stability or safety of all or a part of the structure below accepted standards or restrict the normal intended use of all or a part of the structure.

“Major utility installation” means a utility installation or portion thereof which is a common element or serves more than one unit.

“Physical asset” is a generic term and means either a structural component or a major utility installation.

“Present condition” means condition as of the date of the inspection by means of which condition is determined.

“Structural defect” shall have the meaning given in § 55-79.79(b) of the Code of Virginia.

“Class of physical assets” means two or more physical assets which are substantially alike in function, manufacture, date of construction or installation and history of use and maintenance.

“Expected useful life” means the estimated number of years from the date on which such estimate is made until the date when, because of the effects of time, weather, stress or wear, a physical asset will become incapable of performing its intended function and will have to be replaced.

“Replacement cost” means the expenditure which would be necessary to replace a physical asset with an identical or substantially equivalent physical asset as of the date on which replacement cost is determined and includes all costs of removing the physical asset to be replaced, of obtaining its replacement and of erecting or installing the replacement.

## § 6.3. Description of conversion condominium.

In addition to the information required by § 5.10 of these regulations, the section captioned “Description of the Condominium” shall indicate that the condominium is a conversion condominium. The term conversion condominium shall be defined and the particular circumstances which bring the condominium within the definition shall be stated. The nature and inception date of prior occupancy of the property being converted shall be stated.

## § 6.4. Financial matters, conversion condominium.

A. The provisions for capital reserves described in the section captioned “Financial Matters” shall be supplemented by the information set forth in subsections B and C hereof.

B. The section shall state the aggregate replacement cost of all physical assets whose replacement costs will constitute regular common expenses and whose expected

useful lives are 10 years or less. For the purposes of this subsection, an expected useful life which is stated as being within a range of years pursuant to § 6.6 E of these regulations shall be deemed to be 10 years or less, if the lower limit of such range is 10 years or less. The total common expense assessments per unit which would be necessary in order to accumulate an amount of capital reserves equal to such aggregate replacement cost shall be stated.

C. The section shall state the amount of capital reserves which will be accumulated by the unit owners’ association during the period of declarant’s control together with any provisions of the condominium instruments specifying the rate at which reserves are to be accumulated thereafter. If any part of the capital reserves will or may be obtained other than through regular common expense assessments, such fact shall be stated.

D. The actual expenditures made over a three-year period on operation, maintenance, repair or other upkeep of the property prior to its conversion to condominium shall be set forth in tabular form as an exhibit immediately preceding or following the budget attached to the public offering statement pursuant to § 5.19 subsection C of these regulations. Distinction shall be made between expenditures which would have constituted regular common expenses and expenditures which would have been borne by unit owners individually if the property had been converted to condominium prior to the commencement of the three-year period. To the extent that it is impossible or impracticable to so distinguish the expenditures it shall be assumed that they would have constituted regular common expenses.

Both types of expenditures shall be cumulatively broken down on a per unit basis in the same proportion that common expenses are or will actually be assessed against the condominium units. The three-year period to which this subsection refers shall be the most recent three-year period prior to application for registration during which the property was occupied and for which expenditure information is available. The expenditure information shall indicate the years for which expenditures are stated. If any portion of the property being converted to condominium was not occupied for the full three-year period, expenditure information shall be set forth for the maximum period the property was occupied. The “Financial Matters” section shall direct the purchaser’s attention to the expenditure information.

## § 6.5. Present condition of conversion condominium.

A. The section captioned “Present Condition of the Condominium” shall contain a statement of the approximate dates of original construction or installation of all physical assets in the condominium. A single construction or installation date may be stated for all of the physical assets: (i) in the condominium; (ii) within a distinctly identifiable portion of the condominium; of (iii) within a distinctly identifiable category of physical assets.

A statement made pursuant to the preceding sentence shall include a separate reference to the construction or installation date of any physical asset within a stated group of physical assets which was constructed or installed significantly earlier than the construction or installation date indicated for the group generally. No statement shall be made that a physical asset or portion thereof has been repaired, altered, improved or replaced subsequent to its construction or installation unless the approximate date, nature and extent of such repair, alteration, improvement or replacement is also stated.

B. Subject to the exceptions provided in subsections D, E and F hereof, the section captioned "Present Condition of the Condominium" shall contain a description of the present condition of all physical assets within the condominium. The description of present condition shall disclose all structural defects and incapacities of major utility installations to perform their intended functions as would be observable, detectable or deducible by means of standard inspection and investigative techniques employed by architects or professional engineers, as the case may be.

C. The section shall indicate the dates of inspection by means of which the described present condition was determined; provided, however, that such inspections shall have been conducted not more than one year prior to the date of filing the application for registration. The section shall identify the party or parties by whom present condition was ascertained and shall indicate the relationship of such party or parties to the declarant.

D. A single statement of the present condition of a class of physical assets shall suffice to disclose the present condition of each physical asset within the class; provided, however, that, unless subsection F hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which is significantly different from the present condition indicated for the class generally.

E. The description of present condition may include a statement that all structural components in the condominium or in a distinctly identifiable portion thereof are in sound condition except those for which structural defects are noted.

F. In a case in which there are numerous physical assets within a class of physical assets and inspection of each such physical asset is impracticable, the description of present condition of all the physical assets within the class may be based upon an inspection of a number of them selected at random, provided that the number selected is large enough to yield a reasonably reliable sample and that the total number of physical assets within the class and the number selected are disclosed.

§ 6.6. Replacement requirements in conversion condominium.

A. Subject to the exceptions provided in subsections B and H hereof, the section captioned "Replacement Requirements" shall state the expected useful lives of all physical assets in the condominium. The section shall state that expected useful lives run from the date of the inspection by means of which the expected useful lives were determined. Such inspection date shall be stated.

B. A single statement of the expected useful life of a class of physical assets shall suffice to disclose the expected useful life of each physical asset within the class; provided, however, that such statement shall include a separate reference to the expected useful life of any physical asset within such class which is significantly shorter than the expected useful life indicated for the class generally.

C. An expected useful life may be qualified. A qualified expected useful life is an expected useful life expressly conditioned upon a given use or level of maintenance or other factor affecting longevity. No use, level of maintenance or other factor affecting longevity shall be stated as a qualification unless such use, level of maintenance or factor affecting longevity is normal or reasonably anticipated for the physical asset involved. If appropriate, an expected useful life may be stated as being indefinite, subject to the stated qualification that the physical asset involved must be properly used and maintained. An expected useful life may be stated as being within a range of years, provided that the range is not so broad as to render the statement meaningless. In no event shall the number of years constituting the lower limit of such range be less than two-thirds of the number of years constituting the upper limit.

D. Subject to the exceptions provided in subsections E and H hereof, the section captioned "Replacement Requirements" shall state the replacement costs of all physical assets in the condominium including those whose expected useful lives are stated as being indefinite.

E. A statement of the replacement cost of a representative member of a class of physical assets shall suffice to disclose the replacement cost of each physical asset within the class; provided, however, that such statement shall include a separate reference to the replacement cost of any physical asset within the class which is significantly greater than the replacement cost indicated for the representative member of the class.

F. Distinction shall be made between replacement costs which will be common expenses and replacement costs which will be borne by unit owners individually. The latter type of replacement costs shall be broken down on a per unit basis. The purchaser's attention shall be directed to the "Financial Matters" section for an indication of the amount of the former type or replacement costs.

G. In any case in which the replacement cost of a physical asset may vary depending upon the circumstances surrounding its replacement, the stated replacement cost

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shall reflect the circumstances under which replacement will most probably be undertaken.

H. A single expected useful life and an aggregate replacement cost may be stated for all of the structural components of a building or structure which have both (i) the same expected useful lives and (ii) replacement costs which will constitute regular common expenses. A statement made pursuant to the preceding sentence shall be accompanied by statements of the expected useful lives and replacement costs, stated on a per unit basis, of all of the structural components of the building or structure whose expected useful lives differ from the general expected useful life or whose replacement costs will be borne by unit owners individually.

## § 6.7. Notice to tenants.

No notice to terminate a tenancy provided for by § 55-79.94(b) of the Code of Virginia shall be given prior to the registration of the condominium unit as to which the tenancy is to be terminated.

## PART VII. TIME-SHARE CONDOMINIUMS.

### § 7.1. Public offering statement for time-share condominiums; general instructions.

This Part VII of the Condominium Regulations applies to those property developments in which purchasers are offered both condominium and time-share interests. The developer of a time-share condominium shall prepare one public offering statement which complies with the requirements of this Part VII even though the developer may be required to register under both the Condominium Act and Real Estate Time-Share Act.

The public offering statement for a time-share condominium shall conform in all respects to the requirements of §§ 5.1 and 5.3 through 5.26 of these regulations. In addition, the public offering statement for a time-share condominium shall (i) contain special disclosures in the narrative sections captioned "Condominium Concept," "Description of Condominium," "Declarant," "Terms of Offering," "Encumbrances," "Unit Owners' Association," "Financial Matters," "Insurance," and "Taxes," and (ii) contain a narrative section entitled "Exchange Program."

### § 7.2. Summary of important considerations.

In addition to the information required by § 5.6 in the case of a time-share program, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The time-share program will [will not] be governed

by a time-share owners' association.

2. Decisions affecting the time-share project will be made by the developer.

3. Each time-share owner cannot reduce the amount of his assessment by refraining from use of his time-share or the projects' facilities.

4. If a time-share owner fails to pay an assessment when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time-share.

5. The developer, its principals, officers, directors, partners, or trustees have undergone [a debtor's relief proceeding].

6. A managing agent may perform routine operations for the operation, maintenance and upkeep of the time-share project, as determined by the developer. The managing agent is [affiliated with] the [developer, or a director or officer thereof].

7. The developer may rent on a transient basis, unsold time-shares. The right of a time-share use owner to rent his time-share is subject to [restrictions].

8. The right of a time-share owner to resell his time-share is subject to [restrictions].

9. The time-shares are restricted to residential use.

10. The time-share owner may not alter the structure or exterior of the unit in which his time-share is located.

11. The developer will obtain certain insurance benefiting the time-share use owner, but the time-share use owner should obtain additional insurance on his own.

12. The time-share owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations.

13. Marketing and sale of time-shares will be conducted in accordance with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia).

14. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.

### § 7.3. Condominium concept, time-share condominium.

In addition to the information required by § 5.8 of these regulations, this section shall consist of discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project.

## § 7.4. Description of condominium, time-share condominium.

In addition to the information required by § 5.10 of these regulations, this section shall consist of a general description of the time-share program, the units, amenities and type of time-shares being made available to purchasers. The section shall include, without limitation, statements indicating:

1. The land area of the time-share project;
2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time-shares being offered;
5. The duration of the time-shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time-share is located; and
9. Whether or not the units are restricted solely to residential use.

## § 7.5. Declarant/developer, time-share condominium.

In addition to the information required by § 9.13 of these regulations, the following information shall be stated with regard to every director, partner or trustee of the declarant/developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

## § 7.6. Terms of offering, time-share condominium.

In addition to the information required by § 5.14, subsection A of these regulations, this section shall set forth provisions with respect to the purchaser's right to cancel his purchase contract. Such disclosure shall be consistent with the applicable statutory provision, § 55-79.88(c) or § 55-376 of the Code of Virginia. Special escrow requirements of § 55-375 of the Code of Virginia shall be likewise described in this section.

## § 7.7. Encumbrances, time-share condominium.

In addition to the information required by § 5.15 of these regulations, regardless of the form of time-share project, the section shall describe the extent to which a

time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.

## § 7.8. Unit owners' association, time-share condominium.

A. In addition to the information required by § 5.17 of these regulations, this section shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program," depending upon the form of time-shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

### B. "Administration of time-share estate program."

1. The section shall describe the functions and the organization's structure of the time-share estate owners' association formed pursuant to the Virginia Nonstock Corporation Act. The description shall indicate:

- (a) the existence or provisions for a board of directors and officers;
- (b) the manner of their election or appointment;
- (c) the assignment or delegation of responsibility for performance of the functions of the unit owners' association; and
- (d) those items outlined in § 55-368, numbered 2 through 10, of the Code of Virginia.

2. The section shall describe the allocation of voting power among the time-share estate owners and will explain how votes will be cast. Any provision in the time-share instruments for regular meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share shall be stated. A brief narrative statement of the effect of each of any such agreement shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate and amend such rules shall be discussed. Included shall be a description of the method, if any, to be employed to assign or reserve occupancy periods for the time-share owners. Methods for providing alternate use periods or monetary compensation to a time-share owner if his contracted-for unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

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5. Any standing committees established or to be established to perform functions of the time-share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time-share instruments or rules and regulations.

6. Any power of the developer or of the time-share estate owners' association to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated:

a. a unit may be entered without notice to the time-share owners;

b. the developer or representatives of the time-share estate owners' association are empowered to take actions or perform work in a unit without the consent of the units owners; and

c. the time-share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time-share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the developer or a member of the board of directors or an officer of the time-share estate owners' association. The duration of any management agreement shall be stated.

9. The section shall discuss any retention by the developer of control over the time-share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time-share owners upon the termination of the developer control shall also be discussed.

C. "Administration of time-share use program." The section shall provide the information required by § 55-371 of the Code of Virginia.

## § 7.9. Financial matters, time-share condominium.

A. In addition to the information required by § 5.19 of these regulations, this section shall contain either a section captioned "Finances of Time Share Estate Ownership" or a section captioned "Finances of Time-Share Use Ownership," depending upon the form of time-share development used in the projects. The section shall discuss the expenses incident to the ownership of a time-share in

the manner provided in subsections B through H hereof.

B. The section shall describe the nature of the costs and expenses of operating the time-share program and shall distinguish between those to be paid by the developer and those to be paid by the time-share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time-share owners. In the case of a time-share estate program, this section shall describe and distinguish between developer expenses and time-share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commences and ends. Mention shall be made of the developer's right to collect a periodic fee from the time-share estate owner for the payment of the latter expenses; the method of apportionment between time-share estate owners shall be explained.

C. The section shall contain a statement describing any current or expected fees or charges to be paid by time-share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any of the time-share documents or during the marketing activities.

D. The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time-share unit offered for sale.

E. The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

F. The section shall contain the latest annual balance sheet and a projected budget for the program for one year after the date of the first transfer to a purchaser. After that one-year period, a current budget shall be included in lieu of the projected budget and annual balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; and (ii) a statement of any other reserves. If the project is a time-share estate project and if the developer control period has not ended, the budget shall also include: (i) the projected common expense liability for all time-share owners; (ii) the projected common expense liability by category of expenditures; and (iii) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personalty situated therein.

G. The "Finances of Time-Share Use Ownership" section shall, where the developer's equity in the project is less than \$250,000, include a current audited financial statement disclosing the developer's net worth. Such statement shall specifically state the amount of equity in the project.

H. The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.

#### § 7.10. Insurance, time-share condominium.

In addition to the information required by § 5.20 of these regulations, this section shall describe the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, and thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.

Depending on the time-share organization employed by the developer, §§ 55-368(7) or 55-371(7) of the Code of Virginia shall be included in this discussion.

#### § 7.11. Taxes, time-share condominium.

In addition to the information required by § 5.21 of these regulations, this section shall describe all existing or proposed taxes to be levied against time-shares individually including, without limitation, real property taxes, transient taxes and other special assessments.

#### § 7.12. Exchange program, time-share condominium.

The public offering statement shall contain a section captioned "Exchange Program," if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. An "exchange program" is a program offered by the developer or an independent exchange agent for the exchange of occupancy rights with the owners of time-shares of other time-share projects. This section shall contain the information required by § 55-374 B of the Code of Virginia.

### PART VIII. POST-REGISTRATION PROVISIONS.

#### § 8.1. Material change defined.

As used in §§ 8.2 through 8.5 of these regulations, "material change" means a change which renders inaccurate, incomplete or misleading, any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to §§ 2.4 G or 8.3 B of these regulations. Without limiting the generality of the preceding sentence, a material change shall be whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted.

#### § 8.2. Amendment of public offering statement.

A. Prior to or upon the occurrence of a material change, the declarant shall amend the public offering statement to disclose the modified or additional information or to include the modified or additional document, as the case may be. The declarant may amend the public offering statement other than in connection with a material change.

B. Amendment of the public offering statement may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the provisions of these regulations governing the form of presentation of information in the public offering statement would be unduly burdensome, the declarant may deviate therefrom in amending the public offering statement, provided that (i) no such deviation shall be more extensive than is necessary and appropriate under the circumstances; (ii) the requirements of §§ 5.3 and 5.8 of these regulations are strictly observed and (iii) the presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained herein shall authorize a deviation from strict compliance with a provision of these regulations governing the substance of disclosure in the public offering statement. If any information has become inaccurate or misleading by reason of the material change and is not deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted.

C. Correction of spelling, grammar, omission or other similar errors not affecting the substance of a public offering statement shall not be deemed an amendment of the public offering statement for the purposes of these regulations; provided, however, that the declarant shall file with the board a copy of a public offering statement so corrected.

#### § 8.3. Filing of amended public offering statement.

A. The declarant shall promptly file with the board a copy of an amended public offering statement. Unless subsection D hereof applies, the declarant shall, as part of such filing, update the application for registration on file

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with the board either by filing a new application or by advising the board of changes in the information contained in a previously filed application or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed current pursuant to § 8.5 of these regulations, the filing shall indicate the date of amendment.

B. Unless subsection D hereof applies, the board shall issue a notice of filing within five business days following receipt in proper form of the materials required by subsection A hereof. The board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with § 8.2 of these regulations. At such time as the board affirmatively determines that the amendment complies with § 8.2 of these regulations, but not later than the 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provide that previous orders designating the form and content of the public offering statement for use are superseded.

C. If the board determines, pursuant to subsection B hereof, that an amendment to the public offering statement does not comply with § 8.2 of these regulations, it shall immediately, but in no event later than the 30th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with § 8.2 of these regulations and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall relate back to the date of amendment. If neither of the orders provided for by this subsection and subsection B hereof are entered within the time allotted, the amendment shall be deemed to comply with § 8.2 of these regulations, except that the 30-day period may be extended in the manner provided for extension of the correction period by § 2.4, subsection D of these regulations. The declarant may, at any time correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of subsections A and B hereof and this subsection shall apply to such refiling.

D. If the material change which resulted in amendment of the public offering statement was an expansion of the condominium or the formation of units out of convertible land or convertible space, the declarant shall file a complete application for registration of the additional units, provided, that no such application need be filed for units previously registered. Such application for registration shall be subject to all of the provisions of §§ 2.1 through 3.3 of these regulations and the board shall observe the procedures of § 2.4 of these regulations in regard to the application. Documents then on file with the board and not changed in connection with the creation of additional units need not be refiled, provided that the application indicates that such documents are unchanged.

E. In each case in which an amended document is filed pursuant to this paragraph and the manner of its amendment is not apparent on the face of the document, the declarant shall provide an indication of the manner and extent of amendment.

## § 8.4. Current public offering statement.

A. A public offering statement is current if its form and content are designated for use pursuant to §§ 2.4 G or 8.3 B of these regulations and remains current so long as no material change occurs and any amendment of the public offering statement other than in connection with a material change is made in compliance with § 8.2 of these regulations.

B. A public offering statement ceases to be current upon the occurrence of a material change and, subject to the exception provided in § 8.5 of these regulations, does not thereafter become current unless and until (i) it is amended pursuant to § 8.2 of these regulations and (ii) the board, with respect to such amendment, enters an order pursuant to §§ 2.4 G or 8.3 B or fails to enter, within the times allotted therefor, any of the orders provided for by §§ 2.4 E and G or 8.3, subsections B and C of these regulations.

C. If the board determines that the public offering statement amended other than in connection with a material change fails to comply with § 8.2 of these regulations that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the board's entry of an order of noncompliance and nothing contained herein shall limit the declarant's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the board, with respect to such amendment, enters an order pursuant to § 8.3 B of these regulations or fails to enter either of the orders provided for by § 8.3, subsection B or C of these regulations.

D. Upon issuance of a public offering statement amended because of the occurrence of a change that materially and adversely affects the purchaser's bargain, that was caused by the declarant or any agent or affiliate of the declarant, and of the possibility of which the purchaser was not forewarned in the public offering statement given him pursuant to § 55-79.88(c) of the Code of Virginia, then the purchaser's 10-day rescission right afforded by § 55-79.88(c) of the Code of Virginia is renewed. The declarant shall deliver the public offering statement so amended and give the purchaser notice of his renewed rescission right as required by § 8.6 of these regulations.

## § 8.5. Certain amended public offering statements presumed current.

A. A public offering statement amended by the declarant

to disclose any material change which is an aspect or result of the orderly development of the condominium or the normal functioning of the unit owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the board shall subsequently determine that the amendment was made in compliance with § 8.2 of these regulations. An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.

B. The declarant shall file with the board a copy of a presumptively current public offering statement and all of the provisions of § 8.3 of these regulations shall apply to such filing except that, in addition: (i) filing shall be made not later than 10 business days following the occurrence of the material change which necessitated the amendment, and (ii) the filing shall indicate the declarant's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-79.88(c) of the Code of Virginia.

C. A board order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with § 8.2 of these regulations shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the declarant's right to use a presumptively current public offering statement prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the declarant's failure to file within the time provided in subsection B hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases to be current pursuant to this subsection does not thereafter become current unless and until it is filed or refiled with the board pursuant to § 8.3 of these regulations and the board, with respect to such public offering statement, enters an order pursuant to § 2.3 G or § 8.3 B of these regulations or fails to enter, within the times allotted therefor, any of the orders provided for in § 2.3 E and G or § 8.3, subsections B and C of these regulations.

§ 8.6. Public offering statement not current; notification of purchasers.

The declarant shall notify every purchaser to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a condominium unit may be cancelled unless and until the declarant complies with the provisions of § 55-79.88(c) of the Code of Virginia. The declarant shall file a copy of the notification with the board and provide proof that such notification has been delivered to all purchasers under contract.

§ 8.7. Annual report by declarant.

Prior to filing the annual report required by § 55-79.93 of the Code of Virginia, the declarant shall review the public offering statement then being delivered to purchasers. If such public offering statement is current, the declarant shall so certify in the annual report and include a copy thereof in the report. If such public offering statement is not current, the declarant shall amend the public offering statement and the annual report shall, in that event, consist of a filing complying with the requirements of § 8.3 of these regulations. In addition, the annual report shall indicate the number of condominium units (i) conveyed, (ii) under contract for disposition, (iii) being rented by the declarant and (iv) still being offered. The annual report shall indicate the status of declarant's control retained pursuant to § 55-79.74 of the Code of Virginia. The annual report may be in any form suitable for compliance with the provisions of this paragraph and § 55-79.93 of the Code of Virginia.

§ 8.8. Provisions applicable to substituted disclosure document, prospectus.

A. The provisions of §§ 8.1 through 8.7 of these regulations shall apply to a substituted disclosure document in the same manner and to the same extent that they apply to public offering statements.

B. The provisions of §§ 8.1 through 8.5 of these regulations shall apply to a prospectus only to the extent that amendment of the information or documents attached to the prospectus pursuant to § 5.26 of these regulations is required or permitted. The body of the prospectus shall be amended only as provided in applicable securities law. The declarant shall immediately file with the board any amendments to the body of the prospectus and, upon receipt thereof, the board shall enter an order designating the form and content of the prospectus to be used and providing that previous orders designating the form and content of the prospectus for use are superseded. A prospectus is current so long as it is effective under applicable securities law and the information and documents attached thereto are current under the provisions of §§ 8.4 and 8.5 of these regulations. The declarant shall immediately notify the board if the prospectus ceases being effective. If no prospectus is effective and the declarant proposes to continue offering condominium units, the declarant shall file a public offering statement with the board pursuant to § 8.3 of these regulations.

C. The provisions of § 8.6 of these regulations shall apply to a prospectus in the same manner and to the same extent that they apply to a public offering statement.

D. In an annual report involving a prospectus the declarant shall comply with all of the provisions of § 8.7 of these regulations applicable to public offering statements and, in addition, shall certify that an effective prospectus is available for delivery to purchasers and shall



# Final Regulations

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indicate the declarant's plans or expectations regarding the continuing effectiveness of the prospectus.

## PART IX. HORIZONTAL PROPERTY REGIMES.

### § 9.1. Horizontal property regime; special definitions.

The definitions provided in § 55-79.2 of the Code of Virginia, as they may be supplemented herein, shall apply to §§ 9.1 through 9.7 of these regulations. A condominium established in Virginia prior to July 1, 1974, shall be referred to in §§ 9.1 through 9.7 of these regulations as a "horizontal property regime."

### § 9.2. Horizontal property regime; provisions applicable.

A horizontal property regime and board action with respect thereto shall be subject to:

1. All of the provisions of § 1.1 through Part II of these regulations and
2. All of the provisions of §§ 4.1 through 4.4 except § 4.3 B of these regulations, provided that each reference therein to registration shall be deemed to refer also to the issuance of a final public report.

### § 9.3. Notice of intention.

A developer shall notify the board of its intention to offer apartments in a horizontal property regime in Virginia by completing and filing at the offices of the board a notice of intention containing substantially all of the information and documents required by the standard notice of intention. The notice of intention may request issuance of a preliminary, final, substitute or supplementary public report.

### § 9.4. Inspection by board.

Upon receipt of a notice of intention requesting issuance of a final, substitute or supplementary public report the board shall determine whether an inspection of the horizontal property regime is necessary. If the board determines that inspection is necessary, it shall so notify the developer within 10 days following receipt of the notice of intention. The developer shall pay an inspection fee of \$75 plus the reasonable expenses of first class travel incurred in such inspection. The duty of conducting the inspection and preparing the public report is delegated to the property registration administrator. Inspection fees shall be placed to the credit of the special fund established by § 55-79.31 of the Code of Virginia.

### § 9.5. Public report.

Five copies of each public report issued by the board shall be furnished to the developer without charge. Additional copies may be secured by the developer at its own expense. A developer shall not represent or cause a

purchaser to believe that the board's issuance of a public report is an approval of any horizontal property regime. The public report shall be used only in its entirety. The developer shall not cause any portion of a public report to be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public report unless the original issued by the board is so prepared.

### § 9.6. Supplementary public report.

A. Whenever, following the first filing of a notice of intention with the board, a material change in the setup, value or use of a horizontal property regime occurs, the developer shall so notify the board. If the board has issued a final, substitute or supplementary public report relative to the horizontal property regime, the notification provided for in the preceding sentences shall be accomplished by the filing of a notice of intention requesting issuance of a supplementary report. Previously issued final, substitute or supplementary public reports shall not be delivered to purchasers following the occurrence of a material change in the setup, use or value of the horizontal property regime.

B. For the purposes of this paragraph, a material change in the setup, use or value of a horizontal property regime shall include, without limitation, a change in the number of apartments, a change in the land area, a change in the percentage of ownership of the common elements by any co-owner including the developer as owner of unsold apartments, a change in common elements constituting amenities and a change of the developer whereby a party other than the developer identified in the most recently issued public report succeeds to the rights and interests of such original developer in the horizontal property regime. Upon the request of a developer in a specific case, the board shall determine whether a particular change constitutes a material change in the setup, use or value; provided, however, that the presentation of information to the board in connection with such request shall not relieve the developer of any requirement for filing a notice of intention in the event that the board determines that a material change in the setup, use or value has occurred or will occur.

C. Upon receipt of a notice of intention filed pursuant to this paragraph, the board shall issue a supplementary public report and the developer shall deliver a true copy thereof to all purchasers who have executed but not settled contracts for acquisition of an apartment in the horizontal property regime.

D. The developer may amend a final, substitute or supplementary public report to reflect changes not constituting material changes in the setup, value or use, provided that a copy thereof is filed with the board prior to its delivery to any prospective purchaser.

### § 9.7. Horizontal property regime constituting conversion

condominium.

A. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto the information required by § 6.4, subsections B, C and D, §§ 6.5 and 6.6 of these regulations to be disclosed in public offering statements for conversion condominiums. Such information shall be prepared by the developer and submitted in a form suitable for presentation in the final public report. The board shall make any revisions in such information as are necessary to effect full compliance with the applicable regulations and shall incorporate the information into the final public report.

B. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto a copy of the notice to be given to tenants pursuant to § 55-79.94(b) of the Code of Virginia. The declarant shall certify that such notice to tenants shall be, at the time of issuance of the final public report, mailed or delivered to each of the tenants in the building or buildings in the horizontal property regime. No such notice shall be mailed or delivered to a tenant prior to the issuance of the final public report on the horizontal property regime.

## STATE WATER CONTROL BOARD

**Title of Regulation:** VR 680-14-01. Virginia Pollutant Discharge Elimination System and Virginia Pollution Abatement Permit Program (Regulation No. 6).

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

**Effective Date:** July 1, 1988

**NOTICE:** Due to its length the Virginia Pollutant Discharge Elimination System (VPDES) and Virginia Pollution Abatement Permit Program, 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 adopted amendments 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.

### Summary:

In accordance with § 62.1-44.15(10) of the Code of Virginia, the State Water Control Board has amended its Regulation No. 6 that covers sewage, industrial waste or other waste discharged into or adjacent to state waters. This regulation delineates the authority and general procedures to be followed in connection with any National Pollutant Discharge Elimination System (NPDES) permits issued by the board authorizing discharges of pollutants into state waters

pursuant to §§ 402, 318, and 405 of the Clean Water Act (Act).

This regulation was amended for various reasons. The National Pollutant Discharge Elimination System (NPDES) permit name was changed to Virginia Pollutant Discharge Elimination System (VPDES) permit to specifically identify the Commonwealth of Virginia as the permitting authority. A major revision is to incorporate many of the regulations, procedural rules, and policies addressing permits, including Procedural Rule No. 2 - No Discharge Certificates (NDC), under one regulation. Virginia Pollutant Abatement (VPA) permits have been included to replace No Discharge Certificates and to regulate the management of pollutants that are not point source discharges to surface waters. The majority of the revisions were language changes made to ensure the VPDES permit program conforms with the federal regulations for the NPDES permit program.

State Water Control Board Regulation No. 4 - Reporting of Unusual or Extraordinary Discharges, the Policy for Sewage Treatment Plant Loadings and the Policy to Control the Discharge of Untreated Sewage from Pumping Stations, Sewage Treatment Plants, and Other Sources, have also been incorporated into this regulation and are superseded with the amendment of this regulation.

This final regulation has been modified in response to concerns raised during the public comment period. Some of the major changes to the regulation are:

1. Inclusion of a provision which prohibits the board from issuing any permit that conflicts with a water quality management plan or policy;
2. Exemption from requirements for a certified operator have been given to (i) discharges which do not require treatment (i.e., generally noncontact cooling water), and (ii) most coal mining operations; and
3. Amendments to permittee requirements for animal feeding operations: all operations with 300 or fewer animal units do not require a permit if they do not have the potential to cause a water quality problem; those with 300 to 1,000 animal units must acquire a permit, which will be valid for 10 years; and those with over 1,000 animal units must acquire a permit, which will valid for five years (§ 6.1).

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### AUCTIONEERS BOARD

Title of Regulation: **VR 150-01-2. Regulations for Registration of Auctioneers.**

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles  
April 22, 1988

### MARINE RESOURCES COMMISSION

Title of Regulation: **VR 450-01-0047. Criteria for the Siting of Marinas or Community Facilities for Boat Mooring.**

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Gerald L. Baliles  
April 22, 1988

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **Rehabilitative Services.**

Governor's Comment:

Although I have no substantive objections to the proposed regulations at this time, I would encourage the Board to consider establishing standards for determining the appropriateness of outpatient admission authorization. It is my understanding that the Department has been experiencing practical problems in administering the current provisions relating to these facilities; however, it may be possible to develop an alternative mechanism which gives notice to providers of any restrictions which may affect Medicaid coverage of outpatient services.

/s/ Gerald L. Baliles  
April 22, 1988

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Title of Regulation: **Cost Report Filing Requirements.**

Governor's Comment:

I have no substantive objections to the proposed regulations at this time.

/s/ Gerald L. Baliles

April 22, 1988

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Title of Regulation: **Audit Requirements.**

Governor's Comment:

I have no substantive objections to the proposed regulations at this time.

/s/ Gerald L. Baliles  
April 22, 1988

### VIRGINIA STATE BOARD OF MEDICINE

Title of Regulation: **VR 465-01-1. Regulations Governing the Healing Arts.**

**VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Chiropractic, Podiatry, Clinical Psychology and Acupuncture.**

April 19, 1988

Mr. Bernard L. Henderson, Jr.  
Director  
Department of Health Regulatory Boards  
1601 Rolling Hills Drive  
Surry Building  
Richmond, Virginia 23229-5005

I have reviewed the Regulations Governing the Practice of the Healing Arts Regulated by the Board of Medicine (VR 465-01-1 and VR 465-02-1) under the procedures of Executive Order Number Five (86).

The regulations appear carefully drawn to clarify the standards for licensure and practice of individuals regulated by the Board of Medicine. I am concerned, however, that the proposed standards do not give the Board flexibility in recognizing new accrediting agencies for purposes of admitting persons to examination and licensure. As you know, the provisions of S.B. 424, which was passed during the 1988 General Assembly session, would give the Board greater flexibility in this regard as of July 1, 1988.

In view of the new Code provisions which will go into effect later this year, I would strongly recommend that the Board incorporate provisions into their regulations which will permit the body to recognize schools accredited by other agencies. Inclusion of the provisions at this time with a delayed effective date will ensure that the Board's standards more accurately reflect the provisions of the Code.

/s/ Gerald L. Baliles

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**Title of Regulation: VR 465-03-1. Regulations Governing the Practice of Physical Therapy.**

Governor's Comment:

The regulations appear carefully drawn to clarify the standards for the practice of physical therapy in the Commonwealth. I would urge the Board, however, to consider carefully the revisions in the English proficiency requirements for graduates of foreign institutions. Although I am aware of the need for minimum standards in this area to protect the health and safety of the citizens of the Commonwealth, I believe it is necessary for the Board to ensure that these requirements are not more burdensome than necessary to achieve this end.

/s/ Gerald L. Baliles  
April 22, 1988

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**Title of Regulation: VR 465-05-1. Regulations Governing the Practice of Physician Assistants in the Commonwealth.**  
**VR 460-06-1. Regulations Governing the Practice of Correctional Health Assistants Employed in Correctional Institutions.**

Governor's Comment:

I have no substantive objection to these regulations.

/s/ Gerald L. Baliles  
April 22, 1988

**VIRGINIA BOARD OF PROFESSIONAL COUNSELORS**

**Title of Regulation: VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

Governor's Comment:

The regulations appear carefully drawn to clarify the standards governing the practice of professional counselors in the Commonwealth. Because of the positive impact and policy considerations addressed by these regulations, I have no objections to these proposals as presented.

/s/ Gerald L. Baliles  
April 22, 1988

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## DEPARTMENT FOR THE AGING

### 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 promulgating regulations entitled: **Area Agencies on Aging**. The purpose of the proposed regulation is to set forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of an area agency on aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Area Plans for Aging Services**. The purpose of the proposed regulation is to regulate the process by which an Area Agency on Aging develops and implements its Area Plan for Aging Services.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### 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 promulgating regulations entitled: **Financial Management Policies Applicable to Area Agencies on Aging**. The purpose of the proposed regulation is to provide policies and standards for an Area Agency on Aging in the administration of federal and state grants to provide supportive and nutrition services to older persons.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### 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 promulgating regulations entitled: **Hearings**. The purpose of the proposed regulation is to describe the hearing procedures of the Department for the Aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Long-Term Care Ombudsman Program**. The purpose of the proposed regulations is to describe the policies by which the Department for the Aging establishes and operates the Office of the State Long-Term Care Ombudsman and designates and supervises an area or local ombudsman entity.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-100. Regulations for the Inspection of Motor Vehicle Emissions.** The purpose of the proposed regulation is to ensure that the authorized emissions inspection stations perform the inspections in such a manner that motor vehicles subject to the emissions standards are in compliance. A public meeting will be held on June 15, 1988, at 7 p.m. at the George Mason University Metro Campus Professional Center, Room 318, 3401 North Fairfax Drive, Arlington, Virginia 22201, to receive input on the development of the proposed regulation.

Statutory Authority: § 46.1-326.6 of the Code of Virginia.

Written comments may be submitted until June 15, 1988, to Director of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Virginia 23240.

**Contact:** M. E. Lester, Program and Policy Analyst, Division of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF) Division of Youth Services

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections, Division of Youth Services intends to consider amending regulations entitled: **Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.** The purpose of the proposed regulation is to provide regulations governing applications for Virginia Delinquency Prevention and Youth Development Act grants with respect to eligibility, developmental process, criteria for application review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 1, 1988.

**Contact:** Thomas J. Northern, III, Delinquency Prevention Specialist, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-1633 or SCATS 367-1633

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to consider amending regulations entitled: **Classification of Expenditure.** The purpose of the proposed regulation is to revise and reduce the number of existing 13 classifications of expenditures to five. As a result of the revised classification of expenditures, it will be necessary to modify the expenditures on the Annual School Report. This is in accordance with § 22.1-115 of the Code of Virginia which requires that the State Board of Education, in conjunction with the Auditor of Public Accounts, establish a modern system of accounting for all school divisions.

Statutory Authority: §§ 22.1-16 and 22.1-92 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

**Contact:** Robert L. Aylor, Director of Accounting and Finance, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2040 or SCATS 225-2040

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider promulgating regulations entitled: **Fee Schedule - X-Ray Protection Program.** The purpose of the proposed action is to establish fee schedules for registration of x-ray machines and inspections of x-ray machines by Department of Health personnel; however, no fee shall be charged for inspection initiated by the Health Department.

Statutory Authority: §§ 32.1-229, 32.1-229.1 and 32.1-229.2 of the Code of Virginia.

Written comments may be submitted until June 23, 1988.

**Contact:** Leslie P. Foldesi, Radiation Safety Specialist, Bureau of Radiological Health, Room 915, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-5932 or toll-free 1-800-468-0138

### Division of Licensure and Certifications

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider promulgating regulations entitled: **Rules and Regulations for the Licensing of**

# General Notices/Errata

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**Home Health Agencies and Rules and Regulations for the Licensing of Hospice.** The purpose of the proposed action is to implement and enforce provisions of Article 7 and Article 7.1, Chapter 5, Title 32.1 of the Code requiring the inspection and licensing of home health agencies and hospice.

Home health agencies licensing will affect those agencies that are not certified providers in the Medicare or Medicaid programs.

Statutory Authority: §§ 32.1-162.12 and 32.1-162.5 of the Code of Virginia.

Written comments may be submitted until June 16, 1988, to the Virginia Department of Health, Division of Licensure and Certification, 109 Governor Street, Richmond, Virginia 23219.

**Contact:** Mary V. Francis, Director, Division of Licensure and Certification, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-2081 or SCATS 786-2081

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations for the Licensure of Nursing Homes in Virginia.** The purpose of the proposed action is to (i) consider revisions required to avoid conflicts with federal regulations; (ii) reorganize the regulations into logical subject topics; and (iii) clarify language.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until June 15, 1988, to Mary V. Francis, Director, Division of Licensure and Certification, Department of Health, James Madison Building, 109 Governor Street, Room 1013, Richmond, Virginia 23219, telephone (804) 786-2081.

**Contact:** R. W. Harding, Assistant Director, Long Term Care, Division of Licensure and Certification, Department of Health, 109 Governor St., James Madison Bldg., Room 1013, Richmond, Va. 23219, telephone (804) 225-3733 or SCATS 225-3733

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of**

**Regulations/1985 Edition.** The purpose of the proposed action is to allow for comments from the general public prior to the completion of a final draft of proposed regulations.

Statutory Authority: § 9-6.14:7 of the Code of Virginia.

Written comments may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition.** The purpose of the proposed action is to include regulations for the handling of explosives.

Statutory Authority: §§ 27-72 and 27-97 of the Code of Virginia.

Written comment may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I New Construction Code/1987 Edition.** The purpose of the proposed action is to (i) update the barrier-free provisions for the physically handicapped and aged; (ii) require building security measures; (iii) provide adequate restroom facilities for women at places of public assembly; and (iv) restrict the type of construction of two-hour fire separation walls. Sections 512, 908, 910, Table P-1202.1 and the addition of a new section will be under consideration.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

## 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 Board of Medicine intends to consider promulgating regulations entitled: **VR 465-04-1. Regulations Governing the Practice of Respiratory Therapy Practitioners.** The purpose of the proposed action is to establish the standards for the voluntary certification of respiratory therapy practitioners to practice in the Commonwealth of Virginia.

Statutory Authority: Title 54, Chapter 12, § 54-291 as further defined in §§ 54-281.10 through 54-281.13 of the Code of Virginia.

Written comments may be submitted until June 23, 1988.

**Contact:** Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

## STATE BOARD OF PHARMACY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Virginia Board of Pharmacy.** The purpose of the proposed actions is to (i) consider increases in licensure fees to increase the revenue to provide necessary funds for licensure, inspection and enforcement requirements; (ii) consider the necessity for promulgation of regulations dealing with an examination on drug laws for applicants for licensure by endorsement in response to HB 515 passed during the 1988 Session of the General Assembly which amends § 54-526.26 of the Code of Virginia; and (iii) consider the promulgation of licensure and other requirements for practitioners of the healing arts who engage in the selling or dispensing of drugs in response to SB 425 passed during the 1988 Session of the General Session which amends § 54-317 of the Code of Virginia.

Statutory Authority: §§ 54-524.16 and 54.524.17 of the Code of Virginia.

Written comments may be submitted until May 27, 1988.

**Contact:** Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Commissioners to Examine Pilots intends to consider promulgating, amending and repealing regulations entitled: **Regulations Governing Pilots.** The purpose of the proposed action is to conduct an informational proceeding thereby soliciting public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and to develop revisions to conform to Senate Bill No. 238 which becomes law on January 1, 1989.

Statutory Authority: § 54-529 of the Code of Virginia.

Written comments may be submitted until June 9, 1988.

**Contact:** Robert T. Hasler, Jr., President, Board of Commissioners to Examine Pilots, P. O. Box 359, Norfolk, Va. 23501, telephone (804) 625-3641

## STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL JOINTLY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and Child Day-Care Council jointly intend to consider promulgating and amending regulations entitled: **General Procedures and Information for Licensure.** The purpose of the proposed action is to promulgate and revise the General Procedures and Information for Licensure after receiving input from the public. The Child Day-Care Council and the State Board of Social Services will jointly promulgate and amend the regulations.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until May 26, 1988.

**Contact:** Arlene Kapser, Program Development Supervisor, Department of Social Services, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9025 or SCATS 662-9025

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### Notice of Intended Regulatory Action

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



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Transportation intends to consider promulgating regulations entitled: **State Noise Abatement Policy**. The purpose of the proposed regulation is to implement a statewide noise abatement program for all new federal and nonfederal highway projects.

Statutory Authority: § 33.1-12 of the Code of Virginia.

Written comments may be submitted until May 27, 1988, to J.S. Hodge, Chief Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219.

**Contact:** A.C. Anday, Coordinator, Air, Noise & Energy, Department of Transportation, 1401 E. Broad St., Room 1111, Richmond, Va. 23219, telephone (804) 786-6556 or SCATS 786-6556

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **Subdivision Street Requirements**. The purpose of the proposed regulations is to provide a reference source of the Department of Transportation's requirements for the acceptance of subdivision streets into the Secondary System of State Highways.

Statutory Authority: §§ 33.1-12, 33.1-69 and 33.1-229 of the Code of Virginia.

Written comments may be submitted until August 31, 1988, to Gerald E. Fisher, State Secondary Roads Engineer, Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219.

**Contact:** D. L. Camper, Assistant Secondary Roads Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2745 or SCATS 786-2745

## GENERAL NOTICES

### 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 June 2, 1988, at 10 a.m. in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia to receive comments from the public.

**1. Section 1.16 of VR 125-01-1 - Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.**

**a. Subject of Proposal** - Amend regulation to provide that acceptance of an offer in compromise is an admission of guilt by the licensee.

**b. Entities Affected** - Manufacturers, wholesalers, retailers and other permittees involved in administrative hearings.

**c. Purpose of Proposal** - To clarify that board acceptance of an offer in compromise is an admission of guilt by the licensee, unless otherwise specified by the board.

**d. Issues Involved** - Should an offer in compromise be considered an admission of guilt upon its acceptance by the board?

**e. Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-98.10, 4-98.14, 4-103 of the Code of Virginia.

#### **2. Section 3.5 of VR 125-01-1 - Discovery, prehearing procedures and production at hearings.**

**a. Subject of Proposal** - To eliminate the reference to good cause in the definition of "commencement" of proceedings under the Wine and Beer Franchise Acts and establish a uniform date for the commencement of all proceedings under the Acts.

**b. Entities Involved** - Manufacturers, wholesalers, retailers and other permittees involved in administrative hearings.

**c. Purpose of Proposal** - To establish a uniform date for the commencement of all proceedings under the Acts.

**d. Issues Involved** - Should discovery begin when the board receives a franchise complaint?

**e. Applicable Laws or Regulations** - §§ 4-118.11 and 4-118.31 of the Code of Virginia.

**f. Proposed by the Virginia Beer Wholesalers Association, Inc.**

#### **3. Section 1 of VR 125-01-2 - Advertising generally, cooperative advertising; federal laws; beverages and cider; exceptions; restrictions.**

**a. Subject of Proposal** - Advertising sales or reduced prices on alcoholic beverages.

**b. Entities Affected** - Manufacturers, wholesalers, retail licensees, newspapers and radio stations.

**c. Purpose of Proposal** - To clarify that sales or reduced prices on alcoholic beverages may be advertised in the print media and on the radio only if advertised with nonalcoholic sales merchandise,

and the alcoholic beverage ads must conform in size, prominence and content to the ads of the nonalcoholic merchandise.

**d. Issues Involved** - This amendment is of a "housekeeping" nature to help clarify our regulation.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

**4. Section 2 of VR 125-01-2 - Advertising; interior; retail licensees; show windows.**

**a. Subject of Proposal** - Amend regulation to include sponsorship of a cultural event.

**b. Entities Affected** - Retail licensees.

**c. Purpose of Proposal** - To comply with regulatory changes.

**d. Issues Involved** - This amendment is of a "housekeeping" nature to make sure our regulations reflect all current changes.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-60(l), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia, VR 125-01-2 § 10.

**5. Section 3 of VR 125-01-2 - Advertising; exterior; signs; trucks; uniforms.**

**a. Subject of Proposal** - To allow manufacturers and wholesalers, including wineries and farm wineries, to promote responsible drinking through outdoor alcoholic beverage advertising.

**b. Entities Affected** - Manufacturers, wholesalers, including wineries and farm wineries.

**c. Purpose of Proposal** - To promote responsible drinking.

**d. Issues Involved** - Should manufacturers and wholesalers use billboards which display their corporate name and logo to promote responsible drinking?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

**f. Proposed by** Anheuser-Busch.

**6. Section 3 of VR 125-01-2 - Advertising; exterior; signs; trucks; uniforms.**

**a. Subject of Proposal** - Amend regulation to limit the dimension of directional signs to 64 square feet rather than to eight feet in height or width.

**b. Entities Affected** - Manufacturers, wholesalers and farm wineries.

**c. Purpose of Proposal** - To eliminate requests for special permits for signs which do not conform to the dimension of eight feet in height or width but whose square footage is less than the eight foot dimension.

**d. Issues Involved** - Should the dimensions of directional signs be limited to 64 square feet?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

**7. Section 4 of VR 125-01-2 - Advertising, newspaper, magazines, radio, television, trade publications, etc.**

**a. Subject of Proposal** - To prohibit advertising of beer in student publications unless in reference to a dining establishment.

**b. Entities Affected** - Retail licensees, universities, colleges, student publications.

**c. Purpose of Proposal** - To prohibit beer advertisements in college student publications unless in reference to a dining establishment.

**d. Issues Involved** - Wine and mixed beverage advertisements in college student publications may only be made in reference to a dining establishment. Should beer advertisements in college student publications only be allowed when made in reference to a dining establishment?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-79(a), 4-98.10(w) and 4-98.14 of the Code of Virginia.

**8. Section 4 of VR 125-01-2 - Advertising; newspaper, magazines, radio, television, trade publications, etc.**

**a. Subject of Proposal** - To delete the word "bar" as a prohibited term which currently may not appear in the print or electronic media.

**b. Entities Affected** - Retail licensees.

**c. Purpose of Proposal** - To delete the word "bar" as a prohibited term.

**d. Issues Involved** - This amendment is of a "housekeeping" nature to clarify agency interpretation of this regulation.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.114 of the Code of Virginia.

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## 9. Section 5 of VR 125-01-2 - Advertising; newspapers and magazines; programs; distilled spirits.

a. **Subject of Proposal** - Amend regulation by clarifying that distilled spirits advertising may appear in printed programs relating to conservation and environmental programs, professional, semi-professional, or amateur athletic and sporting events and events of a charitable or cultural nature.

b. **Entities Affected** - Distillers, bottlers, importers and wholesalers.

c. **Purpose of Proposal** - To add the word "printed" to programs to clarify that distilled spirits advertising may appear in conservation and environmental programs, professional, semi-professional, or amateur athletic and sporting events and events of a charitable or cultural nature.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to clarify agency interpretation of this regulation.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

## 10. Section 6 of VR 125-01-2 - Advertising; novelties and specialties.

a. **Subject of Proposal** - Amend regulation to include sponsorship of a cultural event.

b. **Entities Affected** - Manufacturers, wholesalers.

c. **Purpose of Proposal** - To comply with regulatory changes.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to make sure our regulations reflect the current changes.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia, VR 125-01-2 § 10.

## 11. Section 9 of VR 125-01-2 - Advertising; coupons.

a. **Subject of Proposal** - To allow wine refund coupon pads to be placed in a designated area of a retail establishment rather than limiting their placement to just cut case cards.

b. **Entities Affected** - Manufacturers, wholesalers and retail licensees.

c. **Purpose of Proposal** - In most retail store operations, there is an area designated in the front of the store where coupons are made available to customers. This amendment would allow for the placement of wine refund coupon pads in those

areas.

d. **Issues Involved** - Should refund coupons be permitted on rebate boards?

e. **Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

f. **Proposed by** the Virginia Wine Wholesalers Association, Inc.

## 12. Section 10 of VR 125-01-2 - Advertising; sponsorship of public events; restrictions and conditions.

a. **Subject of Proposal** - To allow sponsorship of collegiate events (including sporting and nonsporting events) by distilleries, wineries and breweries when these functions are attended by alumni and the general public.

b. **Entities Affected** - Manufacturers, wholesalers, universities and colleges.

c. **Purpose of Proposal** - To provide financial support for collegiate events attended by alumni and the general public.

d. **Issues Involved** - (1) Will distillery, winery or brewery sponsorship of collegiate events attended by alumni and the general public encourage underage college students to drink? (2) Will lack of sponsorship by distilleries, wineries or breweries for college events attended by alumni and the general public cause any financial hardship?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. **Proposed by** the Virginia Beer Wholesalers Association, Inc.

## 13. Section 10 of VR 125-01-2 - Advertising; sponsorship of public events; restrictions and conditions.

a. **Subject of Proposal** - To allow sponsorship of intercollegiate athletic events by distilleries, wineries and breweries.

b. **Entities Affected** - Manufacturers, wholesalers, universities and colleges.

c. **Purpose of Proposal** - To provide financial support to collegiate athletic programs.

d. **Issues Involved** - (1) Will financial sponsorship of intercollegiate events by distilleries, wineries and breweries encourage drinking by those under the age of 21? (2) Will lack of financial sponsorship by

distilleries, wineries and breweries cause undue hardship to intercollegiate athletic events and their athletic associations?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a) and 4-69 of the Code of Virginia.

**f.** Proposed by the Central Intercollegiate Athletic Association and Virginia Commonwealth University.

**14. Section 8 of VR 125-01-3 - Solicitation of mixed beverage licensees generally; disqualifying factors.**

**a. Subject of Proposal** - To amend regulation to authorize and control the solicitation of mixed beverage licensees.

**b. Entities Affected** - Manufacturers, wholesalers, brokers, retail licensees.

**c. Purpose of Proposal** - To facilitate amendment of this regulation should HB 843 become law.

**d. Issues Involved** - To determine the proper control of and limitations on the solicitation of mixed beverage licensees.

**e. Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

**15. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To eliminate cut case card dimensions.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - Paper point-of-sale is a needed vehicle in terms of explaining wine products to the consuming public. Through this change, Virginia would be in a position to provide information that is presently being provided in numerous other states.

**d. Issues Involved** - Should there be any limitations on the dimensions of cut case cards?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f.** Proposed by the Virginia Wine Wholesalers Association, Inc., Anheuser-Busch, and Adolph Coors Company.

**16. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers;**

**banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To clarify that table tents may contain a listing of four wines and four beers.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To clarify that table tents may list a total of four wines and four beers.

**d. Issues Involved** - This amendment clarifies the Board's interpretation that a table tent may contain a total of four wines and four beers.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**17. Section 9 of VR 125-01-3 - Inducement to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To eliminate the requirement that cut case cards be supported by or affixed to, and be an integral part of, the case display.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - Paper point-of-sale is a needed vehicle in terms of explaining wine products to the consuming public. Through this change, Virginia would be in a position to provide information that is presently being provided in numerous other states.

**d. Issues Involved** - Should retail licensee establishments be permitted to display cut case cards in any area of their stores?

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f.** Proposed by the Virginia Wine Wholesalers Association, Inc., Anheuser-Busch, and Adolph Coors Company.

**18. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To permit the use of pole toppers for display purposes only and to allow wholesalers to mark or affix retail prices on pole toppers.

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**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To permit the use of pole toppers for display purposes only and to allow wholesalers to mark or affix retail prices on pole toppers.

**d. Issues Involved** - Should pole toppers be permitted if an integral part of the case display?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f. Proposed by** the Virginia Beer Wholesalers Association, Inc.

**19. Section 3 of VR 125-01-4 - Wine Containers; sizes and types; on- and off-premises limitations; cooler dispensers; novel containers; carafes and decanters.**

**a. Subject of Proposal** - To permit wine to be sold in containers smaller than 6.3 ounces.

**b. Entities Affected** - Manufacturers, wholesalers, retail licensees, and importers.

**c. Purpose of Proposal** - To not preclude alcoholic beverages and beverages whose metric sizes do not conform to our regulation.

**d. Issues Involved** - Should foreign alcoholic beverages or beverages be precluded from sale in the state because of their size?

**e. Applicable Laws or Regulations** - §§ 4-7(h) and (l), 4-11(a) and 4-98.10 of the Code of Virginia.

**20. Section 2 of VR 125-01-5 - Determination of Legal Age of Purchasers.**

**a. Subject of Proposal** - To clarify that identification issued by a state university or college is not acceptable evidence of legal age.

**b. Entities Affected** - Retail licensees, state universities and colleges.

**c. Purpose of Proposal** - To comply with the Board's interpretation of this section.

**d. Issues Involved** - Should state university and college identification cards be acceptable evidence of legal age because they are a state government agency when private and out-of-state university and college identification cards are not acceptable evidence of legal age?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-62 and 4-98.14 and 4-103(b) of the Code of

Virginia.

**21. Section 10 of VR 125-01-5 - Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.**

**a. Subject of Proposal** - To make all sales and inventory requirements now applicable to off-premises wine licensees equal to those presently required for off-premises beer retail licensees.

**b. Entities Affected** - Retail licensees.

**c. Purpose of Proposal** - Equality between retail wine and beer licensees.

**d. Issues Involved** - Should the qualifications for off-premises wine licensees be lowered to that of off-premises beer licensees?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-25 and 4-31(a) of the Code of Virginia.

**f. Proposed by** the Virginia Wine Wholesalers Association, Inc.

**22. Section 13 of VR 125-01-5 - Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.**

**a. Subject of Proposal** - To define the terms private club, nonprofit club and profit club as it relates to the mixed beverage laws.

**b. Entities Affected** - Clubs.

**c. Purpose of Proposal** - To define the terms private club, nonprofit, and profit club as it relates to the mixed beverage laws.

**d. Issues Involved** - Under what conditions should the board issue a mixed beverage license to a restaurant located on the premises of a private club?

**e. Applicable Laws or Regulations** - §§ 4-2(6), 4-7(l), 4-11(a), 4-61.1, 4-98.14 and 4-118.1 of the Code of Virginia.

**23. Section 2 of VR 125-01-6 - Wines; purchase orders generally; wholesale wine distributors.**

**a. Subject of Proposal** - To permit the peddling of wine coolers.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To allow the peddling of wine coolers.

**d. Issues Involved** - Should wholesalers be allowed to peddle wine coolers?

**e. Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

**f. Proposed by the Virginia Beer Wholesalers Association, Inc.**

**24. Section 7 of VR 125-01-6 - Adopt a new section prohibiting the sale and delivery by wholesalers between 12 midnight and 5 a.m. and to transfer and incorporate § 1 of VR 125-01-3 into a new § 7.**

**a. Subject of Proposal** - To prohibit the sale and delivery of beer and wine by wholesalers between 12 midnight and 5 a.m. and to transfer § 1 of VR 125-01-3 (Sunday deliveries by wholesalers, prohibited exceptions) into a new § 7.

**b. Entities Affected** - Wine and beer wholesalers and retail licensees.

**c. Purpose of Proposal** - Until May 1987 the Board had interpreted VR 125-01-5, § 3 - Restricted Hours to apply to wholesale licensees. This new regulation would prohibit wholesalers' deliveries between midnight and 5 a.m. The wholesalers are very concerned about the safety of making deliveries during midnight and 5 a.m.

**d. Issues Involved** - (1) Will this protect wholesalers from being forced to make deliveries between 12 midnight and 5 a.m.? (2) How will this affect retail licensees?

**e. Applicable Laws or Regulations** - §§ 4-7(b) and (l), 4-11(a), 4-36, 4-72.1, 4-84, 4-103(b), 4-114.1 and 4-118.2 of the Code of Virginia.

**f. Proposed by Virginia Beer Wholesalers Association and the Virginia Wine Wholesalers Associations, Inc.**

**25. Section 8 of VR 125-01-6 - Solicitor-salesman; records; employment restrictions; suspension or revocation of permits for mixed beverage licensees.**

**a. Subject of Proposal** - To regulate and control the solicitation of mixed beverage licensees.

**b. Entities Affected** - Manufacturers, wholesalers, and retail licensees.

**c. Purpose of Proposal** - To facilitate adoption of a new regulation should HB 843 become law, including but not limited to record keeping age limitations, etc.

**d. Issues Involved** - To determine the proper control and limitations on the solicitation of mixed

beverage licensees.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-26, 4-98.14 and 4-98.16 of the Code of Virginia.

**26. Section 8 of VR 125-01-6 - Adopt a new section to allow distillery representatives to conduct training seminars and have the same privileges as wine representatives when soliciting mixed beverage licensees.**

**a. Subject of Proposal** - To allow distillery representatives to conduct training seminars and have the same privileges as wine representatives when soliciting mixed beverage licensees.

**b. Entities Affected** - Manufacturers, brokers, wholesalers and retail licensees.

**c. Purpose of Proposal** - What activities will be permitted by distillers' representatives when calling on mixed beverage licensees?

**d. Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

**e. Proposed by Jim Rogers, President of Associated Distributors.**

**27. Section 8 of VR 125-01-6 - Adopt new sections to comply with and regulate the solicitation of mixed beverage licensees by distillers' representatives.**

**a. Subject of Proposal** - To prohibit any person holding a distilled spirits permit from (1) providing cash discounts or cash rebates, gifts, entertainment or other forms of gratuity and equipment to any mixed beverage licensee; (2) from purchasing or delivering distilled spirits or other alcoholic beverages as inducements to mixed beverage licensees; and (3) from soliciting any mixed beverage licensee for wine, beer or other merchandise simultaneously with the solicitation of distilled spirits.

Persons holding distilled spirits permits may (1) distribute directly and indirectly written educational material; (2) provide samples to mixed beverage licensees so long as the sample remains the property of the distilled spirits representative and the sample cannot be left with mixed beverage licensees; and (3) promote distilled spirits through Trade Shows and through organizations of distilled spirits representatives, either separately or in conjunction with other industry organizations.

**b. Entities Affected** - Manufacturers, brokers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To prohibit concurrent

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solicitation of wine, beer and other merchandise with distilled spirits in order that these other products are not used as inducements to purchase distilled spirits.

**d. Issues Involved** - Passage of House Bill 843 requires the adoption of regulations governing solicitation by representatives of manufacturers of distilled spirits.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-26, 4-98.14 and 4-98.16 of the Code of Virginia.

**f. Proposed by** Virginia Distilled Spirits Representatives Association.

**28. Section 18 of VR 125-01-7 - Adopt a new section to allow wine wholesalers to participate in wine tastings.**

**a. Subject of Proposal** - To allow wine wholesalers to participate with specialty shop licensees in wine tastings involving the public.

**b. Entities Affected** - Manufacturers, wholesalers and specialty shop licensees.

**c. Purpose of Proposal** - Most wine wholesalers are in a position to provide abundant information to the consuming public with regard to wine. One avenue for providing this information is through a tasting conducted by a retail licensee. This new regulation would allow for greater participation by wholesalers in that process and thus allow for better public understanding of the various types and brands of wines on the market.

**d. Issues Involved** - Should wine wholesalers be allowed to participate with specialty shop licensees in wine tastings involving the public?

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-44, 4-98.14, 4-98.16 and 4-103(b) of the Code of Virginia.

**f. Proposed by** the Virginia Wine Wholesalers Association, Inc.

**29. Sections 1-18, etc. of VR 125-01-8 - Beer and Beverage Excise Tax.**

**a. Subject of Proposal** - Adopt regulations to comply with new §§ 4-127 through 4-145 of the Code of Virginia authorizing the ABC Board to collect beer and beverage excise taxes.

**b. Entities Affected** - Manufacturers, wholesalers, bottlers and retailers.

**c. Purpose of Proposal** - To comply with House Bill

496, effective July 1, 1988, which moves provisions relating to beer and beverage excise taxes from Title 58.1 to Title 4.

**d. Issues Involved** - The adoption of new regulations is necessitated by the passage of House Bill 496.

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-44, 4-65, 4-66, 4-99, 4-127 through 4-145 of the Code of Virginia, and regulations adopted by the Virginia Department of Taxation relating to beer and beverage excise taxes.

**30. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(l), 4-11(a), 4-98.14, 4-103(b), 4-6.14, and 9-6.14, and 9-6.4:1 et seq. of Title 9 of the Code of Virginia.**

**31. The board requests that all persons interested in the above described subjects please submit comments in writing by 10 a.m. June 2, 1988 to the undersigned, P. O. Box 27491, Richmond, Virginia 23261 or attend the public meeting scheduled below.**

**32. 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 June 2, 1988.**

**33. Regarding the proposals as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry-out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number of existing regulations and or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.**

**34. Contact the undersigned, if you have questions, at the above address or by phone at (804) 367-0616.**

ALCOHOLIC BEVERAGE CONTROL BOARD

/s/ Robert N. Swinson  
Secretary

NOTICES 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: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

should have been stricken through so that it will be clear that the cross reference is to be to the new § 5.52.

## FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01  
NOTICE OF COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE OF MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08  
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

## ERRATA

### DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Title of Regulation: VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

Publication: V.A.R. 4:13 1229-1251 March 28, 1988

#### Correction to the Final Regulation:

Page 1229, in the TABLE OF CONTENTS, PART I INTRODUCTION; the line "Article 11. Situations Requiring a New License" is repeated. Please remove the second occurrence.

Page 1233, in the definition for "Non-facility-based residential respite care/emergency [shelter] services," at the end of the 4th line, the word "placement" should be plural to read "placements."

Page 1241, in new § 1.44, 3rd line, the word "paritally" should be spelled "partially."

Page 1245, in new § 3.31, subdivision 1, the word "superivision" should be spelled "supervision."

Page 1251, in new § 5.13, new subdivision 2, within the second set of brackets "[ ]", the old designation § 5.50



# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

### EXECUTIVE

#### BOARD OF AGRICULTURE AND CONSUMER SERVICES

† May 25, 1988 - 1 p.m. - Open Meeting  
† May 26, 1988 - 9 a.m. - Open Meeting  
Washington Building, 1100 Bank Street, Room 204,  
Richmond, Virginia.

A regular meeting of the board.

Contact: Raymond D. Vaughan, Secretary, 1100 Bank St.,  
Richmond, Va. 23219, telephone (804) 786-3501

#### Virginia Winegrowers Advisory Board

May 23, 1988 - 10 a.m. - Open Meeting  
Boar's Head Sports Club, Charlottesville, Virginia. ☒

Standard meeting; will review project proposals.

July 11, 1988 - 10 a.m. - Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia. ☒

Annual meeting and review of project proposals.

Contact: Annette C. Ringwood, Secretary to Virginia  
Winegrowers Advisory Board, Department of Agriculture  
and Consumer Services, Wine Marketing Specialist, 1100  
Bank St., Product Promotion, Room 703, Richmond, Va.  
23219, telephone (804) 786-0481

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF) AND THE DEPARTMENT OF FORESTRY (BOARD OF)

† July 15, 1988 - 1:30 p.m. - Public Hearing  
University of Virginia Law School, North Campus, Room  
111, Arlington Boulevard, Charlottesville, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services and the Department of Forestry intend to amend regulations entitled: VR 115-01-02. Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use Under the Virginia Land Use Assessment Law Entitled: Special Assessments for Agricultural, Horticultural, Forest or Open Space; and VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law Entitled: Special Assessments for Agricultural, Horticultural, Forest or Open Space. These amendments provide for standards of classification of real estate as devoted to forest use, agricultural use and horticultural use under the Virginia Land Use Assessment Law.

#### STATEMENT

Basis: Real estate devoted to forest, agricultural and horticultural use must meet the uniform standards to qualify for use value assessment under local government use value assessment and taxation ordinances.

Purpose: The purpose of the proposed amendments relating to forestry is to clarify existing requirements, strengthen eligibility requirements and limit participation in the program to landowners managing forest land for the bona fide production of forestry resources.

The purpose of the proposed amendments relating to agriculture and horticulture is to clarify existing requirements, simplify validation procedures for local commissioners of revenue and local assessing officers, and strengthen eligibility requirements for real estate devoted to the bona fide production for sale of plants and animals.

Impact: Affected area owners of qualifying forest, agricultural or horticultural real estate in the 77 local cities or counties with local use value assessment ordinances.

Summary: The proposed amendments were reviewed by an Ad Hoc Committee consisting of representatives from

agricultural and forestry organizations, local government associations, state agencies, conservation groups, environmental groups and others. Local government administrators and managers, commissioners of revenue, assessors, treasurers, and other interested groups will be mailed proposed standards and requested to comment.

Statutory Authority: § 58.1-3240 of the Code of Virginia.

Written comments to VR 115-01-02 may be submitted until July 22, 1988, to S. Mason Carbarugh, Commissioner of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209.

Written comments to VR 312-01-02 may be submitted until July 22, 1988, to James W. Garner, State Forester, P.O. Box 3758, Charlottesville, Va. 22903.

**Contact:** (VR 115-01-02) T. Graham Copeland, Jr., Director, Policy Analysis and Development, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3539. (VR 312-01-02) W. C. Stanley, Chief, Forest Management, Department of Forestry, P.O. Box 3758, Charlottesville, Va. 23903, telephone (804) 977-6555, SCATS 487-1230.

## STATE AIR POLLUTION CONTROL BOARD

**May 26, 1988 - 6:30 p.m. – Open Meeting**

**May 26, 1988 - 7 p.m. – Public Hearing**

Central School, Central Road, Lexington, Virginia. ☒

A meeting to hear public testimony regarding a proposed modernization at Barger Quarry in Rockbridge County near Lexington, Virginia.

**Contact:** Don Shepherd, Regional Director, State Air Pollution Control Board, 5338 Peters Creek Rd., Roanoke, Va. 24019, telephone (703) 982-7328

† **June 6, 1988 - 9 a.m. – Open Meeting**

General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia

This is a general meeting of the board.

**Contact:** Richard Stone, Public Information Office, State Air Pollution Control Board, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5478, SCATS 786-5478

## ARLINGTON COUNTY/CITY OF FALLS CHURCH LOCAL EMERGENCY PLANNING COMMITTEE

**May 26, 1988 - 7:30 p.m. – Open Meeting**

Arlington County Court House, 1400 North Courthouse Road, Room 202, Arlington, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to review and discuss alteration of existing

comprehensive emergency plan to meet the requirements of SARA, Title III and other business.

**Contact:** Thomas M. Hawkins, Fire Chief, 1020 N. Hudson St., Arlington, Va. 22201-2186, telephone (703) 558-2485

## VIRGINIA ATHLETIC BOARD

† **June 30, 1988 - 9 a.m. – Open Meeting**

Travelers Building, 3600 West Broad Street, Room 580, Richmond, Virginia

A meeting to conduct biennium review of existing regulations.

**Contact:** Mr. C. Doug Beavers, Assistant Director, 3600 W. Broad St., Room 580, Richmond, Va. 23230, telephone (804) 367-8507, SCATS 367-8507

## BEDFORD COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

**May 25, 1988 - 7:30 p.m. – Open Meeting**

Courthouse, Room B-105 (Board of Supervisors), Bedford, Virginia. ☒

A meeting to consider (i) report of subcommittees; (ii) staff report; and (iii) reappraisal of goals.

**Contact:** John P. Tansey, Chairman, Courthouse, Room B-105, Bedford, Va., telephone (703) 586-0179

## VIRGINIA BOATING ADVISORY BOARD

† **July 14, 1988 - 10 a.m. – Open Meeting**

State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

Discussion of and action on issues of interest to recreational boaters of Virginia.

**Contact:** Wayland W. Rennie, 8411 Patterson Ave., Richmond, Va. 23229, telephone (804) 740-7206

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **May 27, 1988 - 10 a.m. – Open Meeting**

Fourth Street Office Building, 205 North Fourth Street, Second Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building code, and (iii) approve minutes of previous meeting.

# Calendar of Events

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**Contact:** Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

## VIRGINIA CATTLE INDUSTRY BOARD

† **June 1, 1988 - 8:30 a.m.** – Open Meeting  
Omni Hotel, Charlottesville, Virginia. ☒

1988-89 Budget Meeting.

**Contact:** Reggie Reynolds, Secretary, P.O. Box 176, Daleville, Va. 24083-0176, telephone (703) 992-1992

## CHARLOTTESVILLE/ALBEMARLE LOCAL EMERGENCY PLANNING COMMITTEE

† **June 2, 1988 - 4 p.m.** – Open Meeting  
Albemarle County Office Building, Room 5/6. ☒

A regular business meeting of the committee created in compliance with SARA Title III § 301

**Contact:** Michael Carroll, LEPC Chairman, P.O. Box 911, Charlottesville, Va. 22902, telephone (703) 971-3477, Toll-Free (800) 332-0911, (800) 332-0911/TDD ☎

## CHESAPEAKE BAY COMMISSION

† **June 2, 1988 - 2 p.m.** – Open Meeting  
† **June 3, 1988 - 9 a.m.** – Open Meeting  
Holiday Inn of Solomons, Route 2-4, Solomons, Maryland

A quarterly meeting to discuss commitments contained in the 1987 Chesapeake Bay Agreement.

**Contact:** Ann Pesiri Swanson, Executive Director, 60 W. Street, Suite 200, Annapolis, MD 21401, telephone (301) 263-3420

## LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

**June 2, 1988 - 5:30 p.m.** – Open Meeting  
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 303, Chesterfield, Virginia. ☒

A meeting to review contingency plans of local businesses. (To meet requirements of SARA 1986.)

**June 16, 1988 - 5:30 p.m.** – Open Meeting  
**July 7, 1988 - 5:30 p.m.** – Open Meeting  
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

To meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, Va. 23832, telephone (804) 748-1236

## CHILD DAY-CARE COUNCIL

† **June 9, 1988 - 8:30 a.m.** – Open Meeting  
† **July 14, 1988 - 8:30 a.m.** – Open Meeting  
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia

The Child Day-Care Council will meet to discuss issues, concerns, and programs that impact licensed child care centers. The morning will consist of committees discussing ways to revise the standards and regulations of child care centers and then presenting the proposed changes to the full council for adoption prior to public comment.

**Contact:** Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

## INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

### Coordinating Committee

**June 10, 1988 - 8 a.m.** – Open Meeting  
Tyler Building, 1603 Santa Rosa Road, Suite 221, Richmond, Virginia. ☒

A regularly scheduled monthly meeting to discuss administrative and policy areas related to the Interdepartmental Licensure and Certification of Residential Facilities for Children.

**Contact:** John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

## BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

† **June 1, 1988 - 10:30 a.m.** – Open Meeting  
Director's Conference Room, Watermans Hall, Virginia Institute of Marine Science, Gloucester Point. ☒

A meeting to consider proposals from various localities requesting public beach matching grant funds and to have localities update board on current project progress.

**Contact:** Jack E. Frye, P.O. Box 1024, Gloucester Point,

Va. 23062, telephone (804) 642-7121

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

June 28, 1988 - 7 p.m. - Public Hearing  
Holiday Inn, Wytheville, Virginia

July 7, 1988 - 7 p.m. - Public Hearing  
Omni Norfolk Hotel, Norfolk, Virginia

July 13, 1988 - 10 a.m. - Public Hearing  
6900 Atmore Drive, 3rd Floor Board Room, Richmond,  
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** These proposed regulations set forth operating standards for Virginia Delinquency Prevention and Youth Development Act grant programs pertaining to program administration, services, personnel and fiscal management, staff training, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations for Programs, Division of Youth Services, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-0130

\* \* \* \* \*

June 28, 1988 - 7 p.m. - Public Hearing  
Holiday Inn, Wytheville, Virginia

July 7, 1988 - 7 p.m. - Public Hearing  
Omni Norfolk Hotel, Norfolk, Virginia

July 13, 1988 - 10 a.m. - Public Hearing  
6900 Atmore Drive, 3rd Floor Board Room, Richmond,  
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR 230-40-006. Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.** These regulations govern application for Virginia Delinquency Prevention and Youth Development Act grants including eligibility, criteria for review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of

Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations for Programs, Division of Youth Services, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-0130

VIRGINIA BOARD OF DENTISTRY

† May 27, 1988 - 3 p.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Conference Room 1, Richmond, Virginia. ☒

A formal hearing regarding The Virginia Board of Dentistry v. Llewellyn T. Flippen, DDS

† May 27, 1988 - 6 p.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒

A special called meeting to discuss training for dental hygiene programs.

† June 2, 1988 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒

Formal hearing on Donald F. Snow, DDS.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Surry Bldg., Richmond, Va. 23229, telephone (804) 662-9906

STATE BOARD OF EDUCATION

May 26, 1988 - 9 a.m. - Open Meeting  
May 27, 1988 - 9 a.m. - Open Meeting  
June 22, 1988 - 9 a.m. - Open Meeting  
June 23, 1988 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, James Monroe Bldg., 101 N. 14th St., 25th Fl., Richmond, Va. 23219, telephone (804) 225-2540

# Calendar of Events

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

† July 28, 1988 - 1:15 p.m. - Public Hearing  
James Monroe Building, Conference Room C, 101 North  
14th Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to amend regulations entitled: **VR 270-01-0020. Classification of Expenditures.** The proposed amendments prescribe the major classification of expenditures that are used by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools.

### STATEMENT

Subject and substance: The Board of Education, in conjunction with the Auditor of Public Accounts, established and required a modern system of accounting for all school divisions. The proposed amendments to the classification of expenditures will consolidate the current 13 accounts to five.

Issues: The only issue would be the initial cost to the local school board to obtain a microcomputer and software should they not have any.

Basis: §§ 22.1-92 and 22.1-115 of the Code of Virginia.

Purpose: To achieve a more uniform and modern system of accounting that is recognized nationally and that will permit inclusion of educational expenditures in the State Auditor's annual report.

Statutory Authority: §§ 22.1-92 and 22.1-115 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

Contact: Robert L. Aylor, Director, Account and Finance, Department of Education, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2040, SCATS 225-2040

## STATE BOARD OF ELECTIONS

† June 21, 1988 - 10 a.m. - Open Meeting  
Capitol Building, House Room 1, Capitol Square, Richmond,  
Virginia

The State Board of Elections will meet to certify the results of the June 14, 1988, Primary and Special Elections.

Contact: Susan H. Fitz-Hugh, Ninth Street Office Building, Room 101, Richmond, Va. 23219, telephone (804) 786-6551

## COUNCIL ON THE ENVIRONMENT

† June 27, 1988 - 7 p.m. - Public Hearing  
Kenmore Mansion, 1201 Washington Avenue, Fredricksburg,  
Virginia

† June 28, 1988 - 7 p.m. - Public Hearing  
Ramada Inn East, Chesapeake Room, 351 York Street,  
Williamsburg, Virginia

Biennial public hearing to receive comments on environmental issues of concern to citizens of the Commonwealth. Comments will be considered in compiling the agency's biennial report.

Contact: David J. Kinsey, Ninth Street Office Bldg., Room 903, Richmond, Va. 23219, telephone (804) 786-4500

## LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

† June 9, 1988 - 10 a.m. - Open Meeting  
Wood Municipal Center, Old Lee Highway, Fairfax,  
Virginia

The committee is meeting in accordance to SARA Title III in order to carry out the provisions required within.

Contact: Melanie Pearson, Community Information Coordinator, 4031 University Dr., Suite 400, Fairfax, Va. 22030, telephone (703) 246-2331

## VIRGINIA FARMERS' MARKET BOARD

† May 26, 1988 - 10 a.m. - Open Meeting  
State Capitol, House Room 4, Capitol Square, Richmond,  
Virginia

A business meeting.

Contact: R. Duke Burruss, 1100 Bank St., Washington Bldg., Richmond, Va. 23219, telephone (804) 786-1949

## BOARD OF FORESTRY

† June 2, 1988 - 9 a.m. - Open Meeting  
Martha Washington Inn, 150 North Main Street, Abingdon,  
Virginia 24120 -

A formal meeting of the board to conduct routine business.

Contact: Barbara Worrell, Virginia Department of Forestry, P.O. Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

June 3, 1988 - 10 a.m. - Open Meeting

Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. ☒

† July 8, 1988 - 10 a.m. - Open Meeting

Main Conference Room, Virginia Museum of Fine Arts, Richmond, Virginia.

The board 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: M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

### Division of Consolidated Laboratory Services

† June 3, 1988 - 9:30 a.m. - Open Meeting

James Monroe Building, Conference Room D, 101 North 14th Street, Richmond, Virginia.

The advisory board will discuss issues, concerns, and programs that impact the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-7905

### GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

May 25, 1988 - 6:30 p.m. - Open Meeting

Old Courthouse, Courthouse Green, Gloucester, Virginia. ☒

The LEPC will meet to continue the development of a local emergency plan for the county. Committee reports will be given from: Public Reactions, Facility Planning Coordination and HazMat Response Plan.

June 22, 1988 - 6:30 p.m. - Open Meeting

Old Courthouse, Courthouse Green, Gloucester, Virginia. ☒

The LEPC will meet this month to further formulate and work on the development of its local plan. Standing committee reports will be presented on: A Public Awareness Campaign and Facility Planning Coordination.

Contact: Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

## DEPARTMENT OF HEALTH REGULATORY BOARDS

† June 10, 1988 - 9 a.m. - Open Meeting

1601 Rolling Hills Drive, Richmond, Virginia 23229

A board meeting to (i) conduct general board business; (ii) make policies; (iii) respond to board correspondence; and (iv) conduct regulatory review.

Contact: Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 25, 1988 - 9:30 a.m. - Open Meeting

Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† June 1, 1988 - 9 a.m. - Open Meeting

James Monroe Building, 9th Floor Conference Room, 101 North 14th Street, Richmond, Virginia

A monthly council meeting. The agenda is available on request.

Contact: Marla Richardson, 101 N. 14th St., 9th Floor, Richmond, Va., telephone (804) 225-2638

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 7, 1988 - 9 a.m. - Open Meeting

July 5, 1988 - 9 a.m. - Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

# Calendar of Events

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## JAMES CITY COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† June 1, 1988 - 3:30 p.m. - Open Meeting  
Auditorium in the James City County Human Services  
Building, 5249 Olde Towne Road. ☒

The committee is meeting in accordance to SARA  
Title III in order to carry out the provisions required  
within. Subcommittee reports and Writing Emergency  
Plan - Planning will be considered.

Contact: Valerie Jordan, Committee Chair, James City  
County Health Department, P.O. Box JC, Williamsburg, Va.  
23187, telephone (804) 565-6870

## LIBRARY BOARD

† June 27, 1988 - 2 p.m. - Open Meeting  
† June 28, 1988 - 9:30 a.m. - Open Meeting  
Virginia State Library and Archives, Supreme Court Room,  
11th Street and Capitol Square, Richmond, Virginia. ☒

A regular meeting to discuss administrative matters.

Contact: Mrs. Jean K. Reynolds, Virginia State Library and  
Archives, 11th St. at Capitol Square, Richmond, Va. 23219,  
telephone (804) 786-2332

## MARINE RESOURCES COMMISSION

† June 7, 1988 - 9:30 a.m. - Open Meeting  
Newport News City Council Chambers, 2400 Washington  
Avenue, Newport News, Virginia. ☒

The Virginia Marine Resources Commission meets on  
the first Tuesday of each month at 9:30 a.m. in  
Newport News City Council Chambers, located at 2400  
Washington 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 five days.

Contact: Sandra S. Schmidt, Secretary to the Commission,  
2401 West Ave., P.O. Box 756, Newport News, Va.  
23607-0756, telephone (804) 247-2208

## VIRGINIA STATE BOARD OF MEDICINE

### Informal Conference Committee

June 3, 1988 - 1 p.m. - Open Meeting  
Williamsburg/James City County Circuit Court, 321-45 Court  
Street West, Counsel Chambers, Williamsburg, Virginia. ☒

† June 15, 1988 - 10:30 a.m. - Open Meeting  
Radisson Hotel Lynchburg, 601 Main Street, Lynchburg,  
Virginia

June 17, 1988 - 10 a.m. - Open Meeting  
Patrick Henry Inn and Conference Center, York and Page  
Streets, Williamsburg, Virginia. ☒

A meeting to 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 of the Code of Virginia.

### Legislative Committee

May 24, 1988 - 8:30 a.m. - Open Meeting  
Holiday Inn - Midtown, 3200 West Broad Street,  
Commonwealth Room, Richmond, Virginia. ☒

The Legislative Committee will meet in open session  
to (i) review and respond to the public comments on  
the proposed rules and regulations; (ii) prepare code  
amendments to the healing arts; and (iii) discuss any  
other items which may come before the committee.

Contact: Eugenia K. Dorson, Board Administrator, 1601  
Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va.  
23229-5005, telephone (804) 662-9925

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

May 25, 1988 - 9:30 a.m. - Open Meeting  
Region 10 Community Services Board, Charlottesville,  
Virginia. ☒

A regular monthly meeting. The agenda will be  
published on May 18 and may be obtained by calling  
Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, Department  
of Mental Health, Mental Retardation and Substance Abuse  
Services, P. O. Box 1797, Richmond, Va. 23214, telephone  
(804) 786-3921

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### Prevention and Promotion Advisory Council

† June 29, 1988 - 10 a.m. - Open Meeting  
James Madison Building, 8th Floor Conference Room,  
Richmond, Virginia

A meeting to (i) consider update of activities of the Office of Prevention, Promotion and Library Services, (ii) discuss draft of State Prevention Plan and (iii) discuss other topics including future plans of the Prevention and Promotion Advisory Council.

Contact: Tamara Stovall or Susan Geller, Office of Prevention, Promotion, Library Services, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1530

### State Human Rights Committee

May 27, 1988 - 9 a.m. - Open Meeting  
Western State Hospital, Personnel and Staff Development Building #123, Staunton, Virginia. ☐

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

Contact: Elsie D. Little, A.C.S.W., State Human Rights Director, P. O. 1797, Richmond, Va. 23214, telephone (804) 786-3988

## VIRGINIA STATE BOARD OF NURSING

May 23, 1988 - 9 a.m. - Open Meeting  
May 24, 1988 - 9 a.m. - Open Meeting  
May 25, 1988 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board. At 1:30 p.m. on May 23, 1988, the board will consider comments on intended regulatory action and propose new and amended regulations as follows:

1. A new regulation for the direction or supervision of licensed practical nurses as required by § 54-377.2 of the Code of Virginia as amended by the 1988 General Assembly;
2. A new regulation requiring licensees to report a change of address; and
3. Amend, for clarity and enforceability, regulations related to approval of nursing education programs.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or SCATS 662-9909

### Informal Conference Committee

† June 14, 1988 - 8:30 a.m. - Open Meeting  
† June 24, 1988 - 8:30 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, Toll Free 1-800-533-1560

## STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

† June 16, 1988 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia

An open board meeting to conduct (i) examinations; (ii) review of revenue and expenditures; (iii) review of applications; (iv) signing of certificates; and (v) other matters of the board.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230-4917, telephone (804) 367-8534, Toll Free 1-800-552-3016

## STATE BOARD OF PHARMACY

† May 26, 1988 - 8:30 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hill Drive, Richmond, Virginia

Informal conferences.

June 1, 1988 - 9:30 a.m. - Open Meeting  
June 2, 1988 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, 4th Floor West Conference Room, Richmond, Virginia. ☐

The board will consider the necessity for promulgation of regulations dealing with an examination on drug laws for applicants for licensure by endorsement response to HB 515 amending § 54-524.26 of the Code of Virginia.

The board will consider the promulgation of licensure and other requirements for practitioners of the healing arts who engage in the selling or dispensing of drugs in response to SB 425 amending § 54-317 of the Code



# Calendar of Events

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of Virginia.

The board will discuss increases in licensure fees to increase revenue to provide necessary funds for licensure, inspection and enforcement requirements.

Routine board business.

**Contact:** Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

**June 21, 1988 - 10 a.m. - Open Meeting**  
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

A committee of the board will meet to review board procedures, consider public comment concerning its existing regulations and develop recommendations for revisions to its current recommendations to conform to Senate Bill 238 which becomes law on January 1, 1989.

**July 14, 1988 - 10 a.m. - Open Meeting**  
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

The board will meet to conduct routine business at its regular quarterly business meeting.

**Contact:** David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or toll-free 1-800-552-3016

## PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

**June 3, 1988 - 2 p.m. - Open Meeting**  
**June 17, 1988 - 2 p.m. - Open Meeting**  
**July 15, 1988 - 2 p.m. - Open Meeting**  
**July 29, 1988 - 2 p.m. - Open Meeting**  
**August 12, 1988 - 2 p.m. - Open Meeting**  
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

**Contact:** Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, Va. 22192-9201, telephone (703) 335-6800

## VIRGINIA BOARD OF PSYCHOLOGY

**May 26, 1988 - 9 a.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to conduct general board business.

**Contact:** Stephanie A. Sivert, Executive Director, or Phyllis Henderson, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

## BOARD OF REHABILITATIVE SERVICES

**† May 27, 1988 - 9:30 a.m. - Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia

The board will review standing and ad hoc committee reports and department reports. It will elect new officers to assume duties July 1, 1988.

## Legislative and Evaluation Committee

**† May 26, 1988 - 1 p.m. - Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia

The committee will review the department's proposed five-year plan and recommend appropriate board action.

## Program and Finance Committees

**† May 26, 1988 - 9:30 a.m. - Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia

The committees will meet jointly to review the proposed FY 1989 operating budget of the department.

**Contact:** James L. Hunter, Board Administrator, Department of Rehabilitative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, Toll Free 1-800-552-5019

## COUNTY OF RUSSELL LOCAL EMERGENCY PLANNING COMMITTEE

**† June 2, 1988 - 7:30 p.m. - Open Meeting**  
District Courtroom, Russell County Courthouse, Lebanon, Virginia

Preparation of the emergency plan for Russell County.

**Contact:** Robert Haydock, Administrative Assistant to Chairman, Russell County Courthouse, P.O. Box 1208, Lebanon, Va. 24266, telephone (703) 889-8010

## STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

**June 29, 1988 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all

appeals of denials of on-site sewage disposal system permit.

**Contact:** Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**June 22, 1988 - 9 a.m. - Public Hearing**  
Blair Building, 8007 Discovery Drive, Conference Rooms A and B, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Fuel Assistance Program.** The purpose of the proposed amendment is to assist low income households with the cost of energy needs.

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

Written comments may be submitted until June 10, 1988.

**Contact:** Charlene H. Chapman, Supervisor, Energy and Emergency Assistance, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9050 or toll-free 1-800-552-7091

## VIRGINIA BOARD OF SOCIAL WORK

† **June 17, 1988 - 9 a.m. - Open Meeting**  
1601 Rolling Hills Drive, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications; (iii) respond to correspondence; and (iv) discuss proposed regulations.

**Contact:** Beverly Putnam, Administrative Assistant, 1601 Rollings Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914

## VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **June 9, 1988 - 10 a.m. - Open Meeting**  
WBRA-TV, 1215 McNeal Drive, Roanoke, Virginia

Quarterly meeting of the Virginia Public Telecommunications Board regarding public television and radio issues.

**Contact:** Ms. Suzanne Piland, Department of Information Technology, 110 S. 7th St., 1st Floor, Richmond, Va. 23219, telephone (804) 344-5544

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

† **June 9, 1988 - 9 a.m. - Public Hearing**  
Salem District Office, Harrison Avenue north of Main Street and east of Route 311 in Salem, Virginia. ☒  
(Interpreter for deaf provided if requested)

† **June 16, 1988 - 9 a.m. - Public Hearing**  
Auditorium, Virginia Department of Transportation Building, 1221 East Broad Street, Richmond, Virginia. ☒  
(Interpreter for deaf provided if requested)

Final public hearing to receive comments on highway allocations for the coming year and on updating the six-year improvement program for the interstate, primary, and urban systems.

June 9: For the four western districts (Bristol, Salem, Lynchburg and Staunton).

June 16: For the districts of Richmond, Fredericksburg, Suffolk, Culpeper and Northern Virginia.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

## TREASURY BOARD

† **May 25, 1988 - 9 a.m. - Open Meeting**  
† **June 7, 1988 - 10:30 a.m. - Open Meeting**  
† **June 22, 1988 - 9 a.m. - Open Meeting**  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia

A general board meeting.

**Contact:** Betty A. Ball, Department of Treasury, James Monroe Bldg., 3rd Floor, Richmond, Va., telephone (804) 225-2142

## VIRGINIA VOLUNTARY FORMULARY BOARD

**June 3, 1988 - 10 a.m. - Public Hearing**  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia Voluntary Formulary. The proposed revision to the Formulary adds and deletes drugs and drug products to the Formulary that became effective on November 1, 1987, and a supplement to the Formulary that becomes effective on May 1, 1988.

# Calendar of Events

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Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia. Written comments sent to the above address and received prior to 5 p.m., June 3, 1988, will be made a part of the hearing record and considered by the board.

† June 23, 1988 - 10:30 a.m. - Open Meeting  
Virginia Department of Health, James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia

A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

## VIRGINIA WASTE MANAGEMENT BOARD

† June 10, 1988 - 10 a.m. - Open Meeting  
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia

A general business meeting and review of proposed draft solid waste management regulations and public participation regulations.

Contact: Cheryl Cashman, Legislative Liaison, 11th Floor Monore Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

## BOARD FOR THE CERTIFICATION OF WATER AND WASTEWATER WORKS OPERATORS

† June 3, 1988 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Conference Room 3, Richmond, Virginia

An open board meeting to conduct regulatory review.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230-4917, telephone (804) 367-8534, Toll Free 1-800-552-3016

## STATE WATER CONTROL BOARD

† May 26, 1988 - 7 p.m. - Public Hearing  
Kate Collins School Cafetorium, 1625 Ivy Street, Waynesboro, Virginia

A public hearing on the proposed reissuance of a No

Discharge Certificate for Waynesboro Nurseries, Inc., and E.I. duPont deNemours & Comapny, Inc.

Contact: Mr. Tedd H. Jett, Regulatory Services Supervisor, State Water Control Board, Valley Regional Office, 116 N. Main St., Bridgewater, Va. 22812, telephone (703) 828-2595

June 27, 1988 - 9 a.m. - Open Meeting  
June 28, 1988 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6829

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June 6, 1988 - 7 p.m. - Public Hearing  
Norfolk City Council Chambers, City Hall Building, 810 Union Street, Norfolk, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-01.13. Tributyltin in Surface Waters - Water Quality Standards**. The purpose of the proposed amendment is to establish an instream water quality standard for tributyltin.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985

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June 7, 1988 - 7 p.m. - Public Hearing  
Loudoun County Board of Supervisors Room, County Administration Building, 18 North King Street, Leesburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-11-04. Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed**. The purpose of this action is to amend the policy to reduce the minimum separation distance between wastewater discharges in the Dulles Area Watershed and downstream public water supply intakes from 15 stream miles to five stream miles.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Steve Hogye, Supervisor of Water Resources Development, State Water Control Board, Northern Regional Office, 5515 Cherokee Avenue, Suite 404, Alexandria, Va. 22312, telephone (703) 750-9111 or SCATS 466-4950

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**June 9, 1988 - 7 p.m. - Public Hearing**  
Paul D. Camp Community College, Lecture Hall, Room 143, Franklin, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-07.03. Nutrient Enriched Waters - Water Quality Standards.** The purpose of the amendment is to designate the tidal freshwater portions of the Blackwater River and Nottoway River as "nutrient enriched waters."

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comment may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985 or SCATS 367-6985

### LEGISLATIVE MEETINGS

#### SUBCOMMITTEE OF SENATE AGRICULTURE, CONSERVATION AND NATURAL RESOURCES

† **May 24, 1988 - 1 p.m. - Open Meeting**  
General Assembly Building, 9th and Broad Street, Richmond, Virginia

The subcommittee studying HB 1037 (nontidal wetlands) will have an organizational meeting and receive a briefing on the legislation.

**Contact:** Martin Farber, Research Associate, or John Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23219, telephone (804) 786-3591

#### VIRGINIA CODE COMMISSION

† **June 17, 1988 - 9:30 a.m. - Open Meeting**  
Speaker's Conference Room, 6th Floor, General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☐

Begin recodification of Title 46.1.

**Contact:** Joan W. Smith, Registrar of Regulations, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

#### JOINT SUBCOMMITTEE STUDYING ELECTION LAWS

† **May 26, 1988 - 9:30 a.m. - Open Meeting**  
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia. ☐

Organizational meeting. (SJR 58)

**Contact:** Jack Austin, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638

#### SPECIAL COUNTIES, CITIES AND TOWNS SUBCOMMITTEE STUDYING THE PRESERVATION OF TREES

† **June 6, 1988 - 1 p.m. - Open Meeting**  
General Assembly Building, Capitol Square, Richmond, Virginia. ☐

Subcommittee will meet to have work session prior to public hearings planned for Northern Virginia in September and Virginia Beach in October.

**Contact:** Clem Conner, Staff Attorney or Jack Austin, Research Associate, Division of Legislative Services, 2nd Floor, General Assembly Bldg., Richmond, Va., telephone (804) 786-3591

#### JOINT SUBCOMMITTEE STUDYING OFF-SITE ROAD IMPROVEMENTS, LOCAL ZONING AND SUBDIVISION REGULATION AUTHORITY AND THE IMPACT OF LAND DEVELOPMENT ON THE PUBLIC INTRASTRUCTURE

† **May 23, 1988 - 9 a.m. - Open Meeting**  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

This subcommittee will meet for organizational purposes and to plan agendas for future interim meetings. (HJR 125).

**Contact:** Dr. Jack Austin, Research Associate, Division of Legislative Services, 2nd Floor, General Assembly Bldg.,

# Calendar of Events

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Richmond, Va., telephone (804) 786-3591

## SPECIAL JOINT SUBCOMMITTEE STUDYING THE TAXATION OF DAILY RENTAL EQUIPMENT

† June 8, 1988 - 10 a.m. - Open Meeting  
General Assembly Building, House Room C, Capitol Square,  
Richmond, Virginia. ☒

This meeting will be for organizational purposes and to review the tax impact of daily rental equipment on local revenues.

Contact: Reggie McNally, Staff Attorney, Division of Legislative Services, 2nd Floor, General Assembly Bldg., Richmond, Va., telephone (804) 786-3591

## OPEN MEETINGS

May 23

Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board  
Nursing, Virginia State Board of  
† Off-Site Road Improvements, Local Zoning and Subdivision Regulation Authority and the Impact of Land Development on the Public Infrastructure, Joint Subcommittee Studying

May 24

† Agriculture, Conservation and Natural Resources, Subcommittee of Senate  
Medicine, Virginia State Board of  
- Legislative Committee  
Nursing, Virginia State Board of

May 25

† Agriculture and Consumer Services, Board of  
Bedford County Local Emergency Planning Committee  
Gloucester Local Emergency Planning Committee  
Health Services Cost Review Council, Virginia  
Mental Health, Mental Retardation and Substance Abuse Services Board, State  
Nursing, Virginia State Board of  
† Treasury Board

May 26

† Agriculture and Consumer Services, Board of  
Air Pollution Control Board, State  
Arlington County/City of Falls Church Local Emergency Planning Committee  
Education, State Board of  
† Election Laws, Joint Subcommittee Studying  
† Farmers' Market Board, Virginia  
† Pharmacy, State Board of  
Psychology, Virginia Board of  
† Rehabilitative Services, Board of  
- Legislative and Evaluation Committee  
- Program and Finance Committees

May 27

† Building Code Technical Review Board, State  
† Dentistry, Virginia Board of  
Education, State Board of  
Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- State Human Rights Committee  
† Rehabilitative Services, Board of

June 1

† Cattle Industry Board, Virginia  
† Conservation and Development of Public Beaches, Board on  
† Higher Education for Virginia, State Council of  
† James City County Local Emergency Planning Committee  
Pharmacy, State Board of

June 2

† Charlottesville/Albemarle Local Emergency Planning Committee  
† Chesapeake Bay Commission  
Chesterfield County, Local Emergency Planning Committee of  
† Dentistry, Virginia Board of  
† Forestry, Board of  
Pharmacy, State Board of  
† Russell Local Emergency Planning Committee, County of

June 3

† Chesapeake Bay Commission  
General Services, Department of  
- Art and Architectural Review Board  
- Division of Consolidated Laboratory Services  
Medicine, Virginia State Board of  
- Informal Conference Committee  
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee  
† Water and Wastewater Works Operators, Board for the Certification of

June 6

† Air Pollution Control Board, State  
† Counties, Cities and Towns Subcommittee Studying the Preservation of Trees, Special

June 7

Hopewell Industrial Safety Council  
† Marine Resources Commission  
† Treasury Board

June 8

† Taxation of Daily Rental Equipment, Special Joint Subcommittee Studying the

June 9

† Child Day-Care Council  
† Local Emergency Planning Committee of Fairfax County-Town of Vienna-City of Fairfax-Town of Herdon  
† Telecommunications Board, Virginia Public

# Calendar of Events

## June 10

Children's Residential Facilities, Interdepartmental  
Licensure and Certification of  
- Coordinating Committee  
† Health Regulatory Boards, Department of  
† Waste Management Board, Virginia

## June 14

† Nursing, Virginia State Board of  
- Informal Conference Committee

## June 15

† Medicine, Virginia State Board of  
- Informal Conference Committee

## June 16

Chesterfield County, Local Emergency Planning  
Committee of  
† Nursing Home Administrators, State Board of  
Examiners for

## June 17

† Code Commission, Virginia  
Medicine, Virginia State Board of  
- Informal Conference Committee  
Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee  
† Social Work, Virginia Board of

## June 21

† Elections, State Board of  
Pilots, Board of Commissioners to Examine

## June 22

Education, State Board of  
Gloucester Local Emergency Planning Committee  
† Treasury Board

## June 23

Education, State Board of  
† Voluntary Formulary Board, Virginia

## June 24

† Nursing, Virginia State Board of  
- Informal Conference Committee

## June 27

† Library Board  
Water Control Board, State

## June 28

† Library Board  
Water Control Board, State

## June 29

† Mental Health, Mental Retardation and Substance  
Abuse Services, Department of  
- Prevention and Promotion Advisory Council  
Sewage Handling and Disposal Appeals Review Board,  
State

## June 30

† Athletic Board, Virginia

## July 5

Hopewell Industrial Safety Council

## July 7

Chesterfield County, Local Emergency Planning  
Committee of

## July 8

† General Services, Department of  
- Art and Architectural Review Board

## July 11

Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board

## July 14

† Boating Advisory Board, Virginia  
† Child Day-Care Council  
Pilots, Board of Commissioners to Examine

## July 15

Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## July 29

Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## August 12

Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## PUBLIC HEARINGS

## May 26

Air Pollution Control Board, State  
† Water Control Board, State

## June 3

Voluntary Formulary Board, Virginia

## June 6

Water Control Board, State

## June 7

Water Control Board, State

## June 9

† Transportation, Department of  
Water Control Board, State

## June 16

† Transportation, Department of

## June 22

Social Services, Department of

# Calendar of Events

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**June 27**

† Environment, Council on the

**June 28**

Corrections, Department of  
† Environment, Council on the

**July 7**

Corrections, Department of

**July 13**

Corrections, Department of

**July 15**

† Agriculture and Consumer Services, Department of  
† The Department of Forestry

**July 28**

† Education, Department of