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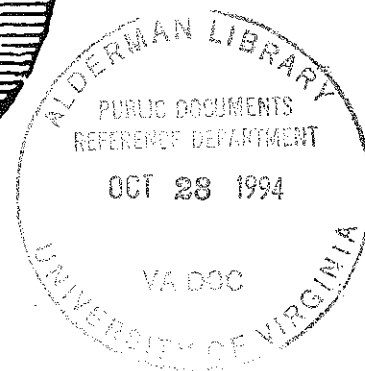
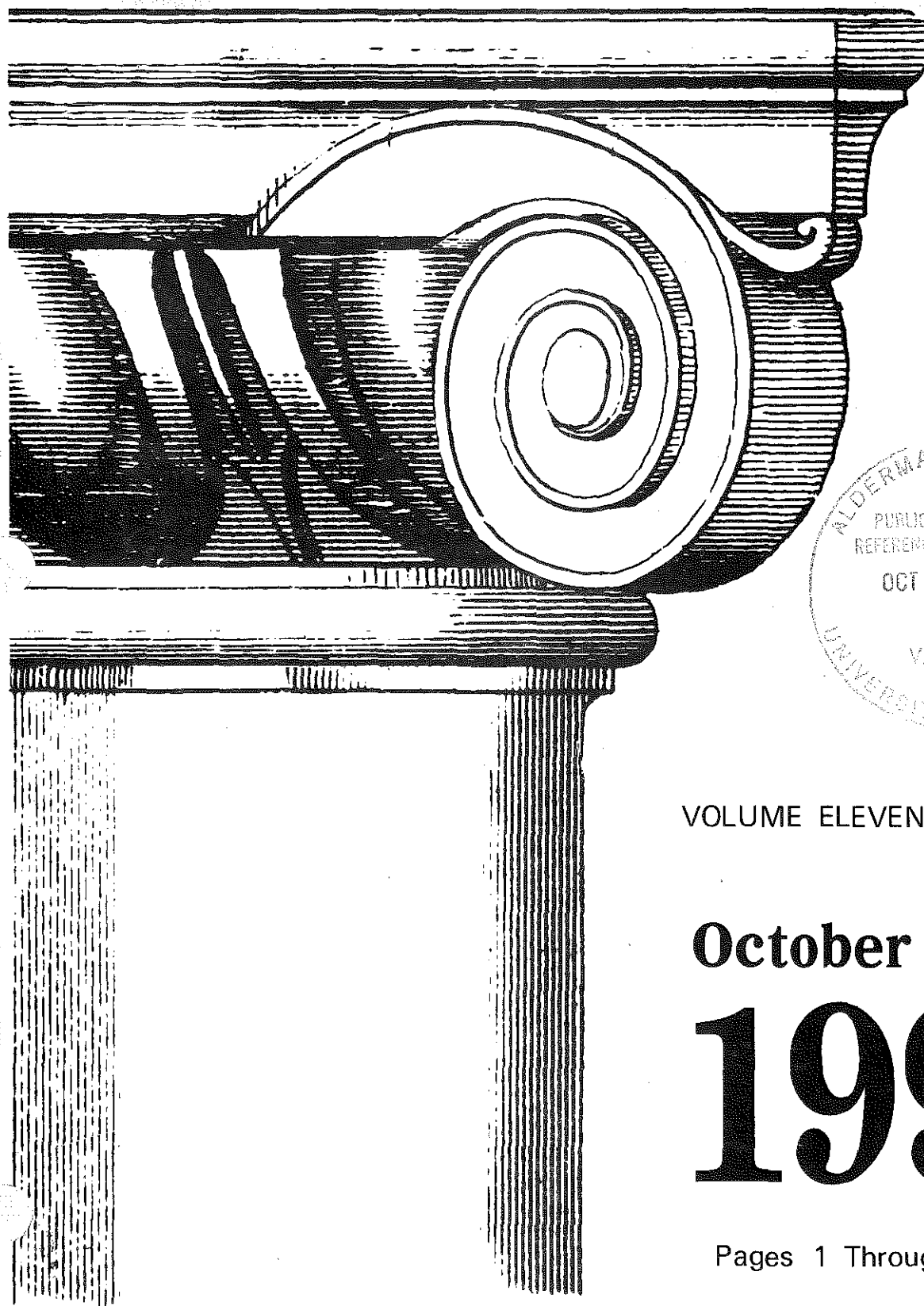
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THE VIRGINIA REGISTER

v. 11 - No. 1-7 REGULATIONS
1994

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October 3, 1994

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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 periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *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 the regulation becomes final.

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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July 1994 through September 1995

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Index 1 - Volume 11	

Dec. 21, 1994	Jan. 9, 1995
Jan. 4, 1995	Jan. 23
Jan. 18	Feb. 6
Feb. 1	Feb. 20
Feb. 15	Mar. 6
Mar. 1	Mar. 20
Index 2 - Volume 11	

Mar. 15, 1995	April 3, 1995
Mar. 29	April 17
April 12	May 1
April 26	May 15
May 10	May 29
May 24	June 12
June 7	June 26
Index 3 - Volume 11	

June 21, 1995	July 10, 1995
July 5	July 24
July 19	Aug. 7
Aug. 2	Aug. 21
Aug. 16	Sept. 4
Aug. 30	Sept. 18
Final Index - Volume 11	

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 5

PROPOSED REGULATIONS

BOARD FOR COSMETOLOGY

Board for Cosmetology Regulations (REPEALING).
(VR 235-01-02) 6

Nail Technician Regulations (REPEALING). (VR
235-01-03) 6

Board for Cosmetology Regulations. (VR 235-01-02:1)
..... 6

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Game: Waterfowl and Waterfowl Blinds. (VR
325-02-24) 25

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Public Participation Guidelines. (VR 380-01-00) 27

REAL ESTATE BOARD

Virginia Real Estate Board Licensing Regulations.
(VR 585-01-1) 30

FINAL REGULATIONS

STATE AIR POLLUTION CONTROL BOARD

Regulations for the Control and Abatement of Air
Pollution (Revision HH - Rule 5-6, Regulated
Medical Waste Incinerators) (SUSPENSION OF
EFFECTIVE DATE). (VR 120-01) 48

MILK COMMISSION

Rules and Regulations for the Control, Regulation
and Supervision of the Milk Industry (§ 8 D 4 1).
(VR 475-02-02) 48

Rules and Regulations for the Control, Regulation
and Supervision of the Milk Industry in Virginia.
(VR 475-02-02) 48

DEPARTMENT OF REHABILITATIVE SERVICES

Provision of Vocational Rehabilitation Services. (VR
595-01-1) 65

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Board for Waste Management Facility Operators Licensing
Regulations. (VR 674-01-02) 88

MARINE RESOURCES COMMISSION

EMERGENCY REGULATION

Pertaining to Grey Trout (Weakfish). (VR
450-01-0050) 105

FINAL REGULATIONS

Pertaining to Gill Nets. (VR 450-01-0092) 106

Pertaining to Crab Pots. (VR 450-01-0093) 106

GOVERNOR

GOVERNOR'S COMMENT

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Board for Waste Management Facility Operators
Licensing Regulations. (VR 674-01-02) 108

THE LEGISLATIVE RECORD

HJR 224: Joint Subcommittee Studying Alternative
Strategies for Assisting Tobacco Farmers. 109

HJR 185: Joint Subcommittee to Study Witness and
Juror Protection Programs. 112

HJR 280: Select Subcommittee to Study Abuses in
the Proffer Zoning System. 113

HJR 66: Joint Subcommittee to Study Privacy,
Confidentiality and Mandatory Disclosure Laws. 113

Joint Subcommittee Studying Abandoned Solid or
Hazardous Waste Sites. 115

Local Government Subcommittee Studying House
Bill 1088: Richmond Metropolitan Government. 116

SJR 17: Joint Subcommittee Studying Privatization
of Certain State Government Functions. 117

HJR 9: Clean Fuels Study Subcommittee. 117

HJR 143: Joint Subcommittee Studying the Virginia
Consumer Protection Act. 118

Table of Contents

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Department of Agriculture and Consumer Services.	121
Department of Education.	123
Department of Health Professions.	124
Board of Audiology and Speech-Language Pathology.	124
Board of Dentistry.	124
Board of Funeral Directors and Embalmers.	124
Board of Health Professions.	124
Board of Medicine.	124
Board of Nursing.	124
Board of Nursing Home Administrators.	124
Board of Optometry.	124
Board of Pharmacy.	125
Board of Professional Counselors.	125
Board of Psychology.	125
Board of Social Work.	125
Board of Veterinary Medicine.	125
State Council of Higher Education for Virginia.	125
Department of Housing and Community Development.	125
Manufactured Housing Board.	126
Department of Labor and Industry.	126
State Milk Commission.	127
Department of Mines, Minerals and Energy.	128
Agencies of the Natural Resources Secretariat.	129
Chesapeake Bay Local Assistance Board.	130
Department of Conservation and Recreation.	130
Board of Conservation and Recreation.	130
Virginia Soil and Water Conservation Board.	130
Department of Environmental Quality.	131

Air Pollution Control Board.	131
Virginia Waste Management Board.	131
State Water Control Board.	131
Department of Game and Inland Fisheries.	133
Department of Historic Resources.	133
Marine Resources Commission.	133
College of William and Mary.	134
Department of Youth and Family Services.	134

GENERAL NOTICES/ERRATA

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ALCOHOLIC BEVERAGE CONTROL BOARD)

Notice to the Public to Receive Comments and Suggestions Concerning the Adoption, Amendment or Repeal of Board Regulations.	135
---	-----

STATE BOARD OF HEALTH

Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1995.	135
--	-----

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public Concerning Cargo Handling and Related Activities Conducted Aboard Vessels and at Marine Terminals.	136
---	-----

VIRGINIA CODE COMMISSION

Notice of mailing address.	137
Forms for filing material on dates for publication.	137
Statement of Ownership, Management, and Circulation.	138

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	139
---	-----

LEGISLATIVE

Open Meetings and Public Hearings	161
---	-----

CHRONOLOGICAL LIST

Open Meetings 162
Public Hearings 164

Table of Contents

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

BOARD FOR ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider amending regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** The purpose of the proposed action is to modify § 2.1, Qualifications for certification. The board intends to hold a public hearing on this matter. The date, time and location of the hearing will be published at a later date.

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

Written comments may be submitted until October 20, 1994.

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

V.A.R. Doc. No. R94-2630; Filed August 30, 1994, 11:59 a.m.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The purpose of the proposed action is to incorporate and implement legislative mandates of the 1994 General Assembly relating to private security services. The board intends to conduct a public hearing in the spring of 1995 to hear and consider recommendations concerning the proposed amendments.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until November 2, 1994, to L.T. Eckenrode, Department of Criminal Justice Services, P.O. Box 10110, Richmond, Virginia 23240-9998.

Contact: Paula Scott, Administrative Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

V.A.R. Doc. No. R95-16; Filed September 14, 1994, 11:52 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Discretionary Provisions of the Virginia Independence Program.** The purpose of the proposed regulation is to implement the discretionary provisions of the Virginia Independence Program. Chapter 951 of the 1994 Acts of Assembly provides the basis for the Virginia Department of Social Services to implement the Virginia Independence Program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25, 63.1-133.46, 63.1-133.47, 63.1-133.49, 63.1-133.51 and 63.1-133.55 of the Code of Virginia.

Written comments may be submitted until October 5, 1994, to Tom Steinhauser, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Richard Martin, Policy Analyst Senior, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

V.A.R. Doc. No. R94-1185; Filed August 16, 1994, 12:54 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

BOARD FOR COSMETOLOGY

Title of Regulation: VR 235-01-02. Board for Cosmetology Regulations (REPEALING).

Title of Regulation: VR 235-01-03. Nail Technician Regulations (REPEALING).

Title of Regulation: VR 235-01-02:1. Board for Cosmetology Regulations.

Statutory Authority: §§ 54.1-201 and 54.1-1202 B of the Code of Virginia.

Public Hearing Date: November 7, 1994 - 10 a.m.

Written comments may be submitted until December 3, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 54.1-1200 through 54.1-1207 of the Code of Virginia provide that the Board of Cosmetology shall develop and administer a regulatory system to license persons in Virginia who practice cosmetology for compensation.

The Office of the Attorney General has reviewed these proposed regulations and affirmed that they are consistent with Virginia law and do not conflict with the Constitution of Virginia or the Constitution of the United States.

Purpose: The Virginia Board for Cosmetology is repealing two sets of regulations and promulgating one new set of regulations. The proposed regulations will achieve consistency with existing barber regulations and statutes as well as current board policies. Further, the proposed regulations will amend the Board for Cosmetology's renewal procedures. These regulations are promulgated to ensure competency and protect the public welfare.

Also, the proposed regulations will adjust fees to assure that the variance between revenues and expenditures for the Board for Cosmetology does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

Substance: The proposed regulations will combine the Cosmetology regulations, effective March 27, 1991, and the Nail Technician regulations, effective August 26, 1992, into one set of regulations.

The Board for Barbers Regulations allow cosmetologists who have held a license for two years to sit for the

barber licensing examination. The proposed regulations would extend this same courtesy to licensed barbers.

There are numerous changes proposed that incorporate current board policy into regulatory language, such as allowing an apprenticeship program for nail technicians or issuing a temporary permit to individuals reinstating who are required to sit for the examination.

The proposed regulations modify the required curriculum of, as well as other requirements for, nail and cosmetology schools. The licensure requirements for both nail technician and cosmetology instructors are also adjusted. These modifications are recommended to assure student competency and protect public welfare.

The Board for Cosmetology is proposing to eliminate their existing late renewal period which is confusing for regulants. The board is proposing a 30-day grace period for renewal and a five-year reinstatement period. After two years of the five-year reinstatement period, the board may require individuals to retake any or all of the cosmetology or nail technician examination. Such grace and reinstatement periods are consistent with other licensing programs in Virginia.

Issues: Issues considered by the board include:

1. The specific needs and consideration of all regulated persons/entities who perform cosmetology in this state, and the protection of the public who utilizes these services.
2. Requirements of state law that affect the administration and enforcement of this regulation.
3. No advantages or disadvantages to the agency or the state were identified.

Estimated Impact: There are no potential disadvantages to the regulants or the public. No particular localities are affected by the proposed changes. There are over 39,000 individuals, 5,500 salons, and 100 schools that will be affected by these proposed regulatory changes. The economic and regulatory impact of the proposed changes on these regulants is estimated to be minimal. Costs of the implementation of the revisions are estimated to be limited to the cost of printing and mailing the proposed regulations to those holding licenses and certificates and those on the public participation guidelines list. The total cost is \$22,000. The proposed changes to the board's licensing fee structure are recommended to ensure sufficient revenues are available to cover administrative costs in the next biennium.

Proposed Regulations

Under the proposed regulations, instructors will no longer be required to maintain their individual instructor certificate separate from their license. The license and instructor certificate will be combined and only one renewal fee will be required. Nail technicians are now required to pay a \$30 new application fee which cosmetologists are not required to pay. The proposed regulations will eliminate this \$30 charge. There are new fees proposed for bad checks and certificates of licensure. These costs are absorbed currently by the board and the department.

Proposed Changes in the Board for Cosmetology's Fee Schedule

Fee Type	Existing	Proposed	Change
<u>New Application</u>			
Salon	\$100	\$120	+ \$20
School	\$125	\$145	+ \$20
Add Nail Endorsement to Cosmetology School	\$25	\$45	+ \$20
Nail Technician	\$30	\$0	- \$30
Cosmetologist	\$0	\$0	\$0
<u>Renewal</u>			
Individual	\$40	\$45	+ \$5
Salon	\$85	\$105	+ \$20
Instructor	\$40	\$60	+ \$20
School	\$120	\$140	+ \$20
<u>Late Renewal</u>			
Individual	\$40	Eliminated	N/A
Salon	\$85	Eliminated	N/A
Instructor	\$40	Eliminated	N/A
School	\$120	Eliminated	N/A
<u>Reinstatement</u>			
Individual	\$150	\$150	\$0
Salon	\$250	\$250	\$0
Instructor	\$180	\$180	\$0
School	\$300	\$300	\$0
<u>Endorsement</u>			
Individual	\$30	\$50	+ \$20
Instructor	N/A	\$75	new
<u>Examination Fees</u>			
Entire Cosmetology Exam	\$60	\$51	- \$9
Written Portion of Cosmetology Exam	\$20	\$33	+ \$13

Practical Portion of Cosmetology Exam	\$40	\$43	+ \$3
Instructor Exam Cosmetology	\$20	\$35	+ \$15
Entire Nail Technician Exam	\$48	\$45	- \$3
Written Portion of Nail Technician Exam	\$30	\$27	- \$3
Practical Portion of Nail Technician Exam	\$35	\$37	+ \$2
Nail Technician Instructor Exam	\$30	\$35	+ \$5
<u>Miscellaneous Charges</u>			
Bad Check Penalty	\$0	\$25	+ \$25
Certificate of Licensure	\$0	\$25	+ \$25

Summary:

The Virginia Board for Cosmetology is repealing two sets of regulations and promulgating one new set of regulations. The proposed regulations will achieve consistency with existing barber regulations and statutes as well as current board policies. Further, the proposed regulations will amend the Board for Cosmetology's renewal procedures.

The proposed regulations will combine the Cosmetology regulations, effective March 27, 1991, and the Nail Technician regulations, effective August 26, 1992, into one set of regulations.

The Board for Barbers Regulations allow cosmetologists who have held a license for two years to sit for the barber licensing examination. The proposed regulations would extend this same courtesy to licensed barbers.

There are numerous changes proposed that incorporate current board policy into regulatory language, such as allowing an apprenticeship program for nail technicians or issuing a temporary permit to individuals reinstating who are required to sit for the examination.

The proposed regulations modify the required curriculum of, as well as other requirements for, nail and cosmetology schools. The licensure requirements for both nail technician and cosmetology instructors are also adjusted. These modifications are recommended to assure student competency and protect public welfare.

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Proposed Regulations

period, the board may require individuals to retake any or all of the cosmetology or nail technician examination. Such grace and reinstatement periods are consistent with other licensing programs in Virginia.

Also, the proposed regulations will adjust fees to assure that the variance between revenues and expenditures for the Board for Cosmetology does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

VR 235-01-02:1. Board for Cosmetology Regulations.

PART I. GENERAL DEFINITIONS.

§ 1.1. Definitions.

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

“Affidavit” means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

“Board” means the Board for Cosmetology.

“Certificate holder” means any person holding a certificate issued by the Board for Cosmetology, as defined in § 54.1-1200 of the Code of Virginia.

“Compensation” means the payment of money or anything of value in exchange for services provided.

“Cosmetologist” means any person licensed by the board who cuts, curls, treats or dresses human hair and practices cosmetology for compensation.

“Cosmetology” includes, but is not limited to, the following practices: arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, braiding, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece. Persons working in a cosmetology salon whose duties are expressly confined to the shampooing and cleansing of human hair under the direct supervision of a cosmetologist are exempt from licensure.

“Cosmetology instructor” means a licensed cosmetologist who has been certified by the board as having completed an approved curriculum and who meets the competency standards of the board.

“Cosmetology salon” means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the board.

“Cosmetology school” means any place or establishment licensed by the board to accept and train students.

“Department” means the Virginia Department of Professional and Occupational Regulation.

“Endorsement” means a method of obtaining a license by a person who is currently licensed in another state.

“Licensee” means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Cosmetology, as defined in § 54.1-1200 of the Code of Virginia.

“Nail care” means manicuring, pedicuring, or performing artificial nail services.

“Nail salon” means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the board.

“Nail school” means a place or establishment licensed by the board to accept and train students.

“Nail technician” means any person licensed by the board who for compensation manicures, or pedicures natural nails or who performs artificial nail services for compensation, or any combination thereof.

“Nail technician instructor” means a licensed nail technician who has been certified by the board as having completed an approved curriculum and who meets the competency standards of the board.

“Reciprocity” means a conditional agreement between two or more states that will recognize one another’s regulations and laws for equal privileges for mutual benefit.

“Reinstatement” means having a license or certificate restored to effectiveness after the expiration date has passed.

“Renewal” means continuing the effectiveness of a license or certificate for another period of time.

PART II. ENTRY.

§ 2.1. Basic qualifications for licensure.

Every applicant to the board for a license shall have the following qualifications:

Proposed Regulations

1. The applicant shall be in good standing as a licensed cosmetologist or nail care technician in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a cosmetologist or nail care technician. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a cosmetologist or nail technician.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia cosmetology license law and the regulations of the board.

4. The board may make further inquiries with respect to the qualifications of the applicant or require a personal interview with the applicant or both. Failure of an applicant to comply with a written request from the board for additional information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

§ 2.2. Individual license.

Upon filing an application with the Board for Cosmetology on forms approved by the board, any person meeting the qualifications set by the board shall be eligible for a license if the applicant has sufficiently demonstrated that:

1. The applicant has received training as defined in §§ 2.3 and 2.4 of these regulations;
2. The applicant has qualified for licensure either by passing the required examination or by endorsement; and
3. An applicant who has had any disciplinary action taken in any jurisdiction in connection with the applicant's practice as a cosmetologist or nail technician may be approved or disapproved for licensure following consideration of the applicant's application by the board.

§ 2.3. Training in the Commonwealth of Virginia.

Any person completing an approved cosmetology training program in a Virginia licensed cosmetology school or a Virginia public school's cosmetology program shall be eligible for the cosmetology examination.

Any person completing an approved nail technician

program in a Virginia licensed nail school or a Virginia public school's nail technician program shall be eligible for the nail technician examination.

§ 2.4. Training outside of the Commonwealth of Virginia, but within the United States and its territories.

Any person completing a cosmetology training program outside of the Commonwealth of Virginia, must submit documentation of the successful completion of 1,500 hours of training. If less than 1,500 hours cosmetology training was completed, any person submitting a certificate, diploma or adequate documentation verifying the completion of a substantially equivalent cosmetology course and documentation of six months of cosmetology work experience may be eligible for the cosmetology examination.

Any person completing a nail technician training program outside of the Commonwealth of Virginia, must submit documentation of the successful completion of 150 hours of training. If less than 150 hours nail technician training was completed, any person submitting a certificate, diploma or adequate documentation verifying the completion of a substantially equivalent nail technician course and documentation of six months of nail technician work experience may be eligible for the nail technician examination.

§ 2.5. Apprenticeship training.

Any person completing the Virginia apprenticeship program in cosmetology shall be eligible for the cosmetology examination. Cosmetology salons training apprentices shall comply with the standards for apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry.

Any person completing the Virginia apprenticeship program in nail care shall be eligible for the nail technician examination. Cosmetology and nail salons training nail apprentices shall comply with the standards established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry.

§ 2.6. Exceptions to training requirements shown in §§ 2.3, 2.4, and 2.5.

A. A licensed barber enrolling in a cosmetology training school may be given credit for 50% of the training received for a barber license.

B. A student may be given educational credit for 50% of the training received in a barber school when transferring to a cosmetology school.

C. A licensed barber who has held a barber license for at least two years will be eligible to sit for the cosmetology examination without further training.

Proposed Regulations

§ 2.7. Examinations.

A. Applicants for initial licensure shall take and pass both a practical and written examination provided by the board or by a testing service acting on behalf of the board.

B. Any applicant passing one part of the examination shall not be required to take that part again provided both parts are passed within one year of initial examination date.

C. Any candidate failing to appear as scheduled for examination may be required to forfeit the fee, and may be required to pay a rescheduling fee equal to the original examination fee.

§ 2.8. Administration of examination.

A. The applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

B. The examination shall be administered by examiners independent from the board. The practical examination shall be supervised by a chief examiner.

C. Every cosmetology examiner shall hold a current Virginia cosmetology license, have three or more years of active experience as a licensed cosmetologist and be a currently practicing cosmetologist. Examiners shall attend all training workshops sponsored by the board or by a testing service acting on behalf of the board.

Every nail technician examiner shall be a practicing nail technician or cosmetologist with three or more years of active experience as a nail technician or licensed cosmetologist and shall be a currently licensed nail technician or cosmetologist. Examiners shall attend all training workshops sponsored by the board or by a testing service acting on behalf of the board.

D. No certified instructor who is currently teaching or who is a school owner shall be an examiner.

E. A cosmetology chief examiner shall hold a current Virginia cosmetology license, have five or more years of active experience as a licensed cosmetologist, have three years of active experience as an examiner, and be a currently practicing cosmetologist. Chief examiners shall attend all training workshops sponsored by the board or by a testing service sponsored by the board.

A nail technician chief examiner shall hold a current Virginia nail technician or cosmetology license, have five

or more years of active experience as a nail technician or cosmetologist, have three or more years of active experience as an examiner, and be a currently practicing nail technician or cosmetologist. Chief examiners shall attend all training workshops sponsored by the board or by a testing service sponsored by the board.

§ 2.9. License by endorsement.

Upon proper application to the board, on prescribed forms, any person currently licensed to practice as a cosmetologist, nail technician, cosmetology instructor or nail technician instructor in any other state or jurisdiction of the United States may be issued a cosmetology or nail technician license or a cosmetology instructor or nail technician instructor certificate without an examination.

§ 2.10. Cosmetology instructor's certificate.

Upon filing an application with the Board for Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a cosmetology instructor certificate:

1. Hold a current Virginia cosmetology license, and pass a course in teaching techniques at the post-secondary educational level;
2. Complete an instructor training course approved by the Virginia Board for Cosmetology under the supervision of a certified cosmetology instructor in a cosmetology school; or
3. Pass an examination in cosmetology instruction administered by the board.

§ 2.11. Nail technician instructor's certificate; exception.

A. Upon filing an application with the Board for Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for an instructor certificate:

1. Hold a current Virginia nail technician or cosmetologist license, and pass a course in teaching techniques at the post-secondary level;
2. Complete an instructor training course approved by the Virginia Board for Cosmetology under the supervision of a certified instructor in a cosmetology or nail school; or
3. Pass an examination in nail care instruction administered by the board.

B. Persons holding a cosmetology instructor certificate may teach a nail technician program without obtaining a nail technician certificate.

§ 2.12. Temporary permit.

Proposed Regulations

A. A temporary permit to work as a cosmetologist or cosmetology instructor under the supervision of a currently licensed cosmetologist or certified cosmetology instructor may be issued only to applicants for initial licensure or certification found eligible by the board for the cosmetology or cosmetology instructor examination.

A temporary permit to work as a nail technician or nail technician instructor under the supervision of a currently licensed nail technician, cosmetologist, or a certified nail technician instructor or cosmetology instructor, may be issued only to applicants for initial licensure or certification found eligible by the board for the nail technician or nail technician instructor examination.

B. The temporary permit shall remain in force for 30 days following the next scheduled examination for which the applicant would be eligible to sit.

C. All temporary permits are nonrenewable.

D. All candidates applying for reinstatement who are required to sit for the examination may be issued a temporary permit in accordance with the terms of subsections A, B, and C of this section.

§ 2.13. Salon license.

A. Any individual wishing to operate a cosmetology or nail salon shall obtain a salon license in compliance with § 54.1-1205 of the Code of Virginia.

B. A cosmetology or nail salon license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the salon, address, or owners shall be reported to the board in writing within 30 days of such changes.

C. In the event of a change of ownership of a cosmetology or nail salon the new owners shall be responsible for reporting such changes in writing to the board within 30 days of such change.

D. In the event of a cosmetology or nail salon closing the board must be notified in writing within 30 days.

§ 2.14. Examination fees.

Examination fees shall be as follows:

Entire cosmetology examination	\$51
Written portion of cosmetology examination	\$33
Practical portion of cosmetology examination	\$43
Cosmetology instructor examination	\$35
Entire nail technician examination	\$45
Written portion of nail technician examination	\$27

Practical portion of nail technician examination \$37

Nail technician instructor examination \$35

§ 2.15. Application fees.

All fees are nonrefundable and shall not be prorated. Application fees are valid for a period of one year from the date of receipt. Application fees shall be as follows:

Cosmetology license by endorsement	\$50
Cosmetology salon	\$120
Cosmetology instructor license by endorsement	\$75
Nail technician license by endorsement	\$50
Nail salon	\$120
Nail technician instructor license by endorsement	\$75
Bad check penalty	\$25

PART III. COSMETOLOGY SCHOOLS.

§ 3.1. School license.

A. Any individual wishing to operate a cosmetology or nail technician school shall obtain a school license in compliance with § 54.1-1206 of the Code of Virginia.

B. A cosmetology or nail technician school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name of the school or address shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school the new owners shall be responsible for reporting such changes in writing to the board within 30 days of such change.

D. In the event of a school closing the board must be notified in writing within 30 days.

§ 3.2. General requirements.

A cosmetology or nail technician school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.

Proposed Regulations

3. *Employ a staff of certified cosmetology or nail technician instructors.*

4. *Develop individuals for entry level of competency in cosmetology or nail care.*

5. *Submit its curricula for board approval.*

a. Cosmetology curricula may be based on a minimum of 1,500 clock hours or competencies in accordance with § 3.6 of these regulations. However, schools wishing to offer both clock hour or competency based programs must submit separate curricula for board approval.

b. Nail care curricula may be based on a minimum of 150 clock hours or competencies in accordance with § 3.6 of these regulations. However, schools wishing to offer both clock hour or competency based programs must submit separate curricula for board approval.

6. *Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic.*

7. *Maintain separate classroom and clinic areas.*

§ 3.3. Curriculum requirements for cosmetology schools.

Each cosmetology school shall submit with its application a curriculum including but not limited to a course syllabus, a detailed course outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours or performances or both for all courses to be taught which lead to licensure. The outline for cosmetology shall include, but not be limited to, the following:

1. *Orientation:*

- a. School policies*
- b. State law, regulations, and professional ethics*
- c. Personal hygiene*
- d. Bacteriology, sterilization, and sanitation*

2. *Manicuring and pedicuring:*

- a. Anatomy and physiology*
- b. Diseases and disorders*
- c. Procedures to include both natural and artificial application*
- d. Sterilization*

3. *Shampooing and rinsing:*

a. Fundamentals

b. Safety rules

c. Procedures

d. Chemistry, anatomy, and physiology

4. *Scalp treatments:*

a. Analysis

b. Disorders and diseases

c. Manipulations

d. Treatments

5. *Hair styling:*

a. Anatomy and facial shapes

b. Finger waving, molding and pin curling

c. Roller curling, combing, and brushing

d. Heat curling, waving, braiding and pressing

6. *Hair cutting:*

a. Anatomy and physiology

b. Fundamentals, materials, and equipment

c. Procedures

d. Safety practices

7. *Permanent waving-chemical relaxing:*

a. Analysis

b. Supplies and equipment

c. Procedures and practical application

d. Chemistry

e. Record keeping

f. Safety

8. *Hair coloring and bleaching:*

a. Analysis and basic color theory

b. Supplies and equipment

c. Procedures and practical application

d. Chemistry and classifications

e. Record keeping

f. Safety

9. Skin care and make up:

a. Analysis

b. Anatomy

c. Health, safety, and sanitary rules

d. Procedures

e. Chemistry and light therapy

f. Temporary removal of hair

g. Lash and brow tinting

10. Wigs, hair pieces, and related theory:

a. Sanitation and sterilization

b. Types

c. Procedures

11. Salon management:

a. Business ethics

b. Care of equipment

§ 3.4. Curriculum requirements for nail technician schools or cosmetology schools teaching a nail technician program.

Each school teaching the nail technician program shall submit with its application a curriculum including but not limited to a course syllabus, a detailed course outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours or performances or both for all courses to be taught which will lead to licensure. The outline for nail care shall include, but not be limited to, the following:

1. Orientation:

a. School policies,

b. State law, regulations and professional ethics;

2. Sterilization, sanitation, bacteriology, and safety;

3. Anatomy and physiology;

4. Diseases and disorders of the nail;

5. Nail procedures (manicuring, pedicuring and nail extensions);

6. Nail theory, nail structure and composition.

§ 3.5. Curriculum requirements for cosmetology or nail instructor program.

Each school applying to teach a cosmetology or nail instructor program shall submit with its application a detailed course outline, sample of five lesson plans, and a sample of evaluation methods to be used. The outline shall include, but not be limited to, the following:

1. Orientation, school policies, state laws, regulations and professional ethics;

2. Introduction to teaching and psychology of training;

3. Course development and lesson planning;

4. Teaching methods and aids;

5. Tests and measurements;

6. Classroom management and recordkeeping;

7. Student teaching.

§ 3.6. Performance completions.

A. The curriculum requirements for cosmetology must include the following minimum performances.

Hair and scalp treatments	10
Shampooing and hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Manicures/pedicures	15
Facials	5
Sculptured nails/nail tips/wraps	20
Total	525

B. The curriculum requirements for nail technicians

Proposed Regulations

must include the following minimum performances.

Manicures	30
Pedicures	15
Individual sculptured nails/nail tips	200
Individual removals	10
Individual nail wraps	20
Total	275

§ 3.7. Performances and hours reported.

Upon the closing of a licensed cosmetology or nail technician school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students that have not completed the program within 30 days of the date of closing.

§ 3.8. Record keeping.

Each cosmetology or nail technician school shall maintain written records of hours and performances completed for each student for a period of five years after the student terminates or completes the curriculum.

§ 3.9. Hours and performances required; exception:

Curriculum and completion requirements shall be offered over a minimum of 1,500 clock hours for cosmetology and 150 clock hours for nail care unless the school presents evidence satisfactory to the board that the school:

1. Will measure for competency, for each student enrolled, tasks specified in § 3.6 of these regulations;
2. Inform each student of progress in achieving competency of tasks taught; and
3. Record the number of clock hours of instruction and performances of each student.

§ 3.10. Application fees.

Application fees shall be as follows:

Nail technician school	\$145
Cosmetology school without a nail technician program	\$145
Cosmetology school offering a nail technician program	\$190
Licensed cosmetology school adding a nail technician program	\$45

PART IV.

RENEWAL OF LICENSE.

§ 4.1. Renewal required.

A. All cosmetology, cosmetology salon, nail technician, and nail salon licenses shall expire two years from the last day of the month in which they were issued.

B. All cosmetology and nail care instructor certificates shall expire on the same date as the cosmetology or nail technician license.

C. Cosmetology school licenses shall expire on December 31 of each even numbered year.

§ 4.2. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee or certificate holder of the obligation to renew. If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.

§ 4.3. Renewal fees.

A. All fees are nonrefundable.

B. Renewal fees shall be as follows:

Cosmetology license	\$45
Cosmetology license with instructor certificate	\$60
Cosmetology salon license	\$105
Cosmetology school license	\$140
Nail technician license	\$45
Nail technician license with instructor certificate	\$60
Nail salon license	\$105
Nail school license	\$140

§ 4.4. Failure to renew; reinstatement required.

A. When a licensed or certified individual or entity fails to renew its license or certificate within 30 days following its expiration date, the licensee or certificate holder shall apply for reinstatement of the license or certificate by submitting to the Department of Professional and Occupational Regulation a reinstatement application and reinstatement fee as follows:

Cosmetology license	\$150
---------------------------	-------

Cosmetology license with instructor certificate	\$180
Cosmetology salon license	\$250
Cosmetology school license	\$300
Nail technician license	\$150
Nail technician license with instructor certificate	\$180
Nail salon license	\$250
Nail school license	\$300

B. The application for reinstatement for a school shall provide the reasons for failing to renew prior to the expiration date, a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license expired on December 31 of the last even numbered year. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and its records maintained in accordance with § 3.8 of these regulations by the Department of Professional and Occupational Regulation. Pursuant to § 4.5, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the exam.

C. When a cosmetologist or nail technician fails to renew his license within two years following the expiration date, the licensee may be required to submit the reinstatement fee outlined in subsection A of this section and may be required to pass the appropriate examination(s) in order to be reinstated.

D. When a cosmetology instructor or nail technician instructor fails to renew his certificate within two years following the expiration date, the certificate holder may be required to requalify for licensure as outlined in §§ 2.10 and 2.11.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license or certificate is applicable.

F. When a license or certificate is reinstated, the licensee or certificate holder shall be assigned an expiration date two years from the date of reinstatement.

G. A licensee or certificate holder who reinstates his license or certificate shall be regarded as having been

continuously licensed or certified without interruption. Therefore, a licensee or certificate holder shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period. A licensee or certificate holder who fails to reinstate his license or certificate shall be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in these regulations shall divest the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

H. Five years after the expiration date on the license or certificate, reinstatement is no longer possible. To resume practice, the former licensee or certificate holder shall reapply for licensure or certification as a new applicant, meeting current application requirements.

§ 4.5. Board discretion to deny renewal.

The board, in its discretion, may deny renewal or reinstatement of a license or certificate for the same reasons as it may refuse initial licensure or certification or may discipline a current licensee or certificate holder. Upon such denial, the applicant for renewal or reinstatement may request that a hearing be held.

PART V.
STANDARDS OF PRACTICE.

§ 5.1. Display and maintenance of license, certificate and permit.

A. All current licenses, certificates or permits issued by the board shall be displayed in a conspicuous manner in an area that is accessible to the public in the school or establishment where business is conducted.

B. All licensees, certificate holders and permit holders shall operate under the name in which the license, certificate, or permit is issued.

C. Unless also licensed as a cosmetologist, a barber is required to hold a separate nail technician license if he or she will be performing manicures or pedicures or applying artificial nails.

§ 5.2. Sanitation.

Licensees and certificate holders shall comply with the following sanitation standards and shall ensure that all employees likewise comply:

1. Premises and equipment.

a. Cleanliness. Wash basins, sinks and workstations shall be clean. Floors shall be kept free of hair, nail product, and other waste materials. Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after

Proposed Regulations

every use and stored free from contamination.

b. Soiled towels and robes or smocks shall be stored in an enclosed container.

2. Operation and service.

a. Towels and robes. Clean towels and robes shall be used for each patron.

b. Haircloth. When a haircloth is used, a clean towel or neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.

c. Brushes and combs shall be washed in soap and water and sanitized after each use.

d. Permanent wave rods shall be rinsed after each use and end papers shall not be reused.

e. Scissors, razors, clippers, nippers, and all sharp-edged cutting instruments shall be sanitized after each use with a disinfectant in accordance with the manufacturer's instructions.

f. A salon shall maintain a supply of 70% isopropyl alcohol to be used in the event that a patron's skin is accidentally broken during any service. In that event, all implements must be immersed in said alcohol for 10 minutes.

g. All artificial acrylic nail services must be performed in a facility which is in compliance with B.O.C.A. National Building Code. A certificate of occupancy issued by local building officials should be posted in each facility providing acrylic nail services.

h. An artificial nail shall only be applied to a healthy natural nail.

§ 5.3. Discipline.

The board has the power to fine any licensee or certificate holder or to suspend or revoke any license or certificate issued under the provisions of Chapter 12 (§ 54.1-1200 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board, if the board finds that:

1. The licensee or certificate holder violates, induces others to violate, or cooperates with others in violating any of the provisions of Chapters 3 (§ 54.1-300 et seq.) and 12 (§ 54.1-1200 et seq.) of Title 54.1 of the Code of Virginia, or these regulations;

2. The licensee or certificate holder is incompetent or negligent in practice or incapable mentally or physically to practice as a cosmetologist or nail technician;

3. The licensee or certificate holder is guilty of fraud or deceit in the practice or teaching of cosmetology or nail care;

4. The licensee or certificate holder obtained or renewed a license or certificate by false or fraudulent representation;

5. The owner or operator of a school allowed a person to teach cosmetology or nail care without the person obtaining an instructor's certificate, or temporary instructor's permit issued by the board. Exception: Holders of associate degrees or higher shall not be prohibited from teaching theory;

6. The owner or operator of a salon allowed a person to practice cosmetology or nail care without the person obtaining a cosmetology or nail technician license or cosmetology or nail technician temporary permit issued by the board;

7. The licensee or certificate holder refuses or fails, upon request or demand, to produce to the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession maintained in accordance with these regulations;

8. An individual licensee or certificate holder fails to notify the board of a change of name or address in writing within 30 days of the change. The board shall not be responsible for the licensee's or certificate holder's failure to receive notices, communications and correspondence caused by the licensee's or certificate holder's failure to promptly notify the board in writing of any change of name or address; or

9. The licensee or certificate holder publishes or causes to be published any advertisement that is false, deceptive, or misleading.

VA.R. Doc. Nos. R95-15, R95-17 and R95-18; Filed September 14, 1994,
11:44 a.m.

Certificate No. _____
Date _____
For office use only

FEE: \$30.00
(make check or money
order payable to the
Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

FEE: \$30.00

APPLICATION FOR A COSMETOLOGY LICENSE BY ENDORSEMENT

Section I

Phone No. () _____
Last Name First Name Middle Name
Street Address _____
City State Zip Code
Date of Birth: _____ Security No. _____

Section II

1. Attach copy of current cosmetology license.

FOR OFFICE USE ONLY
Approved for Endorsement _____ State _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

Section III

(To Be Executed By Applicant) Have this AFFIDAVIT completed by a Notary Public
State of _____
County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

REV 4-1-91

Certificate No. _____
Date _____
For office use only

FEE: \$100.00
(Make check or money
order payable to the
Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

FEE: \$100.00

APPLICATION FOR LICENSE TO OPERATE A COSMETOLOGY SALON

NAME OF SALON: _____ PHONE NO. _____
T/A NAME OF SALON: _____
ADDRESS OF SALON: _____
Street and Number City County Zip Code
OWNER'S NAME: _____
Last Name First Name Middle
OWNER'S MAILING ADDRESS: _____
Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
(If required by Local Ordinance)

This is to certify _____ cosmetology salon

(Address)

has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).

State and/or Local Health Department _____ Signature of Inspector _____

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

REV 4-1-91

Certificate No. _____
Date _____
For office use only

APPLICATION FOR: () Competency Based Program
() Hours Program

FEE: \$125.00
(Make check or money order payable to the Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

FEE: \$125.00

All schools and programs must be approved by the Board.

HOURS PROGRAM

Section 3.3. Curriculum requirements - Each school shall submit with its application a detailed course outline-refer to pages 6-8 of regulations.

APPLICATION FOR LICENSE TO OPERATE A COSMETOLOGY SCHOOL

NAME OF SCHOOL: _____ PHONE NO. _____

T/A NAME OF SCHOOL: _____

ADDRESS OF SCHOOL: _____
Street and Number City County Zip Code

OWNER'S NAME: _____
Last Name First Name Middle

OWNER'S MAILING ADDRESS: _____
Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
(If required by Local Ordinance)

This is to certify _____ cosmetology salon

(Address)

has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).

State and/or Local Health Department _____ Signature of Inspector _____

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

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

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

DO NOT WRITE BELOW THIS LINE

____ Approved for COMPETENCY BASED PROGRAM _____

____ Approved for HOURS PROGRAM _____

COMPETENCY BASED PROGRAM

Section 3.7. Hours and performances required, exception:

Curriculum and completion requirements shall be offered over a minimum of 1500 clock hours unless the school presents evidence satisfactory to the Board that the school:

1. Will measure for competency, for each student enrolled, tasks specified in subsections C through J of Section 3.3. of these regulations; and
2. Inform each student of progress in achieving competency of tasks taught; and
3. Record the number of clock hours of instruction and performances of each student.

If your school is seeking approval to offer a Competency Based curriculum you must submit evidence of compliance with the above regulations. This may take the form of:

1. Identify the competencies a worker on the job must have.
2. Students informed prior to instruction, of the competencies or tasks they are expected to master.
3. The tests used to evaluate performance to job standards.
4. A system exists for documenting each student's performance on each task.

Revised 3-89

Certificate No. _____
Date _____
For office use only

APPLICATION FOR CERTIFICATE FOR
COSMETOLOGY INSTRUCTOR

Section III

NO FEE

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066
Section I

NO FEE

(To Be Executed By all Applicants) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Applicant's Last Name (Place one letter in each block)

Phone No. _____

First Name

Middle Name

Street Address

City

State

Zip Code

Date of Birth:

Social Security No.

FOR OFFICE USE ONLY

Approved for CERTIFICATE _____

Section II

- Must hold a current Virginia Cosmetology license, number _____, and
- Must have completed one of the following: (Section 3.2 of the Regulations)
 - () Pass a course in teaching techniques approved by the Department of Education. (Attach certification)
 - () Complete an instructor training course approved by the Virginia Board for Cosmetology under the direct supervision of a certified cosmetology instructor in a beauty school and a seminar approved by the Virginia Board for Cosmetology.

Name of School attended: _____

Name of course: _____

Dates of attendance: From _____ to _____

- Attach copy of seminar certificate
- Attach written evaluation by instructor.

Signature of Applicant _____

Signature of Notary Public _____

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

My commission expires: _____

COMMONWEALTH OF VIRGINIA
BOARD FOR COSMETOLOGY
Post Office Box 11066
Richmond, Virginia 23230-1066

APPLICATION FOR REINSTATEMENT

The Individual Application for Reinstatement form must be completed in its entirety.

INSTRUCTIONS

1. Regulation 2.3(B) states if a licensed/certified individual or entity fails to renew their license within six months following its expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Commerce a reinstatement application and reinstatement fee of \$150 for a cosmetology license, of \$180 for an instructor certificate, of \$250 for a salon license, and \$300 for a school license with a statement of the reasons for failing to renew prior to the expiration date.
2. Regulation 2.3(C) states that upon receipt of the reinstatement application and fee the board may reinstate the license/certificate or require requalification, reexamination, or both.
3. Regulation 2.3(D) states that if an individual licensee fails to renew their cosmetology license after a two year period of time the licensee must pass both the practical and written examination in order to be reinstated.
4. Make check or money order payable to the "Treasurer of Virginia."

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

Phone No. () _____

Last Name _____ First Name _____ Middle Name _____

Street Address _____ City _____ State _____ Zip _____

Social Security Number _____

Salon/School Name _____

Street Address of Salon/School _____ City _____ State _____ Zip Code _____

Tax I.D. Number _____

Please indicate below, reinstatement of:

- () Cosmetology license Certificate # _____ Date expired _____
- () Instructor certificate Certificate # _____ Date expired _____
- () Salon license Certificate # _____ Date expired _____
- () School license Certificate # _____ Date expired _____

REV 7-15-91

Give reasons for failure to renew. (Use a separate sheet if necessary.) _____

AFFIDAVIT AND NOTARIZATION

(To Be Executed By all Applicants Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

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

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

For Official Use Only	
Date	Approved By

License No. _____
 Date _____
 Code _____
 Initials _____
 For office use only

FEE: \$30.00
 (Make check or money
 order payable to the
 Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Board for Cosmetology
 Post Office Box 11066
 Richmond, Virginia 23230-1066

FEE: \$30.00

APPLICATION FOR A NAIL TECHNICIAN LICENSE BY ENDORSEMENT

Section I

Last Name _____ First Name _____ Middle Name _____ Phone No. () _____
 Street Address _____
 City _____ State _____ Zip Code _____
 Date of Birth: _____ Social Security No. _____

Section II

1. Attach copy of current nail technician license.

FOR OFFICE USE ONLY
 Approved for Endorsement _____ State _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

Section III

(To Be Executed By Applicant) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

REV 8-1-91.

License No. _____
 Date _____
 Code _____
 Initials _____
 For office use only

FEE: \$100.00
 (Make check or money
 order payable to the
 Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Board for Cosmetology
 Post Office Box 11066
 Richmond, Virginia 23230-1066

FEE: \$100.00

APPLICATION FOR LICENSE TO OPERATE A NAIL SALON

NAME OF SALON: _____ PHONE NO. _____
 T/A NAME OF SALON: _____
 ADDRESS OF SALON: _____
 Street and Number City State Zip Code
 OWNER'S NAME: _____
 Last Name First Name Middle
 OWNER'S MAILING ADDRESS: _____
 Street and Number City State Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
(If required by Local Ordinance)

This is to certify _____ nail salon

(Address)

has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).

State and/or Local Health Department

Signature of Inspector

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

REV 8-1-91

Certificate No. _____
Date _____
Code _____
Initial _____
For office use only

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Cosmetology
Post Office Box 11066
Richmond, Virginia 23230-1066

NO FEE

NO FEE

Section III

APPLICATION FOR CERTIFICATE AS A NAIL TECHNICIAN INSTRUCTOR

Section I

Phone No. () _____
Last Name _____ First Name _____ Middle Name _____

Street Address _____

City _____ State _____ Zip Code _____

Date of Birth _____ Social Security Number _____

FOR OFFICE USE ONLY

Approved for CERTIFICATE _____

Section II

1. Must hold a current Virginia Nail Technician license, number _____, and
2. Must have completed one of the following: (Section 4.2 of the Regulations)
 - () Pass a course in teaching techniques at the post secondary educational level. (Attach certification)
 - () Complete an instructor training course approved by the Virginia Board for Cosmetology under the supervision of a certified instructor in a nail/cosmetology school and a seminar approved by the Virginia Board for Cosmetology.
 - Name of School attended: _____
 - Name of course: _____
 - Dates of attendance: from _____ to _____
 - A. Attach copy of seminar certificate
 - B. Attach written evaluation by instructor.
 - () Hold a certificate as a nail technician instructor in another state.

(over)

(To Be Executed By all Applicants) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant _____

Signature of Notary Public _____

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

My commission expires: _____

License No. _____
 Date _____
 Code _____
 Initials _____
 For office use only _____
 FEE: \$125.00
 (Make check or money order payable to the Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Board for Cosmetology
 Post Office Box 11066
 Richmond, Virginia 23230-1066

FEE: \$125.00

APPLICATION FOR LICENSE TO OPERATE A NAIL SCHOOL

NAME OF SCHOOL: _____ PHONE NO. _____
 T/A NAME OF SCHOOL: _____
 ADDRESS OF SCHOOL: _____
 Street and Number City State Zip Code
 OWNER'S NAME: _____
 Last Name First Name Middle
 OWNER'S MAILING ADDRESS: _____
 Street and Number City State Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

§ 4.3. Curriculum requirements.

Each school shall submit with its application a curriculum including but not limited to a course syllabus, a detailed course outline, a sample of 5 lesson plans, a sample of evaluation methods to be used and a breakdown of hours and/or performances. Schools must adhere to the approved course outline which shall include but not be limited to the following:

- A. Orientation, school policies, state law, regulations and professional ethics;
- B. Sterilization, sanitation, bacteriology and safety;
- C. Anatomy and physiology;
- D. Diseases and disorders of the nail;
- E. Nail procedures (manicuring, pedicuring and nail extensions);
- F. Nail theory, nail structure and composition.

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

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

Signature of Applicant: _____

By Commission Agent: _____

REV 9.1.93

COMMONWEALTH OF VIRGINIA
 BOARD FOR COSMETOLOGY
 Post Office Box 11066
 Richmond, Virginia 23230-1066

APPLICATION FOR REINSTATEMENT/NAILS

The Individual Application for Reinstatement form must be completed in its entirety.

INSTRUCTIONS

1. Regulation 3.3(B) states if a licensed/certified individual or entity fails to renew their license within six months following its expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Professional & Occupational Regulation reinstatement application and reinstatement fee of \$150 for a nail technician license, of \$180 for a nail instructor certificate, of \$250 for a nail salon license, and \$300 for a nail school license with a statement of the reasons for failing to renew prior to the expiration date.
2. Regulation 3.3(C) states that upon receipt of the reinstatement application and fee, the board may reinstate the license/certificate or require requalification, reexamination, or both.
3. Regulation 3.3(D) states that if an individual licensee fails to renew their cosmetology license after a two year period of time, the licensee must pass both the practical and written examination in order to be reinstated.
4. Make check or money order payable to the "Treasurer of Virginia".

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

Last Name First Name Middle Name Telephone () _____
 Street Address City State Zip Code _____
 Social Security Number _____
 Salon/School Name _____
 Street Address of Salon/School City State Zip Code _____
 Tax I.D. Number _____

Please indicate below, reinstatement of:

- () Nail Technician License Certificate # _____
- () Nail Technician Instructor Certificate # _____
- () Nail Salon License Certificate # _____
- () Nail School License Certificate # _____

Proposed Regulations

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Title of Regulation: VR 325-02-24. Game: Waterfowl and Waterfowl Blinds.

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

Public Hearing Date: October 13, 1994 - 10 a.m.

Public Hearing Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amended board regulation. A public hearing will be held on the advisability of adopting, or amending and adopting, the proposed regulation, or any part thereof. This meeting will be held at 4010 West Broad Street, Richmond, Virginia, beginning at 10 a.m. on Thursday, October 13, 1994. At this time, any interested citizen present shall be heard. If the board is satisfied that the proposed regulations, or any part thereof, are advisable, in the form in which published or as amended to be either more expansive or restrictive as a result of public comments received, the board may adopt such proposal at that time, acting upon the proposal separately or in block.

Summary:

Section 18 of this regulation is being amended to provide for the use of bismuth-tin shot, if approved by the U. S. Fish and Wildlife Service, for hunting ducks, geese, brant, swan and coots in Virginia during the 1994-95 waterfowl season.

VR 325-02-24. Game: Waterfowl and Waterfowl Blinds.

§ 1. "Blind" defined.

The term "blind" as used in the waterfowl blind laws and in the regulations of the board shall mean and include camouflaged rowboats, whether in motion or anchored, and other lawful floating devices or things constructed or erected and used on land or in the water for the purpose of shooting waterfowl therefrom in, on or over the public waters and from the shores thereof and which are so constructed or erected as to be deceptive or which provide a place of concealment or obscure the hunter from view and all such devices or things shall come within the provisions of the laws for hunting waterfowl, which require that blinds be licensed.

§ 2. Determining depth of water for purpose of licensing blinds to persons other than riparian owners.

In determining whether or not stationary blinds shall be licensed to persons other than riparian owners pursuant to § 29.1-345 of the Code of Virginia, the department shall

presume that the correct depth of water at mean high tide at a given location as required by said statute is that obtained by using the most recent "Tide Tables" and adjustments thereto published by the National Ocean Survey, National Oceanic and Atmospheric Administration of the United States Department of Commerce. Any person requesting the department to use an alternative method of calculating such depth, at a given location, shall bear the burden and expense of establishing to the satisfaction of the department, that such depth is in fact other than that obtained as described therein.

§ 3. Violation of federal law or regulation pertaining to migratory game birds.

A violation of federal statute or a regulation based thereunder as relates to the taking, capturing, killing or attempting to take, capture or kill any migratory game bird shall constitute a violation of this section.

§ 4. Distance between floating blind and stationary blind.

It shall be unlawful to tie out or anchor a mat blind, or other floating blind, within 500 yards of a stationary shore or stationary water blind on which license has been paid for the season, except by the consent of the owner of such stationary shore blind or water blind, whether the same be occupied for shooting or not.

§ 5. Blinds in the City of Virginia Beach.

In the City of Virginia Beach, except for blinds and floating blind sites which may be erected by the department, no new blinds shall be erected and no licenses shall be issued for the erection of new shore or stationary water blinds upon the shores or in the public waters, nor may floating or mat blinds anchor within 500 yards of the shores of lands or blinds owned or controlled by the department except floating blinds may be stationed at sites designated by the department. Blinds and floating blind sites erected by the department shall not be licensed, but there shall be a metal plate affixed to such blinds for identification purposes.

§ 6. Blinds adjacent to Chickahominy Wildlife Management Area.

No license shall be issued for stationary waterfowl blinds on Morris Creek and the Chickahominy River in Charles City County adjacent to the Chickahominy Wildlife Management Area.

§ 7. Blinds on Game Farm Marsh Wildlife Management Area.

No stationary waterfowl blinds shall be licensed, and no stationary or floating blind license shall be required for hunting waterfowl on the Game Farm Marsh Wildlife Management Area, or in, or on, the public waters of the Chickahominy River, north of the New Kent-Charles City County line adjacent thereto; provided, however, that this

Proposed Regulations

section shall not abridge the privileges prescribed for landowners, and their lessees and permittees, in §§ 29.1-344 and 29.1-347 of the Code of Virginia.

§ 8. Blinds adjacent to Ragged Island Wildlife Management Area.

No license shall be issued for stationary waterfowl blinds in the adjacent waters to mid-channel of Kings Creek and Ragged Island Creek or in the adjacent waters of the James River and Batten Bay within 1000 yards of the Ragged Island Wildlife Management Area in Isle of Wight County.

§ 9. Blinds prohibited in sections of Accomack County.

The waters adjacent to the Free School and Michael marshes in the vicinity of the Town of Saxis in Accomack County shall be closed to stake and floating waterfowl blinds starting from a stake on the north shore of Back Creek S 230° 37' E for a distance of 7560' more or less to a point 1500' more or less west of South Point, then S 58° 00' E for a distance of 9380' more or less to the center of the mouth of Cattail Creek. The waters of Messongo Creek shall be closed to stake and floating blinds from the above-described line to Mill Creek. The waters of Cattail Creek shall be closed to stake and floating blinds from its mouth following the center of the creek to the southeast corner stake of Michael's marsh.

§ 10. Disturbing waterfowl on New River within boundaries of Radford Army Ammunition Plant.

It shall be unlawful to take, attempt to take or pursue waterfowl on that portion of the New River that lies entirely within the boundaries of Radford Army Ammunition Plant located in the counties of Montgomery and Pulaski.

§ 11. Disturbing, taking, etc., waterfowl within Mason Neck State Park.

It shall be unlawful to take, attempt to take, pursue or disturb waterfowl on those waters within the boundaries of Mason Neck State Park located in Fairfax County, known as Kane Creek Water Fowl Refuge.

§ 12. Repealed.

§ 13. Repealed.

§ 14. Special sea duck season area.

Whenever federal migratory waterfowl regulations permit a special season for taking scoter, eider and old-squaw ducks within an area designated as a special sea duck hunting area under regulations adopted by the board, such special sea duck hunting area shall be designated and delineated as follows:

The ocean waters of the City of Virginia Beach below

the Chesapeake Bay Bridge Tunnel, seaward of U.S. Route 60 and of Back Bay and its tributaries, the tidal waters of Northampton and Accomack counties, and the Chesapeake Bay and each of its tributaries up to the first highway bridge, but exclusive of that portion of the Chesapeake Bay known generally as Pocomoke Sound bounded by a line beginning on the western shore of Smiths Island and extending southeastward to the southwest shore of the hook of Tangier Island, and thence extending easterly to the southern tip of Parkers Marsh at the mouth of Onancock Creek. The highways with bridges making up the boundary are: Route No. 644 and No. 200 in Northumberland County, Route No. 3 from Kilmarnock in Lancaster County to Middlesex County, Route No. 3 in Middlesex and Mathews counties, Route No. 3 and No. 17 in Gloucester County to York County, Route No. 17 in York County, and Route No. 17 and Interstate No. 64 in Newport News and Hampton. Hunting of waterfowl within 800 yards of any shore, island or emergent vegetation is prohibited during special sea duck season.

§ 15. Bonus scaup area.

Whenever federal migratory waterfowl regulations permit a special season for taking scaup ducks outside the regular duck hunting season, or permit an extra bag limit on scaup ducks during the regular duck hunting season, within an area designated under regulations adopted by the board, the area to which such special season or extra bag limit shall apply shall be designated and delineated as follows:

The tidal waters of Accomack and Northampton counties; the waters of Virginia Beach seaward of, but not including, Back Bay and all of its tributaries, and seaward of Route 60; Virginia waters bordering on and tributary to the Potomac River below the mouth of Chopawamsic Creek at Quantico Marine Reservation, but in no case above any highway bridge across such tributaries; and the waters of Chesapeake Bay and its tributaries upstream to Routes 644 and 200 in Northumberland County, Route 360 on the Rappahannock River, Route 3 on the Piankatank River, Route 33 of the York River, a line between Jamestown ferry dock and Scotland ferry dock on the James River, Route 17 on Chuckatuck Creek and the Nansemond River, Routes 17 and 58 on the Elizabeth River, and Route 337 on the Lafayette River.

§ 16. Repealed.

§ 17. Repealed.

§ 18. Steel shot required for waterfowl hunting effective ~~1991-1992~~ 1994-95 .

Effective with the ~~1991-92~~ 1994-95 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese (*including brant*), swans or coots while possessing shotshells loaded with shot other than steel ~~shot~~ or bismuth-tin shot if such shot is permissible under federal migratory waterfowl laws .

Proposed Regulations

§ 19. Great Hunting Creek and Dyke Marsh; no hunting area established.

The waters of the Great Hunting Creek embayment within the City of Alexandria, and the waters of the Potomac River in Fairfax County north of Dyke Marsh and south of the City of Alexandria and between the shore and a line 1,000 feet from the Maryland state line, are declared a no hunting area. It shall be unlawful to hunt migratory waterfowl within this no-hunting area (although waterfowl that have been wounded elsewhere may be pursued into this area), and no stationary or floating blind shall be located within this no-hunting area.

§ 20. Great Hunting Creek and Dyke Marsh; Floating blind area.

No license shall be issued for stationary waterfowl blinds on the Potomac River in Fairfax County adjacent to National Park Service Lands in the Great Hunting Creek and Dyke Marsh areas. Waterfowl hunting in Commonwealth waters adjacent to the above mentioned lands shall be by licensed floating blind only. Such floating blinds must be attached securely to a post or buoy affixed to the river bottom by the department, and are limited to one floating blind per post at any time. Hunters in licensed floating blinds may hunt from designated locations during legal shooting hours on Thanksgiving Day and on Mondays, Wednesdays and Fridays during the open seasons for hunting waterfowl in Virginia. Blind sites shall be occupied on a daily first-come basis, such sites to be occupied no earlier than 4 a.m. or later than one-half hour after sunset. All such blinds shall be removed each day.

V.A.R. Doc. No. R95-12; Filed September 14, 1994, 10:05 a.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: VR 380-01-00. **Guidelines for Public Participation in the Development and Promulgation of Regulations Guidelines .**

Statutory Authority: §§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Public Hearing Date: October 21, 1994 - 10 a.m.
Written comments may be submitted until December 4, 1994.
(See Calendar of Events section for additional information)

Basis: Section 9-6.14:7.1 of the Code of Virginia requires each agency of the Commonwealth to initiate guidelines to administer the agency's policy of public participation in the regulatory process. Section 23-9.6:1 of the Code of Virginia gives the council statutory authority to promulgate a number of regulations and guidelines that the agency is responsible for administering. The Public Participation

Guidelines ensure that the public and interested parties can be involved as the agency promulgates, amends or repeals these regulations.

Purpose: In developing any proposed new or revised regulation, or when considering the repeal of an existing regulation, the State Council of Higher Education will solicit comments from officials of institutions of higher education, appropriate organizations and associations, and interested citizens. These guidelines outline the procedures to be used by the council in encouraging the participation of all interested persons in the formation and development of regulatory proposals under Virginia's Administrative Process Act.

These guidelines are based on the principle that interested citizens have both a right and a responsibility to take part in the governmental process, that government functions best when it provides for participation by the public, and that a state agency should impose only those requirements which are absolutely necessary to implement the agency's statutory responsibilities.

The guidelines shall apply to all regulations proposed or promulgated by the council which are subject to the Administrative Process Act.

Substance: These amended guidelines set out methods that the agency uses for the identification and notification of interested parties, and specific means of seeking input from interested persons or groups which the agency intends to use. They lay out the responsibilities of both the agency and any others who wish to participate in the process and the specific requirements at each step in the process. In addition, the guidelines set out the agency's responsibility in making the regulations available and open to the public.

The specific amendments proposed add to the current regulations a larger pool of interested parties that may be polled prior to a change in any agency regulation, the option to petition the agency for regulatory action, and a list of those parties to be notified if the agency plans to take any regulatory action. In addition, the amendments lay out more clearly the agency's continued commitment to public involvement in its regulatory process.

Issues: The current regulations contain some unclear language and are not fully in compliance with the Virginia Register Act, Administrative Process Act and Chapter 898 of the 1993 Acts of Assembly. In addition, the current regulations do not make entirely clear the agency's commitment to public participation in its regulatory process and how the agency will seek to fulfill that commitment.

By amending the current regulation the advantage for the public will be greater access to the agency's regulatory process and more clarity in how that process works and how the public has access to that process. The advantage to the agency will be that the regulation will be in

Proposed Regulations

compliance with current law and the agency's regulatory process will be more open to the public. The advantage to the state will be increased opportunities for the public to participate in the agency's regulatory process and thereby make the agency (and the state) more responsive to the public's needs. The agency foresees no disadvantages to the public, agency or state resulting from the regulation's amendments.

Impact: The persons affected by the change to the current regulations will be any citizen who has an interest in participating in the agency's regulatory process. This includes, but is not limited to, the presidents of the colleges and universities, faculty, financial aid representatives, fiscal officers of the institutions, other institutional personnel, and the agencies other constituencies who are interested in higher education in the Commonwealth. There is no way to project the actual number of those affected, but the list of those to receive notice of council regulatory action will be more than 1,000.

There should be no additional financial impact for the agency with the amendments to the current regulations. The notices of regulatory action will be included as part of mailings that already are sent to the agency's various constituencies. In addition, there should be no fiscal impact on the public for their compliance with the amended regulations. The agency foresees no localities particularly affected by this regulation.

Summary:

The amended regulations administer the agency's policy on public participation in its regulatory promulgation, amendment, and repeal processes. These regulations set out the procedure that the agency follows in the regulatory process. In addition, it lays out who the agency will solicit comments from when considering regulatory action and how and when the public may participate in the agency's process.

The amended regulations also seek to clear up some unclear language in the current Public Participation Guidelines and to put them in full compliance with the Virginia Register Act, Administrative Process Act and Chapter 898 of the 1993 Acts of Assembly.

These guidelines shall apply to all regulations proposed or promulgated by the council which are subject to the Administrative Process Act.

VR 380-01-00. Public Participation Guidelines.

§ 1. Purpose.

In developing any proposed new or revised regulation, or when considering the repeal of an existing regulation, the State Council of Higher Education for Virginia (~~the Council~~), hereafter the council, will solicit comments from officials of institutions of higher education,

appropriate organizations and associations, and interested citizens. These guidelines outline the procedures to be used by the council in encouraging the participation of all interested persons in the formation and development of regulatory proposals under Virginia's Administrative Process Act.

The guidelines are based on the principle that interested citizens have both a right and a responsibility to take part in the governmental process, that government functions best when it provides for participation by the public, and that a state agency should impose only those requirements which are absolutely necessary to implement the agency's statutory responsibilities.

The guidelines shall apply to all regulations proposed or promulgated by the council which are subject to the Administrative Process Act.

§ 2. Initiation of regulations and identification of interested parties .

The council may initiate proposed regulations at any time. *A petition for a new regulation for amendment or addition, or repeal of any existing regulation may be filed by any department of government, group, or individual. The council shall respond to that request within 180 days.*

§ 3. Identification and notification of interested parties.

A. Prior to the development of any regulations, however, the council shall identify institutional officials, persons, and groups who might be interested in or affected by the regulations to be proposed. Because of the nature of the council's mission, there are certain regulatory functions in which all citizens may have an interest. In these instances, the public at large will be regarded as the interested party. At other times, when proposed regulations will be more limited in its effect, the council will identify certain institutional officials, individuals, groups, associations, and organizations that have an interest in the matter to be considered. *The council, in identifying parties interested in proposed regulations, will use the following:*

- 1. List of advisory and ad hoc committees to the council.*
- 2. A listing of persons who request to be placed on a mailing list maintained by the council.*
- 3. A listing of persons who previously participated in public proceedings concerning related subjects or issues.*
- 4. The council's complete mailing list.*

The council's mailing list will be revised every two years to ensure that it is current.

B. As a general rule, the council will notify the president or chancellor of each state-supported college and

Proposed Regulations

university in Virginia when regulations are to be developed. The president or chancellor of each independent college and university in Virginia will be notified of any regulations to be developed pertaining to the Tuition Assistance Grant Program or to any other matter which might directly or indirectly affect private institutions. In addition, the council will notify all persons whose names are included on the council's mailing list, including institutional officials and private citizens when regulations are to be developed.

The council's mailing list will be revised at least every other year to ensure that it is current.

The council will notify all members of advisory and ad hoc committees of the intent to initiate regulations. The council will seek the input of the advisory committees or consider such input offered by the committees in the event of rule making.

§ 3. Notification of interested parties.

§ 4. Notice of Intended Regulatory Action.

A. ~~Notice of intent.~~ Prior to the development of any regulations, the council shall prepare a Notice of ~~Intent to Develop Regulations~~ *Intended Regulatory Action* (notice). The notice will contain a brief and concise statement regarding the purpose of the regulations and invite all interested persons to provide written comments within 30 days of the publication of the notice in The Virginia Register of Regulations. At least two weeks prior to its publication date, the notice shall be submitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations. On or about the publication date of the notice in The Virginia Register of Regulations, the council, using its mailing list as described in § 2.3, will directly notify persons of its intent to develop the regulations.

B. ~~Proposal of regulations.~~ After consideration of all public comments received within the 30-day period, the council shall prepare the proposed draft regulations. All drafts of the regulations will be labeled with word "draft" and dated.

§ 4.5. Public participation.

The council shall submit a copy of the draft regulations to the Registrar of Regulations, who will publish a hearing notice in The Virginia Register of Regulations and in appropriate newspapers identified by the council at least 60 days prior to the public hearing. A copy of the draft regulations will be provided to all persons who responded to the Notice of ~~Intent~~ *Intended Regulatory Action*. The council will also send a copy of the draft regulations to all other parties, including individuals on the council's mailing list, who have been identified during the development process as either having an interest in or potentially being affected by the proposed regulations.

In any matter considered to be of interest to the general public, the council will prepare a news release and distribute it to daily and weekly newspapers, radio and television stations, and news wire services serving Virginia. The news release will include information about the subject matter and the purpose of the regulations under consideration and will announce the opportunity for public comment, including the time, date, and place of the scheduled public hearing.

Copies of draft regulations will be available for public inspection at the council's office in Richmond at the address contained in § 7.8 of these guidelines and at the office of the Registrar of Regulations.

During the 60-day public participation period, the following persons and officials will have an opportunity to review and comment on the proposed regulations:

1. The public;
2. The Governor;
3. The General Assembly;
4. The Secretary of Education; and
5. The Attorney General.

The council will hold a public hearing on any proposed regulations as prescribed in the hearing notice published in The Virginia Register of Regulations. The public hearing normally will be held in Richmond in the council's conference room. The council may hold the hearing in another location if the proposed regulations are of special interest to institutions or citizens in a particular geographic area. If determined desirable, the council may hold a public hearing on proposed regulations in several locations throughout the Commonwealth.

To the extent possible, a hearing will be conducted at a time which is generally convenient for officials, persons, and organizations most directly affected by the matter under consideration.

The public will be offered an opportunity to make oral or written comment with regard to any proposed regulations. Persons addressing the proposed regulations at a public hearing will be encouraged to provide written copies of their statements.

At the council's discretion, the record of proceedings may be held open to provide additional time for receiving written comments following the conclusion of the public hearing.

§ 5.6. Emergency regulations.

From time to time, it may be necessary to enact emergency regulations which do not allow the normal 60-day period for public comment. The Administrative Process Act recognizes this possibility and permits enactment of emergency regulations with the approval of the Governor. In these instances, the emergency regulations will become effective when filed with the

Proposed Regulations

Registrar of Regulations (unless a later effective date is given). The emergency regulations will be published in the next edition of The Virginia Register of Regulations.

§ 6: 7. Final action on proposed regulations

Following the 60-day public participation period and the public hearing, the council shall take final action to adopt proposed regulations. After the council finally has acted, the action will be reported in a general news release and announced in The Virginia Register of Regulations. Under § 9-6.14:9 of the Code of Virginia, regulations cannot become operative until 30 days after the final regulations, as approved by the particular board, have been published in The Virginia Register of Regulations.

§ 7: 8. Copies of regulations.

The council will print copies of adopted regulations.

Copies of adopted regulations may be obtained by writing the Associate Director, State Council of Higher Education for Virginia, James Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219.

V.A.R. Doc. No. R95-11; Filed September 14, 1994, 10:11 a.m.

REAL ESTATE BOARD

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-2105 of the Code of Virginia.

Public Hearing Date: October 13, 1994 - 1 p.m.

Written comments may be submitted until December 5, 1994.

(See Calendar of Events section for additional information)

Basis: Pursuant to § 54.1-201, which provides regulatory boards with the authority to promulgate necessary regulations for minimum standards to practice the profession, and § 54.1-2105 and in accordance with Chapter 1.1:1 (§ 9-6.14:1, et seq.) of Title 9 of the Code of Virginia, the Real Estate Board proposes to amend, delete and clarify its existing regulations. The Office of the Attorney General has provided assurance that the regulations are consistent with Virginia law and do not conflict with the Constitution of Virginia or the Constitution of the United States.

Purpose: The Real Estate Board is proposing to amend its existing regulations governing the licensure and practice of real estate salespersons, brokers and entities to provide differentiation in areas of practice between sales and leasing; to eliminate regulations which deal with rental location agents, a certification category which was deregulated by statute; to allow the use by licensees of

professional names once registered with the board; and to provide clarification of language and elimination of duplicated or unnecessary regulations. The regulations are necessary to ensure the competence of the regulated profession and the protection of the public health, safety and welfare.

Also, the proposed regulations will adjust fees to assure that the variance between revenues and expenditures for the Real Estate Board does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

Issues, Substance and Estimated Impact: A summary of the changes and their estimated impact is as follows. Beyond the specific impacts noted below no potential disadvantages to the regulated entities or the public are anticipated nor are any localities anticipated to be affected by the proposed regulations.

1. Section 1.1 provides for a clarification to current defined terms used throughout the regulations. There is no estimated impact.

2. Section 2.1 is deleted as it is repetitive of statute. No estimated impact.

3. Sections 2.1 B 2, 2.1 B 3 and 2.1 B 4 delete certain information required for applications which is no longer deemed necessary for regulation. The impact will actually lessen the time required to complete an application by a real estate business.

4. Sections 2.2 4 and 2.5 A 7 add language by which the board may deny an applicant a real estate license for what is referred to as a "deferred adjudication." In essence the court enters a ruling that states that the evidence is sufficient to convict the defendant but rather than go through a lengthy court proceeding a "deferred adjudication" is entered whereby the defendant is sentenced to probation or other terms; a guilty verdict or conviction is not actually entered. The amendment will provide the board more discretion in dealing with applicants with such criminal offenses. The estimated impact is that perhaps one of 100 applicants with criminal convictions will be denied a license.

5. Section 2.3 B is deleted as it was found to not equally treat Virginia applicants who had previously held a license and individuals holding current licenses in other jurisdictions and applying to Virginia. The estimated impact is negligible since less than five applicants per year qualify under this provision and they will be able to apply for the lower form of licensure of a sales license.

6. Section 2.5 B 1 allows a reciprocal applicant to have earned experience in more than one jurisdiction prior to applying for a Virginia license. The estimated impact is that reciprocal applicants will now find it

Proposed Regulations

easier to qualify for Virginia licensure at both the sales and broker levels.

7. Sections 2.7 and 2.8 are deleted as the registration of rental location agents was repealed by statute effective July 1, 1992. No estimated impact.

8. Sections 2.7, 3.4, 4.1 B, 7.3 A and 7.3 B propose changes to the current fee structure in order to ensure revenues and expenses are balanced and establish a new fee for bad checks which cost is currently absorbed by the board and the department.

Proposed Changes in Real Estate Fee Schedule

<u>Fee Type</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Change in Fee</u>
<u>Original Application</u>			
Sales by exam	\$50	\$100	+ \$50
Sales by reciprocity	\$75	\$125	+ \$50
Broker by exam	\$70	\$115	+ \$45
Broker by reciprocity	\$100	\$150	+ \$50
Broker concurrent	\$60	\$100	+ \$40
Firm	\$100	\$150	+ \$50
Branch Office	\$50	\$75	+ \$25
Transfer	\$35	\$50	+ \$15
Activate	\$35	\$50	+ \$15
Proprietary School	\$100	\$150	+ \$50
<u>Renewal</u>			
Sales	\$50	\$100	+ \$50
Broker	\$70	\$115	+ \$45
Concurrent Broker	\$70	\$115	+ \$45
Firm	\$100	\$150	+ \$50
Branch Office	\$50	\$75	+ \$25
Proprietary School	\$50	\$150	+ \$100
<u>Reinstatement</u>			
Sales	\$200	\$250	+ \$50
Brokers	\$200	\$250	+ \$50
Concurrent Broker	\$200	\$250	+ \$50
Firm	\$200	\$250	+ \$50
Branch Office	\$200	\$250	+ \$50
<u>Miscellaneous Charges</u>			
Bad Check	\$0	\$25	+ \$25
Projected Expenditures, 1992-94 Biennium	5,133,515		

Projected Revenues, 1992-94 Biennium	4,609,049
Projected revenue balance @ 6/30/94 (carryforward) (524,466)
<u>Under New Fee Structure</u>	
Projected Expenditures, 1994-96 Biennium	6,170,771
Projected Revenues, 1994-96 Biennium	7,037,635
Biennium Surplus/(Shortfall)	866,864
Cumulative Projected Revenue Balance @ 6/30/96	342,398
Projected % Revenue Balance @ 6/30/96	5.91%

9. Sections 3.2 C and 4.1 D are added to allow the board to deny renewal of a license if the licensee owes money to the Commonwealth imposed by board orders and decisions. The board currently has a number of licensees actively practicing who owe such moneys. The estimated impact is that approximately three licensees per year will be denied renewal due to these debts to the Commonwealth and that our collection of such funds may improve as a result.

10. Section 5.1 C eliminates a portion of the regulation having to do with easy access of a broker as it has created confusion to licensees who believe that the supervisor does not have to be on site. There is no change to the board application of the regulation; this is simply meant to clarify the board's interpretation to the regulants and therefore no impact is anticipated.

11. Section 5.2 A is amended to allow licensees to use a name other than their legal name in performing licensed work. Previously, the regulation required licensees to use their legal name which in some instances created additional financial burdens in advertising and having to use a lengthy legal name rather than a nickname and last name, etc. The board has already allowed this by policy so by incorporating the policy to become regulation no further impact on staff is anticipated and licensees may realize a financial savings in advertising costs.

12. Sections 5.3 B 1 and 5.3 B 2 separate purchase and lease transactions to better define how escrow funds for those different transactions must be held and accounted for by licensees. The application of the regulations has not changed but should be much clearer to the licensees by the new wording. No impact is anticipated.

13. Section 6.3 is rewritten so that the sections do not appear inclusive of each other but may stand on their own. No estimated impact.

14. Section 6.5 is amended to require a licensee to surrender to the board any documents about a transaction in which the licensee is involved. The regulation places additional responsibility on all licensees to produce records but it is anticipated that

Proposed Regulations

the amendment will only impact less than 1.0% of the 400 disciplinary cases per year when the agency encounters uncooperative licensees. The board will benefit, however, in having increased authority to obtain records and therefore process these problem cases more rapidly. The response to an inquiry also provides the board with increased authority to have licensees respond to a complaint so the process may move more rapidly.

15. Section 6.10 3 is amended to clarify that all written offers, counteroffers and rejections must be provided to the principals to the transaction. The new language simply clarifies the board's interpretation of its current regulation so no impact is anticipated.

16. Section 6.11 1 is again a clarification of current board interpretation so no impact is anticipated.

17. Section 6.13 is deleted due to the deregulation of rental location agents in 1992.

18. Sections 6.12 6 and 6.13 are amended to clarify that the board will hold any licensee responsible for commingling funds and also that a principal broker who is ultimately responsible for all the operations of a real estate business will be held responsible for actions of his employees, such as an unlicensed bookkeeper. The regulation provides no new requirements over current board interpretation so no impact is anticipated.

19. Section 7.2 B 4 is deleted as it is found to be covered under old § 7.2 B 5 (now new § 7.2 B 4).

20. Section 7.2 C is added to repromulgate emergency regulations which were enacted due to a statutory provision allowing preclicensing courses in Virginia to be taken by the correspondence method under certain conditions. The regulation will permit individuals to complete courses by correspondence where courses are not geographically accessible to them. Under the emergency regulations approximately 20 potential applicants have availed themselves of this statutory provision and related regulations.

21. All other changes are minor language alterations which do not alter the meaning of the regulation but are meant to be clarifying in nature and therefore have no estimated impact.

Additional Information on Estimated Impact: The regulations affect approximately 59,000 individual licensees and approximately 3,000 business entities. The estimated and regulatory impact of the proposed changes to these regulations is estimated to be minimal and specific impacts are noted above. Costs of implementation of the revisions are estimated to be limited to the cost of printing and mailing the proposed and final regulations to those holding licenses and those on the public participation guidelines list. The total estimated cost for printing and distribution

of the regulations is \$40,000.

Summary:

The Virginia Real Estate Board is proposing to amend its existing regulations governing the licensure and practice of real estate salespersons, brokers and entities to provide differentiation in areas of practice between sales and leasing; to eliminate regulations which deal with rental location agents, a certification category which was deregulated by statute; to allow the use by licensees of professional names once registered with the board; and to provide clarification of language and elimination of duplicated or unnecessary regulations.

The proposed regulations will adjust fees to assure that the variance between revenues and expenditures for the Real Estate Board does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Actively engaged" means employment by or affiliation as an independent contractor with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 20 hours per week.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Firm" means any partnership, association, or corporation, other than a sole proprietorship, which is required by § 2.1 B of these regulations to obtain a separate brokerage firm license.

"Inactive status" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, not affiliated with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Licensee" means any person, partnership, association, or corporation holding a license issued by the Real Estate Board to act as a real estate broker or real estate salesperson, as defined, respectively, in §§ 54.1-2100 and

Proposed Regulations

54.1-2101 of the Code of Virginia.

"Principal" means a party who has engaged a real estate broker to perform real estate purchases, sales or rental services in a principal-agent relationship.

"Principal broker" means the individual broker who shall be designated by each firm to assure compliance with Title 54.1, Chapter 21 of the Code of Virginia, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"Principal to a transaction" means a party to a real estate transaction in the capacity of a seller, buyer, lessee or lessor ; ~~or having some other direct contractual connection to such transaction .~~

"Sole proprietor" means any individual broker , not a corporation, who is trading under the ~~broker's own~~ individual's name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Supervising broker" means the individual associate broker who shall be designated by the firm to supervise the activities of any one of its offices.

PART II. ENTRY.

§ 2.1. Necessity for license or registration.

~~It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Real Estate Board. No partnership, association or corporation shall be granted a license unless every member, and officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker. Refer to § 54.1-2106 of the Code of Virginia.~~

A. Individual license *Sole proprietor (principal broker owner)* .

A real estate broker's license shall not be issued to an

individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, or corporation.

Every sole proprietor (nonbroker owner), partnership, association, or corporation must secure a real estate license for its brokerage firm before transacting real estate business. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer of a corporation who is active in the brokerage business.

1. Sole proprietor (nonbroker owner). Each sole proprietor (nonbroker owner) acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of the owner; the name and style of the firm; and the address of the office of the real estate entity. Each change in the information contained on the certificate filed with the board must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

2. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue ; and the percentage or part of the partnership owned by each partner . Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

3. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue ; and the percentage or part of the association owned by each associate . Every change in the association must be

Proposed Regulations

evidenced by filing a new certificate with the board within 30 days after the change is effective.

4. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the address of the Virginia office of the firm; *and the corporation's place of business ; and the names and addresses of the members of the Board of Directors .*

a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.

C. Branch office license.

If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

§ 2.2. Qualifications for licensure.

Every applicant to the Real Estate Board for a sales person's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure. ~~See § 7-6 of these regulations for educational requirements for salespersons.~~

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant shall not have been convicted *or found guilty regardless of adjudication* in any jurisdiction *of the United States* of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony , *there being no appeal pending therefrom or the time for appeal having elapsed* . Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction *certified or authenticated* in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction *or guilt* .

5. The applicant shall be at least 18 years old.

6. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. Complete applications must be received within the 12-month period.

7. The applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board ~~and the testing service~~ with regard to conduct at the examination shall be grounds for denial of application.

§ 2.3. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in § 2.2 of these regulations:

A. ~~New broker applicants.~~

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.

2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 48 months immediately preceding application.

B. Previous brokers.

~~Any person who has previously held a Virginia real estate broker's license which license was not revoked, suspended or surrendered in connection with a disciplinary action may be issued a broker's license without first having to meet the experience requirements of § 2-3 A 2 of these regulations by:~~

1. Completing the current educational requirements of

Proposed Regulations

§ 54.1-2105 of the Code of Virginia; and

2. Passing a written examination provided by the board or by a testing service selected by the board.

§ 2.4. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one separate legal entity upon receipt of a concurrent license form and written affidavits stating that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant has been *is and will be* associated. Payment ~~will be~~ *is* required for each license.

§ 2.5. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.4 A 5 shall only be applicable for salesperson applicants:

A. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license without taking the Virginia written licensing examination by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have received the salesperson or broker's license by virtue of having passed in the jurisdiction of ~~original~~ licensure a written examination deemed to be substantially equivalent to the Virginia examination.
3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate license law and the regulations of the Real Estate Board.
4. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
5. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.
6. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to

safeguard the interests of the public.

7. The applicant shall not have been convicted or *found guilty regardless of adjudication* in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony *there being no appeal pending therefrom or the time for appeal having elapsed*. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of *nolo contendere* shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as *prima facie* evidence of such conviction *or guilt*.

B. Additional qualifications for reciprocal licensure as a broker.

An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.5 A 1 through A 4, A 6 and A 7.

1. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson ~~in the current jurisdiction of licensure~~ for at least 36 of the 48 months immediately prior to making application in Virginia. (See § 1.1 of these regulations for the definition of "actively engaged.")

2. The applicant ~~shall have met~~ *meets* broker educational requirements ~~that are~~ substantially equivalent to those required in Virginia.

§ 2.6. Activation of license.

A. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license.

B. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Further, any licensee who has not been actively licensed with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.

§ 2.7. Rental location agent.

An applicant for registration as a rental location agent

Proposed Regulations

need not be employed by or affiliated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet the following requirements:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent as defined in § 54.1-2102 of the Code of Virginia.
2. The applicant shall be at least 18 years old.
3. A rental location agent shall not be concurrently registered with more than one rental location agency.
4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of *nolo contendere* shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as *prima facie* evidence of such conviction.

§ 2.8. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm registration as a rental location agency.

B. Every rental location agency shall be supervised by a supervising rental location agent designated by the agency and registered with the board. The supervising rental location agent shall have responsibility for supervising the activities of the agency and all its registrants.

C. Each rental location agent registration shall be issued only to the agency where the agent is affiliated or employed. The supervising rental location agent shall keep such registrations in his custody and control for the duration of the agent's employment or association with that agency.

D. When any rental location agent is discharged or in any way terminates his employment or affiliation with an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the registration the date of termination, and shall sign the registration before returning it.

§ 2.9. 2.7. Application and registration fees.

A. All application fees for licenses and registrations are nonrefundable and the date of receipt by the board or its

agent is the date which will be used to determine whether or not it is on time.

A. B. Application fees for original licenses or registrations are as follows:

Salesperson by education and examination	\$ 50 100.00
Salesperson by reciprocity	\$ 75 125.00
Broker by education and examination	\$ 70 115.00
Broker by reciprocity	\$ 100 150.00
Broker concurrent license	\$ 60 100.00
Rental location agent	\$ 60
Rental location agency	\$100
Firm license	\$ 100 150.00
Branch office license	\$ 50 75.00
Transfer application	\$ 35 50.00
Activate application	\$ 35 50.00
Certification of licensure	\$ 35
<i>Bad check penalty</i>	\$25.00

B. C. Examination fees are as follows:

Registration for sales and brokers	\$68.50
Additional fee for phone or "fax" registrations	\$ 5.00

PART III. RENEWAL OF LICENSE /REGISTRATION .

§ 3.1. Renewal required.

Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license. Registrations issued under these regulations for rental location agents and rental location agencies shall expire every two years on June 30.

§ 3.2. Qualification for renewal ; *continuing education requirements* .

A. Continuing education requirements:

A. As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course of not

Proposed Regulations

less than ~~six~~ *eight* classroom hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete this course within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see § 2.6, Activation of license).

1. Schools and instructors shall be those as required under § 54.1-2105 of the Code of Virginia, and § 7.2 of these regulations.

2. The specific course content and curriculum shall be prescribed and approved by the board. The course curriculum shall be provided to each school in final form prior to the course offering and updated periodically to reflect recent developments in federal, state, and local real estate law, regulations and case decisions.

a. Continuing education courses offered in other jurisdictions must meet Virginia's statutory requirements and must conform to the board's specifically prescribed course content and curriculum as described in § 54.1-2105(2) of the Code of Virginia. Such courses must be approved in advance of offering to be certified for course credit for licensees.

b. Correspondence courses will not be approved for credit for continuing education.

3. ~~Attendance.~~ Credit for continuing education course completion is to be given only for attendance in its entirety. ~~It will be the instructor's responsibility to ensure compliance with this regulation.~~

4. ~~Certification of course completion.~~ It shall be *is* the responsibility of the licensee to provide continuing education course completion certification. Proof of course completion shall be made on a form prescribed by the board. Failure to provide course completion certification will result in the license not being renewed and ~~reinstatement will therefore be required~~

5. ~~Credit earned by instructors.~~ Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses. Verification of instructor compliance with the continuing education course required must be verified by the director or dean of the school at which the course was taught.

B. Applicants for renewal of a license shall meet the standards for entry as set forth in §§ 2.2 1, 2.2 3 and 2.2 4 of these regulations.

C. *The board may deny renewal of a license if the applicant has not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any*

accrued interest.

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices ~~shall~~ *does* not relieve the licensee ~~or the registrant~~ of the obligation to renew.

B. Prior to the expiration date shown on the license ~~or registration~~, each licensee ~~or registrant~~ desiring to renew ~~his the license or registration~~ shall return to the board the renewal application forms and the appropriate fee as outlined in § 3.4 of these regulations.

§ 3.4. Fees for renewal.

All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time, and are as follows:

Salesperson	\$ 50 100.00
Broker	\$ 70 115.00
Concurrent broker	\$ 70 115.00
Firm	\$ 100 150.00
Rental location agent	\$ 60
Rental location agency	\$100
Branch office	\$ 50 75.00

§ 3.5. Board discretion to deny renewal.

The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline an ~~extant~~ *current* licensee .

PART IV. REINSTATEMENT.

§ 4.1. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in §§ 3.2 A and 3.2 B of these regulations. Applicants for reinstatement of an active license must have completed the continuing education requirement in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

Proposed Regulations

B. If the renewal fee is not received by the board requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license or registration, a reinstatement fee of \$ 200 250 is required.

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After 12 months, reinstatement is not possible one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. While a license may be reinstated with additional fee for up to one year following expiration, any real estate activity conducted subsequent to the expiration shall constitute unlicensed activity and may be subject to prosecution under Chapter 1 of Title 54.1 of the Code of Virginia. The board may deny renewal of a license if the applicant has not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.

§ 4.2. Board discretion to deny reinstatement.

The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline an extant license a current licensee .

PART V. STANDARDS OF PRACTICE.

§ 5.1. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and
2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and shall be at the office or within easy access during regular business hours .

D. Every individual, partnership, association, or corporation acting as a real estate broker may display

signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty" or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.

E. Every principal broker shall have readily available in the firm's main place of business his the firm license, the principal broker license and the license of every salesperson and broker associated with or employed by the entity or firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees. The branch office license shall be displayed in the branch office location.

F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 days of the change of name or location, whereupon the board shall reissue the licenses for the unexpired period.

§ 5.2. Maintenance of licenses.

A. Salespersons and individual brokers shall at all times keep the board informed of their current home address and changes of address must be reported to the board in writing within 10 calendar days of such change . The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee shall notify the board in a written form acceptable to the board within 10 days of any change in the licensee's legal name in which they do business . A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use.

B. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.

C. Salespersons and brokers on inactive status shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.

D. When any salesperson or broker is discharged or in any way terminates his employment or affiliation or changes status as a principal or associate broker with a sole proprietorship or firm, it shall be the duty of the sol

proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination *or status change*. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.

F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, *change of license status*, change of licensee name or address such licenses must be returned with proper instruction to the board within 10 days.

§ 5.3. Maintenance and management of escrow accounts and financial records.

A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all ~~parties~~ *principals* to the transaction have agreed otherwise in writing. The principal broker shall ~~and the supervising broker may~~ be held responsible for these accounts. *The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts.* All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account will necessarily include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains

money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by § ~~6-12~~ *6.13* 5 of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by § ~~6-12~~ *6.13* 5 of these regulations.

B. Disbursement of funds from escrow accounts.

1. *a. Purchase transactions.* Upon acceptance of a contract (ratification), earnest money deposits and down payments received by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each principal to the transaction by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

b. Lease transactions: security deposits. Upon acceptance of a lease (ratification), security deposits required by the terms of the lease to be held by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the terms of the lease have been met. In the event the terms of the lease are not met, the principal or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the lease which established the

Proposed Regulations

deposit. In the latter event, prior to disbursement, the broker shall give written notice to each principal to the transaction by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

c. Lease transactions: rentals and escrow fund advances. All rentals and other money paid to the licensee in connection with the lease shall be placed in an escrow account and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable.

2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

b. Lease transactions. Unless otherwise agreed in writing by all principals to the lease, a licensee shall not be entitled to any part of the security deposit or to any other money paid to the licensee in connection with any real estate lease as part of the licensee's commission until the terms of the lease have been met.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals involved in the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Maintenance of financial records.

1. A complete record of financial transactions conducted under authority of the principal broker's Virginia license ~~or the rental location agent's registration~~ shall be maintained in the principal broker's place of business, or in a designated branch

office, ~~or in the office of the rental location agency~~. When the principal broker's office ~~or the main office of the rental location agency~~ is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. The principal broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § 5-3 of these regulations ~~this section~~. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

§ 5.4. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

A. Definitions.

The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements.

"Institutional advertising" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is identified, and a service mark is identified.

"Service mark" means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise.

Proposed Regulations

B. Every licensee is prohibited from advertising and marketing under the licensee's own name (except for sole proprietors trading under the principal broker's own name) in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The firm's licensed name must be clearly and legibly displayed on all display signs and other types of advertising and marketing.

C. ~~Notwithstanding the above restrictions, where a licensee is the owner of~~ *If a licensee advertises property which he owns or in which he has any ownership interest in the property being advertised, without using the services of a licensed real estate entity, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.*

D. Service marks and institutional advertising.

1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state, affirmatively, that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising: of specific property for sale or lease;

a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;

b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published;

c. Telephone directory advertisements disclosing that the licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall

disclose that the licensed firm or sole proprietorship is independently owned and operated.

PART VI. STANDARDS OF CONDUCT.

§ 6.1. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license or registration issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, or any regulation of the board.

§ 6.2. Disclosure of interest.

A. If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property through purchase or lease and the licensee is a party to the transaction, the agent must disclose that information to the owner in writing in the offer to purchase or lease.

B. A licensee selling or leasing property in which he has any interest must disclose that he is a real estate licensee *and he has an interest in the property* to any purchaser or lessor *lessee* in writing in the offer to purchase or lease, *the application, the offer to lease, or the lease, whichever occurs first.*

§ 6.3. Disclosure of agency relationships.

A. ~~All licensees shall promptly disclose their agency relationship(s) to all actual and prospective buyers and sellers and optioners and optionees in these ways:~~ 1. As soon as the licensee has substantive discussions about specific property(ies) with a principal or prospective principal, the licensee shall disclose to the principal or prospective principal the person(s) whom the licensee represents in a principal-agency relationship; ~~and~~ 2. ~~Further,~~ This disclosure shall be made in writing at the earliest practical time, but in any case not later than the time when specific real estate assistance is first provided. This written disclosure shall be acknowledged by the principals.

B. All licensees shall promptly disclose their agency relationships to all actual and prospective lessors and lessees ~~in the following way:~~ 1. A disclosure statement shall be included in writing in all applications for lease or in the lease itself, whichever occurs first; ~~and~~ 2. The disclosure requirement shall not apply to lessors and lessees in single or multi-family residential units on leases of less than two months.

§ 6.4. Licensees dealing on own account.

Proposed Regulations

Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

§ 6.5. Provision of records to the board.

A licensee of the Real Estate Board shall upon request ~~or demand, promptly~~ produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents.

§ 6.6. Response to inquiry of the board.

A licensee must respond to an inquiry by the board or its agents within 15 days.

§ ~~6.6:~~ 6.7. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in these regulations;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty *regardless of adjudication* of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical

injury;

7. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed; and

8. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct.

§ ~~6-7:~~ 6.8. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;
2. Acting for more than one party in a transaction without the written consent of all principals for whom the licensee acts;
3. Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s).

§ ~~6-8:~~ 6.9. Improper brokerage commission.

Actions resulting in an improper brokerage commission or fee include:

1. *Offering to pay or paying* a commission or other valuable consideration to any person for acts or services performed in violation of Title 54.1, Chapter 21 of the Code of Virginia, or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate ~~firm~~ entity licensed in this or another jurisdiction, or to any referral ~~firm~~ entity in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;
2. Notwithstanding the provisions of § 54.1-2102 of the Code of Virginia, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;
3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable

Proposed Regulations

consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor; *and*

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal.

§ 6.9. 6.10. Improper dealing.

Actions constituting improper dealing include:

1. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized agent;

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship;

5. Acting in the capacity of settlement agent in a real estate closing by a salesperson, except:

a. When the salesperson is under the direct supervision of the principal/supervising broker;

b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed;

c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar; or

d. When the settlement agent is a title insurance company or an agency thereof or a firm regularly engaged in the business of closing real estate transactions;

§ 6.10. 6.11. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee ~~or registrant~~ did in fact have at least that quantity for sale or rent;

2. Failing to disclose in a timely manner to a prospective purchaser/lessee, or seller/lessor, any material information related to the property *or the transaction* reasonably available to the licensee ~~or registrant~~ ;

3. Failing as a licensee to *tender* promptly ~~tender~~ to the buyer and seller every written offer ~~or~~ , every written counteroffer , *and every written rejection* to purchase obtained on the property involved;

4. Failing to include the complete terms and conditions of the real estate transaction in any *lease or offer to purchase or rent, including identification of all those holding any deposits* ;

5. *Failing to include in any application, lease, or offer to purchase identification of all those holding any deposits;*

5. 6. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in § 6.10 ~~5~~ *this subdivision 6* whether by renewal, deferment of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in § 6.10 ~~5~~ *subdivision 6 a of this section* a without the prior written consent of the principals to the transaction.

Proposed Regulations

~~6.~~ 7. Making any misrepresentation; and

~~7.~~ 8. Making a false promise through agents, salespersons, advertising, or other means.

§ ~~6.11.~~ 6.12. Delivery of instruments.

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each party principal to a document transaction, complete and legible copies of any written listings, offers to lease, offers to purchase, counteroffers, addenda, and ratified agreements, and other documentation required by the agreement;

2. Failing to provide in a timely manner to all parties principals to the transaction written notice of any material changes to the transaction;

3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and

4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

§ ~~6.12.~~ 6.13. Record keeping and escrow funds.

Actions constituting improper record keeping and maintenance of escrow funds include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing ratification, a complete and legible copy of each contract and, agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction available and accessible to the broker;

2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing or termination of a lease;

3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;

4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;

5. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association; and

6. Failure to deposit such escrow funds in an account or accounts designated to receive only such funds as required by these regulations (see § 5.3 A 1).

§ 6.13. Rental location agents.

Actions constituting improper activities of a rental location agent include:

1. Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of the service charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;

2. Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within seven working days prior to the referral; and

3. Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it.

§ 6.14. Principal and supervising broker's responsibility for acts of licensees and employees.

Any unlawful act or violation of any of the provisions of Title 54.1, Chapter 21 or of Title 36, Chapter 5 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal broker, supervising broker, or both, may not be

Proposed Regulations

cause for disciplinary action against the principal broker, supervising broker, or both, unless it appears to the satisfaction of the board that the principal broker, supervising broker, or both, knew or should have known of the unlawful act or violation.

§ 6.15. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals affiliated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to § 5.2 B.

PART VII. SCHOOLS.

§ 7.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

"Accredited colleges, universities and community colleges," as used in § 54.1-2105 2 of the Code of Virginia, means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

"Classroom hour/clock hour" means 50 minutes.

"Equivalent course" means any course encompassing the principles and practices of real estate basic educational curriculum or Virginia courses and approved by the board.

"Proprietary school" means a privately owned school, not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

§ 7.2. Proprietary school standards : educational environment; instructor qualifications; courses .

A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the following standards : provided in this section.

A. Educational environment.

B. All schools must be in a building conducive to academic purposes ; with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity . Facilities must meet necessary building code standards,

fire safety standards, and sanitation standards.

B. Instructor qualifications.

C. Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree in real estate, or in business with a concentration in real estate or a closely related field; or

2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years; or

3. Seven years of discipline-free active experience acquired in the real estate field in the past 10 years and an active broker's license; or

4. Approval may be granted to an active Virginia licensed attorney whose primary area of practice is real estate law; or

5. 4. Qualified experts in a specific field of real estate who will teach only in the area of their expertise. For example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicants expertise.

C. Courses.

D. All real estate courses must be acceptable to the board and are required to have a monitored, final written examination.

1. Prelicensing courses may be completed by correspondence if such courses are not available in a reasonable proximity to the applicant's residence or business location in the Commonwealth. Students seeking board approval to take prelicensing correspondence courses must make a written request to the board in which they specify that the classroom course(s) are not available in a reasonable geographical proximity to the applicant's residence or business location.

2. Those schools which propose to offer prelicensing correspondence courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board prior to offering the course(s) and supply the following information:

a. Course content. All Principles and Practices of

Proposed Regulations

Real Estate courses must include the 25 topic areas specified in § 7.6. All requests to offer broker courses must include a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

b. Name of the course's text and any research materials used for study assignments.

c. Description of any research assignments.

d. Copies of test or quizzes.

e. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with § 54.1-2105 of the Code of Virginia.

f. Information about record keeping for this type of course delivery.

3. Correspondence courses must have a final, monitored written examination which is administered at the school's main, or branch, site.

⊖ E. All schools must establish and maintain a record for each student. The record shall include: the student's name and address; the course name and clock hours attended; and the date of successful completion. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

§ 7.3. Fees.

A. The application fee for original certificate for a proprietary school shall be \$ ~~100~~ 150 .

B. The renewal fee for proprietary school certificates expiring annually on June 30 shall be \$ ~~50~~ 150 .

C. The board in its discretion may deny renewal of a certificate. Upon such denial, the certificate holder may request that a hearing be held.

§ 7.4. Posting school certificate of approval and registration.

School certificates of approval and registration, and instructor certificates must be displayed in each approved school facility in a conspicuous place readily accessible to the public.

§ 7.5. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

1. The school, instructors, or courses no longer meet

the standards established by the board.

2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.

5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

§ 7.6. Course content of real estate principles and practices.

The following shall be included in the four-semester-hour or seven six -quarter-hour course which shall not have less than 60 classroom hours:

1. Economy and social impact of real estate
2. Real estate market and analysis
3. Property rights
4. Contracts
5. Deeds
6. Mortgages and deeds of trust
7. Types of mortgages
8. Leases
9. Liens
10. Home ownership
11. Real property and title insurance
12. Investment
13. Taxes in real estate
14. Real estate financing
15. Brokerage and agency contract responsibilities
16. Real estate marketing

Proposed Regulations

17. Real property management
18. Search, examination, and registration of title
19. Title closing
20. Appraisal of residential and income producing property
21. Planning subdivision developments and condominiums
22. Regulatory statutes
23. Housing legislation
24. Fair housing statutes
25. Real Estate Board regulations

General Instructions for Completion of All Real Estate Application Forms
Real Estate Salesperson Application
Real Estate Broker Application
Real Estate Concurrent Broker Application (RE10 - 10/2/89)
Real Estate Business License Application
Real Estate Branch Office Application
Real Estate Activate Application (VREB/FM 2; Dec. 93)
Real Estate Transfer Application (VREB/FM 1)

V.A.R. Doc. No. R95-10; Filed September 13, 1994, 11:58 a.m.

§ 7.7. Related subjects.

"Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 7.8. Required specific course.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 7.9. Credit for broker-related courses.

No more than three semester hours or ~~three~~ *four* quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 7.10. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval. ~~In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.~~

* * *

NOTICE: The forms used in administering the Virginia Real Estate Board Licensing Regulations are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, 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.

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision HH – Rule 5-6, Regulated Medical Waste Incinerators).

SUSPENSION OF EFFECTIVE DATE

The State Air Pollution Control Board is **suspending the effective date** of Revision HH of the Regulations for the Control and Abatement of Air Pollution relating to regulated medical waste incinerators. The final regulation was published in 10:23 VA.R. 5706-5713 August 8, 1994. Due to the suspension, the regulation will not become effective on September 15, 1994, as published.

This suspension is in response to requests from more than 25 persons for an opportunity for oral and written submittals on the changes to the regulation in accordance with § 9-6.14:7.1 J of the Administrative Process Act. The board will seek additional public comment on the changes made to the regulation and will reconsider the adoption of Revision HH at a future meeting. The suspension will remain in effect until the board has acted and refiled the regulation with the Registrar of Regulations.

VA.R. Doc. No. R95-9; Filed September 9, 1994, 4:50 p.m.

MILK COMMISSION

REGISTRAR'S NOTICE: The following regulation was filed by description with the Registrar of Regulations in accordance with § 2.3 of the Virginia Code Commission Regulations Implementing the Virginia Register Act. Section 2.3 of the Virginia Code Commission Regulations allow the Registrar to authorize the filing of a regulatory document by description in lieu of filing the entire text pursuant to criteria identified in that section.

Title of Regulation: VR 475-02-02. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry (§ 8 D 4 1).

Administrative Process Act Exemption: § 9-6.14:4.1 A 7 of the Code of Virginia.

Virginia Code Commission Exemption from Filing in Full: § 2.3 1.

Effective Date: September 13, 1994.

Description:

The order provides for a method of settlement for base deliveries at intervals other than those provided for in subdivisions D 1 and D 2 of § 8 of the regulations to two specified licensed processing general distributors.

Document available for public inspection at the following location:

State Milk Commission
200 North Ninth Street, Suite 1015
Richmond, Virginia 23219-3414

Copies may be obtained from:

Edward C. Wilson, Jr., Regulatory Coordinator
State Milk Commission
200 North Ninth Street, Suite 1015
Richmond, Virginia 23219-3414

VA.R. Doc. R95-14; Filed September 13, 1994, 4:33 p.m.

* * * * *

REGISTRAR'S NOTICE: The Milk Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 7 of the Code of Virginia, which exempts the Milk Commission in promulgating regulations regarding (i) producers' license and base; (ii) classification and allocation of milk, computation sales and shrinkage; and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

Title of Regulation: VR 475-02-02. Rules and Regulations for the Control, Regulation, and Supervision of the Milk Industry in Virginia.

Statutory Authority: § 3.1-430 of the Code of Virginia.

Effective Date: September 1, 1983.

Summary:

The order provides an exemption to the acceptance of base milk assignments by licensed general distributors for Class I sales of packaged ultra high temperature (UHT) pasteurized milk products in commission markets.

Agency Contact: Copies of this regulation may be obtained from Edward C. Wilson, Jr., Regulatory Coordinator, State Milk Commission, 200 North Ninth Street, Suite 1015, Richmond, Virginia 23219, telephone (804) 786-2013.

VR 475-02-02. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

§ 1. Definitions.

Whenever used in these rules and regulations, unless otherwise expressly stated and unless the context or subject matter clearly indicates otherwise:

"Affiliate" means any person or subsidiary thereof, who has, either directly or indirectly, actual or legal control, over a distributor whether by stock ownership or in any other manner.

"Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers, followed by aseptic hermetical sealing, with a presterilized closure, in an atmosphere free from microorganisms.

"Assigned daily base" means the lesser of:

1. The monthly pounds of base assigned to a licensed general distributor divided by the number of days in the month, or
2. The monthly pounds of Class I allocated to the assigned producers' base deliveries, plus 8% divided by the number of days in the month.

"Base-adjusting period" means that time period, specified by regulation, which is used to compare a licensed producer's average monthly production of merchantable milk during that period to his established base.

"Base-establishing period" means the number of delivery periods, specified by regulation, used to determine the productive capacity of a new producer for the purpose of allocating base.

"Books and records" means books, records, accounts, contracts, memoranda, documents, papers, correspondence or other data pertaining to the business of the person in question.

"Commission" means the State Milk Commission of Virginia.

"Consumer" means any person, other than a milk distributor who purchases milk for human consumption.

"Cooperative association" means any association of producers, incorporated and existing under the cooperative laws of the Commonwealth of Virginia or any such organization incorporated and existing under similar laws of other states, which are authorized to do business in Virginia, and which the commission determines to have full authority for the sale of milk and dairy products of its members.

"Daily base" means an amount determined by dividing a producer's established base by the number of days in the applicable month.

"Delivery period" means the calendar month.

"Distributor" means any of the following persons engaged in the business of distributing, marketing, or in any manner handling fluid milk, in whole or in part, in fluid form for consumption in this Commonwealth:

1. Persons, in respect of whether any such persons is a producer: (i) Who pasteurize or bottle or process milk into fluid milk; (ii) Who sell or market fluid milk at wholesale or retail (a) to hotels, restaurants, stores or other establishments for consumption on the premises, (b) to stores or other establishments for resale, or (c) to consumers; and (iii) Who operate stores or other establishments for the sale of fluid milk at retail for consumption off the premises.

2. Persons wherever located or operating, whether within or without the Commonwealth, who purchase, market or handle milk for resale as fluid milk in the state.

"Distributor milk" means any skim milk or butterfat contained in milk received from other licensed distributors, except producer-distributors.

"Fluid milk product" means all milk, skim milk (including concentrated and reconstituted skim milk), butterfat, milk drinks (plain or flavored), cream (except frozen cream), and any mixture of skim milk and cream (except ice milk mix, ice cream mix, frozen dessert mix, and eggnog) in fluid form.

"Health authorities" include the State Board of Health, the State Department of Agriculture and Consumer Services and the local health authorities.

"Licensee" means a licensed milk distributor or milk producer.

"Market" means any county, city, town or village of the Commonwealth, or two or more counties, cities or towns or villages and surrounding territory designated by the commission as a natural marketing area.

"Market sales area" shall have the same meaning as the word "Market."

"Milk" means the clean lacteal secretion obtained by the complete milking of one or more healthy cows properly fed, housed and kept; including milk that is cooled, pasteurized, standardized or otherwise processed with a view of selling it as fluid milk, cream, buttermilk (either cultured or natural buttermilk, and including cultured whole milk in its several trade forms) and skimmed milk; the term excludes the lacteal secretion of one or more dairy animals where lacteal secretion is sold or intended

Final Regulations

to be sold for any other purpose.

"Milk commission base" means the number of pounds established by the commission in relation to the total average monthly pounds of Class I sales.

"New producer" means a person who has met the requirements of the health authorities having jurisdiction and has been entered in a base-establishing period by the commission.

"Other source milk" means all skim milk and butterfat contained in or represented by:

1. Receipts (including any Class II products produced in the distributor's own plant in a prior month) which are reprocessed, converted, or combined with a fluid milk product during the month.
2. Receipts from producer-distributors.
3. Receipts from any source other than licensed producers or other licensed distributors.

"Person" means any person, firm, corporation or association.

"Producer" means any person, irrespective of whether any such person is also a distributor, who produces milk for sale as fluid milk and who has been licensed by the commission.

"Producer-distributor" means a distributor who handles only milk produced by himself.

"Producer milk" means any skim milk or butterfat contained in milk received directly from producers or for the account of producers as defined in this section.

"Producing unit" means a Grade "A" dairy farm that has been permitted by the authorities having jurisdiction to sell Grade "A" raw milk for pasteurization.

"Sanitary regulations" include all laws and ordinances relating to the production, handling, transportation, distribution and sale of milk and, so far as applicable thereto, the state sanitary code and lawful regulations adopted by the dairy and food division, or by the board of health of any county or municipality.

"Subsidiary" means any person, of or over whom or which a distributor or an affiliate of a distributor has, or several distributors collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

§ 2. Application of these rules and regulations.

These rules and regulations shall apply to all markets unless otherwise expressly stated. However, they shall not apply to any person in any market keeping two cows or

less on his premises where such person sells only that milk produced by such cows and delivery thereof is made on his premises in containers furnished by the purchaser.

§ 3. Establishment of market sales areas.

The following market sales areas are established and shall include the geographical territories indicated:

1. "Eastern Virginia sales area" means the territory included within the boundaries of the counties of Accomack, Amelia, Brunswick, Buckingham, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, and York; as well as the territory included in the cities of Chesapeake, Colonial Heights, Franklin, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, South Boston, Suffolk, Virginia Beach and Williamsburg.

2. "Southwest Virginia sales area" means the territory included within the boundaries of the counties of Bland, Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington, and Wise; as well as the territory included in the cities of Bristol and Norton.

3. "Western Virginia sales area" means the territory included within the boundaries of the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Campbell, Carroll, Clarke, Craig, Culpeper, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Louisa, Madison, Montgomery, Nelson, Orange, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth, Spotsylvania, Stafford, Warren, and Wythe; as well as the territory included in the cities of Buena Vista, Charlottesville, Clifton Forge, Covington, Danville, Fredericksburg, Galax, Harrisonburg, Lexington, Lynchburg, Martinsville, Radford, Roanoke, Staunton, Waynesboro and Winchester.

§ 4. Producers' license and base; establishment.

This section shall apply to all established marketing areas and the combination of all markets shall be considered as a single unit for the purpose of this section.

A.1. Total milk commission base pounds shall be established in relation to the total average monthly pounds of Class I sales. Effective March 1 of each year the total base pounds established shall not exceed 108% of the average monthly pounds of Class I sales for the preceding calendar year, excluding the months of June, July, and August.

2. The total milk commission base pounds established for the months of June, July and August shall be determined by multiplying the pounds of total base computed pursuant to subdivision 1 above by a percentage; that percentage shall be determined by dividing the average monthly Class I sales for the months of June, July and August of the previous year by the average monthly pounds of Class I sales for the previous calendar year, excluding the months of June, July and August.

3. The total pounds of established base shall be issued equitably to producers licensed by the commission.

4. Only one license and base shall be issued to the owner or owners of each producing unit.

5. Base shall not be issued to any producer operating as a producer-distributor. Producer-distributors that have been in continuous operation for 10 or more consecutive years who discontinue distributing milk and continue as producers shall have a base established and issued to them by the commission on an equitable basis with all other producers.

B.1. New producers shall be licensed and have bases established in accordance with the provisions of this regulation provided there is a need for additional milk for Class I sales. On or before January 15 of each year, the commission shall give written notice to all cooperative associations with baseholding producers of the need for additional base.

2. Applications for producers' license and base shall be filed with the commission each year between January 1 and February 1 on forms provided by the commission. Applications will not be accepted prior to January 1 or subsequent to February 1 of each year. Bases shall be offered to applicants in the order of lots drawn by the commission at the first meeting held subsequent to February 1 of each year. After the establishment and issuance of new bases is completed, all remaining applications and all unused lots shall be destroyed.

3. Applicants who agree to accept a base shall be licensed and entered into a one month base-establishing period by the commission, after an investigation and hearing before the commission indicates that the applicant will provide a new source of Grand "A" milk for commission markets.

4. A new producer shall have a base issued at the conclusion of the base-establishing period to be effective on the first day of said base-establishing period. Such base shall be the lesser of the following:

- a. Deliveries during the base-establishing period, or
- b. The pounds of base specified in accordance with subdivision C 2 d of this section.

5. Bases issued in accordance with the provisions of this subsection shall not be transferable or consignable during the first 36 months after being issued, except in the event of total physical or mental disability or death of the baseholder.

6. Producers who are members of a cooperative association may consign their total base pounds to their cooperative association provided they have been licensed baseholders for three consecutive years immediately prior to the effective date of the consignment. Producers desiring to consign their base pounds to their cooperative association shall notify the commission in writing not less than 15 days nor more than 60 days prior to the effective date of such consignment.

7. Cooperative associations that have been designated as the consignee of the member's base shall notify the commission in writing of the name(s) of one or more of its members to whom a consigned base shall be reissued within 30 days subsequent to the cessation of production by the consignor.

8. Cooperative associations may, subject to the commission's written approval, relinquish their total consignment of all members' base or the total base consignment of individual members.

C.1. The total pounds of base issued to producers shall be adjusted (including base loss adjustments) effective March 1 of each year. Bases issued to existing producers shall be adjusted with reference to the average deliveries of merchantable milk which meets the requirements of health authorities having jurisdiction during the base-adjusting period, which shall consist of the months of September, October, and November of the preceding year. Said deliveries shall only include milk from a producer's own licensed production unit.

2. Bases issued to producers shall be adjusted as follows:

a. If the average monthly delivery of a producer during the base-adjusting period is less than his base existing on the last day of the base-adjusting period, his new base shall be his average monthly deliveries during the base-adjusting period.

b. If the average monthly deliveries of a producer during the current base-adjusting period is in excess of his base existing on the last day of the base-adjusting period, such producer shall be eligible for additional base as follows:

(1) Any base loss sustained by a producer during the preceding base-adjusting period shall be restored to that producer to the extent that his average monthly deliveries during the current base-adjusting period exceeds his base existing on the last day of

Final Regulations

the base-adjusting period, however, in no event is the base restored to exceed the base loss.

(2) A producer (including those who recovered base loss) shall be eligible for additional base in proportion to his average deliveries during the base-adjusting period in excess of his base existing on the last day of the base-adjusting period, plus any loss recovered under subdivision (1) above. Average deliveries in excess of 125% of the producer's base existing on the last day of the base-adjusting period, plus any base loss recovered under subdivision (1) above shall not be used in determining such producer's eligibility for additional base.

c. Whenever all bases are reduced by commission action, no base shall be issued to new producers until the total base reduction sustained by currently licensed baseholding producers has been restored.

d. The following method shall be used to allocate base increases:

(1) Fifty percent rounded to the nearest unit of 30,000 pounds to be allocated to new producers. The resulting amount shall be offered in units not to exceed 30,000 pounds per producer to new producers in accordance with the provisions of subdivision B of this section. In the event that new producers do not absorb the entire amount offered under this provision the remainder thereof shall be allocated to producers under subdivision (2) following.

(2) The remainder of the base increase shall be allocated to existing baseholding producers in accordance with the provisions of subdivision 2 b (2) of this subsection.

D.1. Base shall be assigned to licensed general distributors and reassigned when necessary from one distributor to another to equitably apportion base among distributors according to each distributor's Class I sales and in accordance with the number of days in each calendar month.

a. For purposes of assignment of base to distributors the bases of all members of a cooperative association shall be aggregated and such base assigned in such increments as necessary when application from the cooperative association concerned to do so is approved by the commission.

b. Base of individual producers who are not members of cooperative associations, or base of members of cooperative associations, when subdivision D 1 a above is not followed, shall be assigned in its entirety.

2. Base assigned to a distributor shall be reassigned to

another distributor only upon written notification to all persons concerned that such reassignment has been directed by the commission.

3. Distributors shall not accept producer milk until the base which it represents is assigned to them by the commission and they are so notified in writing.

4. The producers with bases assigned to licensed distributors who are fully regulated by a Federal Milk Marketing Order shall be paid a price not less than the applicable uniform price of the Federal Milk Marketing Order under which the distributor is fully regulated provided, however, that if the appropriate market Class I price established by the commission exceeds the Class I price of the applicable Federal Milk Marketing Order then the assigned baseholding producers, or their agents, shall be paid an additional amount equal to the Class I differential existing between the appropriate Federal Milk Marketing Order Class I price and the appropriate State Milk Commission market Class I price, multiplied by the hundredweight of Class I sales allocated in accordance with the provisions of § 8.

5. For base assignment purposes only the following methods shall be used to adjust the base assignments in accordance with the number of days in each calendar month:

a. The total base pounds assigned to all licensed general distributors during each month of the nine month period (September through May) shall be an amount determined by multiplying the number of days in the calendar month by a number calculated in accordance with the following procedure:

Multiply by nine the total pounds of monthly base established for the nine month period (September through May) and divide the product by the total number of days in the nine month period (September through May).

b. The total base pounds assigned to all licensed general distributors during each month of the three month period (June, July and August) shall be an amount determined by multiplying the number of days in the calendar month by a number calculated in accordance with the following procedure:

Multiply by three the total pounds of monthly base established for the three month period (June, July and August) and divide the product by the total number of days in the three month period (June, July and August).

E. Transfers of base issued to licensed producers.

1. The total unconsigned base of a producer may, upon written request to the office of and approval by the commission, be transferred to existing unconsigned

baseholding producers or to prospective producers if such persons have met the requirements of the health authorities having jurisdiction provided:

a. That the entire base of the transferring producer or his entire part thereof, is transferred at the same time,

b. That the producer license of the transferring producer shall be cancelled,

c. That any producer who transfers his entire base from a producing unit to other baseholding producers or prospective baseholding producers shall be ineligible during the next twelve months to hold a Milk Commission license or base on the producing unit from which the base was transferred,

d. That the written request shall include the exact pounds to be transferred to each existing baseholder or each prospective producer with the total pounds to be transferred being equal to the total existing base of the transferring producer,

e. For all months except February, total base transfer requests received from the first through the 15th day of a month shall become effective on the 16th day of that month. Total base transfer requests received from the 16th day of a month through the last day of that month shall become effective on the first day of the following month. Total base transfer requests received from the first through the last day of February shall become effective on the first day of March.

2. Any portion less than a producer's total unconsigned base may upon written request to the office of and approval by the commission be transferred to existing unconsigned baseholding producers or to prospective baseholding producers if such persons have met the requirements of the health authorities having jurisdiction, provided:

a. That no partial base transfers shall be permitted during the base-adjusting period,

b. For all months except February and the base-adjusting period, partial base transfer requests received from the first through the 15th day of a month shall become effective on the 16th day of the month. All partial base transfer requests received from the 16th day of a month through the last day of that month shall become effective on the first day of the following month. Partial base transfer requests received from the first through the last day of February shall become effective on the first day of March,

c. That any producer who reduces his base by a partial base transfer shall be ineligible at anytime during the next 12 months to increase his base by a

base transfer.

3. A producer holding a base or a part thereof may, subject to the approval of the commission, retain same when he moves his entire herd or his entire part thereof, from one farm to another.

4. For base adjustment purposes all base transfers occurring between September 1 and March 1, the transferee shall be credited with the lesser of:

a. An amount of monthly production equal to the number of pounds of base transferred, or

b. The prorata share of the average monthly production during the base-adjusting period of the transferror.

5. For all base transfers subject to a March 1 base reduction resulting from deficient production of the transferror during the base-adjusting period, the transferror shall notify all transferees of the pounds of their base transfer subject to the reduction when a base transfer approval is requested.

6. All Milk Commission base is subject to the following restrictions:

a. Only Grade "A" producers may own or transfer commission base.

b. Only Grade "A" producers with unconsigned base, or prospective Grade "A" producers, may acquire base by transfer.

c. All base transfers and acquisitions are subject to the commission's approval which may require the producer or division manager of the producer's cooperative association to submit an affidavit providing information pertinent to the transfer or acquisition.

7. Cooperative associations that have been designated as the consignee of a member's base may transfer any part of a member's consigned base to another member or members of the association from December 1 through August 16 of each year. Total base transfers of consigned base shall be made in accordance with subdivision B 7 of this regulation.

F. Cancellation of base issued to licensed producers:

1. The commission may suspend or revoke a base or license, or both, held by a producer upon due notice to the producer and after a hearing, when the commission is convinced from the evidence that such baseholding producer has knowingly violated any of the provisions of these regulations.

2. The license and base of a producer shall be cancelled if he fails for a period of 30 or more

Final Regulations

consecutive days to make delivery of milk that meets the requirements of the health authorities having jurisdiction and does not during that period provide the commission, in writing, a reasonable explanation for such failure and indicate a present ability and willingness to continue to deliver such milk.

3. During any delivery period if a cooperative association that has aggregated its members' bases in accordance with subdivision D 1 a of this regulation, fails for a period of 30 or more consecutive days to make delivery of milk that meets the requirements of the health authorities having jurisdiction and does not during that period notify the commission of its reasons for such failure, the total aggregate base of that association shall be reduced by the amount of base assigned to the distributor to which the association failed to make delivery and the base of each baseholding member of that association shall be reduced by his prorata share of the total reduction.

4. The license and base of a producer shall be cancelled prior to granting him a distributor's license.

G. Commission Order No. Twelve.

No licensed general distributor shall be required to accept an assignment of base for class I sales of UHT products sold in commission markets.

§ 5. Delivery and acceptance requirements; all established marketing areas.

A. The interval and amount of each delivery by producers or cooperative associations to the distributor concerned shall conform to the following:

1. Producers shipping on a daily basis shall deliver in each delivery an amount of milk at least equal to their daily base, if produced. Producers shipping on an every other day basis shall deliver in each delivery an amount of milk at least equal to twice their daily base, if produced.

2. Deliveries other than in accordance with subdivision 1 above shall be subject to the pricing procedures of § 8.

B. The total amount of milk to be delivered and accepted during a delivery period shall conform to the following:

1. Producers shall deliver within a delivery period an amount of milk at least equal to their base, if produced, and the distributor concerned shall accept such deliveries.

2. A cooperative association operating under the provisions of § 4 D a shall deliver within a delivery period an amount of milk at least equal to the aggregated base of its members which is assigned and

the distributor concerned shall accept such deliveries.

3. Cooperative associations operating under the provisions of § 4 D a shall not be required to make daily deliveries in quantities less than the full volume of tankers that are currently in use by the cooperative associations.

C. Other arrangements not in conflict with these regulations as to total deliveries during a delivery period may be mutually agreed upon by producers or cooperative associations and the distributor concerned.

D. Production in excess of base assigned is not required to be delivered by producers or cooperative associations, or accepted by the distributor concerned.

E. Cooperative associations may fulfill the delivery obligations of its member, or members, whose base or bases are assigned to a given distributor.

F. Milk delivered in accordance with this regulation shall not be rejected by distributors so long as the milk is merchantable and meets the requirements of the health authorities having jurisdiction.

§ 6. Classification and requirements of distributor licensees.

A. No person shall engage in the business of a "distributor" unless and until he shall have obtained the applicable license.

B. Applicants for licenses shall make application on the forms and in the manner required by the commission and obtain an approval of such application before handling or selling milk.

C. Licenses issued to distributors as defined under the Act are classified as follows:

1. Processing general distributor licenses are classified as those issued to persons engaged in the business of receiving, pasteurizing, processing and packaging producer milk in fluid form for consumption within the Commonwealth of Virginia. All processing general distributors shall maintain adequate facilities for handling producer milk.

2. Nonprocessing general distributor licenses are classified as those issued to persons who have, by contractual agreement, arranged to have a licensed processing general distributor receive, pasteurize, process and package under a specified label or trade name (other than that of the processing general distributor) producer milk in fluid form for consumption within the Commonwealth of Virginia.

For the purposes of Article 2, Chapter 21, Title 3.1 of the Code of Virginia and the regulations of the commission adopted pursuant thereto, the only private

label products a nonprocessing general distributor shall sell are those packaged by the processing general distributor specified on the license of the nonprocessing general distributor.

3. Producer-general distributor licenses are classified as those issued to persons engaged in the business of pasteurizing, processing and packaging only milk produced by their own herd.

4. Sub-distributor licenses are classified as those issued to persons whose principal business is selling, on bona fide routes of their own, milk that is pasteurized, processed and packaged by and under the label or trade name of a licensed processing general distributor.

For the purposes of Article 2, Chapter 21, Title 3.1 of the Code of Virginia and the regulations of the commission adopted pursuant thereto, a sub-distributor shall be licensed to sell the products of only one processing general distributor and shall be considered by the commission the agent of such processing general distributor.

5. Retail distributor licenses are classified as those granted to all other persons engaged in the business of a "distributor." All such persons shall be considered to be licensed by the commission, unless and until this license is expressly suspended or revoked; however, no formal certificate of license is required or will be issued unless a properly executed application for such license is filed with the commission.

D. The commission may decline to grant a license and may suspend or revoke a license or permit, after at least 10 days notice and a hearing, for any of the following reasons:

1. That the action is in the public interest.
2. That the applicant or licensee is not qualified by character, or experience, or financial responsibility, or equipment or personnel to properly conduct the business.
3. That the applicant or licensee has made a false statement or inaccurate report of a material fact to the commission.
4. That the applicant or licensee is insolvent, has made a general assignment for the benefit of creditors or that a money judgement has been secured against him upon which execution has been returned wholly or partly unsatisfied.
5. That the applicant or licensee has violated any of these regulations.
6. That the purpose of the application for any type of license is to circumvent any established prices

promulgated by the commission.

7. That the applicant for a Processing General Distributor license does not have facilities adequate to handle assigned milk from licensed producers.

8. That the processing general distributor licensee has not maintained facilities adequate to handle assigned milk from licensed producers.

9. That the licensee has rejected assigned milk without reasonable cause.

10. That the licensee has failed to account for or make payment for assigned milk.

11. That the licensee has failed to keep records or furnish information required.

12. That any requisite health permit has been suspended, terminated or revoked.

13. That the licensee has ceased to operate.

14. That responsible and authorized representatives of the licensee refuse to appear and testify as to their knowledge of the operations of the licensee.

E. All licenses issued to general distributors, sub-distributors and other distributors are not transferable and shall remain in effect until surrendered, suspended or revoked by the commission.

F. Processing general distributor licensees may package milk and milk products only under those brands or trade names as filed with the commission. A distributor licensee shall provide written notification to the commission not less than 15 days prior to the introduction or discontinuance of a brand or trade name.

§ 7. Classification and allocation of milk, computation of sales and shrinkage.

This section shall apply to all established marketing areas and all milk and dairy products handled by distributors and shall be presumed to come within the jurisdiction of the commission unless proven otherwise by records of the distributors.

A. Classification.

1. Class I milk shall include all skim milk and butterfat in fluid form, including aseptically processed and packaged ultra high temperature pasteurized products (UHT) for human consumption in commission defined markets, which is not accounted for as Class II milk, provided that any fluid milk products fortified with added nonfat milk solids shall be Class I in amount equal only to the weight of the equal volume of like unfortified products of the same butterfat content.

Final Regulations

2. Class I-A milk shall include all fluid milk products identified in subdivision 1 above and sold for fluid human consumption in areas other than commission defined markets.

3. Class II milk shall include all skim milk and butterfat:

a. Used to produce sterilized products, other than those identified in subsection A 1 above, butter, cheese (including cottage cheese), yogurt, eggnog, plastic and frozen cream, sour cream, dips, dry milk (skim or whole), condensed milk (skim or whole), ice cream, ice milk, and frozen desserts, or ice cream, ice milk or frozen dessert mixes, including basic mixtures for use in preparation of ice cream, ice milk, frozen desserts, or ice cream or frozen dessert mixes. All cream sales containing more than 10% butterfat, including half and half cream, light cream and heavy cream.

b. Disposed of for animal feed.

c. Contained in inventory of fluid milk products on hand at the end of the month.

d. Disposed of in bulk to any commercial food establishment for use on the premises in the production of soup, candy, bakery products, or any other nondairy food products.

e. In shrinkage of skim milk and butterfat, respectively, as computed pursuant to subsection B of this regulation, but not to exceed the following:

(1) Two percent of producer milk received at the distributor's plant, plus

(2) Two percent of milk received at the distributor's plant in bulk tanks from other distributors exclusive of the quantity for which Class II utilization was requested, less 2% of milk moved in bulk tanks to another distributor.

f. In shrinkage of skim milk and butterfat, respectively, prorated to other source milk in accordance with subsection B of this section.

4. Skim milk or butterfat contained in any fluid milk products dumped shall be Class II provided that the distributor dumping fluid milk products shall give the commission, during normal office hours, not less than four hours advance notice of his intention to dump such fluid milk products and the quantities to be so disposed.

5. Skim milk and butterfat in fluid form transferred by a distributor to another distributor shall be classified as follows:

a. Skim milk and butterfat in packaged fluid milk

products shall be classified as Class I-A or Class I in accordance with the requested and agreed upon classification by the transferring and receiving distributors, provided that:

(1) The skim milk and butterfat so assigned to each class shall be limited to the appropriate class utilization remaining in the plant of the receiving distributor after computations have been made according to subsection D of this section, and,

(2) Other source milk in the transferring plant is not allocated to Class I as a result of such classification of transferred milk.

b. Skim milk and butterfat in bulk fluid form shall be classified as Class II, provided that:

(1) The skim milk and butterfat so assigned to each class shall be limited to the appropriate class utilization remaining in the plant of the receiving distributor after computations have been made according to subsection D of this section, and,

(2) Other source milk in the transferring plant is not allocated to Class I as a result of such classification of transferred milk.

(3) Skim milk and butterfat in bulk fluid form shall be classified as Class II milk if transferred by a distributor to a plant which is not licensed as a distributor by the commission.

(4) Skim milk and butterfat in packaged fluid form shall be classified as Class I-A if transferred to a fluid milk plant which is not licensed as a distributor by the commission.

6. Shrinkage in excess of that allowed to be classified as Class II in accordance with subdivision A 3 e of this section shall be prorated over a distributor's Class I and Class I-A sales as follows:

a. Compute the total excess shrinkage of skim milk and butterfat, respectively, by subtracting the total amount of skim milk and butterfat classified as Class II under provision of subdivisions A 3 e and f of this subsection, from the total shrinkage as determined in accordance with subdivision B 1 b of this section.

b. Prorate skim milk and butterfat excess shrinkage, respectively, obtained in subsection 6 a of this section between (i) skim milk and butterfat sold in Class I products, and (ii) skim milk and butterfat sold in Class I-A products.

B. Computation and allocation of shrinkage.

1. Shrinkage shall be allocated over a distributor's receipts from all sources as follows:

a. Compute the total shrinkage of skim milk and butterfat, respectively, by subtracting the total amount of skim milk and butterfat accounted for from the total amount of skim milk and butterfat to be accounted for, and,

b. Prorate skim milk and butterfat shrinkage, respectively, obtained in subsection 1 A of this section, between (i) skim milk and butterfat in producer receipts as defined in § 1, and (ii) skim milk and butterfat contained in other source milk, as defined in § 1.

C. Computation of skim milk and butterfat in each class.

1. For each month the total pounds of skim milk and butterfat utilized in each class shall be reported by each distributor to the commission on forms specified by the commission.

2. Computation of skim milk and butterfat used in each classification shall be made in accordance with the conversion factors specified by the commission on the forms used for computation and reporting of utilization provided that in the case of products not listed on these forms, the conversion factor used by a distributor shall be approved by the commission.

3. If any of the water contained in the milk from which a product is made has been removed before the product is received, utilized or disposed of by a distributor, the pounds of milk to be accounted for shall be the weight of the total milk solids in the product plus all of the water originally associated with the solids.

D. Allocation of skim milk and butterfat utilized.

1. Skim milk shall be allocated as follows:

a. Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II under subsection A 3 e of subdivision 1 of this section.

b. Subtract from the total pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in the inventory of fluid milk products on hand at the beginning of the month, and the pounds of skim milk in beginning inventory that was subtracted from Class I the preceding month.

c. Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in Class I-A requested products received in packaged form from other distributors as follows:

(1) From Class I-A, the lesser of the pounds remaining in Class I-A, or such receipts, and,

(2) From Class I, the remainder of such receipts, with reclassification of this quantity in the transferring plant.

d. Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in Class I requested products received in packaged form from other distributors as follows:

(1) From Class I, the lesser of the pounds remaining in Class I, or such receipts, and,

(2) From Class I-A, the remainder of such receipts, with reclassification of this quantity in the transferring plant.

e. Subtract, in the order specified below, from the pounds remaining in each class, in series beginning with Class II, next Class I-A, and then Class I, the pounds of skim milk in each of the following:

(1) Other source milk in a form other than that of a fluid milk product.

(2) Receipts of fluid milk products from a producer-distributor.

(3) Other source milk in the form of fluid milk products.

(4) Receipts of fluid milk products in bulk from other distributors, however, if the pounds remaining in each class are less than the quantity of bulk milk remaining to be allocated, then the remaining quantity must be subtracted from the next highest use classification with reclassification of this quantity in the transferring plant.

(5) Receipts of fluid milk products from other distributors not already allocated.

f. Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to subdivision D 1 a of this section.

g. If the pounds of skim milk remaining in all classes exceeds the pounds of skim in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage."

h. Add to Class I the pounds of skim milk in beginning inventory that was subtracted from Class I the preceding month.

2. Butterfat shall be allocated by the same method specified for skim milk in subsection 1 of this section.

3. Combine the amounts of skim milk and butterfat determined in accordance with the procedures

Final Regulations

specified in subsections D 1 and D 2 of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

E. Allocation of classified sales.

1. Producer milk classified as Class I shall be allocated to base deliveries to the extent that base deliveries are available. Producer milk classified as Class I that exceeds base deliveries shall be allocated to excess deliveries.

2. Producer milk classified as Class I-A and Class II shall be allocated to excess deliveries to the extent that excess deliveries are available. Producer milk classified as Class I-A and Class II that exceeds excess deliveries shall be allocated to base deliveries.

3. Producers or cooperative associations shall be paid a base price or base deliveries and an excess price for excess deliveries computed monthly for each distributor in accordance with the following procedure:

a. To determine the excess price for 3.5% milk, add to the value obtained by multiplying the excess deliveries allocated to Class I-A and Class II by the Class II price for 3.5% milk, the value obtained by multiplying the excess deliveries allocated to Class I by the Class I price for 3.5% milk and divide the sum by the total excess deliveries.

b. To determine the base price for 3.5% milk, add to the value obtained by multiplying the base deliveries allocated to Class I by the Class I price for 3.5% milk the value obtained by multiplying the base deliveries allocated to Class I-A and Class II by the Class II price for 3.5% milk and divide the sum by the total base deliveries.

4. Delivered base shall be determined in accordance with the following:

a. Delivered base for deliveries made in accordance with § 5, subsection B, shall be the assigned base unless deliveries are less than assigned base. When deliveries are less than assigned base the delivered base shall be (92%) of deliveries.

b. Delivered base for deliveries made in accordance with § 5, subdivision C, shall be the lesser of assigned base or deliveries.

5. Excess deliveries for producers or cooperative associations shall be the difference between total deliveries and delivered base.

6. If a producer or cooperative association fails to make delivery of milk or delivers milk which is not merchantable or does not meet the requirements of the health authorities having jurisdiction in the

market, the base of that producer or cooperative association shall be reduced by a percentage. That percentage shall be determined by dividing the number of days which the producer or cooperative association failed to make delivery of acceptable milk by the number of days in the delivery period.

§ 8. Class prices for producer's milk time and method of payment butterfat testing and differential.

A. Class Prices.

1. Class I	July through February	March through June
Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.
Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.
Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.

The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:

(1)a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, base zone by more than \$0.80 per hundredweight, nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5 base zone;

b. The Southwest Market Class I price shall not exceed the prevailing Class I price of Federal Order No. 11 by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the prevailing Class I price of Federal Order No. 11 and;

c. The Western Market Class I Price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone:

(2) Class I prices shall be increased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index exceeds 101.0 by 20¢; and

(3) Class I prices shall be decreased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index descends below 99.0 by 20¢.

Final Regulations

(4) The average bi-monthly composite index brackets shall be in accordance with the following schedule:

Average Bi-monthly Composite Index Brackets	Amount of Adjustment	
Nos. through Nos. Continued	Cents Continued	
96.9 - 98.9	- 20	201.9 - 203.9 +980
99.0 - 101.0	- 0	204.0 - 206.0 +1000
101.1 - 103.1	+ 20	206.1 - 208.1 +1020
103.2 - 105.2	+ 40	208.2 - 210.2 +1040
105.3 - 107.3	+ 60	210.3 - 212.3 +1060
107.4 - 109.4	+ 80	212.4 - 214.4 +1080
109.5 - 111.5	+100	214.5 - 216.5 +1100
111.6 - 113.6	+120	216.6 - 218.6 +1120
113.7 - 115.7	+140	Continued Continued
115.8 - 117.8	+160	
117.9 - 119.9	+180	
120.0 - 122.0	+200	
122.1 - 124.1	+220	
124.2 - 126.2	+240	
126.3 - 128.3	+260	
128.4 - 130.4	+280	
130.5 - 132.5	+300	
132.6 - 134.6	+320	
134.7 - 136.7	+340	
136.8 - 138.8	+360	
138.9 - 140.9	+380	
141.0 - 143.0	+400	
143.1 - 145.1	+420	
145.2 - 147.2	+440	
147.3 - 149.3	+460	
149.4 - 151.4	+480	
151.5 - 153.5	+500	
153.6 - 155.6	+520	
155.7 - 157.7	+540	
157.8 - 159.8	+560	
159.9 - 161.9	+580	
162.0 - 164.0	+600	
164.1 - 166.1	+620	
166.2 - 168.2	+640	
168.3 - 170.3	+660	
170.4 - 172.4	+680	
172.5 - 174.5	+700	
174.6 - 176.6	+720	
176.7 - 178.7	+740	
178.8 - 180.8	+760	
180.9 - 182.9	+780	
183.0 - 185.0	+800	
185.1 - 187.1	+820	
187.2 - 189.2	+840	
189.3 - 191.3	+860	
191.4 - 193.4	+880	
193.5 - 195.5	+900	
195.6 - 197.6	+920	
197.7 - 199.7	+940	
199.8 - 201.8	+960	

(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a x 1), (b x 1), (c x 1), (d x 1), (e x 1), (f x 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.

(a) The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.

(b) The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.

(c) The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.

(d) The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.

(e) The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.

(f) An average of the prevailing Class I prices in North Carolina, Federal Milk Marketing Order No. 4 and Federal Milk Marketing Order No. 11.

(6) The six month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.

(7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.

(8) On or before the seventh day of each month the commission shall determine the Class I prices for the following month and announce same to all licensed processing general distributors.

Final Regulations

2. Class I-A. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II price.

3. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the Market Administrator of the Tennessee Valley Marketing Area (Federal Order No. 11).

4. The total value of base deliveries made in accordance with § 5 subdivision B (2) shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily bases:

(a) Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.

(b) The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the amount of discount for base deliveries during the delivery period.

5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.

B. Butterfat differential.

In making payments to producers and/or cooperative associations of producers required pursuant to § 8, each general distributor shall add for each one-tenth of one percent of average butterfat content above 3.5%, and shall deduct for each one-tenth of one percent of average butterfat content below 3.5% as a butterfat differential an amount per hundredweight announced each month by the Market Administrator of the Tennessee Valley Marketing Area (Federal Order No. 11).

C. Butterfat testing.

Butterfat testing shall be conducted in accordance with the following procedure:

1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in § 1 by four or more tests made at approximately equal intervals during each delivery period.

2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the

distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.

3. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in subsection C 2 above, shall be determined in accordance with procedures specified by the commission, if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.

4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department and shall, as directed by the commission, be subject to check tests made by a licensed tester.

D. Time of payment.

1. On or before the last day of a delivery period general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subsection D 2 of this regulation, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.

2. On or before the 15th day following the close of a delivery period general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to these regulations.

3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subsections D 1 and D 2 of this section when directed in writing by the commission.

4. The commission may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subsections D 1 and D 2 of this section.

5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10

per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.

6. Before the 15th day of each month the commission shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month the commission shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subsection D 5 of this regulation.

E. Redistribution of producer losses.

When the commission is satisfied that when one or more licensed distributor(s) is/are unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the commission may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.

1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the commission within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of the effective date of this regulation for licensed distributors currently in bankruptcy or receivership. This notification shall be in writing accompanied by copies of pertinent court documents.

2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with these regulations.

3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under § E 2 or the dollars generated by a rate not in excess of .10/cwt., levied on producer's and/or cooperative associations of producers monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy.

a. Each distributor shall remit to the Milk Commission no later than the 15th of each month the amount collected in accordance with § E 3 above, applicable to the prior months delivery period at the rate established by the commission.

4. The Milk Commission shall disburse all

redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charges.

5. Producers or cooperative associations of producers shall assign to the commission that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the commission in order to participate in the producer redistribution fund.

6. Any overpayment or recovery of loss claims assigned to the commission by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative associations of producers on a prorata basis of payments made to the fund.

§ 9. Records and reports.

A. Each distributor shall accurately prepare and maintain all records necessary to enable the commission or its representative to determine:

1. The amount, source, grade, butterfat test and price paid for all milk and cream received from all sources. These records must show daily transactions, summarized into monthly totals.

2. The use or disposition of all milk and cream received from all sources. These records must show retail, wholesale and other sales by units and the value received for each group of units shown as daily transactions, summarized into monthly totals.

3. The butterfat tests of each producer's milk made pursuant to these regulations, the date such tests were made and the butterfat test of each commodity sold.

B. Not later than the seventh day of each month all general distributors and sub-distributors shall furnish the commission completed forms which specify all receipts and utilization, along with all necessary supplemental forms and such other reports as may be required by the commission. This information must be compiled from records of a permanent nature and these records shall be subject to audit and inspection by any authorized representative of the commission. Not later than the 12th day of each month the commission shall inform each general distributor of the classified sales allocated to each producer or cooperative association for the previous month.

C. Each general distributor and sub-distributor shall prepare a ticket or invoice in duplicate showing in detail each wholesale transaction. Copies of such tickets or invoices shall be maintained at least six calendar months and be subject to inspection by any authorized

Final Regulations

representative of the commission.

D. All books and records of all distributors, defined under Article 2, Chapter 21, Title 3.1 of the Code of Virginia of 1950, and of producers and/or cooperative associations of producers, shall be subject to audit by any authorized representative of the commission.

E. Information relating to individual distributors, producers or cooperative associations of producers shall be confidential.

F. Cooperative associations shall file with the office of the Milk Commission a monthly statement. This statement, to be filed not later than the eighth of the next subsequent month, shall list the name, base allotment, and production of each of the cooperative associations baseholding producer members.

§ 10. Rules of practice.

The following rules of practice shall be observed:

1. The sale of milk products shall be in containers of the size and butterfat content as specified by the regulations of the Virginia Department of Agriculture and Consumer Services.

2. Except as provided in subdivision 4 below, retail prices, when established by the commission, shall apply to all sales other than wholesale or where milk is sold and consumed on the premises.

3. Except as provided in subdivisions 4 below, wholesale prices, when established by the commission, shall apply to sales of milk products by general distributors or sub-distributors where such milk products are resold for consumption, whether on or off the premises, and shall apply to sales made by general distributors or sub-distributors to hotels, restaurants, stores, licensed boarding houses, vending machine operators and other operations which have a sales tax exemption certificate as set forth in § 58.1-623 of the Code of Virginia.

4. General distributors or sub-distributors may submit bids requested by any governing body of any municipality, county or state, or by the federal government, or by any agency operated by the above, or by colleges, universities and schools, either elementary or secondary whether or not they be public or private, provided:

a. That such sales are classified as Class I for the purpose of producer payments, except those sales that are made on federal reservations over which the state government has ceded jurisdiction, and,

b. The general distributor or sub-distributor must have been licensed by the commission to distribute milk products in the market concerned.

5. No general distributor, sub-distributor or retail distributor, his officers, agents or employees, shall engage in, permit or encourage any method or device in connection with the sale of milk the result of which method or device will be to increase, or reduce the net price to purchases above the maximum price or below the minimum price, when established by the commission.

6. General distributors or subdistributors may use a milk container's side panels and labels for paid advertisements, provided:

a. The advertisement does not promote or refer to an existing or prospective retail or wholesale customer of Class I milk products, and

b. The advertisement, the container, or any part thereof, is without value, and

c. The container, or proof of purchase thereof, is not referred to in the advertisement, and

d. Any advertisement or label, other than the distributor's dairy label, does not advertise or promote any Class I milk product distributed by the distributor, and

e. The distributor and subdistributor certifies in writing that the advertisement has been made available to all licensed distributors within the market under equal terms and conditions and lists in the certificate all of such licensed distributors, and

f. Written approval is obtained from the office of the commission before an advertisement or an advertising program begins. Any denials must be based on subdivisions a through e above.

7. General distributors or subdistributors shall not directly or indirectly:

a. Pay for advertising of milk in any place of business of a milk customer or prospective milk customer without first having obtained the written approval of the State Milk Commission or its authorized representative.

b. Pay for advertising by a milk customer or prospective milk customer. However, a distributor may pay at the published or prorata rate, whichever is less, for the actual space or service used for the advertising of his milk.

c. Provide a milk customer or prospective milk customer with any article for handling or serving milk except on a bona fide sale. In order to be considered bona fide such sale must meet the following minimum requirements:

(1) The sale price shall be not less than the cost (including freight and installation costs) or not less than the book value based on 10% per year depreciation of the cost to the distributor (plus installation costs).

(2) In the event that the article has been fully depreciated on a ten year basis the price to the milk customer or prospective milk customer shall be not less than original cost or 10% of its current replacement value whichever is the greater.

(3) In order to be considered as a cash sale, payment in full must be made by the milk customer or prospective milk customer within 31 days after installation of the article.

(4) If sale is made on other than a cash basis, as defined in subdivision (3) above, the following requirements shall apply:

(a) A down payment of not less than 10% of the total cost of the article must be made within 31 days after installation.

(b) Interest of not less than 8.0% per year must be charged on the unpaid balance due the distributor for all sales made after July 1, 1974. Interest of not less than 7.0% per year must be charged on the unpaid balance due the distributor for all sales made prior to July 1, 1974.

(c) The unpaid balance must be paid in full within a period not to exceed three years, by monthly payments at least equal to 1/36 of the initial unpaid balance. Said payments may be anticipated in part or in whole.

(d) Payment of the balance due must be secured in such a manner that the article may be repossessed for nonpayment.

(e) In the event any payment becomes overdue by 60 days the article must be repossessed immediately.

d. Combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of such commodity, product, or service.

e. Engage in any practice or practices which may tend substantially to lessen competition in, or substantially to increase the cost of, distribution of milk.

f. Advertise, transfer, sell or offer to sell at wholesale or retail any packaged Class I product purchased for resale at less than cost. Cost shall be presumed to be the net invoice or transfer price, including all applicable discounts or rebates, plus

6.0%, unless a lower amount can be justified to the commission's satisfaction by the licensee. When seeking to make such a justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual Prepared by Case and Company, Inc., for the Virginia State Milk Commission.

g. Advertise, transfer, sell or offer to sell at wholesale any packaged Class I product processed and packaged by their own facilities, leased, or subsidiary facilities or by contractual agreement at less than cost.

(1) Cost for Class I items sold at plant dock shall be presumed to be the total of the following cost factors:

(a) The net cost of the fluid milk computed at the established Class I rate (adjusted for butterfat content).

(b) A shrinkage factor of 2.0% of the volume of each container computed at the established Class II rate for the plant average butterfat test.

(c) The net cost of any fortification or added ingredients.

(d) The net container cost.

(e) The net State Milk Commission assessment cost to the licensee.

(f) The weighted average of all other platform costs as determined by the current Milk Commission cost study of "Cost Created in Processing and Distributing Milk by Processing General Distributors in Virginia."

(2) The presumptive cost for Class I items delivered to wholesale accounts shall be the product of the total platform cost as set forth in subdivision G (1) above, multiplied by the following percentages:

More than 99 cases per delivery – Platform Cost x 1.0675

From 14 to 99 cases per delivery – Platform Cost x 1.125

Less than 14 cases per delivery – Platform Cost x 1.250

However, when two or more wholesale accounts purchase Class I items from a distributor under a contractual agreement that provides for consolidated billing and payment, the average case delivery for the entire group of accounts shown on the consolidated billing shall be used in lieu of delivery

Final Regulations

volume to each individual account. For the purpose of this subdivision a case shall consist of the following items:

Container	Units
Case of Multiquart (Greater than Gallon)	1
Case of Gallon	4
Case of Three-Quart	6
Case of Half-Gallon	9
Case of Quart	16
Case of Pint	28
Case of Half-Pint	44
Case of Ten-Ounce	32

(3) In lieu of the cost determination as set forth in subdivisions (1) and (2) of this subdivision, a licensee may substitute his costs provided they can be justified to the commission's satisfaction. When seeking to make such a justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual prepared by Case and Company, Inc., for the Virginia State Milk Commission.

8. Retail distributors.

a. Shall not purchase milk except from general distributors or subdistributors licensed in the market.

b. Shall sell in a market only that milk purchased from a general distributor or subdistributor licensed in that market.

c. Shall not combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of such commodity, product, or service for the purpose of circumventing the below cost provisions of this regulation.

d. Shall not advertise, sell or offer to sell, at retail, any packaged Class I product at less than cost. Cost shall be presumed to be the net invoice or transfer price including all applicable discounts on rebates, plus 6.0%, unless a lower amount can be justified to the commission's satisfaction by the licensee. When seeking to make such a justification, the licensee shall have the burden of proof on all issues and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual prepared by Case and Company, Inc., for the Virginia State Milk

Commission.

e. Other provisions of this regulation notwithstanding, no distributor shall be prohibited from meeting a lawful competitive price below his cost as determined by the provisions of this regulation provided:

(1) A written statement is filed with the commission giving the following information prior to meeting that price:

(a) The name and address of the distributor licensee offering the competitive price he anticipates meeting, and,

(b) The exact price necessary to meet competition, and,

(c) The effective date of the competitive price he anticipates meeting, and,

(d) The effective date of his price necessary to meet the competitor's price, and,

(e) Does not at anytime sell or offer to sell at a price that is less than the competitor's price.

§ 11. Assessments.

A. All expenses necessary for the operation of the commission shall be met by assessments as provided for in Article 2, Chapter 21, Title 3.1 of the Code of Virginia which assessments shall be collected by the commission and deposited immediately in a designated State Depository to the Treasurer of Virginia.

B. The assessments shall be made in the following manner:

1. For the purpose of defraying the expenses of the commission an assessment shall be collected from all licensed general distributors in an amount as directed by the commission from time to time, but not to exceed five cents per hundredweight on all milk, or cream (converted to terms of milk) handled by distributors and five cents per hundredweight of milk, or cream (converted to terms of milk) sold by producers and cooperative associations of producers; said assessments to be the same per hundredweight on producers and distributors.

2. Within 15 days subsequent to the close of a delivery period, all licensed general distributors shall remit to the commission an amount equal to the total assessments levied for the delivery period, including both the assessment levied on the distributor and the producers and/or cooperative associations of producers. The amount of production assessment paid by a distributor shall be charged against the amount payable to producers and/or cooperative associations

of producers by said distributor.

§ 12. Hearing notice and procedure.

A. Notice proceedings under § 3.1-437 of the Code of Virginia. The commission shall cause to be published in a newspaper of general circulation within the City of Richmond a notice which shall inform the public generally of the proceeding contemplated and the time, date, and place of the hearing. If the subject of the hearing will affect only limited areas of the state, the commission shall publish notice of the hearing in newspapers of general circulation within those areas. The commission shall publish the notice at least 14 days prior to the holding of the hearing. The administrator is directed to give such other notice as he deems appropriate, including notice to baseholding producers and distributors who would be affected by the commission's order.

B. If the commission exercises authority under this section establishing minimum retail prices for milk without public hearing, it shall hold a public hearing on the emergency order not less than 15 nor more than 60 days after its issuance. Such notice will take the form as in subdivision A above.

C. The official transcript of the hearing conducted by the commission shall be the transcript of the stenographic notes taken at the hearing by a court reporter employed by the commission. If the hearing is held pursuant to its emergency provisions and no court reporter is available, the administrator shall direct that notes be made of the hearing and be preserved for public inspection. The commission shall make available the official transcript or written notes of any hearing available to the public at cost.

D. Except as otherwise amended by motion, hearing for the commission shall be substantially as follows:

1. The Chairman of the Commission shall call the hearing to order and thereafter shall give, or cause to be given (i) the general nature of the hearing and the statutory authority for it; (ii) introduction into the record of a copy of the notice stating the time, place, date or dates such notice was given, and the method whereby it was served; (iii) the presentation of the evidence.

2. Unless otherwise directed by the commission, or unless provided for under special rules governing the particular case, evidence will ordinarily proceed in the following order, followed by such rebuttal evidence as may be necessary and proper: (i) the commission's staff; (ii) producers or their representatives; (iii) distributors or their representatives; (iv) consumers.

E. Whenever any exhibits are offered in evidence during the hearing, they will be received for identification and given an identifying number. All exhibits will be numbered consecutively beginning with the number one and will bear

an identifying suffix giving the name and organization of the person introducing it.

F. All witnesses shall testify under oath and following their testimony shall be examined by the commission and its attorney.

G. Briefs may be required or allowed at the discretion of the commission. The time for filing briefs shall be fixed by the time they are required or authorized. For the purpose of expediting the proceeding wherein briefs are to be filed, the parties may be required to file their respective briefs on the same day, and, unless otherwise ordered by the commission, reply briefs will not be permitted or received. The time for filing reply briefs, if any, will be fixed by the commission.

H. The commission shall make its decision only on that evidence introduced at the hearing. The commission shall adopt, along with its order, its Finding of Facts and Conclusions of Law.

§ 13. Repeal of prior rules and regulations.

Unless otherwise herein provided all rules and regulations and orders, both special and general, and all other like actions of the commission heretofore adopted and enforced by the commission with respect to the control, regulation and supervision of the milk industry in Virginia, which are in conflict herewith, are repealed upon the effective date of these rules and regulations.

VA.R. Doc. No. R95-13; Filed September 13, 1994, 4:49 p.m.

DEPARTMENT OF REHABILITATIVE SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Rehabilitative Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 595-01-1. Provision of Vocational Rehabilitation Services.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Effective Date: November 2, 1994.

Summary:

On June 24, 1994, the U.S. Department of Education promulgated final regulations on the State Supported Employment Services Program authorized under Title VI, Part C of the Rehabilitation Act of 1973, as

Final Regulations

amended, in order to clarify certain program requirements and make other changes needed to increase program effectiveness and flexibility. These regulations became effective in August, 1992. On October 29, 1992, Public Law 569, the Rehabilitation Act Amendments of 1992, was passed. P.L. 569 amended Title VI, Part C of the Rehabilitation Act of 1973 to clarify program requirements and ensure that certain program requirements were consistent with those included in the final regulations on the State Supported Employment Services Program cited above.

The State Supported Employment Services Program provides grants to assist states in developing and implementing collaborative programs with public agencies and private nonprofit organizations to provide rehabilitation services leading to supported employment for individuals with the most severe disabilities. The State Supported Employment Program assists individuals with the most severe disabilities to acquire the skills and experience needed to achieve and maintain competitive employment in the community.

The current state regulations for the Provision of Vocational Rehabilitation Services (VR 595-01-1) contain references to Virginia's Supported Employment Program (§§ 1 and 12) that are not consistent with and do not reflect the substance of the federal regulations and federal law. In order to comply with both federal law and regulations, current state regulations are being amended as follows. The definition of "supported employment" (§ 1) is being revised, and the description of transitional employment services is being amended by eliminating the emphasis of transitional employment as separate from supported employment. Finally, new provisions that reflect the substance of the federal regulations are being added.

The definition of "supported employment" is being amended by eliminating the 20 hour per week work requirement, adding transitional employment to the definition, and making appropriate terminology changes.

Section 12 is being amended in subdivision 13 by eliminating the emphasis of transitional employment as separate from supported employment, adding eligibility criteria for supported employment, describing the principal activities authorized under a supported employment program, and emphasizing that supported employment services are to be provided in an integrated work setting.

VR 595-01-1. Provision of Vocational Rehabilitation Services.

§ 1. Definitions: Vocational Rehabilitation.

The following words and terms, when used in these

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

"*Audiological examination*" means the testing of the sense of hearing.

"*Board*" means the Board of Rehabilitative Services.

"*Client*" means any person receiving a service provided by the Department of Rehabilitative Services, whether referred to as a client, participant, patient, resident, or other term.

"*Commissioner*" means the Commissioner of Rehabilitative Services.

"*Department*" means the Department of Rehabilitative Services.

"*Economic needs test*" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of vocational rehabilitation services.

"*Eligible*" or "*eligibility*" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that (i) an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment, and (ii) vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"*Employability*" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

"*Establishment of a rehabilitation facility*" means (i) the acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them or increase their effectiveness for rehabilitation facility purposes; (ii) the acquisition of initial or additional equipment for these buildings essential for providing vocational rehabilitation services; or (iii) the initial or additional staffing of a rehabilitation facility for a period, in the case of any individual staff person not longer than four years and three months.

"*Evaluation of vocational rehabilitation potential*" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in

order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Family member" or *"member of the family"* means any relative by blood or marriage of a handicapped individual (and other individual) living in the same household with whom the handicapped individual has a close interpersonal relationship.

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"IWRP" means an individualized written rehabilitation program for each individual being provided services under an extended evaluation to determine rehabilitation potential or for a vocational rehabilitation program that describes all services to be provided and places primary emphasis on the determination and achievement of a vocational goal.

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long-range goals and intermediate objectives" means the establishment of a vocational goal attainable with the provision of vocational rehabilitation services such as physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Mental disability" means (i) having a disability attributable to mental retardation, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Otological examination" means any examination conducted by a physician skilled in otology.

"Physical disability" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual in employment after closure.

"Prevocational training" means individual and group instruction or counseling, the controlled use of varied activities, and the application of special behavior modification techniques; clients/patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures, (ii) acquire personal-social behaviors which would make them acceptable employees and coworkers on the job, and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one or more of man's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities, and whose handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation, public domain Indian allotment, former Indian

Final Regulations

reservation in Oklahoma, and land held by incorporated native groups, regional corporations and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely handicapped individual" means a handicapped individual (i) who has a severe physical or mental disability which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitations.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal and work related skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

"Supported employment" means paid work in a variety of settings for severely handicapped individuals (i) for whom competitive employment at or above minimum wage has not occurred; and (ii) who because of their disability, need intensive ongoing post-employment support to perform

in a work setting. Supported employment requires that an individual work at least 20 hours per week in a job setting which includes no more than eight coworkers with disabilities; (i) competitive work in an integrated work setting with ongoing support services for individuals with the most severe disabilities for whom competitive employment (a) has not traditionally occurred, or (b) has been interrupted or intermittent as a result of severe disabilities; or (ii) transitional employment for individuals with chronic mental illness.

"Third party funding" means the use of money from a public or private source to match available allocations.

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation/habilitation plan.

"Vocational rehabilitation services when provided to an individual" means those services listed in § 1 of these regulations.

"Vocational rehabilitation services when provided for the benefit of groups of individuals" means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities, which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf person.

"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"Work activity services" means therapeutic work activities and educational, social, personal and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"Work adjustment training" means a treatment and training process utilizing individual and group work, or work related activities, to assist individuals in understanding the meaning, value and demands of work; to modify or develop attitudes, personal characteristics, work behavior, and to develop functional capacities, as required in order to assist individuals toward their optimum level of vocational development.

"*Workshop*" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in production or service operation for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

§ 2. Referrals and applicants.

The department shall expeditiously and equitably process referrals and applications for vocational rehabilitation services.

A. Referrals.

An individual is a referral when the following items of information are secured:

1. Name;
2. Address;
3. Disability;
4. Age;
5. Sex;
6. Date of referral;
7. Source of referral; and
8. Social security number or temporary case number.

B. Applicant.

An individual is an applicant when the department has secured the items of information as listed in subsection A of § 1 and has a document signed by the individual, or the individual's guardian requesting vocational rehabilitation services. A thorough explanation of rights and responsibilities shall be given to the applicant in the manner best suited to ensure its comprehension. This explanation shall include the right for an administrative review and fair hearing and the availability of the Client Assistance Project within the Department for Rights of the ~~Disabled~~ *Virginians with Disabilities*. A rights and responsibilities form shall be signed by the applicant. A face-to-face interview with the applicant is required.

§ 3. Eligibility for vocational rehabilitation services.

A. Eligibility requirements shall be applied without regard to sex, race, age, creed, color, or national origin. No group of individuals shall be excluded or found ineligible solely on the basis of the type of disability. No upper or lower age limit shall be applied which shall in and of itself result in a determination of ineligibility for any person with a disability who otherwise meets the basic

eligibility requirements. No residence requirement, durational or other, shall be imposed which excludes from services any individual who is present in the Commonwealth.

B. Preliminary diagnostic study-eligibility determination.

A preliminary diagnostic study is required on each individual who makes application for services. Diagnostic and evaluative services needed are provided to determine the applicant's eligibility for vocational rehabilitation services; ineligibility for vocational rehabilitation services; or the need for an extended evaluation. In all cases, the evaluation places primary emphasis upon determining the applicant's potential for achieving a vocational goal as determined by the applicant and the department. Eligibility determination is accomplished when an individual completes applicant status, or extended evaluation. When sufficient information is not available without cost, the department shall purchase the information needed.

§ 4. Basic eligibility criteria.

A. The individual shall have a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

B. There shall be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

1. The existence of a physical or mental disability, shall be substantiated by adequate medical, psychiatric or psychological reports.

2. A substantial handicap to employment is a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) that impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

3. Data accumulated in the case study not directly related to a disability may be used to substantiate a substantial handicap to employment.

4. Employability refers to a determination by the applicant and the department that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

§ 5. Evaluation of vocational rehabilitation potential.

Final Regulations

An evaluation shall be required in order to determine eligibility for services; the need for an extended evaluation, or ineligibility for services.

A. The preliminary diagnostic study.

The preliminary diagnostic study shall both determine and document the basic eligibility criteria.

B. Extent of study.

The preliminary diagnostic study shall include examinations and studies needed to make the determination of eligibility. In all cases, the evaluation shall place primary emphasis upon determining the individual's potential for achieving a vocational goal.

C. Required evaluations.

The current general health of the individual shall be assessed, based, to the maximum extent possible, on available medical information. In all cases of mental or emotional disorders an examination shall be provided by a physician licensed to diagnose and treat such disorders or a psychologist licensed or certified in accordance with state laws and regulations. If eligibility cannot be determined from medical evidence of record, medical specialist examinations needed to determine eligibility shall be provided.

D. Thorough diagnostic study.

As appropriate in each case, after an individual's eligibility for vocational rehabilitation services has been determined, there shall be a thorough diagnostic study to determine the nature and scope of services needed. This study shall consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other factors relating to the individual's handicap to employment and rehabilitation needs.

This study shall include in all cases, to the degree needed, an appraisal of the individual's personality; intelligence level; educational achievement; work experience; personal, vocational and social adjustment; employment opportunities; and other pertinent data helpful in determining the types and quantity of services needed. The study shall also include, as appropriate for each individual, an appraisal of patterns of work behavior, ability to acquire occupational skills and capacity for successful job performance.

E. Hospitalization for diagnosis may be provided when all of the following conditions are met:

1. This service is required in order to determine eligibility for services or type of services needed, and
2. This service is recommended by a licensed medical doctor.

The maximum period of diagnostic hospitalization shall be three days.

§ 6. Extended evaluation to determine vocational rehabilitation potential.

A. Criteria.

The provision of vocational rehabilitation services under an extended evaluation to determine vocational rehabilitation potential is based only upon:

1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and
2. The department's inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine vocational rehabilitation potential.

B. Duration and scope of services.

Vocational rehabilitation services necessary for determination of rehabilitation potential, including those provided during a thorough diagnostic study, may be provided to a handicapped individual for a period not to exceed 18 months.

C. Other requirements of the extended evaluation:

1. The extended evaluation period shall begin on the date of certification for such evaluation. Only one 18-month maximum period shall be provided during the time that the client is receiving services. If a case has been closed and an individual's needs have later changed, the case may be reopened and a subsequent evaluation of vocational rehabilitation potential may be conducted.
2. Vocational rehabilitation services authorized after the expiration of the extended evaluation period shall be provided only if a certification of eligibility has been executed.
3. The jointly developed Individualized Written Rehabilitation Program (IWRP) for extended evaluation shall be written prior to the applicant receiving services and shall be signed by the applicant, or as appropriate, the applicant's designee. A copy of the IWRP shall be given to the applicant.
4. Goods and services necessary to determine rehabilitation potential may be provided during an extended evaluation. They do not require the establishment of economic need when the services are of a diagnostic nature.

D. Review.

A thorough assessment of the individual's progress shall be made as frequently as necessary but at least once every 90 days during the extended evaluation period. This assessment shall include periodic reports from the facility or person providing the services in order to determine the results of such services and to determine whether the individual may be eligible or ineligible for services.

E. Termination.

At any time before the end of the 18-month extended evaluation period, the extended evaluation shall terminate when:

1. The individual is found eligible for vocational rehabilitation services since there is a reasonable assurance that the individual can be expected to benefit in terms of employability resulting from vocational rehabilitation services; or
2. The individual is found ineligible for any additional vocational rehabilitation services since it has been determined on the basis of clear evidence that the individual cannot be expected to benefit in terms of employability resulting from vocational rehabilitation services.

§ 7. Certification of eligibility.

A. For vocational rehabilitation services; before or at the same time the applicant is accepted for services the department shall certify that the applicant has met the basic eligibility requirements as specified in § 4 of these regulations.

B. For extended evaluation; as a basis for providing an extended evaluation to determine vocational rehabilitation potential, there shall be certification that the applicant has met the requirements as specified in § 6 of these regulations.

§ 8. Ineligibility.

A. Certification of ineligibility.

When it is determined on the basis of factors as diagnosis, prognosis, or interest that an applicant for or recipient of vocational rehabilitation services is ineligible for services, a certification shall be signed and dated.

Such determination shall be made only after full consultation with the individual or, as appropriate, the parent, guardian, or other representative, or after giving a clear opportunity for this consultation. The department shall provide notification in writing of the action taken and inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the procedures for administrative review and fair hearing. The individual shall be provided with a detailed documented explanation of the availability of the resources within the Client Assistance Program,

Department for Rights of the Disabled *Virginians with Disabilities*, and when appropriate, referral shall be made to other agencies and facilities, including, when appropriate, an independent living rehabilitation program.

B. Review of ineligibility determination.

When the department has certified the ineligibility of an applicant for or a recipient of vocational rehabilitation services because of a finding that the individual cannot be expected to achieve a vocational goal, the ineligibility determination shall be reviewed within 12 months. This review need not be conducted in situations where the individual has refused it, the individual is no longer in the Commonwealth, the individual's whereabouts are unknown, or a medical condition is rapidly progressive or terminal.

C. Case closure without eligibility determination.

A case may be closed without any determination of eligibility when an applicant is unavailable during an extended period of time (30 days) to complete an evaluation of vocational rehabilitation potential and the department has made three documented efforts to contact the applicant and to encourage the applicant's participation.

§ 9. Order of selection for services.

In the event vocational rehabilitation services cannot be provided because of unavailable resources, to all persons determined to be eligible, upon recommendation by the Commissioner, an order of selection system may be approved by the board which shall determine those persons for whom services may be purchased. It shall be the policy of the department to encourage referrals and applications of all persons with disabilities and, to the extent resources permit, provide services to all eligible persons.

The following order of selection is implemented when services cannot be provided to all eligible persons:

Priority I. Person eligible and presently receiving services under an IWRP.

Priority II. Those persons referred and needing diagnostic services to determine eligibility.

Priority III. Persons determined to be severely disabled.

Priority IV. Other persons determined to be disabled, in order of eligibility determination.

In all priorities preference shall be given to providing services to disabled public safety officers disabled in the line of duty.

§ 10. The Individualized Written Rehabilitation Program (IWRP) procedures.

Final Regulations

A. General requirements.

1. The IWRP shall be initiated after certification of eligibility for vocational rehabilitation services.
2. The IWRP shall be initiated and periodically updated when information has been received that may necessitate a change, or at least annually. This shall be done for each client and for each applicant being provided services under an extended evaluation to determine rehabilitation potential.
3. Vocational rehabilitation services shall be provided in accordance with the IWRP which shall be developed and updated jointly by the department and the client, or, as appropriate, the client's designee.
4. A copy of the IWRP and any amendments shall be provided to the client or, as appropriate, the client's designee and shall advise each client, or designee of all procedures and requirements affecting the development and review of the IWRP.

B. Individualized Written Rehabilitation Program Review.

The IWRP shall be reviewed as often as necessary but at least on an annual basis. The IWRP for extended evaluations must be reviewed at least every 90 days. Each client, or, client's designee shall be given an opportunity to review the IWRP and, if necessary, jointly redevelop the IWRP and show agreement with its terms by signing it.

C. Review of ineligibility determination.

If services are to be terminated under an IWRP because of a determination that the client is not capable of achieving a vocational goal and is therefore no longer eligible, or if in the case of an applicant who has been provided services under an extended evaluation of vocational potential and services are to be terminated because of a determination that the applicant is not eligible, the following conditions and procedures shall be met or carried out:

1. The decision shall be made only with the full participation of the individual, or, as appropriate, parent, guardian or other representative, unless the individual has refused to participate and this is documented, the individual is no longer present in the Commonwealth, the whereabouts are unknown, or medical conditions are rapidly progressive or terminal. When the full participation of the individual or a representative of the individual has been secured in making the decision, the views of the individual shall be recorded in the IWRP;
2. The rationale for such ineligibility decision shall be recorded as an amendment to the IWRP certifying that the provision of vocational rehabilitation services had demonstrated that the individual is not capable of achieving a vocational goal, and a certification of

ineligibility is then executed; and

3. There shall be a periodic review, at least annually, of the ineligibility decision in which the individual is given opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services or has refused a periodic review, the individual is no longer in the Commonwealth, the whereabouts are unknown or a medical condition is rapidly progressive or terminal. The first review of the ineligibility decision shall be initiated by the department and be documented. Any subsequent reviews shall be undertaken at the request of the individual.

§ 11. Individualized Written Rehabilitation Program (IWRP) content.

The IWRP places primary emphasis on the determination and achievement of a vocational goal and shall include, but is not necessarily limited to, statements concerning:

1. The basis on which the determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of vocational rehabilitation potential is necessary to make a determination of eligibility;
2. The long-range and intermediate rehabilitation objectives established with the client; or client's designee.
3. The determination of the specific vocational rehabilitation services to be provided in order to achieve the established rehabilitation objectives;
4. The projected date for the initiation of each vocational rehabilitation service, and the anticipated duration of each service;
5. A procedure and schedule for periodic review and evaluation of progress toward achieving rehabilitation objectives based upon objective criteria, and a record of these reviews and evaluations;
6. The views of the client, or, as appropriate, the client's designee, concerning his goals and objectives and the vocational rehabilitation services being provided;
7. The terms and conditions for the provision of vocational rehabilitation services including responsibilities of the client in implementing the IWRP, the extent of client participation in the cost of services if any, the extent to which the client is eligible for similar benefits under any other programs, and the extent to which these similar benefits have been used;

8. A documented assurance that the client has been informed of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the opportunity for an administrative review of state unit action, fair hearing or review by the secretary;

9. An assurance that the client has been provided a detailed explanation of the availability of the resources within the client assistance program, Department for Rights of the Disabled *Virginians with Disabilities*.

10. The basis on which the client has been determined to be rehabilitated; and

11. Any plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which such plans are developed.

§ 12. Scope of vocational rehabilitation services for individuals.

The following vocational rehabilitation services shall be provided only when deemed necessary to the vocational rehabilitation of the client.

1. Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided.

2. Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship, and referral necessary to help clients secure needed services from other agencies, which may include independent living rehabilitation programs.

The department shall not purchase vocational counseling and guidance service as a primary service.

3. Physical and mental restoration services necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and when recommended by a licensed practitioner.

a. Services.

Physical and mental restoration services are those medical and medically related services which may be expected to remove, or substantially reduce the handicapping effects of a physical or mental condition. These services include but are not limited to:

- (1) Convalescent care, nursing or rest home care;
- (2) Dental treatment;

(3) Drugs and supplies;

(4) Hospitalization (both inpatient and outpatient care, and clinic services);

(5) Medical treatment;

(6) Nursing services;

(7) Physical restoration in a rehabilitation facility;

(8) Physical and occupational therapy;

(9) Prosthetic and orthotic appliances;

(10) Psychiatric treatment;

(11) Speech or hearing therapy;

(12) Surgical treatment;

(13) Telecommunications, sensory and other technological aids and devices;

(14) Treatment of medical complications and emergencies, either acute or chronic, which are associated with, or arise out of the provision of physical restoration services or are inherent in the condition under treatment.

b. Eligibility requirements.

(1) Stable or slowly progressive.

The physical or mental condition must be stable or slowly progressive. The condition must not be acute or transitory, or of such recent origin that the resulting functional limitations and the extent to which the limitations affect occupational performance cannot be identified.

(2) Refusal of service.

When a client has a physical or mental disability with resulting limitations that constitute a handicap to employment, and when in the opinion of licensed medical personnel these limitations can be removed by physical or mental restoration services without injury to the individual, they shall not be eligible for any rehabilitation services, except counseling, guidance and placement if they refuse to accept the appropriate physical or mental restoration services. A second opinion may be provided at the client's request. In the event of conflicting medical opinions, the department shall secure a third opinion and the decision shall be made on the two concurring opinions.

c. Provision of physical and mental restoration services.

Final Regulations

These services are provided only when:

- (1) Recommended by a licensed practitioner;
- (2) Services are not available from another source; and
- (3) They are provided in conjunction with counseling and guidance, and other services, as deemed appropriate.

The department shall not make case expenditures for acute or intermediate medical care except for medical complications and emergencies which are associated with or arise out of the provision of Vocational Rehabilitation (VR) services under an IWRP and which are inherent in the condition under treatment.

d. Convalescent and nursing home care.

The department may, when the services are directly related to the vocational rehabilitation objective, pay for convalescent and nursing home care for a client who needs continued medical supervision after department sponsored treatment for their condition. This service must be recommended by the proper medical practitioner before the service is authorized, and be contingent upon the client being able to reengage in the Vocational Rehabilitation Program.

- (1) This service may be provided for 30 days.
- (2) The commissioner or his designee may approve an additional 30 days of service.

e. Services not sponsored by the department.

The board, in consultation with appropriate medical resources, shall determine those physical restoration services which shall not be provided by the department. The following circumstances or conditions shall be considered:

- (1) Experimental procedures shall not be sponsored;
- (2) High risk procedures;
- (3) Procedures with limited vocational outcomes;
- (4) Excessively high cost procedures; and
- (5) Procedures with uncertain outcomes.

f. Hospitalization.

The department may pay for hospitalization for medical diagnosis, surgical or medical treatment when deemed necessary for the vocational rehabilitation of the client and recommended by a licensed practitioner. Hospitalization shall be

provided in hospitals, medically oriented treatment facilities, or continuing care facilities in Virginia or out-of-state, with which the department has a contract. Payment to hospitals, medically oriented treatment facilities, or continuing care facilities shall be made in accordance with the department fee schedules.

(1) The maximum period of hospitalization, excluding diagnostic, to be authorized based upon financial resources available to the department shall be 10 days.

(2) Extension of the maximum period of hospitalization shall be allowed when due to acute medical complications and emergencies associated with or arising out of the provision of physical or mental restoration services.

(3) Treatment of acute medical complications or emergencies which impact negatively on the client's progress toward the client's vocational goal, shall be provided.

g. Medication.

When medication is to be continuous, e.g., treatment of diabetes or epilepsy, and while the client is receiving vocational training, the department may purchase medication during the training period, and for a period not to exceed 90 days after achieving employment.

When counseling, medication and placement are the only services provided, the department may pay for medication for a period not to exceed 90 days. Generic drugs shall be utilized when possible.

h. Physical and occupational therapy.

The department may pay for physical and occupational therapy when it is prescribed by a doctor of medicine.

i. Chiropractic service.

The department may pay for chiropractic services after consultation with a doctor of medicine.

j. Cardiac exercise therapy.

This service shall be sponsored by the department for clients who have had a myocardial infarction or a coronary bypass not more than six months prior to the recommended exercise therapy. A maximum of 24 sessions may be authorized.

k. Prosthetic and orthotic appliances purchase and repair.

The department may purchase an original appliance

only upon the recommendation of the medical specialist. When a client has a history of satisfactory appliance use and the general medical examination report indicates no pathological change, this report may be sufficient medical basis for the replacement or repair of the appliance. The department shall purchase prosthetic or orthotic appliances from vendors approved in accordance with the department's vendor approval process.

l. Psychotherapy.

Psychotherapy shall be provided by a psychiatrist or psychologist. If the department purchases the psychotherapy from either, they must be qualified in the area of psychotherapy and be licensed in accordance with the laws of the Commonwealth. The maximum number of sessions to be sponsored shall be 27. If the client needs additional psychotherapy, the department will make an effort to assist the client in securing it.

m. Speech and hearing therapies.

(1) Speech

Speech therapy may be provided to clients when treatment is recommended by a speech pathologist who is licensed in accordance with the laws of the Commonwealth.

(2) Hearing.

Hearing aid orientation and lip reading may be provided when recommended by a specialist in hearing disabilities.

n. Visual services.

Services may be provided to a client when their visual disability, as established by an ophthalmological or an optometric examination, is of such severity that their employment opportunities are considerably limited. Visual services shall be provided by the department in accordance with the cooperative agreement established with the department for the visually handicapped. Visual aids may also be provided to clients who are unable to satisfactorily pursue their vocational rehabilitation program due to impaired vision.

4. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this section unless maximum efforts have been made to secure grant assistance in whole or in part from other sources.

All training services provided shall be related to attainment of the vocational objective or provide for the determination of eligibility for vocational rehabilitation services. Vocational training includes any organized form of instruction which provides the knowledge and skills essential for performing the tasks involved in an occupation. Vocational training may be obtained in institutions such as colleges, universities, business schools, nursing schools and trade and technical schools. It may also be obtained by on-the-job training, apprenticeship programs, tutorial training, or correspondence study.

a. Business schools and business colleges, trade and technical schools, and two-year college terminal courses.

The training institution selected shall be approved in accordance with the department's vendor approval process.

b. College and university academic training.

(1) Academic requirements.

The client shall take sufficient academic credit hours based on the requirement of the college attended for classification as a full-time student, unless this is, in the opinion of the department, contraindicated by the client's disability. Courses shall meet the institution's requirement towards the obtainment of the degree or certificate. Continuation of financial assistance by the department shall be dependent upon the client maintaining a "C" average calculated on an academic year. When the client fails to maintain a "C" average, assistance may be discontinued. The department's assistance may be reinstated when the client completes one semester or quarter with a minimum of a "C" average.

Each client shall be advised that failure to provide grades to the department shall be grounds for termination of departmental financial assistance.

(2) Graduate degree program.

The department shall assist only clients with severe disabilities in securing a graduate degree and only when it is judged essential to achieving employment.

(3) Virginia colleges and universities.

Vocational training, including college or university training, shall be provided by the department in any department approved institution located within the boundaries of the Commonwealth, unless such training is not available within the Commonwealth. Institutions in the areas of Washington, D.C.; Bristol-Johnson City-Kingsport, Tennessee; the city of Bluefield, West Virginia; and other cities where the

Final Regulations

services may be provided more effectively and economically and shall be treated as if located in Virginia.

(4) Tuition and mandatory fees.

The department may pay tuition for college and university training in an amount not in excess of the highest amount charged for tuition by a state-supported institution or the rate published in the catalog, whichever is less, except where out-of-state college is necessary, published tuition costs may be paid.

Any client enrolling into any college/university course(s) for the primary purpose of course/program certification and not for the purpose of obtaining a degree shall be exempt from the application of the annual maximum tuition rate.

(5) Scholarships and grants.

Training services in institutions of higher education shall be paid for with departmental funds only after maximum efforts have been made by the client to secure assistance in whole or in part from other sources; however, any client eligible for vocational rehabilitation training services but not meeting the financial need test of the department may be provided an assistance grant annually in an amount not to exceed the equivalent of one quarter's tuition of a full time community college student.

c. Correspondence study.

The correspondence study training may be authorized only when:

- (1) The client requires specific preliminary training in order to enter a training program; or
- (2) Training cannot be arranged by any other method; and
- (3) Satisfactory progress is maintained.

d. On-the-job-training.

The department may enter into agreements with employers in the private or public sector to provide on-the-job training services. The terms and conditions of each individual agreement shall be established by the department.

e. Part-time training.

Part-time training may be utilized only when the severity of the client's disability shall not allow the client to pursue training on a full-time basis.

Part-time training shall be authorized only at

department approved facilities and schools.

f. Work adjustment training.

Work adjustment training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

g. Prevocational training.

Prevocational training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

h. Tutorial training.

Tutorial training may be provided if needed for the client to achieve a vocational goal as indicated by the thorough diagnostic study assessment of medical, vocational, psychological and other factors. This service may be provided only by the department or approved vendors.

i. Other higher education training concerns.

(1) Required textbooks and supplies.

The maximum amount of department financial assistance for required textbooks and supplies (pencils, paper, etc.) shall be \$400 annually for a normal school year or \$500 if summer school is attended.

(2) Required training materials.

Training materials may be provided when required by the instructor.

5. Maintenance, including payments, not exceeding the estimated cost of subsistence and provided at any time after vocational rehabilitation services have begun through the time when post-employment services are being provided. Maintenance covers a client's basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessary to support and derive the full benefit of the other vocational rehabilitation services being provided.

a. Clothes.

Clothes are provided when specifically required for participation in a training program or for placement in a specialized job area as determined by the

department.

b. Room, board and utilities.

The maximum rate paid for room, board and utilities shall be established annually by the board.

c. Training cases.

The maximum amount of department financial assistance for room and board at a training institution (college, vocational school, rehabilitation center facility), when the institution is able to provide room and board, shall not exceed the published room and board rates charged by the institution, or the actual cost, whichever is less.

d. While living at home.

Maintenance shall be provided for a client living at home only when the client's income supports the family unit of the client, when it is more cost effective for the department, or when it is in the best interest of the client's vocational rehabilitation program based on mutual agreement of the rehabilitation counselor and the client.

6. Transportation, including necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting clients and their attendants or escorts for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective.

a. Transportation costs.

The department shall pay the most economical rate for accessible public transportation.

When public transportation is not available, or the client, because of disability, cannot travel by public transportation, transportation may be provided at a rate not to exceed \$.12 a mile.

b. For and during training services.

When the client must live at the training location, the department may only pay for a one-way trip from the residence to the training location at the beginning of the training, and a one-way trip from the training location to the residence or job site at the conclusion of the training program. Transportation may be paid to and from the residence in case of emergency (severe illness, or death in family; acute business emergency or prolonged school closing such as Christmas holidays). Local bus fare may be furnished also. When the client's physical condition is such that

travel by public conveyance is impossible, taxi fare may be allowed from place of residence to training site and return. When the client lives at home and the training site requires daily transportation, the cost of such transportation may be paid.

7. Services to members of client's family when necessary to the vocational rehabilitation of the client.

Services to family members of the client may be provided when such services may be expected to contribute substantially to the determination of rehabilitation potential or to the rehabilitation of the client. In order for the department to furnish these services, they shall not be available from any other source.

a. Family member is defined as any relative by blood or marriage living in the same household.

b. Day care services for dependent children. The department may pay up to the amount paid per child, per day, by the local social services department in the locality in which the child is located. When more than one child is involved, rates for the additional children should be lower. When satisfactory accommodations can be secured at a rate lower than that paid by the local social services department, the lower rate shall be paid by the department.

8. Interpreter services and note taking services for the deaf and communication impaired, including tactile interpreting for deaf-blind clients.

a. Upon request of the client or as needed, these services may be provided at any stage during the rehabilitation process. Interpreting may be primarily in the form of sign language (manual method) or oral interpretation (oral method).

b. The department shall pay for interpreting services when these services contribute to the client's vocational rehabilitation program for those clients who meet the department's financial need criteria.

c. The interpreter must be, whenever possible, certified by the National Registry of the Deaf, Virginia Registry of the Deaf, or approved by the Virginia Department for the Deaf and Hard of Hearing.

d. When clients with deafness are in a training program, the department shall arrange for note taking or reader services, unless the client indicates such service is not needed or desired.

9. Telecommunications, sensory and other technological aids and devices when they may be expected to contribute substantially to the vocational rehabilitation

Final Regulations

of the client.

a. Telecommunications system.

Services related to use of a telecommunications system shall meet established federal or state health and safety standards and be consistent with written state policies.

b. Sensory and other technological aids and devices.

The department may provide electronic or mechanical pieces of equipment or hardware intended to improve or substitute for one or more of the human senses, or for impaired mobility, or motor coordination.

Services related to use of sensory and other technological aids and devices shall meet established federal or state health and safety standards and be consistent with state law and regulations.

(1) An otological evaluation may be, and an audiological examination is required before the department may purchase a hearing aid.

(2) The department shall purchase hearing aids only for those clients identified as benefiting in terms of employability as a direct result of such aid.

(3) Cross and bicross aids may be purchased only when it is justifiable on the basis of the vocational objective.

(4) Eyeglasses and hearing aids may be purchased only when they are equal in performance in terms of volume and speech discrimination and if the cost is not higher than that of a comparable body aid or a behind the ear aid.

10. Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment. These services shall be provided in accordance with the training criteria set forth in subdivision 4 of § 12.

11. Placement in suitable employment.

Placement shall be in accordance with the mutually agreed upon vocational objective and is the responsibility of the client and the department, particularly the rehabilitation counselor.

12. Post-employment services necessary to maintain suitable employment.

Post-employment services are vocational rehabilitation services provided to clients who need such services to maintain employment after the case of the client has

been closed as successfully rehabilitated.

Selection criteria.

Any rehabilitated clients may be considered for post-employment services. The department may evaluate with each client the need for such services.

All of the following criteria shall be met for the selection of clients to receive post-employment services:

(1) The client has been determined to be rehabilitated;

(2) The disabling medical condition shall be stable or slowly progressive;

(3) Post-employment services are necessary to assist the client in maintaining employment; and

(4) Solution of the problem does not require a complex or comprehensive rehabilitation effort, i.e., a new and distinct handicapping condition has not occurred which should be handled as a new case.

If needed services exceed any of the aforementioned conditions, the department may take a new application.

13. Transitional employment services which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training and job follow-along for the disabled employee. Transitional employment services are provided primarily within a program of supported employment.

Supported employment is targeted specifically to those persons with severe disabilities who require job site support to remain employed in work settings which include nondisabled coworkers.

The department's utilization of transitional employment services in a supported employment program for a client is time-limited as determined by the board and requires funding from a source other than the department to pay the cost of providing ongoing support.

The department shall fund job site training and assistance required for a person to obtain paid work and to stabilize in that job. The agency may provide supported employment services to any individual with the most severe disabilities who:

a. Has not worked, or has worked only intermittently, in competitive employment.

b. Has been determined on the basis of any evaluation of rehabilitation and career needs,

including a consideration of whether supported employment is a possible vocational outcome, to meet the eligibility criteria for the State Vocational Rehabilitation Services Program as established in federal regulations.

c. Has a need for ongoing support services in order to perform competitive work.

The following activities are authorized under this program:

a. Evaluation of rehabilitation and career needs of individuals with the most severe disabilities in terms of a supported employment outcome.

b. Development of and placement in jobs for individuals with the most severe disabilities.

c. Provision of time-limited services needed to support individuals with the most severe disabilities in employment including:

(1) Intensive on-the-job skills training provided by skilled job trainers, coworkers, and other qualified individuals.

(2) Ongoing support services needed to support and maintain an individual's supported employment placement. These must include, at a minimum, twice monthly monitoring to assess the individual's employment stability. Monitoring activities generally take place at the work site unless the individualized written rehabilitation plan provides for off-site monitoring. If off-site monitoring is determined to be appropriate, it must, at a minimum, consist of two meetings with the individual and one contact with the employer each month.

(3) Follow-up services designed to reinforce and stabilize the job placement.

(4) Discrete post-employment services unavailable from the extended services provider that are necessary to maintain the job placement, including but not limited to job station redesign, repair and maintenance of assistive technology, and replacement of prosthetic and orthotic devices.

Transitional employment services for individuals with chronic mental illness may be provided under the State Supported Employment Program. Transitional employment means a series of temporary job placements in competitive work in an integrated work setting with ongoing support services. Ongoing support services must include continuing sequential job placements until job permanency is achieved.

The agency shall provide for the transition of an individual with the most severe disabilities to extended services no later than 18 months after

placement in supported employment, unless a longer period to achieve job stabilization has been established in the individualized written rehabilitation program, before an individual with the most severe disabilities makes the transition to extended services.

Supported employment services must be provided in an integrated work setting which means that (i) most employees at that work setting are not disabled; (ii) the supported employee interacts on a regular basis, in the performance of job duties, with employees who do not have disabilities; and (iii) if the supported employee is part of a distinct work group comprised only of individuals with disabilities, the work group consists of no more than eight individuals.

If there are no other employees or the only other employees are individuals who are part of a work group as described in subdivision (c) above, the supported employee must interact on a regular basis, in the performance of job duties, with individuals without disabilities, including members of the general public. The required interaction cannot be satisfied by contact between an individual with the most severe disabilities and individuals who provide ongoing support services at the job site.

14. Occupational licenses, including any license, permit or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation or enter a small business, tools, equipment, initial stocks (including livestock) and supplies.

a. Licenses.

Licenses required for entrance into selected vocations may be provided. These may be occupational or business licenses as required by the local governing body, state board examinations required by the Department of Commerce Professional and Occupational Regulation, and motor vehicle operator's license.

b. Tools and equipment.

Tools and equipment shall be provided for a client when:

(1) They are required for a job or occupation that is best suited to the utilization of their abilities and skills;

(2) The employer does not ordinarily furnish these articles; and

(3) They are for the exclusive use of the client.

Such articles shall be for the client's own use in the performance of his work and must remain in his possession and under his control as long as he

Final Regulations

engages in the job or occupation for which they are provided.

If the client alleges that tools and equipment are stolen, the client shall file a stolen property report with the local police.

Computer equipment and software shall be provided either if required as indicated in subparagraph b (1) (2) and (3) above or if it is necessary for vocational training. The department's financial participation in the cost of such equipment and software shall not exceed \$3,500.

c. Title retention and release.

The department shall comply with state law on the retention of title and release of title of equipment to clients.

d. Repossession of tools and equipment.

The department shall repossess all occupational tools and equipment to which the department retains title when they are no longer being used for the purposes intended by the client for whom they were purchased.

15. Other goods and services deemed necessary to the vocational rehabilitation objective of the client.

These include, but are not limited to, such services as: peer counseling, independent living skills training, attendant care and attendant training if they can reasonably be expected to benefit a client in terms of employability.

The department's financial participation in the cost of certain goods and services shall be limited as follows: home modifications, \$7,500; and vehicle modifications, \$7,500. The department shall not purchase or participate in the purchase of automotive vehicles.

16. Services to groups.

The department may provide services to groups of persons with disabilities when the services may contribute substantially to the needs of the group, although they are not related directly to the IWRP of any one person with a disability.

§ 13. Clients determined to be rehabilitated.

In order to make a determination that a client has been rehabilitated, the minimum requirements to be met shall be that the client was:

1. Determined to be eligible under § 4 of these regulations;
2. Provided an evaluation of vocational rehabilitation

potential and counseling and guidance as essential vocational rehabilitation services;

3. Provided appropriate and substantial vocational rehabilitation services in accordance with the individual written rehabilitation program; and

4. Determined to have achieved and maintained a suitable employment goal for at least 60 days.

§ 14. Authorization of services.

Written authorization shall be made, either before or at the same time as the purchase of services. When an oral authorization is given in an emergency situation, there shall be prompt documentation and the authorization shall be confirmed in writing and forwarded to the provider of the services.

§ 15. Standards for facilities and providers of services.

Regulations for this section are under development. Until the regulations are in final draft form for public comment, the Department of Rehabilitative Services will continue to operate under existing policies.

§ 16. Participation by the handicapped individuals in the cost of vocational rehabilitation services.

A. An economic need test is established because of the limited resources of the department.

B. An economic need test shall be utilized to determine the extent of client participation in the cost of vocational rehabilitation services. Services exempt from consideration for financial participation shall be diagnostic and evaluation, counseling, guidance and referral, job placement, on-the-job training and unpaid work experience. Also excluded from financial participation shall be services necessary to assist in the diagnostic and evaluation process such as transportation, maintenance and interpreter service for the deaf.

Services which require an economic need test are: physical and mental restoration; training other than on-the-job training (OJT); maintenance; transportation; services to family members; interpreter and reader services; telecommunications; recruitment and training services; post-employment; occupational licenses and other goods and services.

C. Groups exempt are:

1. Recipients of General Relief.
 2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent.
- D. The department shall make an assessment of similar benefits available to pay for vocational rehabilitation

services. The department shall not pay program costs which could otherwise be provided by similar benefits unless it is documented that securing such benefits would significantly delay the provision of services to the client.

E. Income and resources of the family are to be used when the client is a part of the family unit. The client is a part of the parent or legal guardian family unit upon occurrence of either:

1. Dependency of support evidenced on the last federal income tax return of the parent or legal guardian regardless of residency; or
2. When temporarily absent from the home due to illness, school, vacation or military leave.

F. The financial need test shall consider the following income:

1. Annual taxable income (gross income).
2. Annual nontaxable income such as social security, retirement benefits, workmen's compensation, and veteran's benefits.
3. Total cash assets, including checking and savings accounts, certificates, stocks and bonds.

The financial need test shall provide for the following allowances and exclusions:

1. The gross income shall be adjusted by the percentage indicated in the table below:

Gross Income	Allowance
Under \$10,000	15%
10,000 to 14,999	20%
15,000 to 24,999	25%
25,000 to 34,999	30%
Over 34,999	35%

2. Income shall be excluded from consideration based upon family size using the table below:

Size of Family	Income Exclusion
1	\$10,608
2	\$13,143
3	\$15,678
4	\$18,213
5	\$20,748
6	\$23,283
7	\$25,818
8	\$28,353

For each additional dependent, add \$2,535.

The table above is based upon the federal low income for a family of four. It shall be updated annually by

the department.

3. Excluded from income shall be estimated client cost specifically related to the client's disability and not covered by similar benefits.
4. Excluded from cash assets is \$5,000.
5. Individual retirement accounts shall be excluded from income considerations.

Determination of the annual client financial contribution results from an examination of: (i) the number of persons in the family unit; (ii) annual taxable income minus allowances; (iii) annual nontaxable income; (iv) cash assets minus exclusions; and (v) exceptional exclusions based on client cost specifically related to client's disability.

The financial resources to be considered shall be tabulated using the method noted herein. The positive balance (resources exceeding exclusions) shall be determined to be available for participation in the rehabilitation program.

§ 17. Consideration of similar benefits.

A. Consideration shall be given, in all cases, to any similar benefits available to a client, or to members of a client's family, under any program to meet, in whole or in part, the cost of any vocational rehabilitation services except the following:

1. Evaluation of vocational rehabilitation potential except as provided under ~~subsection~~ *subdivision C 4* of § 6;
2. Counseling, guidance, and referral;
3. Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, which are not provided in institutions of higher education;
4. Placement;
5. Post-employment services consisting of the services listed in § 12 of these regulations.
6. Physical and mental restoration services and maintenance, when the similar benefit would significantly delay the provision of services to the client; and
7. When they are not adequate and would interfere with achieving the rehabilitation objective of the client.

B. The department shall consider the availability of third party resources to cover part or all of the cost; the availability of the client's resources or the client's family

Final Regulations

resources to cover part or all of the cost; and the availability of department resources to cover part or all of the cost when other resources are insufficient.

§ 18. Appeal procedures.

When an applicant or client is dissatisfied with any action concerning the furnishing or denial of services from the department, the applicant or client may file a request for an administrative review and a redetermination of that action. Assistance is available throughout the appeal process, to all clients, from the Client Assistance Project within the Department for Rights of the ~~Disabled~~ *Virginians with Disabilities*. In the event that medical or psychological evidence indicates it is necessary to terminate a cost service, subsection A and B below do not apply.

A. Reconsideration step.

When an applicant or client is dissatisfied with an action taken by the department, the applicant or client shall present the disagreement orally or in writing for reconsideration to either the person who took the initial action or to that person's immediate supervisor. The initial action shall be reviewed and the applicant or client shall be informed in writing of the redetermination within seven working days after the request is received.

B. Administrative review.

1. Any applicant or client who has been unable to satisfactorily resolve the issue(s) at the reconsideration step may obtain an administrative review from a department representative.

2. A request for an administrative review shall be made in writing by the client or client's designee to the rehabilitation counselor within 30 days after the client has been notified of the reconsideration decision. The request shall contain a description of the issue(s) presented for review, the action being requested, and other evidence to support that request.

3. The administrative review shall be conducted by a department representative within 10 working days.

4. The department representative shall afford the client the opportunity to present his dispute orally, if desired.

5. The department representative shall determine whether there was reasonable factual support for the initial action and whether the action was consistent with the department's regulations, policies and practices.

6. The department representative shall notify, in writing, the client or applicant, of the decision within 10 working days of the administrative review based upon consideration of the following:

- a. The needs of the client,
- b. The dispute as presented by the client,
- c. The administrative record, and
- d. Agency regulations and practice which the department representative determines to be pertinent to the issues presented.

7. A client who is dissatisfied with the administrative review decision may request a fair hearing.

C. Expedited administrative review.

1. Whenever the department proposes to terminate a cost service specified in the client's individualized written rehabilitation program, the client shall have the right to an expedited administrative review. If such review is requested in keeping with ~~subsection C paragraph 4 subdivision C 4~~, the termination of the service shall not occur until the administrative review is concluded.

2. Clients shall be notified in writing no later than 10 working days prior to the effective date of the proposed termination of a cost service.

3. Clients or client's designee must request in writing prior to the effective date of the termination an expedited administrative review. The request must be made to the client's rehabilitation counselor.

4. The department representative shall conduct the expedited administrative review according to the procedures described in subsection B.

D. Fair hearing.

1. The request for a fair hearing must be made in writing to the commissioner within 15 days after receipt of the administrative review decision. The client or the client's designee shall state in detail the objections to the department representative's findings or recommendations.

2. The fair hearing shall:

a. Be conducted by a hearing officer. The hearing officer may be an employee of the department who has not directly participated in the decision under consideration.

b. Be held at a site convenient to the client and conducted within 30 calendar days after the request is received, unless an extension is mutually agreed upon and so documented.

c. Be conducted pursuant to § 9-6.14:11 of the Code of Virginia.

3. All parties to the hearing have the right: (i) to have reasonable notice thereof; (ii) to appear in person or by counsel or other qualified representative before the hearing officer for the informal presentation of factual data, argument, or proof in connection with department's action under review; (iii) to have notice of any contrary factual basis or information in the possession of the department upon which it relied in making an adverse decision; and (iv) to be informed, briefly and in writing, of the recommendation of the hearing officer.

4. The hearing officer may request other department staff such as the Assistant Commissioner for Community Rehabilitation Services or the chief medical consultant to supply additional information within their professional area of expertise. The request and response shall be made in writing.

5. No later than 15 working days after the fair hearing, the hearing officer shall submit a recommendation to the commissioner.

6. No later than 10 working days after the report has been submitted, the commissioner shall inform the client in writing of the decision.

E. Review by the Secretary of the United States Department of Education.

When a client being provided vocational rehabilitation services is dissatisfied with the final decision of the commissioner, the client may request the Secretary of the U.S. Department of Education to review the decision. Such client shall be informed of this right at the time the commissioner renders a final decision.

§ 19. Protection, use and release of personal information.

A. Purpose.

The purpose is to establish policies and procedures for the proper dissemination of information in accordance with the statutes of the Code of Virginia, Virginia Freedom of Information Act, and Virginia Privacy Protection Act. Hereafter clients shall be referred to as data subjects.

B. Application.

This applies to all employees of the department, consultants, affiliates and volunteers.

C. Policies.

The department shall:

1. Comply with state statutes when releasing any information regarding data subjects by:

a. Disclosing information/records to the data subject who is 18 years old, except:

(1) If data subject has been legally declared as incompetent then the right to access information has been granted to the individual or committee which has been appointed as guardian, authorized agent(s) or representative(s).

(2) When the treating physician has written on a mental or medical record: "In my opinion a review of such records by the data subject would be injurious to the data subject's physical or mental health or well being." This does not preclude access to that report by authorized agents or representatives. The treating physician is the only professional who, by statute, has the authority to label and deny access to a mental record by the data subject. Access to other information is not restricted.

b. Disclosing information/records only to the parent or guardian for the data subject who is under 18 years old.

2. Follow procedures which ensure that all records and other personal, identifying data are treated as confidential information, meaning that other than regular access authority and the exceptions which are permitted by code and statutes, no expressed personal or documented information shall be released to a third party without the written, informed consent of the data subject or his authorized agent or by court order;

3. Obtain and document only that information which is necessary to plan and deliver rehabilitation services;

4. Maintain and post the department's access list which designates staff positions of those who have the privilege of reviewing and checking out records;

5. Assign to all individuals as defined in subsection B and acknowledge written requests for information which are identified and occur after a data subject's application for services;

6. Charge for copies of information unless the request is from those who need information to assist data subject in the rehabilitation program. The rate shall be \$.15 per page or the actual cost, whichever is less; and

7. Keep records in offices unless in accordance with a court order, statute or by special authorization from the department representative.

D. Procedures for disclosing information.

1. Handling disclosures.

a. Each request to disclose information shall be handled during normal business hours.

Final Regulations

b. Each written request shall be responded to within 14 working days.

c. Before an employee releases information to a person or organization other than those identified on the access list, written, informed consent must be given by data subject or the authorized agent.

When there is need to release information regarding data subjects, informed consent forms should be initiated through the data subject's counselor. Forms are completed prior to releasing information and filed in data subject's record.

d. Any employee who releases information after informed consent is obtained must document data subject's record with employee's name, date, the purpose for giving specific information and to whom information was given. These statements are also documented when the record has been reviewed by or copied for the data subject.

2. Accessing information for specific situations.

a. A data subject's request to review personal record.

(1) When a data subject requests a review of their case records, the individual should be referred to their counselor, or in his absence, the counselor's supervisor. This employee is responsible for confirming the data subject's age, and competency status to access information in his own behalf.

(2) For those data subjects who are under age 18 or who have been declared incompetent, the department shall explain right to access and assist data subject by coordinating the desired review with parent or authorized agent.

(3) For data subjects who have the right to access information, the department should obtain the case record and review contents to learn if there are any mental records which a treating physician has identified as not to be reviewed. These are the only reports which can and must be removed before access.

(4) The department gives data subject their case record and is available throughout the review to interpret reports or to assist the data subject, who may wish to seek additional information regarding contents. The data subject may choose to review their case record without interpretation.

b. Access by parents, guardians or authorized agents.

(1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, is expected to furnish personal identification and sign a statement

regarding their relationship to data subject.

(2) When a data subject is 18 years or older and there is a parent who wants to review information or accompany data subject to a data subject oriented meeting, the data subject shall sign an "Authorization for Release of Information," form prior to disclosure.

c. Access by "significant others" (other family members or friends).

(1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, shall give written, informed consent prior to disclosure.

(2) When a data subject is 18 years or older, he shall give written, informed consent prior to disclosure.

d. Access by third parties.

(1) Unless required by law, or this department, no disclosure shall be made to third parties without written, informed consent from the data subject or the legally authorized agent. Upon disclosure, third parties shall be advised to maintain confidentiality with no redisclosure of information.

(2) The following information is either required by law or permitted by mission of the agency and shall be disclosed without the data subject's authorization:

(a) Within the department, employees shall be given information which is relevant to case management or research requirements.

(b) The department's medical consultants may release information to another physician for consultation or hospitalization purposes.

(c) For emergencies:

(1) Telephone and face-to-face disclosure may be made to any person for an emergency when it is reasonable to believe that a delay shall result in serious bodily injury, death or deterioration of the physical or mental condition of data subject. Examples: (i) an emergency admission or commitment to a hospital; (ii) an inquiry from an acute care hospital, data is limited to answers for specific information from the data subject's case record; and (iii) an inquiry by law-enforcement officials regarding an emergency situation. Information is limited to that which is necessary to deal with the emergency.

(2) When it becomes necessary to release information in these circumstances, the responsible department party shall enter the following in the

data subject's case record: (i) the date the information was released; (ii) the person to whom information was released; (iii) the reason the information was released; (iv) the reason written, informed consent could not be obtained; and (v) the specific information which was released.

(d) For court orders and subpoena, all requests for information by court orders shall be processed by the data subject's counselor unless there is some question about the need for legal advice. In those situations, the department representative shall decide if contact needs to be made with the department representative in the Attorney General's office prior to compliance. This contact shall be made by the commissioner's designee.

(e) The Virginia Department of Social Services shall be given, upon request, information about the location, income, and property of data subjects who have abandoned, deserted, or failed to support children and their caretakers who are receiving public assistance. No other information may be released.

(f) The Virginia Department of Health shall be given access to medical records in the course of an investigation, research, or studies of diseases or deaths which are of public health importance.

(g) The Virginia Department of Health may be provided with abstracts of records of data subjects having malignant tumors or cancers. Such abstracts may include the name, address, sex, race, and any other medical information required by law.

(h) Information may be released as requested for a formal investigation to the Virginia Department of Health, State Medical Examiner.

e. Access by special interest third parties.

(1) Release of information shall include a written, informed consent.

(2) Except for public events, no data other than directory information shall be released to the news media without the written, informed consent of the data subject or the authorized agent.

(3) No information shall be released to law-enforcement officers without the written, informed consent of the data subject or the authorized agent, or without judicial order.

(4) Audio tapes, video tapes, computerized data or other media reproduction are considered as confidential records and shall be treated like written material.

E. Procedure for changing a record.

1. Revoking an authorization of consent.

a. If anyone, such as an attorney, has a data subject sign an authorization which rescinds all prior authorizations, this negates all previous authorizations. The department shall make this a part of the case record.

b. When the revocation clause appears in the record, the department no longer has the authority to disseminate additional information other than to those on the regulation department access list.

c. If the data subject is currently a client, their counselor shall record any authorization which includes a revocation clause. This means that all routines for forwarding reports to those not on department's access list shall be stopped.

d. The rehabilitation counselor shall notify WWRC counselor or sponsor of the situation and inform the data subject of the restriction.

e. The department shall acknowledge and comply with the attorney's request for information. A separate letter shall also advise the attorney that this clause denies access of information to persons or organizations which are responsible for continuing rehabilitation services. The department shall advise attorney of the need to be provided with an additional statement which reinstates communication and correspondence.

2. Reinstating consent.

When a satisfactory reinstatement statement and new consent is received from attorney and data subject, the department shall file the additional authorization and inform appropriate department counterparts about the new release.

3. Challenging and correcting a record by the data subject or agent.

a. The data subject or agent has a right to contest the accuracy or completeness of any personal record, except access to challenging or correcting a treating physician's mental record which has been identified as not to be reviewed by the data subject.

b. Data subjects who are currently clients shall be instructed by their counselor that any request to correct, amend, or delete information is to be done in writing, giving specific reasons why information is being contested.

c. The counselor shall submit this statement to their immediate supervisor.

d. Supervisor shall interview staff, as necessary, examine pertinent records and submit a written

Final Regulations

recommendation to their regional or center director. This recommendation is to include a statement and rationale to either uphold or to change existing records.

e. When the regional or center director determines that information which is being disputed is, in fact, incomplete, inaccurate, not pertinent, untimely, or unnecessary to be retained, that individual shall instruct the original writer to amend the report in question. If the originator is no longer an employee, the regional or center director or a designee shall prepare the amended report. A copy of the amended report shall be sent to the local office for the client's file.

f. The department shall disseminate the amended version of the report to any previous recipients and as part of the record for all further requests for information.

g. The department shall notify the data subject in writing of the decision. A copy of that notice is to be filed in data subject's local office file.

h. If the investigation does not change the record or resolve the dispute, the data subject may file a statement stating what he believes to be an accurate or complete version of that information. This statement becomes a permanent part of the record. The department shall forward a copy to all previous recipients who have access to the information being disputed.

F. Procedures of safeguarding records.

1. Maintaining security of records.

a. Data subject records are the property of the department and are entrusted to personnel who safeguard records from loss, defacement or use by unauthorized persons. entering notations by anyone other than the originator of any document.

c. When a record is requested, either by court or a directive from the commissioner, a certified copy of the record shall be provided by the counselor.

d. Whoever removes records has the responsibility to assure confidentiality of content while it is out. It must never be left unattended in areas which are accessible to unauthorized individuals.

e. Confidentiality shall be maintained in work areas where casework documents are being prepared, filed or distributed.

2. Violating confidentiality.

Individuals who violate security standards or the confidentiality code by releasing information without

obtaining or following procedures may be subject to their name being removed from the access list and to discipline under the standards of conduct.

G. Department's access list.

The following have been approved to have access to the case records of clients served by the department:

1. Administrative and supervisory staff engaged in dutiful performance of their job which requires access to individual client files;

2. Service delivery personnel including, but not limited to: rehabilitation counselors, vocational evaluators, psychiatrists; and

3. Clerical personnel as appropriate.

§ 20. Periodic review of extended employment in rehabilitation facilities.

Periodic review and reevaluation shall be conducted at least annually, of the status of those clients who have been placed in extended employment in rehabilitation facilities, to determine the feasibility of their employment or their training for future employment in the competitive labor market. Maximum effort shall be made to place these clients in competitive employment or training for competitive employment whenever feasible.

V.A.R. Doc. No. R95-7; Filed September 9, 1994, 4:51 p.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 21, 1994

Ronald C. Gordon, Ph.D., Commissioner
Department of Rehabilitative Services
Post Office K-300
Richmond, Virginia 23288-0300

Attention: Allen Gouse, Ph.D., Regulatory Coordinator

RE: VR 595-01-1 - Provision of Vocational
Rehabilitation Services

Dear Dr. Gordon:

This will acknowledge receipt of the above-referenced regulations from the Department of Rehabilitative Services.

As required by § 9-6.14:4.1 C.4.(C) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulations: VR 674-01-02. Board for Waste Management Facility Operators Licensing Regulations.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Effective Date: November 2, 1994.

Summary:

The final revisions increase the fees charged to applicants to comply with § 54.1-113 of the Code of Virginia; revise definitions; empower the board to extend interim certifications for up to six months should training and examination resources be inadequate to allow industry compliance by January 1, 1995; delete the first time full certification renewal continuing professional education (CPE) requirement as too rigorous just two years after meeting the entry training and examination requirements; revise the language describing the required examinations to recognize a change in the manner in which examinations will be constructed and administered; delete the 70% examination passing score in favor of a psychometrically established passing score; establish the status of a certified individual between the date his certification expires and the date it is reinstated to add a provision on which the current regulations are silent; establish specific experience standards which may be substituted for formal education; enable certain CPE courses to be approved in advance; allow disciplinary action when one of four enumerated chapters of Title 54.1 of the Code of Virginia is violated rather than all four; and revise language to add to clarity, and correct errors in citations, grammar and word usage.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8500. There may be a charge for copies.

VR 674-01-02. Board for Waste Management Facility Operators Licensing Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the

context clearly indicates otherwise:

* "Board" means the Board for Waste Management Facility Operators.

"Board approved CPE sponsor" means a person approved by the board to offer continuing education in accordance with these regulations.

"Board approved training course" means a course which has been approved by the board to provide appropriate training to an applicant in accordance with these regulations.

"Class I certification" means the authorization from the board to act as a waste management facility operator of a transfer station, a material recovery facility receiving mixed waste, an experimental facility, or a composting facility receiving yard waste.

"Class II certification" means the authorization from the board to act as a waste management facility operator of a facility which composts municipal solid waste, a sanitary, industrial, construction or debris landfill.

"Class III certification" means the authorization from the board to act as a waste management facility operator of an infectious waste incinerator or autoclave.

"Class IV certification" means the authorization from the board to act as a waste management facility operator of a refuse derived fuel incinerator or facility designed or modified for the purpose of noninfectious solid waste combustion municipal waste combustor .

"Class V certification" means the authorization from the board to act as a waste management facility operator for any of the facilities defined in Class I, II, III or IV certification.

"Closed facility" means a solid waste management facility which has been properly secured in accordance with an approved facility closure plan.

"Closure" means an act of securing a solid waste management facility pursuant to the requirements established by the Virginia Department of Waste Management or appropriate regulatory authority.

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

"CPE credit hour" means 50 minutes of participation as a student or as an instructor in a CPE program.

"Department" means the Department of Commerce Professional and Occupational Regulation .

"Experience for Class I, II, III or IV certification" means, but shall not be limited to, the following activities: supervision, research, construction, project development, site development, compliance and enforcement of a permit or regulations, operation, or regulatory review of permit applications.

"Experience for interim certification" means skill or knowledge obtained by employment which includes responsible, technical, or operational direction of a solid waste management facility or a portion thereof.

"Full certification" means an authorization issued by the board to a waste management facility operator after the completion of training and examination, through reciprocity or experience.

"In charge" means the designation of any person by the owner to have duty and authority to operate or modify the operation of a waste management facility.

"Interim certification" means the method of regulation for a temporary time period whereby the Commonwealth, through the issuance of interim certification, authorizes a person possessing the minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without certification.

"Level of knowledge" means the nature and depth of knowledge, skill, and ability in a particular subject. The levels shall be described as:

1. Basic which covers fundamental principals and skills. This level is for individuals with limited or no exposure to the subject matter.
2. Intermediate which builds on this level or upon fundamental principals and skills and focuses on their application. This level is for those with more extensive exposure to the subject matter.
3. Advanced which focuses on the development of in-depth knowledge, a variety of skills, and a broader range of applications. This level is for individuals with significant exposure to the subject matter.
4. Update which provides a general overview of new developments. It is for individuals with a background in the subject who wish to be kept up to date.

"Municipal waste combustor" means a mass burn or a refuse derived fuel incinerator or facility designed or modified for the purpose of noninfectious solid waste combustion.

"Operation" means any waste management facility which is under construction, treating, processing, storing or disposing of solid waste, or in the act of securing a facility for closure.

"Owner" means the person who owns a solid waste

management facility or part of a solid waste management facility.

* *"Person"* means an individual, corporation, partnership, association, governmental body, municipal corporation or any other legal entity.

"Site" means within the vicinity of all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste.

"Solid waste" means any of those materials defined as nonhazardous solid waste in regulations promulgated by the Virginia Department of Waste Management.

"Storage" means housing as consistent with the regulations of the Virginia Waste Management Board.

* *"Waste management facility"* means a site used for planned treatment, storage, or disposal of nonhazardous solid waste.

* *"Waste management facility operator"* means any person, including an owner, who is in charge of the actual, on-site operation of a waste management facility during any period of operation.

* As defined by Chapter 22.1 (§ 54.1-2209 et seq.) of Title 54.1 of the Code of Virginia.

§ 1.2. Certification required.

For the purposes of these regulations, the individual acting as a waste management facility operator is an individual employed or contracted by the facility owner whose responsibilities include supervision of on-site activities that normally require an individual to be at the waste management facility on each day of operation. This is not intended to include individuals whose duties do not include the actual operation or direct supervision of a waste management facility.

§ 1.3. Disclosure.

A. Any individual seeking certification shall disclose any other operator or related certification issued by any other state(s) on the provided application.

B. Any individual seeking certification shall disclose on the application any felony convictions or final order actions issued by an administrative body or court regarding environmental violations or crimes resulting in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

C. Any certified operator shall notify the board in

Final Regulations

writing within 30 days of any felony convictions or final order actions issued by an administrative body or court regarding environmental violations or crimes resulting in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

§ 1.4. Fees.

- A. All fees are nonrefundable and shall not be prorated.
- B. An application shall not be deemed complete and shall not be processed without the required fee.

1. The application fee for full certification shall be \$ ~~100~~ 300 .

2. The fee for renewal of full certification shall be \$ ~~100~~ 300 .

3. The fee for late renewal of full certification shall be \$ ~~200~~ 600 as stated in § 5.3 of these regulations.

4. The fee for reinstatement of full certification shall be \$ ~~200~~ 600 as stated in § 5.4 of these regulations.

5. The fee for taking the examination or reexamination for certification shall be \$ ~~65~~ 325 . *This examination fee is subject to fees charged to the department by an outside vendor competitively negotiated and contracted for in compliance with the Virginia Public Procurement Act. Fees may be adjusted and charged to the candidate in accordance with this contract.*

6. The application fee for training course approval is shall be \$ ~~150~~ 250 .

7. The application fee for CPE sponsor approval is shall be \$ ~~150~~ 250 .

8. The fee for interim certification shall be \$85.

9. The fee for renewal of interim certification shall be \$85.

[~~10. The fee for a certification of licensure shall be \$25.~~

~~10.]~~ *The fee for paying any of the above fees with a check or other instrument not honored by the bank or other financial institution upon which it is drawn shall be \$25.*

C. All checks shall be made payable to the Treasurer of Virginia.

D. Receipt and deposit of fees submitted with applications do not indicate certification.

§ 1.5. Change of status.

A. The certified individual shall provide written notification of any change of address to the department within 30 days.

B. The certified individual shall provide written notification and proof of any change of name within 30 days.

C. The certification issued by the board shall not be transferred or otherwise reassigned.

PART II. INTERIM CERTIFICATION.

§ 2.1. Entry.

A. All individuals acting as a waste management facility operator in the Commonwealth after January 1, 1993, shall hold a valid interim certification or full certification specific to the class of their facility.

B. Interim certificates issued under the emergency Waste Management Facility Operator Regulations will remain valid through December 31, 1993. Individuals holding interim certificates may renew the certificate until December 31, 1994, or apply for full certification, meeting the standards established by § 4.1 of these regulations.

C. Operators securing a facility for closure may renew their interim certification until December 31, 1994. Operators securing a facility for closure after December 31, 1994, shall hold full certification in the appropriate classification.

D. Closed facilities are not required to have a certified waste management facility operator.

E. The holder of the certification is not automatically entitled to any subsequent certification upon the expiration of the certificate, but shall meet the standards established by the board to renew the certification.

F. The board may extend any or all interim certifications expiring on December 31, 1994, to expire on any date after December 31, 1994, and before July 1, 1995.

§ 2.2. Qualifications for interim certification.

The board shall issue interim certification only after an individual has met, through a completed application and addendum, all education and experience requirements set forth in these regulations.

1. All individuals seeking interim certification shall be at least 18 years of age.

2. All individuals seeking interim certification shall meet one of the following requirements:

a. Three years of full-time employment which

includes supervisory or operational experience managing a waste management facility since January 1989.

b. Two years of full-time employment which includes supervisory or operational experience managing a waste management facility since January 1989 and a high school diploma or GED.

c. One year of full-time employment which includes supervisory or operational experience managing a waste management facility since January 1989 and an Associate's Degree or at least 60 completed semester hours or equivalent from an accredited institution of higher learning.

d. Six months of full-time employment which includes supervisory or operational experience managing a waste management facility since January 1989 and a Bachelor's Degree.

3. For the purposes of these regulations, a year of full-time employment is defined as 1,760 hours per year or 220 work days per year.

4. For the purposes of these regulations, experience requirements claimed on the application for interim certification shall be verified by the individual's supervisor(s) or personnel officer on the form provided. Individuals who are under contract with a facility owner may obtain a letter from the facility owner to verify experience.

5. For the purposes of these regulations, education requirements claimed on the application for interim certification shall be verified by the attendee's educational institution or authorizing jurisdiction on the provided form or in the form of an official transcript. Diplomas will not be accepted for verification of degree or graduation.

§ 2.3. Application procedures for interim certification.

A. Applicants for interim certification shall complete a general application form and all applicable addendum forms. The applications for interim certification are available from the department upon request. Addendum forms shall include but not be limited to:

1. Verification of experience form; and
2. Verification of degree or graduation form.

B. Failure to provide a complete application and all applicable addenda may result in a denial of approval. The failure to provide complete information may be interpreted as misrepresentation and may result in disciplinary action as defined in Part VIII of these regulations.

PART III.

RENEWAL OF INTERIM CERTIFICATION.

§ 3.1. Procedures for renewal.

A. Operators may renew their interim certification until December 31, 1994, or may apply for full certification if all requirements under § 4.1 of these regulations can be met before the interim certificate's expiration.

B. Interim certified operators shall be notified by the department by mail of the renewal fee and procedures for certificate renewal.

C. Each operator desiring to renew his interim certification shall submit the renewal notice and the appropriate fee before the certification expires. A copy of the certificate may be submitted in lieu of the renewal notice.

D. The renewed interim certificate shall expire on December 31, 1994, *unless a later date is specifically established by the board under the provisions of § 2.1 F of these regulations.* ~~Any individual granted an interim certification who desires to act as a waste management facility operator after December 31, 1994, or after any later date which may be specifically granted by the board under the provisions of § 2.1 of these regulations,~~ shall apply for full certification in the appropriate classification as defined in § 4.1 of these regulations.

E. Failure to receive written notice from the Department of [*Commerce Professional and Occupational Regulation*] does not relieve the regulant from the requirement to renew his certificate or apply for full certification.

PART IV. FULL CERTIFICATION.

§ 4.1. Full certification required.

Full certification is required for all individuals acting as waste management facility operators after December 31, 1994, *unless an extension of the interim certification expiration date is granted by the board.*

§ 4.2. Classification for full certification.

A. The applicant shall apply for one classification of certification as outlined below:

1. An individual operating a facility which is defined by the Department of Environmental Quality as a transfer station, a material recovery facility receiving mixed waste, an experimental facility, or a composting facility receiving yard waste shall hold Class I certification. An individual who has obtained Class II, III or IV certification may also operate a facility listed under Class I, if the individual has completed the board approved basic training course.

Final Regulations

2. An individual operating a facility which composts municipal solid waste, or is defined by the Department of Environmental Quality as a sanitary, industrial, construction or debris landfill shall hold Class II or Class V certification.

3. An individual operating a facility defined by the Department of Environmental Quality as an infectious waste incinerator or an autoclave shall hold Class III or Class V certification.

4. An individual operating a facility defined by the Department of Environmental Quality as a ~~refuse derived fuel incinerator or a facility designed or modified for the purpose of noninfectious solid waste combustion~~ *municipal waste combustor* shall hold Class IV or Class V certification.

5. An individual operating any of the facilities outlined in this section may hold Class V certification.

B. No certified operator may operate a facility other than that defined by subdivision A 1 of this section outside of his classification.

§ 4.3. Qualifications for certification.

A. The board shall issue certification only after an individual has met, through a completed application and addendum, all training, testing, and experience requirements for a specific class as set forth in these regulations.

B. The operator shall meet the following requirements for certification for all classes of certification:

1. The applicant shall be at least 18 years of age.
2. The applicant shall provide proof of graduation from high school, college or have successfully completed and received a GED.
3. If the applicant cannot fulfill the requirement outlined in subdivision B 2 of this section, the applicant shall [*provide document*] at least five years of verified experience [*with a waste management facility*], with at least three years of experience since January 1, 1988 [*, which includes the following activities:*

- a. Supervision;*
- b. Research;*
- c. Construction;*
- d. Project development;*
- e. Site development;*
- f. Compliance and enforcement of a permit or regulations;*
- g. Operation; or*
- h. Review of materials for permitting purposes.]*

4. All applicants shall successfully complete the basic

training course as defined in § 6.1 B of these regulations.

5. An applicant may use employment responsibilities in lieu of facility specific training as defined in subsections D through G of this section, provided that:

a. The applicant has been a full-time employee for seven years, with at least three years of employment since January 1, 1988.

b. [*During this period of employment the applicant's responsibilities with regards to solid waste management facilities include the following activities: supervision, research, construction, project development, site development, compliance and enforcement of a permit or regulations, operation, or review of materials for the permitting purposes. The employment responsibilities include those activities enumerated in subdivision 3 of this subsection; and]*

c. The three years employment responsibilities are specific to the desired classification.

For the purposes of this subsection, full-time employment is defined as 1,760 hours per year or 220 work days per year.

6. The board will accept facility specific training provided that: (i) the training has been approved by the board pursuant to § 6.2; and (ii) the training was successfully completed after January 1, 1989.

7. Experience requirements claimed on the application for certification shall be verified by the individual's supervisor(s) or personnel officer. Individuals who are under contract with a facility owner may obtain a letter from the facility owner to verify experience.

8. Education requirements claimed on the application for certification shall be verified by the attendee's educational institution or authorizing jurisdiction on the provided form or in the form of an official transcript or letter. Diplomas will not be accepted for verification of degree or graduation.

9. The applicant holding a valid certification from another state or jurisdiction may qualify by reciprocity [*defined in under the provisions of*] § 4.6 of these regulations.

C. The specific requirements for Class I certification follow:

1. Complete a board approved basic training course, and
2. Pass ~~Part I~~ of the board approved examination *for Class I*.

D. The specific requirements for Class II certification follow:

1. Complete a board approved basic training course and an approved training course specific to Class II facilities, and
2. Pass ~~Parts I and II~~ of the board approved examination *for Class II*.

E. The specific requirements for Class III certification follow:

1. Complete a board approved basic training course and an approved training course specific to Class III facilities, and
2. Pass ~~Parts I and III~~ of the board approved examination *for Class III*, or
3. Complete the training and examination requirement of a federal or state agency under the Clean Air Act Amendments of 1990 and complete the board approved basic training course within one year of *after* certification. ~~This requirement will credit the operator with five hours toward their continuing education obligation.~~

F. The specific requirements for Class IV certification follow:

1. Complete a board approved basic training course and an approved training course specific to Class IV facilities, and
2. Pass ~~Parts I and IV~~ of the board approved examination *for Class IV*, or
3. Complete the training and examination requirement of a federal or state agency under the Clean Air Act *Amendments* of 1990 and complete the board approved basic training course within one year of *after* certification. ~~This requirement will credit the operator with five hours toward their continuing education obligation.~~

G. The specific requirements for Class V certification follow:

1. Complete a board approved basic training course and approved training courses specific to all designated classifications of facilities, and
2. Pass [~~Parts I, II, III and IV~~ of] the board approved examinations [*for Classes II, III and IV*].

§ 4.4. Application procedures.

A. Applicants for certification shall complete a general application form and all applicable addendum forms. The applications are provided by the department upon request.

Addendum forms shall include, but not be limited to:

1. Verification of experience form; and
2. Verification of degree or graduation form.

B. Failure to provide a complete application and all applicable addenda may result in a denial of approval. The failure to provide complete information may be interpreted as misrepresentation and may result in disciplinary action as defined in Part VIII of these regulations.

§ 4.5. Examinations.

A. Initial examination.

1. An individual may not take the board approved examination until all training requirements have been completed and verified to the board unless exempt under § 4.3 B 5 of these regulations.
2. All applicants approved for the examination by the board will be notified in writing with a request for the examination fee defined in § 1.4 B 5 of these regulations. The applicant will be scheduled for the next available examination upon receipt of the examination fee.
3. The examination fee will be required at least 30 days before the scheduled date of the examination.
4. All applicants shall achieve a passing score of ~~70%~~ *correct* on the examination *as determined by the board*.
5. An individual unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new examination fee.

B. Reexamination.

1. An individual may retake the board approved examination as many times as necessary to pass except those who have been waived from training requirements.
2. If the applicant has been waived from training under § 4.3 B 5 of these regulations and fails, the applicant may retake the examination once. After failing twice, the applicant shall complete the required training before retaking the examination.
3. Reexamination shall require the submission of the reexamination fee as defined in § 1.4 B 5 of the regulations.

§ 4.6. Reciprocity.

Final Regulations

A. Any individual holding valid certification under another state may apply for certification based on reciprocity.

B. The board will certify an individual who submits a completed application and the initial application fee and is in compliance with § 8.1 of these regulations.

C. All applicants certified through reciprocity shall complete the basic training course ~~in lieu of five hours of their continuing education requirement~~ within one year of certification.

D. If the certified operator fails to complete the basic course and properly notify the board within one year of certification, the board may begin disciplinary action to suspend or revoke the certification.

PART V. RENEWAL OF FULL CERTIFICATION.

§ 5.1. Procedures for renewal.

A. Certificates issued under these regulations shall expire biennially on the last calendar day of the month. Certificate holders shall be notified by mail of the fee and the procedures for certificate renewal. Each certificate holder desiring to renew the certificate shall submit the renewal notice, verification of continuing education on the form provided by the department, and the appropriate fee before the certificate expires.

B. There shall be a penalty for late renewal assessed in addition to the renewal fee for any certificate holder failing to renew the certificate within 30 days following the date of expiration.

C. Failure to receive written notice from the Department of [*Commerce Professional and Occupational Regulation*] does not relieve the regulant from the requirement to renew his certificate. If the certificate holder fails to receive the renewal notice, a copy of the certificate may be submitted with verification of continuing education requirements and the appropriate fee.

D. The date the required fee is received by the Department of [*Commerce Professional and Occupational Regulation*], or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a certificate is applicable.

E. Revoked or suspended certificates are not renewable until reinstated by the board.

§ 5.2. Continuing education.

All applicants for certification renewal shall complete at least 10 hours of continuing education in accordance with § 6.3 during the term of *their expiring certification*, *except that no continuing education shall be required for the first renewal after the issuance of the initial*

certification.

§ 5.3. Late renewal.

If the renewal fee as ~~defined provided for in § 1.4 B 2~~ of ~~the~~ *these regulations* is not received by the Department of ~~Commerce Professional and Occupational Regulation~~ within 30 days after the expiration date noted on the certification, ~~a~~ *the late renewal fee provided for in § 1.4 B 3* shall be required ~~in addition to the renewal fee~~.

§ 5.4. Reinstatements.

If the certificate holder fails to renew the certificate within six months following the expiration date, the certificate holder will be required to apply for reinstatement of the certificate. The applicant will be required to present reasons that the certificate was allowed to expire, and the board may grant reinstatement of the certificate or require requalification or reexamination or both. The application fee for reinstatement of a certificate shall be ~~an amount equal to twice the renewal fee~~ *the amount provided for in § 1.4 B 4 of these regulations*. An individual who has not reinstated within two years of expiration of the certification must reapply as a new applicant. The new applicant shall be exempted from the required training but shall pass the ~~appropriate part(s)~~ of the examination *as determined by the board*.

§ 5.5. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a certificate for the same reasons as it may refuse initial certification or discipline a certificate holder.

§ 5.6. Status of certification during the period prior to reinstatement.

A. *Reinstated certifications shall continue to have the same certification number and shall be assigned an expiration date two years from the previous expiration date of the certification.*

B. *Reinstated certifications shall be regarded as having been continuously licensed without interruption. Therefore, the holder of the reinstated certification shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period.*

C. *Certifications which are not renewed or reinstated shall be regarded as expired from the date of the expiration forward.*

D. *Nothing in these regulations shall divest the board of its authority to take disciplinary action for a violation of the law or regulations during the period of time for which an individual was certified.*

PART VI. TRAINING REQUIREMENTS FOR FULL CERTIFICATION.

§ 6.1. Training requirements.

A. All individuals seeking to become a certified solid waste management facility operator shall complete a Virginia Board for Waste Management Facility Operators approved training course(s). This section may be waived if the individual is applying for certification through reciprocity or under § 4.3 B 5.

B. A board approved basic training course shall at a minimum include the following topics as they relate to nonhazardous solid waste management facilities:

1. Definitions
2. Authority for Regulations
3. Purpose of Regulations
4. Administration of Regulations
5. Applicability of Regulations
6. Prohibitions
7. Open Dumps
8. Unpermitted Facilities
9. Enforcement and Appeal
10. Penalties and Enforcement
11. Public Participation
12. Relationship with other regulations promulgated by the Virginia Waste Management Board
13. Identification of Solid Waste
 - a. Purpose and Scope
 - b. Definitions of Solid Waste
 - c. Special Wastes
 - d. Exclusions
 - e. Conditional Exemptions
14. Overview of Open Dumps and Unpermitted Facilities
15. Permitting of Solid Waste Management Facilities
16. Review of Department of Environmental Quality Inspection Form

17. Overview of Permitted Solid Waste Management Facilities

- a. Transfer Stations
- b. Material Recover *Recovery* Facilities
- c. Experimental Facilities
- d. Sanitary Landfills
- e. Infectious Waste Incinerators
- f. Mass Burn Facilities
- g. Refuse Derived Fuel Facilities
- h. Autoclaves

18. Overview of General OSHA Requirements

19. Neighbor Relations

20. Recordkeeping and Financial Assurance

C. A board approved training course specific to Class II facilities shall include at a minimum the following topics:

1. Definitions
2. Special Wastes
 - a. General
 - b. Asbestos Wastes
 - c. Wastes Containing Polychlorinated Biphenyls
 - d. Liquids
 - e. Tires
 - f. Drums
 - g. White Goods
 - h. Soil Contaminated with Petroleum Products
 - i. Lead Acid Batteries
 - j. Other Prohibited Wastes
 - k. Hazardous Wastes
 - l. Screening for Prohibited Wastes
 - m. Handling Procedures for Special or Hazardous Wastes
 - n. Recordkeeping and Notification Requirements

Final Regulations

3. Solid Waste Disposal Standards
 - a. General Standards for Sanitary Landfills
 - b. Design/Construction
 - c. Operation
 - d. Groundwater Monitoring
 - e. Closure
 - f. Post-Closure Care Requirements
 - g. Control of Decomposition Gases
 - h. Leachate Control System and Monitoring
 - i. Leachate Control System Appurtenances
 - j. Corrective Action Program
4. Construction/Demolition Debris Standards
5. Industrial Waste Disposal Standards
6. Other Solid Waste Management Facility Standards
 - a. Compost Facilities
 - b. Surface Impoundments and Lagoons
 - c. Waste Piles
 - d. Miscellaneous Units
7. Permitting of Solid Waste Management Facilities
8. Financial Assurance Documentation
9. Rulemaking Petitions and Procedures

D. A board approved training course for Class III specific management facility shall include at a minimum the following topics:

1. Identification and Listing of Infectious Waste
 - a. General
 - b. Exemption to Regulations
 - c. Exclusions
 - d. Characteristics of Infectious Waste
 - e. Controlled Infectious Waste
2. General Requirements
 - a. Permits and Permits by Rule

- b. Financial Assurance Requirements
 - c. Packaging and Labeling Requirements
 - d. Management of Spills
 - e. Closure Requirements
 - f. Methods of Treatment and Disposal
 - g. Approved Test Method
 - h. Recordkeeping Requirements
3. Requirements for Storage Facilities
 - a. Sanitation
 - b. Access
 - c. Temperature Control and Storage Period
 - d. Drainage and Ventilation
 4. Requirements for Transportation
 - a. Sanitation
 - b. Access
 - c. Temperature and Storage Period
 - d. Drainage
 - e. Packaging, Labeling and Placards
 - f. Management of Spills
 - g. Loading and Unloading
 - h. Registration of Transportation
 5. Requirements for Incineration
 - a. Performance Standards
 - b. Analysis and Management of Ash Residue
 - c. Unloading Operation
 - d. Compliance with Other Regulatory Requirements
 6. Requirements for Steam Sterilization
 - a. Performance Standards
 - b. Compliance with Other Regulatory Requirements

E. A board approved training course for Class IV specific management facility shall include at a minimum the following topics:

1. Solid Waste Management Regulations
 - a. Siting
 - b. Design and Construction
 - c. Operation
 - d. Waste Characteristics
2. Emissions Formation and Control
 - a. Type of Emissions
 - b. Environmental Effect
 - c. Control Techniques
3. Emissions Monitoring
 - a. Parameters Monitored
 - b. Types of Monitors
 - c. Data Acquisition
 - d. Monitor Calibration, Certification and Testing
4. Combustion and Gas Reactions
 - a. Combustion Components
 - b. Optimizing Solid Waste Combustion
 - c. Gas Reactions Related to Combustor Construction Materials
5. Solid Waste Materials Handling
 - a. Front End Processing Equipment
 - b. Combustion Enhancement
 - c. Back End Processing
 - d. Recycling Benefits
6. Waste Combustion Residue Handling and Disposal
 - a. Types of Residue
 - b. Characteristics
 - c. Regulations
 - d. Monitoring
 - e. Handling and Transportation
 - f. Disposal

- g. Alternative Uses
7. Safety
 - a. Employer/Employee Obligations
 - b. OSHA
 - c. Hazard Communication
 - d. Equipment Tagout
 - e. Respiratory Protection
8. Recordkeeping
 - a. Engineering Log Keeping
 - b. Maintenance
 - c. Solid Waste

§ 6.2. Approval of training course.

A. Persons seeking to have a training course approved by the board shall complete a form provided by the board and submit the appropriate fee as defined in § 1.4 B 6 of these regulations. Receipt and deposit of the required fee do not indicate board approval.

B. Training courses shall be approved by the board prior to the training activity in accordance with the following:

1. Training providers.
 - a. Organizations. The board may approve training courses offered by a sponsor who is an identifiable organization which can demonstrate the capability to teach environmental or engineering material. The organization shall have a mission statement outlining its functions, structure, process and philosophy, and that a staff of one or more persons has the authority to administer and coordinate the training program.
 - b. Schools. The board may approve training courses offered by an accredited academic institution which can demonstrate the capability to teach environmental or engineering material.
 - c. Businesses. The board may approve training courses offered by a business entity which can demonstrate the capability to teach environmental or engineering material.
2. Instructors. The training course provider shall ensure training is only conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the teaching process to be used, and a

Final Regulations

proven ability to communicate.

3. Objectives. The training course provider shall ensure that the course has a series of stated objectives that are consistent with the type of facility, operator job requirements, and state and federal regulation. The training course shall be consistent with training criteria outlined in § 6.1 of the regulations.

4. The board shall only approve courses which provide the participants a complete tour of a facility appropriate to the course emphasizing operator responsibilities. The basic training course is exempt from this requirement.

5. Course completion requirements. For successful completion of a training program, participants must attend 90% or more of the class contact time and the tour of the facility.

6. The training provider shall provide an effective means for evaluation of the quality of the course and the instructor(s).

7. The training provider shall ensure the number of participants and physical facilities are appropriate for the course content and teaching method specified by the developer.

8. The training provider shall ensure all course materials are technically accurate, current and sufficient to meet the program's learning objectives.

C. Training records.

1. An approved training provider shall retain records for all participants for a period of 10 years and shall maintain a written policy on the retention and release of records.

2. All records pertaining to the approved training and participants shall be made available to the board immediately upon request.

D. The board shall consider the following information, to be submitted to the board at least 45 days prior to the scheduled training activity:

1. Course information.

- a. Course title
- b. Planned audience
- c. Name of sponsor
- d. Name, address and ~~phone~~ telephone number of contact person
- e. Scheduled presentation dates

f. Detailed course schedule on an hour by hour basis

g. List of planned breaks

h. Scheduled presentation locations

i. Scheduled tour locations

j. Instructor(s) resume

2. Training materials.

a. Course objectives. A listing of the course objectives stated in the terms of the skills and knowledge the participant will be able to demonstrate as a result of the training.

b. Course outline. A detailed outline showing the planned activities that will occur during the training program, including major topics, planned presentation sequence, tour activities, audio-visual presentations and other major activities.

c. Course reference materials. A list of name, publisher, and publication of commercially available publications; for material developed specifically for the course, a copy of the reference material.

d. Audio-visual support materials. A list of any commercially available audio-visual support material that will be used in the course; a brief description of any audio-visual material generated by the sponsor or instructor.

e. Handouts. Identification of all commercially available handout material including regulations; copies of other handouts generated by the sponsor or instructor.

3. E. The board shall approve all substantial changes to the course and all additional course dates and locations prior to the training activity.

4. F. The board reserves the right to withdraw approval if the board determines the course is not adequately teaching participants, or the sponsor or an instructor violates these regulations.

§ 6.3. Continuing education requirement.

A. All applicants for certification renewal shall complete at least 10 hours of continuing education during the term of the *expiring* certification. ~~All individuals approved through reciprocity shall complete the general course in lieu of five hours of their CPE requirement during the first year of certification.~~ *No continuing education shall be required for the first renewal after the issuance of the initial certification.*

B. In order for the certified operator to receive

continuing education credit, all credit hours shall be specific to the management of a solid waste management facility.

C. Certified individuals may seek board approval of a specific course on a case-by-case basis [*either before or after completing the course*].

1. Certified individuals requesting an individual course be approved shall submit the name, address and telephone number of the sponsor, a copy of the syllabus [; ~~all handouts and a copy of the certificate of completion and other available descriptive material~~] to the board for review.

2. If the board approves the course, the applicant will receive a letter from the board stating the approval and the number of credit hours [*which will be*] awarded for completing the course.

D. The certified operator shall retain evidence of satisfactory completion of CPE credit hours for a period of three years. Such documentation shall be in a form of the certificate of completion from an approved sponsor or verification from the accredited institution offering the course. If, upon request, the certified operator cannot produce such documentation, the certified operator may be subject to disciplinary proceedings.

E. All CPE credit hours shall be reported to the board on a form provided by the board and subject to possible audit.

F. CPE credit hours, taken after the expiration of the individual's certificate to meet the CPE requirement of the prior certification cycle, shall not be reported for any future renewal.

G. Failing to meet the CPE requirement may result in reapplication for certification including possible training and examination requirements.

PART VII. APPROVAL OF CPE SPONSORS.

§ 7.1. General.

A. For the purposes of this section all courses, seminars and conference presentations related to the management of a solid waste management facility sponsored by state and federal government bodies are approved by the board.

B. Persons seeking registration as a board approved sponsor shall apply on an application form provided by the board and submit the application fee defined in § 1.4 B 7 of these regulations. The receipt and deposit of fees do not indicate board approval.

C. Each applicant shall agree as a condition of registration to abide by the following provisions:

1. Each applicant shall possess the financial resources, sound administration, competent supervision and an effective and supportive organizational structure.

2. Programs shall contribute to the professional competence of participants in managing and operating a solid waste management facility.

3. CPE credit hours are allowed only for formal programs of learning that maintain or increase the professional competence of the participant.

4. Program sponsor shall select instructors qualified with respect to both program content and required teaching methods.

5. Program sponsors shall ensure the number of participants and the physical facilities are appropriate for the program content and teaching methods used by the instructors.

6. Sponsors shall provide an effective means for evaluating the quality of the program and instructors.

D. Failure of the sponsor to comply with the requirements relating to the responsibilities of program sponsors may result in the termination by the board of approved sponsor designation.

E. The board reserves the right to initiate an investigation of an approved sponsor.

F. Upon finding of any violation of the board's rules and regulations, the board may deny initial registration, *deny* renewal, suspend or revoke approval.

§ 7.2. Standards for CPE program development and presentation.

Each sponsor that submits an application to the board shall accept and abide by these provisions:

1. Program developers shall state learning objectives and specify the level of knowledge of the program. Each objective shall be written to be consistent with the program's specified level of knowledge. Levels of knowledge shall be described as basic, intermediate, advanced or updated.

2. Program developers shall state the prerequisites for education, experience, or both for all programs.

3. Program developers shall be qualified in the subject matter and be knowledgeable in instruction design through practical experience, education or both.

4. Program materials shall be technically accurate, current, and sufficient to meet the program's learning objectives.

5. Program sponsors shall inform all participants in

Final Regulations

advance of learning objectives, prerequisites, level of knowledge of the program, program content, need for any advanced preparation, teaching methods to be used, recommended CPE credit, and relevant administrative policies.

6. Brochures and other announcements shall disclose all policies and procedures concerning registration, payment of fees, refunds, attendance, and certificates of completion.

7. All programs shall be measured in 50-minute contact hours. The shortest program for CPE credit purposes shall consist of one contact hour.

8. Instructors shall be given CPE credit for their preparation and presentation time. Credit for instructors shall be measured in 50-minute contact hours. Preparation credit received shall be no greater than two times the number of presentation hours. An instructor may not receive credit for preparation time for a repeated presentation unless ~~they~~ *he* can demonstrate that the program content involved was substantially changed.

§ 7.3. Certificates of completion and recordkeeping.

A. The sponsor shall provide participants, upon successful completion of each course, a certificate of completion indicating location, date(s), CPE credit hours, sponsor identification, address of sponsor, and title of course.

B. The sponsor shall maintain for a period of five years records of participation, copy of program materials, dates, location, instructor(s), number of CPE contact hours, and evaluations of the course and instructor.

C. All records shall be made available to the board immediately upon request.

PART VIII. STANDARDS OF CONDUCT AND DISCIPLINARY ACTION.

§ 8.1. Prohibited acts.

A. Part VIII is intended to apply to both interim and full certification.

B. The following are grounds for disciplinary action by the board.

1. The certificate holder violates or induces another person to violate any provisions of Chapters 1, 2, 3 [~~and or~~] 22.1 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

2. The certificate issued to a solid waste management facility operator was obtained through fraudulent means or misrepresentation.

3. Having been found guilty by the board, an administrative body or by a court of any material misrepresentation in the course of performing his operating duties.

4. Having been convicted or found guilty, regardless of jurisdiction, of any felony or violation which resulted in the significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this regulation. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

6. Gross negligence, or a continued pattern of incompetence, in the practice as a waste management facility operator.

7. Violating the permit conditions for the facility, or violating any federal, state or local laws or regulations which results in the significant harm or an imminent and substantial threat of significant [~~threat of significant~~] harm to human health or the environment.

C. Any individual whose certification is revoked under this section shall not be eligible to apply for certification for a period of one year from the effective date of the final order of revocation. The individual shall meet all education, examination, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

§ 8.2. Denial, suspension or revocation of certification or approval.

A. Denial of certification or approval.

1. The board, at its discretion, may deny approval of a training course, CPE sponsor or individual certification for any reason specified in these regulations.

2. The applicant may request the board to reconsider ~~their~~ [*his its*] initial decision in writing within 30 days of [*the*] applicant's notification of the denial.

3. If the board's initial decision of denial is reconfirmed, the board will notify the applicant in writing outlining the reasons for denial. The response may also include any necessary steps that can be

taken by the applicant to ensure compliance with these regulations.

4. All appeals for denied applicants for certification or approval shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

B. Suspension and revocation of certification.

1. The board, in its discretion, may suspend or revoke the certification of an individual, an approved course or CPE sponsor for any reason specified in these regulations.

2. The board shall conduct disciplinary proceedings in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

3. Any individual certified or training provider approved by the board who violates any statute or provision of these regulations and is not criminally prosecuted, shall be subject to a monetary penalty. The board shall determine the monetary penalty which shall not exceed \$1,000 for each violation.

V.A.R. Doc. No. R95-6, Filed September 9, 1994, 11:39 a.m.

FOR OFFICE USE ONLY

Lic# _____
 Date _____
 Code _____

Commonwealth of Virginia
 Department of Professional and
 Occupational Regulation
 3600 West Broad Street
 Richmond, VA 23230

APPLICATION FEE
 \$300.00
 (Non Refundable)



BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
 APPLICATION FOR FULL CERTIFICATION

I. General Information For Individual Certification

Name _____
 (Last) (First) (M.I.)
 Home Address _____
 Home Phone () _____ Business Phone () _____
 Date of Birth _____ SSN _____
 Did you receive interim certification? _____ Your Number _____

II. Classification (Please check the appropriate classification.)

Class I _____ Class II _____ Class III _____ Class IV _____ Class V _____

III. Method Of Certification (Please check the appropriate method.)

_____ Training and Examination _____ Experience and Examination _____ Reciprocity

IV. Education History

Name and location of High School or College: _____
 Diploma? _____ Yes _____ No _____ GED? _____ Yes _____ No _____ Major? _____

V. Employment History (Complete this section for all applicable employment and use additional sheets if necessary. Please forward the Verification of Employment Form to each employer listed.)

Current Employer _____
 Business Address _____
 Date(s) of Employment: From _____ To _____
 Supervisor _____ Title _____
 Does this facility hold a permit(s) from the Virginia Department of Environmental Quality? _____ If so, what is the permit number(s)? _____

Revised 7/20/94

Previous Employer _____
 Business Address _____

Date(s) of Employment: From _____ To _____
 Supervisor _____ Title _____

Previous Employer _____
 Business Address _____

Date(s) of Employment: From _____ To _____
 Supervisor _____ Title _____

VI. Reciprocity (Please include a copy of the certificate/license.)

Are you certified/licensed in any other state or jurisdiction as a solid waste management facility operator? _____ Yes _____ No. If so, where?

State	Date of Expiration	Certification Number
_____	_____	_____
_____	_____	_____

VII. Training (Please include a copy of all applicable training certificates.)

Have you completed the Class I Basic Training course? _____ Date of Training _____
 Have you completed training specific to your desired classification? _____ Date of Training _____

VIII. Enforcement History

Have you ever had a waste management facility operator's certificate/license revoked? _____ If so, please explain. _____

Have you ever had any final order actions against you issued by an administrative body or court regarding an environmental violation or crime which resulted in significant harm to the environment or human health? _____ If so, please explain. _____

Have you ever pleaded guilty, entered a plea of nolo contendere or been convicted of a felony regarding an environmental violation or crime which resulted in significant harm to the environment or human health? _____ If so, please explain. _____

I hereby certify by my signature, that the above information is correct and that no information has been suppressed which may affect this application. I understand that Section 54.1-111(6) of the Code of Virginia, deems it unlawful to materially misrepresent facts in an application for a certificate, and that violations of this section could result in criminal prosecution which could result in one year in jail and up to a \$2,500 fine.

Name _____ Date _____
 (Signature of applicant)

Revised 7/20/94

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, VA 23230



BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
VERIFICATION OF EMPLOYMENT EXPERIENCE

I. To Be Completed By The Applicant:
(Complete one verification form for each employer listed on the application. Please submit this entire form to your applicable current and past employers for verification.)

Name _____
(Last) (First) (M.I.)

Home Address _____

Employer _____

Address _____

Job Title _____ Dates of Employment: From _____ To _____

Please provide a thorough and complete description of your daily job activities. This should include how much time you spend at the site, your duties and how many individuals you may supervise. This must be complete or the application will be returned for additional information.

Name of Supervisor _____ Title _____

II. To Be Completed By The Supervisor:

Is/was the applicant employed during the time period indicated above? _____ If not, when?
Is the job description accurate and complete? _____ Comments: _____

Name of certifying Supervisor _____

Signature _____ Date _____

Please forward the completed form to the Department of Professional and Occupational Regulation at the address above. Please use additional sheets as necessary.

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, VA 23230



BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
VERIFICATION OF EDUCATION/DEGREE GRANTED

I. To Be Completed By The Applicant:

Name _____ SSN _____

Home Address _____

Home Phone (____) _____ Date of Birth _____

Name of Institution _____

Dates(s) Attended _____

Degree _____ OR _____ Semester _____ Quarter Hours Completed _____

Signature of Applicant _____ Date _____

After completion of the above section, send this form to the high school, GED issuing institution, college or university listed above. Please request that the following certification be completed and that this form be returned directly to the Board at the above address. If you have not completed a college degree, request an official transcript to be sent to the above address.

+++++

II. To Be Completed By Educational Institution Or Authorizing Jurisdiction

CERTIFICATION

I hereby certify that the above-named applicant has graduated from this school/institution:

DEGREE _____ MAJOR _____

DATE RECEIVED _____

Signature _____ OFFICIAL SEAL

Official title _____

Revised 7-28-94



Board for Waste Management Facility Operators
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, Virginia 23230

Application for Approval of Waste Management Facility Operators
Training Course

APPLICATION FEE: \$250.00

I. Sponsor

Name
Address
Phone Number
Contact Person Title

II. Training Course

Title Reoccurring?
Scheduled dates of classes
Location Intended Audience
Is the course open to the public? Facility being used for the site visit? Address
How does this training course relate to the management and operation of a waste management facility?

Training is appropriate for which classification of certification?
Intended hours of instruction? Is there an examination?

Please attach a detailed hour by hour course outline.

III. Training Materials

How will satisfactory completion of this course be measured? (Check the appropriate boxes)

- () Skill demonstration () Site visit () Exam
() Attendance () Other

List reference materials to be used.

List audio-visual materials to be used.

List handouts to be used.

IV. Instructor(s) Please use additional sheets as necessary.

Name Title
Employer
Address Phone

V. Required Attachments

- () Course objectives () Course outline () Handouts () Certificate of completion
() Reference materials () Instructor(s) resume

Signature of Contact Person

Date

Revised 7/26/94



VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230

Application for Virginia Approved Sponsor of Continuing Education

APPLICATION FEE: \$250.00

I. Sponsor

Name
Address Telephone
Contact Person Title
Address (if different than above) Telephone

II. Training History

How long have you or our organization been offering continuing education courses in waste management issues?
Projected number of courses to be given a year?
Location(s)
Site Visits? If yes, where? Address

III. Training Materials

How will satisfactory completion of this course be measured? (Check the appropriate boxes)

- () examination () attendance () written exercise
() other

IV. Instructors

Name Title Telephone
Address Telephone
Course Title
Name Title Telephone
Address Telephone
Course Title

V. Required Attachments

- () Evaluation form(s) () Certificate(s) of Completion
() Instructor resume(s) () List of course titles to be included under the approval with the designated "level of knowledge" and appropriate number of credit hours.

VI. Optional Attachments

- () course outline(s) () course objective(s)

VII. Signature of Contact Person

Name Date

Form 03-22-94

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

EMERGENCY REGULATION

Title of Regulation: VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Dates: September 1, 1994, to October 1, 1994.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of weakfish in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of weakfish. The limitations include minimum size limits, gear restrictions and season limits for the commercial fishery and minimum size and bag limits for the recreational fishery.

VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

§ 1. Authority, repeal of prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § ~~28.2-201~~ 28.2-210 of the Code of Virginia.

B. This regulation repeals prior emergency VR 450-01-0050 which was promulgated by the Marine Resources Commission and made effective July 29 August 23, 1994.

C. The effective date of this regulation is August 23 September 1, 1994.

§ 2. Purpose.

The purpose of this regulation is to achieve a 25% reduction in the weakfish fishing mortality rate during the April 1, 1994, through March 31, 1995, period, thereby reducing the probability of recruitment failure and stock collapse and to allow for a rebuilding of the spawning stock. This regulation responds to the mandatory requirements of the Atlantic Coastal Fisheries Cooperative Management Act (Public Law 103-206), in accordance with the Interstate Weakfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission.

§ 3. Definition.

"Weakfish (Grey Trout)" shall include any fish of the species *Cynoscion regalis*.

§ 4. Minimum size limits.

A. It shall be unlawful for any person fishing with pound net or haul seine to possess any grey trout less than nine inches in length.

B. It shall be unlawful for any person fishing with gill nets to possess any grey trout less than 12 inches in length.

C. It shall be unlawful for any trawl boat to land any grey trout in Virginia that are less than 12 inches in length.

D. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess any grey trout less than 14 inches in length.

E. It shall be unlawful for any person using any gear type not specified in subsection A, B, C or D of this section to possess any grey trout less than nine inches in length.

F. Length is measured in a straight line from the tip of the nose to the tip of the tail.

§ 5. Gear restrictions.

It shall be unlawful for any trawl boat to land grey trout in Virginia while possessing on board any trawl net having a cod-end mesh less than three inches, stretched measure.

§ 6. Commercial fishing season.

A. It shall be unlawful for any person fishing with pound net to possess any grey trout from August 1 28 through September 9 October 31, 1994, except as provided in subsection B of this section.

B. Any pound net fisherman who holds 2, 3 or 4 pound net licenses as of July 31, 1994, and forfeits one of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. Any pound net fisherman who holds 5, 6 or 7 pound net licenses as of July 31, 1994, and forfeits two of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. Any pound net fisherman who holds 8, 9 or 10 pound net licenses as of July 31, 1994, and forfeits three of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. In addition, any pound net fisherman who holds licenses purchased after July 31, 1994, must forfeit all such licenses in order to possess grey trout during the August 28 through October 31, 1994, period. Forfeiture shall be through March 31, 1995.

C. Any pound net licensee who forfeits license(s) pursuant to subsection B of this section shall retain his priority rights to such locations for future licensing until April 1, 1995. Any pound net fisherman holding a license as of July 31, 1994, may transfer the right to use that license to a person who held only one pound net license as of July 31, 1994.

B. D. It shall be unlawful for any person fishing with gill net to possess any grey trout from August 1 through

Marine Resources Commission

October 18, 1994, and December 9, 1994, through March 31, 1995.

Ⓒ. E. It shall be unlawful for any person fishing with haul seine to possess any grey trout from August 25, 1994, through March 31, 1995.

Ⓓ. F. It shall be unlawful for any trawl boat to land any grey trout in Virginia from October 12 through November 30, 1994.

§ 7. Daily bag limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess more than 10 grey trout. Any grey trout taken after the bag limit of 10 fish has been reached shall be returned to the water immediately.

B. The daily bag limit of grey trout when fishing from a boat shall be equal to the number of legally eligible persons on board multiplied by 10.

C. Charter, party and head boat captains are ultimately responsible for the retention of the legal number of grey trout aboard their vessels.

§ 8. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-3; Filed September 6, 1994, 12:50 p.m.

FINAL REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-0092. Pertaining to Gill Nets.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: July 1, 1993.

Preamble:

This regulation establishes an area between the Hampton Roads Bridge-Tunnel and Little Creek which is closed to gill nets.

VR 450-01-0092. Pertaining to Gill Nets.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. This regulation replaces emergency VR 450-01-0092, Pertaining to Gill Nets, which was promulgated on May 25, 1993.

C. The effective date of this regulation is July 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to close a portion of the southern shoreline of the Chesapeake Bay to gill nets in order to preserve public safety and reduce conflicts between gill net fishermen and others in this area.

§ 3. Gill net closed season and area.

From May 15 through September 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net within 400 feet of the shoreline between the western jetty at Little Creek and the Hampton Roads Bridge-Tunnel facility.

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-1; Filed September 2, 1994; 3:51 p.m.

* * * * *

Title of Regulation: VR 450-01-0093. Pertaining to Crab Pots.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 1994.

Preamble:

This regulation establishes a requirement for the use of cull rings in crab pots.

VR 450-01-0093. Pertaining to Crab Pots.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. Other restrictions on crab potting can be found in Title 28.2, Chapter 7 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0009, VR 450-01-0033, VR

450-01-0036, VR 450-01-0041, and VR 450-01-0049.

C. The effective date of this regulation is January 1, 1994.

§ 2. Purpose.

The purpose of this regulation is to conserve the blue crab resource by promoting the escape of small crabs from crab pots through the use of cull rings.

§ 3. Cull ring requirements.

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters which does not contain at least one unobstructed cull ring of at least 2-5/16 inches, inside diameter, in an exterior panel of the upper chamber of the pot.

B. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.

C. The Commissioner of the Virginia Marine Resources Commission is hereby authorized to allow crab pot cull rings to be closed off for specific times and in specific areas upon receipt of request which in his sole discretion is sufficient to demonstrate that such action is necessary to avoid significant economic hardship to the requester and that approval of the request will not have a significant detrimental impact on the blue crab resource.

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-2; Filed September 2, 1994, 3:52 p.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulation: **VR 674-01-02. Board for Waste
Management Facility Operators Licensing Regulations.**

Governor's Comment:

I have reviewed the proposed regulation and public comment for this regulatory program. I do not like the proposed fee increases. However, the agency and the Department of Planning and Budget have assured me that the agency is required to increase the fees for this regulatory program under the terms of the Code of Virginia § 54.1-113. It is my hope that this program can be conducted in a more cost-effective manner than it has been in the past in order to reduce the need for future fee increases.

/s/ George Allen
Governor

Date: September 7, 1994

VA.R. Doc. No. R95-4; Filed September 8, 1994, 10:31 a.m.

The LEGISLATIVE RECORD

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HJR 224: Joint Subcommittee Studying Alternative Strategies for Assisting Tobacco Farmers

July 12, 1994, Richmond

The purpose of the initial meeting of the joint subcommittee was to obtain an overview of Virginia's tobacco industry, which was provided by a representative of the Virginia Department of Agriculture and Consumer Services (VDACS):

■ Tobacco is Virginia's leading cash crop, accounting for 25 percent of the state's total crop income and nine percent of the state's total agricultural income.

■ In 1992, tobacco was grown on approximately 8,400 farms located in 47 Virginia counties.

■ During 1993, Virginia's tobacco growers harvested 104 million pounds of tobacco from 49,000 acres.

■ Cash receipts from the sale of the 1993 crop totaled \$179 million, ranking Virginia fourth among the 23 tobacco-producing states in crop value.

■ Thirty-four tobacco-auction warehouse firms operate in 12 Virginia localities.

■ Virginia is the second largest tobacco manufacturing state, with operations concentrated in Richmond and Danville.

■ The ports of Hampton Roads export the largest amount of tobacco in the U.S.

■ According to a Price Warehouse study, 4.3 percent of Virginia's total employment is directly or indirectly attributable to the tobacco industry.

Four types of tobacco are grown in Virginia: flue-cured, burley, fire-cured and sun-cured. Table 1 shows the size of Virginia's tobacco crop, the average price, and cash receipts for each type of tobacco.

Inside:

- 4 HJR 185: Joint Subcommittee to Study Witness and Juror Protection Programs
- 5 HJR 280: Select Subcommittee to Study Abuses in the Proffer Zoning System
- 5 HJR 66: Joint Subcommittee to Study Privacy, Confidentiality and Mandatory Disclosure Laws
- 7 Joint Subcommittee Studying Abandoned Solid or Hazardous Waste Sites
- 8 Local Government Subcommittee Studying House Bill 1088: Richmond Metropolitan Government
- 9 SJR 17: Joint Subcommittee Studying Privatization of Certain State Government Functions
- 9 HJR 9: Clean Fuels Study Subcommittee
- 10 HJR 143: Joint Subcommittee Studying the Virginia Consumer Protection Act

Table 1. Virginia Tobacco: 1993 Crop

Type	Acreage	Marketing (Million pounds)	Average Price Per Lb. (Dollars)	Cash Receipts (\$ millions)
Flue-cured	36,000	78.1	1.70	132.8
Burley	11,800	24.0	1.77	42.5
Va. Fire-cured	1,300	1.9	1.72	3.2
Va. Sun-cured	100	.1	1.52	.2
Total - State	49,200	104.1		178.7

Source: Virginia Department of Agriculture and Consumer Services.

Federal Program

Under the federal production adjustment/price support program, each type and grade of tobacco has an average price support level when sold at auction. If the tobacco does not bring at least one cent more than the price support level, it will go under loan to a loan cooperative. The loan cooperative pays the grower at the time of sale for his undervalued crop, with funds the cooperative has previously borrowed from the Commodity Credit Corporation (CCC). The newly purchased tobacco is then processed and stored by the cooperative, to be sold at a later date, hopefully at a profit. Even if it is not subsequently sold at a profit, the CCC is paid back the principle and interest on the loan.

The second component of the program is the quota system, under which production is adjusted to meet the estimated demand. The basis for the quota is different for the four types of Virginia tobacco. For flue-cured, the quota is set on acreage and poundage; for burley it is based on poundage; and for fire-cured and sun-cured, the quota is tied to acreage. For flue-cured and burley, the quota is established through a formula that examines the (i) manufacturers' purchasing intentions, (ii) the three year average of exports, and (iii) the amount of tobacco stocks remaining in reserve.

The third component of the price support and production control program is the no-net-loss provision, which requires producers to guarantee there will be no financial loss to the government in the operation of the program. Both the grower and buyer benefit from the program, which provides stability to the growers, who receive a consistent price for their product, and to the buyers, who are assured of a stable supply of tobacco on the floor of the warehouses.

Domestic Trends

The mid-1980s were characterized by a lower level of tobacco production than is currently the case. There were high

loan stocks, and as a result, in 1987 the quota was reduced to a low of 707 million tons. Subsequently, there was an increase in demand, with the U.S. becoming more competitive in the world market. The loan stocks became more manageable and the quota rose to about 890 million tons between 1989 and 1993. During this period, the steady increase in price support levels and average market prices indicated the industry was recovering from the earlier slump. However, by the end of 1993, the industry began

to experience a downturn. Approximately 23 percent of the flue-cured crop was placed under loan. This was attributed to such factors as (i) an excess world supply, (ii) anti-smoking activities, and (iii) the potential for a significant increase in the federal tax on tobacco. The downward trend in indicators is expected to continue in 1994.

The trends for burley are similar to those experienced by flue-cured tobacco. The early 1980s saw burdensome loan stocks. Adjustments were made in the mid 1980s, and the quota began to increase, resulting in the late 1980s and early 1990s being good years for the burley producers, evidenced by higher price supports and greater market price averages. But, almost 37 percent of the burley crop was placed under loan in 1993, indicating potentially greater problems for burley producers than flue-cured growers.

The recent steady decline in the U.S. consumption of cigarettes has also contributed to a less-than-optimistic outlook for the tobacco industry. In 1986, 583.8 billion cigarettes were consumed, compared to 485 billion in 1993. It is estimated that a 75 cent increase in the excise tax will result in a 15 percent decline in consumption.

International Trends

American-blended cigarette exports increased three-fold between 1986 and 1992. But in 1993, faced with foreign competition, U.S. cigarette exports began to decline. The proportion of burley and fire-cured tobacco has declined as the percentage of imported tobacco leaf has increased in cigarettes. In 1992, an estimated 30 percent of the flue-cured and burley tobacco used to manufacture cigarettes in this country was imported.

China is the world's largest producer of flue-cured tobacco, with Brazil second, and the U.S. third. The U.S. is the largest producer of burley. However, unlike a few years ago, the U.S. does not control the world market, producing only about 10

percent of the world's supply of tobacco. Because of the influence of imports on the U.S. market, Congress passed domestic content legislation, which requires that at least 75 percent of the tobacco used in U.S.-manufactured cigarettes be domestically grown. This has resulted, at least in the short-run, in a decline in the amount of imported tobacco. Though U.S. tobacco is still recognized as the world's best, U.S. companies will have to be more competitive in the expanding world market, especially in light of the trend towards the manufacturing of cheaper cigarettes.

Virginia's Farmers

Since the 1970s the inflation-adjusted price that farmers have received for their tobacco has fallen over 40 percent. Since the 1980s the real price has fallen over 30 percent.

A 1988 survey found that a large percentage of the state's farmers are part-time, that tobacco farmer's operations are smaller than those of non-tobacco farmers, and that tobacco farmers' average income tends to be lower. Tobacco farmers and their spouses are more likely to work off the farm and are likely to be somewhat older than non-tobacco farmers.

Tobacco Research

The Southern Piedmont Research and Extension Center was established by the General Assembly in 1972, with the objective of consolidating the various tobacco research and extension programs in the region. Prior to 1972, tobacco research was centered at the main campus at Virginia Tech and at three small research stations. Approximately 75 percent of the centers' efforts have been in tobacco.

Productivity

The director of the center, Jim Jones, is currently examining ways to increase the efficiency of tobacco production and make such operations more competitive on the world market. Over the years, advances have been made in reducing the amount of labor needed for production and increasing the per-acre crop yield. For instance, in 1940 it took over 600 man-hours to produce an acre of flue-cured tobacco. Today, an acre can be produced using less than 100 man-hours. Agricultural engineers predict that in the near future, with full mechanization, an acre of flue-cured could be produced in 35 man-hours of labor, which equates to a pound of tobacco per man-minute. Since 1940 the average yield of flue-cured tobacco in the U.S. has doubled, increasing from an average yield in 1940 of somewhat less than 1,000 pounds per acre to about 2,200 pounds per acre today. It is not uncommon for a farmer to produce 4,000 pounds per acre.

Alternative Uses

Recently, researchers have been investigating the use of tobacco to produce other substances, such as fraction one

protein, which is rated as among the highest quality proteins, better than soybean and animal protein. The advances in biotechnology have allowed researchers to insert foreign genes (including human genes) into the tobacco plant. Dr. Jones characterized the tobacco plant as the "white mouse" of the plant kingdom, in that it is a very easy plant to manipulate genetically. It is a good "converter," producing large quantities of biomass. For instance, every 100 pounds of tobacco leaf (biomass) generates about two pounds of the desired material. Biotechnology and genetic engineering of the tobacco plant present opportunities to improve our resistance to disease and produce new pharmaceuticals and new products.

However, if these technological advances prove to be effective, the typical tobacco production system would be altered. The new system would be characterized by high-density planting, somewhere between a plant bed and field culture. The tobacco would be continually returned, cutting the plant each time when it grows to knee length. Dr. Jones cautioned the subcommittee that once tobacco is genetically altered, Virginia tobacco would lose its competitive advantage in flavor, quality, and smoking properties.

Alternative Crops

Beef cattle, forage, and hay have been suggested as options for tobacco farmers. Approximately 27 percent of Virginia's beef cattle are found in the southern piedmont region, increasing 62 percent between 1970 and 1990. The terrain and the ability to graze year-round provide Virginia with some competitive advantage in the area of forage, sale of high quality hay, and the raising of beef cattle. Other alternative crops being examined by the center include wheat, cotton, fruits, berries, and vegetables (broccoli and asparagus). None of these crops, however, will replace the cash value of tobacco, which generates \$200 million from less than 50,000 acres, and no other crop can generate the high paying "spin-off" jobs in the related tobacco manufacturing sector.

Tobacco Growers' Perspective

Virginia's tobacco producers were responsible for generating \$178 million for the state's economy in 1993. The total impact of tobacco on Virginia's economy is estimated to be \$3.6 billion, and in 1992, the state and localities received in excess of \$329 million in taxes on tobacco products. USDA figures for 1992 show that in order to produce 100,000 pounds, or approximately 44 acres of flue-cured tobacco, a grower must invest almost \$3,397 per acre, or \$1.50 per pound, in production costs before the first pound of the crop is sold. That same year flue-cured tobacco sold for an average of \$1.73 per pound, leaving the grower with a margin of only 23 cents per pound.

Tobacco is a very labor intensive crop, requiring approximately 150 man-hours per acre to produce. A grower who produces 100,000 pounds of tobacco (44 acres of flue-cured) will use approximately 6,600 hours of labor at a cost of nearly \$35,000.

In 1992, tobacco was the seventh leading cash crop produced in the U.S., behind corn, soybeans, hay, wheat, cotton, and potatoes. The 1993 U.S. tobacco crop was worth almost \$3 billion. The value per acre for tobacco far exceeded the value per acre of the other six large dollar crops: in 1992, tobacco growers' gross income per acre was \$3,858, compared to a high of \$761 per acre for peanuts and \$127 for wheat.

For these reasons, there is little sentiment among tobacco farmers to convert to alternative crops. Farmers are much more interested in maintaining or improving policies and programs in such areas as taxation, property rights, transportation, and export markets.

Next Meeting

The joint subcommittee will hold a meeting with the House Committee on Agriculture on August 24-25, 1994, in Danville, at which time there will be further discussion of alternative strategies for tobacco farmers.



The Honorable Mitchell Van Yahres, *Chairman*
Legislative Services contact: Martin G. Farber

HJR 185: Joint Subcommittee to Study Witness and Juror Protection Programs

August 24, 1994, Richmond

During its initial meeting, the subcommittee heard a background presentation on the federal witness protection program, witness protection programs in eight surrounding states, and the status of witness protection programs in Virginia. Additionally, the subcommittee heard testimony from representatives of the Commonwealth's Attorneys, local sheriffs and police, and the state police.

Protection in Virginia

Witnesses

There are currently no formalized state-run witness protection programs in Virginia. SB 211 (1994) (current § 52-35), authorizes the state police to establish a program providing temporary protection and relocation services to victims and their families. However, no funding was provided. In the past,

the state police have occasionally been able to provide limited financial assistance upon request to local departments seeking witness protection services. They have never had special funding for this assistance and therefore have not been able to respond uniformly to the localities' needs.

The speakers before the committee were unanimous in expressing a need for the program. People are increasingly reluctant to provide necessary information in the course of a criminal investigation or at trial, out of fear of reprisal. Without this information, the criminal justice system cannot function, and the criminal wins.

The speakers were also unanimous in the belief that Virginia should not replicate the federal program, which was initially created to provide protection to individuals willing to testify against "the mob." Because of the breadth and sophistication of organized crime, it was necessary to provide sophisticated and expensive forms of protection to "hunted witnesses," including new identities and long-term physical protection. The serious situation facing Virginia law enforcement today results from random, gang-related violence. Most witnesses require assurances only of short-term physical protection (i.e., for the duration of the trial) or cross-town relocation to get them out of the neighborhood. Once a defendant is incarcerated, the testimony indicated that the majority of witnesses would feel comfortable returning to their normal lives.

Police

Although there was some discussion about the special needs of undercover police, the primary concern is for private citizens who have information essential to a successful prosecution.

Jurors

Juror protection during a proceeding is typically a matter for the court. The committee wants to look further into the need for increased secrecy for the juror list held in the clerks office to (i) insure jurors the privacy to which they are entitled and (ii) increase sanctions for juror intimidation.

Future Agenda

At its next meeting, the committee will (i) explore alternatives for establishing a program along with funding needs and mechanisms, (ii) evaluate the need for a separate program of protection for undercover police, (iii) receive information from the Department of Corrections on the need for and cost and feasibility of a prisoner protection program, and (iv) identify and examine other state witness protection programs.



The Honorable Dwight C. Jones, *Chairman*
Legislative Services contact: Mary P. Devine

HJR 280: Select Subcommittee to Study Abuses in the Proffer Zoning System

August 22, 1994, Richmond

The select subcommittee held its organizational meeting to receive initial comments from interested parties and to discuss the work plan for the remainder of the year.

Proffer Zoning

Conditional zoning, also referred to as proffer zoning, as defined in § 15.1-430 of the *Code of Virginia*, "means, as part of classifying land within a governmental entity into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance." Section 15.1-491.1 of the *Code* states that the purpose of conditional zoning is "to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant."

There are three separate sources of authority for conditional zoning in the *Code*. Section 15.1-491(a) grants the broadest authority and is applicable generally to localities in Northern Virginia and the Eastern Shore. Similar authority is granted in § 15.1-491.2:1 to localities which have had a population growth rate of at least 10 percent since 1980 or which are adjacent to these high growth localities. A more restrictive form of conditional zoning is authorized in §§ 15.1-491.1 - 15.1-491.6 and is applicable to all localities.

It is argued that some localities are currently abusing the conditional zoning authority by requiring the payment of cash, dedication of land, or construction of offsite facilities as a condition for rezoning without following the procedures required by the statute. Other localities have adopted fee schedules that do not appear related to the need for the proffer demand or the impact of the proposed rezoning. The proffer system as utilized in some localities forces landowners to "buy" rezonings with proffers of cash, land, or off-site facilities for public purposes which go far beyond any need created by the proposed development.

Work Plan

HJR 280 directs the select subcommittee to:

1. Identify specific abuses of the proffer zoning system;

2. Examine alternative methods of offsetting increased demands for public facilities and services arising from new development;
3. Examine alternative methods for protecting the value of neighboring properties; and
4. Recommend legislative action to cure the abuses of the current proffer zoning system.

The select subcommittee agreed that it would like to hear about specific instances of abuse of the proffer zoning system at its second meeting. It also agreed that the localities involved should be invited to participate and be given an opportunity to respond to any charges made.



The Honorable C. Richard Cranwell, *Chairman*
Legislative Services contact: Jeffrey F. Sharp

HJR 66: Joint Subcommittee to Study Privacy, Confidentiality and Mandatory Disclosure Laws

August 22, 1994, Richmond

During its second meeting, the joint subcommittee reviewed information requested from and compiled by over 25 state agencies that work primarily with confidential or personal information. Each agency was asked to identify confidentiality, disclosure, consent, and expungement requirements governing the agency and to highlight possible inconsistent and unclear provisions in the law. Cabinet level officials and agency representatives presented an overview of most of the agency responses.

Criminal History Records

Virginia law restricts dissemination of criminal history to law-enforcement agencies and to certain other agencies for a prescribed purpose, such as determining licensing and employment qualifications for positions requiring a high level of trust. Most recently, the 1994 General Assembly passed a court notification law, which requires the courts to inform school superintendents of students with convictions for violent crimes, regardless of whether those crimes were school related. Under the new law, superintendents may provide the names to principals and other school personnel if the student poses a danger to anyone.

During his overview of public safety agency responses, Secretary of Public Safety Jerry Kilgore suggested that the subcommittee examine the release and expungement of juvenile records, particularly in light of the new parole and sentencing reform proposals. Because of the interaction among the educational system, social services, and the criminal justice system, he suggested that the subcommittee should look into ways to enhance the sharing of information among these entities. He also urged the subcommittee to consider another important link in the confidentiality chain — the courts, which maintain the public records of criminal proceedings and have the power to subpoena almost any confidential record.

Records of active criminal investigations are released to the public on a need-to-know basis. Law-enforcement agencies argued that confidentiality needs to be maintained in order to protect investigations from premature disclosure that could thwart them and jeopardize the privacy rights of victims. On the other side, the media argued that the public has the right to know about active investigations in order to protect themselves from potential danger. Many members agreed that the balance between these two competing interests, which has in the past favored the law-enforcement interests, should be reexamined.

Employment

Secretary of Administration Michael Thomas presented a summary of the state's personnel rules regarding confidentiality of employees' records. Under the Department of Personnel and Training Policy No. 6.05, which governs the disclosure of state personnel records, certain personal information must be disclosed to third parties upon request without the consent or knowledge of the subject employees. These items include an employee's position and classification title, dates of employment, and annual salary, official salary, or rate of pay, if such pay exceeds \$10,000 per year. Other personal information, such as performance evaluations, medical records, scholastic records, records of arrest, conviction, or investigation, materials relating to workers' compensation claims, and records concerning grievances or complaints, may not be disclosed to third parties without the consent of the subject employee.

One exception to the policy allows insurance companies access to information on individuals insured by other insurance companies without the consent of the individual. All other disclosures are usually limited by requiring the individual's consent. However, an individual's consent is not sufficient to obtain his own medical record if a treating licensed physician has indicated that review of such records by the person would be injurious to his or her physical or mental health or well being. Members agreed that these last two anomalies in the law should be examined more closely.

DMV Records

Current statutes render DMV's customer records confidential, with accessibility dependent upon the requester meeting

certain conditions. For instance, employers can only get driving records when they present signed releases from the employees, unless the position involves a commercial driver's license. The position must entail the operation of a motor vehicle, and the requester only gets seven years of data. However, DMV also provides a great deal of information from its records to licensing authorities in other states and foreign countries. In some cases, confidential Virginia information is passed to entities where the information is considered public. A comparable situation is created when the public records from Virginia courts are passed to DMV, where the information becomes confidential.

In addition, copies of accident reports, which DMV maintains and releases, are created by local law-enforcement agencies. Persons entitled to receive information in these reports include those involved or injured in the accident, their attorneys or representatives, and any insurance company reasonably anticipating exposure to liability as a consequence of the accident. However, the originating entity (the law-enforcement agency) does not have to abide by these statutes and may, if desired, give out more information from the same report than DMV does.

Work Groups

In order to create a forum for informal discussions and deliberations, the subcommittee decided to divide into four work groups to examine the areas of public safety, health and education, employment, and DMV records. These work groups will also explore broader issues concerning (i) what constitutes proper consent for the release of information, (ii) when should agencies be required to notify individuals when their records are released, and (iii) what is the feasibility of including in the new administrative code each agency's confidentiality and disclosure practices as a means of increasing public awareness of disclosure policies.

Future Meetings

Work groups will meet throughout the months of October and November, and the subcommittee will return to Richmond to consider their recommendations on November 15, at 2:00 p.m., in House Room C of the General Assembly Building.



The Honorable L. Karen Darnier, *Chair*
Legislative Services contact: Ginny Edwards

Joint Subcommittee Studying Abandoned Solid or Hazardous Waste Sites

August 31, 1994, Richmond

Item 495 C of the 1994 Appropriations Act created a joint subcommittee to examine the appropriate financial role of the Commonwealth in assisting localities in remediation of abandoned solid or hazardous waste sites.

Assessment of Virginia Sites

Twenty-six sites in Virginia are included among the 1,300 sites comprising the National Priority List under the federal Superfund program. These 26 sites, of which six are federal facilities, are a small fraction of the 3,300 sites in Virginia where material has reportedly been improperly spilled or disposed of or where remediation may be required.

A 1993 study by the Department of Environmental Quality (DEQ) determined that approximately 2,000 of the 3,300 Virginia sites lack a readily identifiable responsible party and need further study to determine if they require the state's attention. Thirty of these sites are landfills for which there is no, or inadequate, financial assurance. The sites range in size and potential cleanup cost from locations where a single drum of a chemical has been dumped to the Kim-Stan landfill in Alleghany County.

The 1993 report identifying the 2,000 waste sites did not calculate the cost of their cleanup. The General Assembly appropriated \$125,000 in 1994 for a comprehensive risk assessment of abandoned solid and hazardous waste sites that require significant corrective action. A contract for the study should be awarded by the first week of October, an interim report based on samples of types of sites is due by December 1, 1994, and the final report is due by October 1, 1995. The assessment will include estimates of the costs to contain or remediate identified risks and to prioritize sites based on their relative threat to public health or safety. DEQ staff pointed out that the definition of an "abandoned" site needs clarification. Technically, abandoned sites are those for which there is no known owner. However, the term is often construed to include sites for which there is no financially responsible party.

Other States

Thirty-six states have instituted cleanup programs for waste sites not on the Superfund list. Of these, 12 do not include a funding mechanism. Those with a funding method have adopted a variety of sources, the most common of which is pursuing cost recovery against responsible parties. Virginia utilizes this approach in appropriate situations. Other ap-

proaches include: (i) state tipping fees on landfilled waste (used in 15 states); (ii) bonds (10 states); (iii) general fund appropriations (9 states); (iv) fees on generators of waste (8 states); (v) taxes on specific products, such as petroleum or pesticides (5 states); and (vi) other fees and taxes (18 states).

West Virginia has instituted two programs to address facets of this issue. The Pollution Prevention and Open Dump Program seeks to clean up illegal solid waste sites, such as unpermitted landfills, open dumps, roadside dumps, and orphan waste sites. Funding is provided through a tipping fee of one half cent per ton of solid waste landfilled, which generates \$1 million annually. Of the 15,000 sites that have been identified, almost 2,000 have been remediated since 1989. The Landfill Closure Assistance Program provides money for closure and reclamation of landfills where the permittees lack the financial resources to complete closure as required by Subtitle D of the Resource Conservation and Recovery Act. Funding is provided through a \$4 per ton solid waste disposal fee, which generates \$8 million per year. Twenty-one landfills have been identified, and two are in the process of remediation.

North Carolina's Inactive Hazardous Sites Fund Program seeks to identify, assess, and clean up unregulated hazardous and solid waste disposal sites. Approximately \$1 million is appropriated annually for this program from general and special funds. Over 1,000 sites have been identified, of which 10 have been cleaned up and 15 are in the process.

Reforming Superfund

The Superfund program has been roundly criticized as slow, burdensome, and inconsistent. Two bills pending in Congress seek to reform the program by establishing national cleanup goals, standardizing risk assessment protocol, and increasing public involvement. The Superfund Reform Act also attempts to institute an alternative to the existing system of joint and several liability for cleanup costs. Proposals include expediting settlements with de minimis contributors, instituting a cost allocation process, and providing federal funding of "orphan shares." Other features of the reform legislation would change a state's share of response action costs from 10 percent to 15 percent and provide funding for state voluntary cleanup programs.

As introduced, the federal legislation would have allowed full delegation of the Superfund program to states. Committee mark-ups have amended this provision either to allow full program delegation for individual facilities or to allow delegation of specific authorities other than enforcement through a memorandum of agreement. The Secretary of Natural Resources and the Virginia Liaison Office support the original delegation provisions of the Superfund Reform Act.

Status of Kim-Stan Landfill

Chairman Deeds noted that much of the interest in abandoned waste sites originated with the problems associated with

the Kim-Stan landfill in Alleghany County. DEQ staff acknowledged that based on available information this site is likely the largest and most difficult of the Commonwealth's waste sites. This private solid waste landfill was permitted in the early 1970s and lacked the liners, leachate collection systems, and groundwater monitoring protections required for modern facilities. A fish kill from leachate entering the Jackson River in 1989 triggered administrative actions that resulted in the revocation of the facility's permit in May 1990.

Virginia has spent \$453,662 to stabilize the site and prepare a closure plan. Only \$141,000 has been recovered from Kim-Stan through bankruptcy proceedings and forfeiture of financial assurances. The landfill continues to generate 24,000 gallons of leachate each day. Water samples disclose levels of arsenic, barium, and lead that exceed the EPA's maximum concentration levels for drinking water. The Health Department has determined that the contaminant levels would pose a danger only if the groundwater was being used as a source of drinking water. The costs of implementing the closure plan have been estimated at \$9 million, and annual post-closure operation and maintenance costs will be \$135,000.

Future Meetings

The subcommittee intends to conduct a public hearing at Dabney Lancaster Community College in Clifton Forge on October 4 from 2:00 to 4:00 p.m. The subcommittee also plans to meet in early December to receive the interim report of the risk assessment study.



The Honorable R. Creigh Deeds, *Chairman*
Legislative Services contact: Franklin D. Munyan

Local Government Subcommittee Studying House Bill 1088: Richmond Metropolitan Government

August 25, 1994, Richmond

During the 1994 Session, HB 1088 was carried over in the Senate Local Government Committee for the purpose of further study. The committee chairman appointed an eight-member subcommittee, consisting of five legislators and one member from each of the governing bodies of Chesterfield and Henrico Counties and the City of Richmond, to make a recommendation on HB 1088 to the full committee prior to the 1995 Session.

HB 1088 is a charter bill that would create a Richmond Metropolitan Government, consisting of the City of Richmond and the Counties of Chesterfield and Henrico. The government would be created solely for the provision of water, sewer, waste disposal, and transportation services and would become effective only if approved by the voters of all three localities.

During its initial meeting in July, the subcommittee discussed the scope of its work and agreed that prior to making a recommendation, it would examine the following six areas:

I. Cost Benefit Analysis

■ Overall, can the specified services be provided more cheaply by a regional government, as proposed by HB 1088, or by the three localities individually?

■ Assuming a regional government is created, what adverse impacts or windfalls would occur for each of the localities? What could be done to mitigate these impacts?

■ If the regional government is created, how will it affect the bond rating of the three localities?

II. Political Feasibility

■ What is the political feasibility of a regional government as proposed by HB 1088? Would it have the support of business leaders and voters?

■ What are the prospects that ongoing regional cooperation will be hurt by this proposal by stirring up voters and causing them to choose sides?

III. Voting Rights Act

■ Can the proposal pass Voting Rights Act scrutiny? What are the potential problems and how might those problems be overcome?

IV. Economic Development

■ How would a regional government as proposed by HB 1088 affect local economic development? Would it affect location decisions of current Richmond-area businesses? Would it affect location decisions of businesses considering coming to the area?

V. Existing Authority for Regional Agreements

■ What are all of the current sources of authority for regional agreements and cooperation under Virginia law?

VI. Land Use

■ Will creation of the regional government hinder local land use planning?

At its August meeting, the subcommittee was informed that the Department of Urban Studies and Planning at Virginia Commonwealth University has agreed to coordinate a study of areas I, II, IV and VI listed above. Staff briefed the subcommittee on area V, and Legislative Services staff will also research area III.

A public hearing was also held at the August meeting. However, unlike the public hearing held on HB 1088 during the 1994 Session, very few people spoke. Several commented that the subcommittee should wait until all of the study results have been submitted before asking for public comment.

The next meeting date is tentatively scheduled for early November. At that time all of the study results should be available for subcommittee examination.



The Honorable Charles J. Colgan, *Chairman*
Legislative Services contact: Jeffrey F. Sharp

SJR 17: Joint Subcommittee Studying Privatization of Certain State Government Functions

August 2, 1994, Richmond

Qualifying Transportation Facilities Act of 1994

The second meeting of the joint subcommittee focused exclusively on the Qualifying Transportation Facilities Act of 1994. The act, as passed by the 1994 General Assembly, permits privatization of all types of transportation facilities and grants the State Corporation Commission (SCC) certificate of authority and rate approval functions. The stated intent of the act is, in part, "to facilitate to the greatest extent possible, the pooling and funding mechanisms of the Intermodal Surface Transportation Efficiency Act of 1991, to the end that transportation funding be expanded and accelerated to improve and add to the convenience of the public, and such public and private entities may have the greatest possible flexibility in contracting with each other for the provision of . . . services."

The act was passed with a delayed effective date of July 1, 1995, with the understanding that it would receive further study prior to the 1995 Session. Prior to the August meeting, the interested parties had met to resolve some of the concerns raised during the 1994 Session. The agreed-upon changes were presented to the joint subcommittee by representatives of both the private sector and the Allen administration.

Proposed Amendments

The major change proposed by the interested parties is to eliminate the regulatory role of the SCC. The proposed amendments would retain the SCC as an arbiter of default. Speakers explained that the regulatory role of the SCC proposed by the original legislation was unnecessary and would put Virginia at a competitive disadvantage compared to other states. The existing restraints in the act would protect the public interest without the SCC's regulatory role, and supply and demand should determine the rates to be charged.

Another suggested change was to eliminate the requirement of local consent prior to establishing tolls. It was agreed that this, in effect, would create a local veto over any project, which would have a chilling effect on potential private investors.

Members of the joint subcommittee raised two general concerns with the act: (i) the need for adequate public input in the decision-making process and (ii) the lack of a requirement for public procurement procedures. Proponents of the act agreed that public participation is important in any public-private partnership and that this component of the act could be strengthened. However, several speakers stated that use of public procurement procedures would not work in the type of projects created from the act. Some members of the joint subcommittee also questioned whether public procurement procedures would be appropriate because private, not public, money is at risk.

Subcommittee Action/Future Meeting

Members of the joint subcommittee took no formal vote on the proposed amendments but agreed to let the interested parties continue working on the legislation to address some of the concerns raised. The next, and probably final, meeting of the joint subcommittee is scheduled for October 25, 1994, in Richmond.



The Honorable Walter A. Stosch, *Chairman*
Legislative Services contact: Jeffrey F. Sharp

HJR 9: Clean Fuels Study Subcommittee

August 9, 1994, Richmond

EPA Dispute

At its second meeting of 1994, the subcommittee heard from Becky Norton Dunlop, Secretary of Natural Resources, on the status of Virginia's clean air strategy, particularly the dispute

with the Environmental Protection Agency (EPA) over a motor vehicle emissions testing plan for Northern Virginia. Virginia has submitted two such plans to EPA, both of which have been rejected, even though both plans not only met federal Clean Air Act requirements but contained "consumer-convenience" enhancements.

Areas of dispute between the Virginia plans and the EPA include:

- Centralized versus decentralized emissions testing facilities. Although decentralized testing facilities are more "user-friendly," the EPA appears wedded to centralized testing facilities.
- Test-and-repair versus test-only facilities. Again, test-and-repair facilities are more user-friendly and provide a mechanism to enhance air quality. EPA remains committed to more costly test-only facilities.
- The use of IM240 testing equipment. EPA believes it is mandated to use this testing equipment. However, there are concerns that the equipment is failing 30 to 35 percent of vehicles and is expensive (approximately \$150,000 per machine). RG240 testing equipment has a lower vehicle-fail rate and is much cheaper (approximately \$30,000 per machine).

Secretary Dunlop expressed optimism that Virginia and EPA can reach a compromise, as three other states — California, New Jersey, and Georgia — have all reached satisfactory and independent compromises with EPA for emissions programs that meet federal Clean Air Act requirements and provide enhanced air quality for the states. Negotiations are ongoing and the subcommittee will be kept abreast of developments.

Clean Fuel Programs

The subcommittee heard reports on several continuing clean fuel projects.

- Federal reformulated gasoline, which is to become available in air quality nonattainment areas in Virginia in January 1995, will cost between five cents and seven cents per gallon more than presently available gasoline.
- Washington Gas currently has 31 clean fuel projects on line, with 200 cars in Virginia. The alternative fuels vehicles budget for 1993 was \$800,000, with \$1.2 million set aside for FY 1994. Virginia's "low-bid" procurement policies may inhibit advancement of natural gas vehicles in the marketplace.
- Progress in developing national standards for cylinders, ASE technician testing and certification, and nozzles and receptacles for natural gas powered vehicles was reported.
- Three local school systems — Fairfax County, Prince William County, and Virginia Beach City Public Schools —

reported their experiences with alternative fuel fleet vehicles. Their optimism was tempered by the need for more funding for fleet conversion programs to succeed.

- Most of the problems encountered with electric vehicles involve vehicle range. The industry is focusing research and development efforts on changing from the current lead acid battery (with an average recharge time of four to six hours) to an inductive charging system (with a projected recharge time of one hour or less). This change would boost the range of electric vehicles from an average of 60-80 miles to 200 miles with the use of diesel-powered generators. Such vehicles, however, would no longer be "zero-emission."

Next Meeting

The subcommittee will next meet on October 6, 1994, at 1:30 p.m. in House Room D in the General Assembly Building in Richmond. The agenda includes a further update on the dispute with EPA over an emissions plan for Northern Virginia and discussion of the regulation of natural gas and tax incentives for alternative fuel vehicle programs.



The Honorable Arthur R. Geisen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

HJR 143: Joint Subcommittee Studying the Virginia Consumer Protection Act

September 1, 1994, Richmond

At the second meeting of the joint subcommittee, staff reviewed various proposals made by the Virginia Citizens Consumer Council (VCCC) to change the Virginia Consumer Protection Act (VCPA). The subcommittee then heard testimony from representatives of several interested organizations.

After the prepared agenda, the subcommittee conducted a public hearing. Speakers included citizens aggrieved by health insurance costs, life insurance contracts, and medical billing practices in the Richmond area; legal aid and private attorneys involved in consumer protection litigation; and an industry group currently excluded from VCPA.

VCCC's Proposals

Following the public hearing, the subcommittee began its discussions of the VCCC's proposals, considering and giving preliminary approval to proposals to:

1. Tighten and clarify the language in § 59.1-199(A) that excludes from VCPA those aspects of consumer transactions "authorized" by state or federal law or regulation;
2. Create, within the Office of the Attorney General, a revolving fund to receive moneys generated by VCPA cases for the purpose of increasing public investigation and enforcement at the state and local levels;
3. Expand the powers of the Commissioner of the Department of Agriculture and Consumer Services by enhancing the commissioner's investigatory authority; and
4. Continue to fund the Department of Agriculture and Consumer Services' toll-free consumer hotline.

The subcommittee rejected a proposal to strike the exclusion from VCPA in § 59.1-199(D) for certain regulated industries, such as banks, savings and loan associations, small loan companies, and public service companies and insurance companies regulated by the State Corporation Commission or comparable federal agency. However, the subcommittee gave preliminary approval to language that would continue to ex-

clude from VCPA the practices of the listed industries that are regulated by the State Corporation Commission or comparable federal agency. Under the subcommittee's proposal, any unregulated, unsupervised practices of those industries would be subject to VCPA.

The subcommittee took no action on the remaining VCCC proposals, which were listed in the summary of the subcommittee's July 22 meeting (see the *Legislative Record*, August 1994, page 5).

Next Meeting

The subcommittee directed staff to provide additional information about and examples of these proposals for the next meeting, which will be held in mid- to late October in Richmond.



The Honorable Mitchell Van Yahres, *Chairman*
Legislative Services contact: Diane E. Horvath

NOTICE

New Sales Tax Exemption Process

Senate Bill 148 (Chapter 222, 1994 *Acts of Assembly*) made substantial changes to the process of acquiring exemptions from the Virginia retail sales and use tax.

First, if a legislator plans to submit any legislation involving an exemption or exclusion from the sales and use tax to the regular session of the General Assembly, he or she must first submit required information to the Department of Taxation by **November 1**. The Department of Taxation is developing a questionnaire to implement the provisions of SB 148 and will shortly be sending information to all General Assembly members.

Second, SB 148 states that "no bill providing for a retail sales and use tax exemption shall be drafted or otherwise prepared by the Division of Legislative Services unless the drafting request is accompanied by the Department of Taxation's preliminary determination." This determination is based on the information that must be submitted by November 1.

The deadline for introduction of sales tax exemption bills (first day of the session) remains the same.

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The Legislative Record is also published in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219. Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

- VR 115-01-01:1. Public Participation Guidelines.
- 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.
- VR 115-01-03. Rules and Regulations Establishing a Virginia Horse Breeder Incentive Program.
- VR 115-02-01. Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia.
- VR 115-02-02. Rules and Regulations Governing the Prevention, Control, and Eradication of Bovine Tuberculosis in Virginia.
- VR 115-02-03. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia.
- VR 115-02-04. Rules and Regulations Governing the Operation of Livestock Markets.
- VR 115-02-05. Health Requirements Governing the Control of Equine Infectious Anemia in Virginia.
- C-02-03. Division Administration Directive Number 87-1: Exceptions to Testing for Equine Infectious Anemia Pursuant to § 3 (E) of VR 115-02-05, Rules and Regulations Pertaining to the Health Requirements Governing the Control of Equine Infectious Anemia in Virginia.
- VR 115-02-06. Requirements Governing the Branding of Cattle in Virginia.
- VR 115-02-07. Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia.
- VR 115-02-08. Rules and Regulations Governing the Qualifications for Humane Investigators.
- VR 115-02-09. Guidelines Pertaining to a Pound or Enclosure to be Maintained by Each County or City.
- VR 115-02-10. Rules and Regulations Governing the Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle.
- VR 115-02-11. Rules and Regulations Governing the Laboratory Fees for Services Rendered or Performed.
- VR 115-02-12. Rules and Regulations Pertaining to the Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia.
- VR 115-02-13. Rules and Regulations Governing the Transportation of Companion Animals.
- VR 115-02-14. Rules and Regulations Governing the Transportation of Horses.
- VR 115-02-15. Rules and Regulations for the Registration of Poultry Dealers.
- VR 115-02-16. Rules and Regulations Governing Pseudorabies in Virginia.
- VR 115-02-17. Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.
- VR 115-02-18. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.
- VR 115-03-01. Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples.
- VR 115-03-02. Rules and Regulations for Enforcement of the Grain Handlers Law.
- VR 115-03-03. Rules and Regulations Relating to Grain Dealers Licensing and Bonding Law.
- VR 115-03-04. Rules and Regulations Establishing the Virginia Quality Label.
- VR 115-03-05. Virginia Grade Standards for Breeder Swine.
- VR 115-03-06. Virginia Grade Standards for Slaughter and Feeder Lambs.
- VR 115-03-07. Breeder Sheep Grade Standards.
- VR 115-03-08. Rules and Regulations for the Enforcement of the Virginia Seed Potato Inspection Law.
- VR 115-04-01. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.
- VR 115-04-02. Virginia Pest Law - Rules and Regulations

Schedules for Comprehensive Review of Regulations

of the Virginia Gypsy Moth Quarantine.

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

VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.

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

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

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

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

VR 115-04-09. Rules and Regulations for the Enforcement of the Virginia Seed Law.

VR 115-04-10. Rules and Regulations for the Enforcement of the Virginia Fertilizer Law of 1970.

VR 115-04-11. Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law of 1974.

VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law.

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

VR 115-04-14. Virginia Pest Law - Rules and Regulations Pertaining to the Cotton Boll Weevil Quarantine.

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

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

VR 115-04-17. Rules and Regulations Pertaining to the Registration and Certification of Grape Nursery Stock.

VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.

VR 115-04-21. Public Participation Guidelines, Pesticide Control Board.

VR 115-04-22. Regulations Governing Licensing of Pesticide Businesses under Authority of Virginia Pesticide Control Act.

VR 115-04-23. Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act.

VR 115-04-28. Regulation Governing the Oxygenation of Gasoline.

VR 115-05-01. Rules and Regulations Governing Grade "A" Milk.

VR 115-05-02. Rules and Regulations Governing the Cooling and/or Storage of Milk on Dairy Farms; the Sampling and Sample Handling of Milk from the Farm to the Laboratory; the Hauling, Transferring, Handling, and Delivery of Milk from the Farm to the Processing Plant.

VR 115-05-03. Rules and Regulations Governing the Production, Processing and Sale of Ice Cream, Frozen Desserts and Similar Products.

VR 115-05-04. Testing of Milk for Milkfat, Protein and Lactose Content by Automated Instrument Methods.

VR 115-05-05. Production, Handling, and Processing of Milk for Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food.

VR 115-05-06. Rules and Regulations Pertaining to Carbonated and Still Water Bottling Plants and Beverages.

VR 115-05-07. Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage.

VR 115-05-08. Rules and Regulations Pertaining to Labeling and Sale of Infant Formula.

VR 115-05-09. Official Standards for Enforcement of the Virginia Apples: Grading, Packing and Marking Law.

VR 115-05-10. Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs.

VR 115-05-11. Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores.

VR 115-05-12. Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef.

VR 115-05-13. Regulations Pertaining to Food for Human Consumption.

VR 115-06-01. Rules Governing the Solicitation of Contributions.

C-02-04. Division Administration Directive Number 79-1: Methods Prescribed or Approved for Animal Euthanasia and Competency Certification Requirements.

Schedules for Comprehensive Review of Regulations

C-02-05. Division Administration Directive Number 83-1: Approved Drugs and Drug Administering Equipment.

C-02-06. Limited General Quarantine Order Number 1985-1.

The Department of Agriculture and Consumer Services invites comment from the public on the above regulations, as a part of a review of its regulations being conducted under Executive Order Number Fifteen (94), which appeared in The Virginia Register of Regulations for July 11, 1994, pp. 5457 ff. The department welcomes comment on these regulations with regard to any matter governed by the Executive Order, including whether (i) there is a less burdensome or less intrusive alternative to the regulation; and (ii) the regulation is clearly written and easily understandable by the individuals and entities affected.

In corresponding with the department, please identify the regulation or regulations on which you are commenting by citing the "VR" number or "C" number that precedes the regulation name, along with the full title that follows.

Public comments may be submitted through 5 p.m. Friday, November 4, 1994.

Contact: "Regulation Review," J. Carlton Courter, III, Commissioner, Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3501.

DEPARTMENT OF EDUCATION

VR 270-01-0000. Regulations Governing Teacher Certification.

VR 270-01-0001. Regulations Governing Adult Education Programs.

VR 270-01-0002. Regulations Governing Programs for Gifted Education.

VR 270-01-0004. Regulations Governing Correspondence Courses for Home Instruction.

VR 270-01-0010. Regulations Governing Pupil Accounting Records.

VR 270-01-0011. Regulations Governing Vocational Education.

VR 270-01-0013. Regulations Governing Retention Schedule for Pupil Accounting Records.

VR 270-01-0014. Regulations Governing Management of Students' Scholastic Records.

VR 270-01-0016. Regulations Governing Instructional Materials - Selection and Utilization by Local School

Boards.

VR 270-01-0018. Regulations Governing Textbooks: Free and Rental Systems - State Aid.

VR 270-01-0020. Regulations Governing Classification of Expenditures.

VR 270-01-0021. Regulations Governing Textbook Adoption - State Level.

VR 270-01-0022. Regulations Governing Textbook Adoption - Local Level.

VR 270-01-0023. Regulations Governing School Activity Funds.

VR 270-01-0025. Regulations Governing Financial Retention Schedule.

VR 270-01-0026. Regulations Governing Textbook Fund Management and Handling on Local Level.

VR 270-01-0027. Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs.

VR 270-01-0028. Regulations Governing School Lunch - Sale of Food Items.

VR 270-01-0029. Regulations Governing Film Circulation from State and Regional Audio-Visual Services.

VR 270-01-0030. Regulations Governing Instructions Concerning Drugs and Drug Abuse.

VR 270-01-0031. Regulations Governing Physical and Health Education.

VR 270-01-0032. Regulations Governing Alternative Education.

VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.

VR 270-01-0035. Regulations Governing GED Certificates.

VR 270-01-0036. Regulations Governing Fees and Charges.

VR 270-01-0037. Regulations Governing Public School Building Construction.

VR 270-01-0038. Regulations Governing Division Superintendents' Qualifications and Responsibilities.

VR 270-01-0039. Regulations Governing Division Superintendents' Salary and Expenses.

VR 270-01-0041. Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract of Local School Boards.

Schedules for Comprehensive Review of Regulations

VR 270-01-0044. Regulations Governing Sick Leave for Teachers.

VR 270-01-0045. Regulations Governing Nurses, Physicians, and Therapist Standards.

VR 270-01-0046. Regulations Governing Pupil Rights and Hearings.

VR 270-01-0047. Regulations Governing Local School Boards.

VR 270-01-0048. Regulations Governing Student Insurance Programs.

VR 270-01-0049. Regulations Governing Superintendent of Public Instruction.

VR 270-01-0050. Regulations Governing Reduction of State Aid When Length of School Term Falls Below 180 School Days.

VR 270-01-0051. Regulations Governing Criteria to Identify Toxic Art Materials: Labeling and Use in Elementary Schools Prohibited.

VR 270-01-0052:1. Regulations Governing Standards for Approval of Teacher Preparation Programs in Virginia.

VR 270-01-0053. Bylaws of the Board of Education.

VR 270-01-0054. Regulations Governing the Reporting of Acts of Violence and Substance Abuse in Schools.

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

VR 270-01-0057. Program Standards for Special Education.

VR 270-01-0058. Pilot Projects for An Alternative Education Program Regulations.

Public comments may be submitted through November 15, 1994.

Contact: Mr. James Laws, Department of Education, P. O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924.

DEPARTMENT OF HEALTH PROFESSIONS

The following boards within the Department of Health Professions will review the regulations listed by July 1, 1995:

Board of Audiology and Speech-Language Pathology

VR 155-01-3. Public Participation Guidelines.

VR 155-01-2:1. Regulations of the Board of Audiology and

Speech-Language Pathology.

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Board of Dentistry

VR 255-01-2. Public Participation Guidelines.

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Board of Funeral Directors and Embalmers

VR 320-01-5. Public Participation Guidelines.

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Board of Health Professions

VR 365-01-1:1. Public Participation Guidelines.

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Board of Medicine

VR 465-01-1:1. Public Participation Guidelines.

VR 465-03-1. Physical Therapy.

VR 465-04-1. Respiratory Therapy.

VR 465-05-1. Physician Assistant.

VR 465-08-1. Occupational Therapy.

VR 465-12-1. Prescriptive Authority for Nurse Practitioners.

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Board of Nursing

VR 495-04-1. Public Participation Guidelines.

VR 495-03-1. Prescriptive Authority for Nurse Practitioners.

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Board of Nursing Home Administrators

VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

VR 500-01-3. Public Participation Guidelines.

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Board of Optometry

VR 510-01-2. Public Participation Guidelines.

Schedules for Comprehensive Review of Regulations

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Board of Pharmacy

- VR 530-01-3. Public Participation Guidelines.
- VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.

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Board of Professional Counselors

- VR 560-01-01:1. Public Participation Guidelines.
- VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.

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Board of Psychology

- VR 565-01-1:1. Public Participation Guidelines.

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Board of Social Work

- VR 620-01-3. Public Participation Guidelines.

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Board of Veterinary Medicine

- VR 645-01-0:1. Public Participation Guidelines.

Public comments may be submitted to the individual boards until December 15, 1994.

Purpose of Review: The boards will review each regulation to ensure the following: (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable.

Schedule of Public Hearings: Each board will schedule a time for the public to present comments on the regulations under review. Notices of meeting will be published and sent to interested parties under Public Participation Guidelines for the board.

Contact: Robert A. Nebiker, Deputy Director, Department of Health Professions, 6606 W. Broad Street, 4th floor, Richmond, VA 23230, telephone (804) 662-9904.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

- VR 380-01-00. Public Participation Guidelines.
- VR 380-01-01. Senior Citizens Higher Education Program Regulations.
- VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas, and Certificates.
- VR 380-03-01:1. College Scholarship Assistance Program Regulations.
- VR 380-03-02:1. Virginia Work-Study Program Regulations.
- VR 380-03-03:1. Virginia Scholars Program Regulations.
- VR 380-03-04:1. Tuition Assistance Grant Program Regulations.
- VR 380-03-05. Virginia Graduate and Undergraduate Assistance Program Regulations.
- VR 380-03-06. Policies and Procedures for the Eminent Scholars Program.
- VR 380-03-07. Virginia Guaranteed Assistance Program Regulations.
- VR 380-04-01. Domicile Guidelines.

Public comments may be submitted until November 4, 1994.

Contact: Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, Monroe Building, 9th Floor, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2613.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

- VR 394-01-1. Public Participation Guidelines.
- VR 394-01-2. Virginia Certification Standards.
- VR 394-01-5. Virginia Public Building Safety Regulations.
- VR 394-01-8. Solar Energy Criteria for Tax Exemption.
- VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.
- VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993.
- VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies/1990.

Schedules for Comprehensive Review of Regulations

VR 394-01-101. Enterprise Zone Program Regulations.

VR 394-01-103. Multifamily Loan Program.

VR 394-01-105. SHARE Expansion Grant/Loan Program.

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

VR 394-01-108. Migrant Housing Program.

Manufactured Housing Board

VR 449-01-01. Public Participation Guidelines.

The Department of Housing and Community Development requests public comment for the above regulations regarding: (i) the essential purpose for the regulation; (ii) suggestions for less burdensome and intrusive alternatives for achieving the essential purpose of the regulation; and (iii) whether the regulation is clearly written and easily understandable.

Public comments may be submitted until December 1, 1994.

Contact: Office of Policy Analysis and Research, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219-1321.

DEPARTMENT OF LABOR AND INDUSTRY

VR 425-01-26. Regulation Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

This regulation establishes procedures and standards for the approval and registration of apprenticeship programs and agreements. It is intended to ensure 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. Also, it is intended to ensure that the programs provide meaningful employment and relevant training for all apprentices.

VR 425-01-64. Standards for Boiler and Pressure Vessel Operator Certification.

Section 15.1-11.6 of the Code of Virginia authorizes a local government, at its option, to require boiler or pressure vessel operators to obtain an initial certification from the locality before engaging in the operation and maintenance of boilers and pressure vessels in that jurisdiction. This regulation provides a uniform statewide standard to determine ability, proficiency and qualification of local certification applicants. This standard is for the use of governing bodies of counties, cities, and towns which have

adopted ordinances requiring local certification. This regulation does not provide for state certification of boiler and pressure vessel operators.

VR 425-01-69. Regulation Establishing a Multiple of Federal Minimum Hourly Wage Relating to Garnishment of Wages.

Section 34-29 of the Code of Virginia limits the amount of an employee's disposable earnings which may be subject to garnishment. This regulation prescribes multiples of the Federal Minimum Hourly Wage equivalent in effect for earnings of any pay period other than a week, for use in determining the amount of an employee's garnishment.

VR 425-01-74. Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees.

Section 40.1-51.20 of the Code of Virginia requires licensed asbestos contractors to obtain an asbestos project permit from the department and to pay a fee based on the size of the planned asbestos removal project. This regulation provides a procedure for notification of the department of asbestos projects, and establishes permit fees and procedures for obtaining permits.

VR 425-01-75. Boiler and Pressure Vessel Rules and Regulations.

This regulation provides procedures to protect human life and property from the unsafe or dangerous construction, installation, inspection, operation, maintenance, and repair of boilers and pressure vessels in Virginia.

VR 425-01-77. Virginia Rules and Regulations Declaring Hazardous Occupations.

This regulation sets forth the occupations determined by the Commissioner of Labor and Industry to be hazardous or detrimental to the health of minors under 18 years of age. Employment of minors under the age of 18 is prohibited in these occupations.

VR 425-01-80. Virginia Hours of Work for Minors.

This regulation restricts the hours and days of work for child labor. It provides for the maximum number of hours per week, the maximum number of hours per day and the hours during the day that minors under the age of 16 may work during school sessions and during school vacations.

In accordance with the Governor's Executive Order Number 15 (94), effective June 21, 1994, the Virginia Department of Labor and Industry is currently conducting a comprehensive review of all its existing regulations. The purpose of this review is to reduce the burden imposed by regulations by ensuring that the only regulations in effect

Schedules for Comprehensive Review of Regulations

are those that are essential to protect the health, safety, and welfare of citizens or for the efficient and economical performance of an important governmental function. The review will also ensure that the regulations are clearly written and easily understandable and will evaluate the effectiveness of the regulations in meeting their stated purpose.

The agency is currently reviewing the above seven regulations which have been approved by the offices of the Secretary of Commerce and Trade and the Governor for comprehensive review. Comments are requested to assist in the identification of regulations that are unclear, duplicative, or do not achieve the essential purpose for which they were established.

Public comments may be submitted through November 17, 1994. Written or faxed comments should contain the following information:

1. Name, address and telephone number of person submitting comments;
2. Regulation number and title of regulation;
3. Recommended action to be taken with regard to the specific regulation;
4. Statement of need and justification for the proposed action;
5. Statement of impact on the person submitting comments;
6. Identification of other affected persons or organizations and statement of impact on these entities; and
7. Recommended alternatives to the regulation, if any.

Copies of the regulations may be obtained from the Virginia Department of Labor and Industry.

Contact: Bonnie Robinson, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 371-2631 or (804) 786-2385, FAX (804) 786-9877.

STATE MILK COMMISSION

VR 475-01-01. Public Participation Guidelines.

VR 475-02-02. Rules and Regulations for the Control, Regulation, and Supervision of the Milk Industry in Virginia.

- § 1. Definitions.
- § 2. Applications of these rules and regulations.

§ 3. Establishment of market areas.

§ 5. Delivery and acceptance requirements; all established marketing areas.

§ 6. Classification and requirements of distributor licensees.

§ 9. Records and reports.

§ 10. Rules of practice.

§ 11. Assessments.

§ 12. Hearing notice and procedure.

§ 13. Repeal of prior rules and regulations.

Written statements filed with the Registrar of Regulations pursuant to Chapter 735, 1993 Acts of the Assembly.

1. The Case and Company, Incorporated Fluid Milk Products Cost Manual referenced in § 10.

2. Forms: No. 305-001, Application for Distributor's license (8/15/72).

Executive Order Number Fifteen (94) requires that the State Milk Commission perform a comprehensive review of all existing regulations to be completed by January 1, 1997. The Administrator is required to provide to the Secretary of Commerce and Trade his recommendations as to whether each regulation should be terminated, amended, or retained in its present form. The Commission is also to develop a process to review regulations on a continuing periodic basis subsequent to completion of this review. The process for continuing review will include periodic evaluation of precise and measurable goals to ascertain the effectiveness of regulations. The Executive Order is applicable to all regulations not specifically exempted under Virginia Code § 9-6.14:4.1 and includes all written statements filed with the Registrar of Regulations pursuant to Chapter 735, 1993 Virginia Acts of the Assembly.

The Virginia State Milk Commission is authorized to promulgate rules, regulations and orders necessary for the control, regulation, and supervision of the milk industry in Virginia pursuant to the provisions of Article 2, Chapter 21, Title 3.1 of the Code of Virginia, as amended.

The Virginia State Milk Commission desires to solicit full public participation in its review of regulations and written statements not specifically exempted by the Administrative Process Act, Virginia Code § 9-6.14:4.1. Therefore, the Virginia State Milk Commission requests public comment on the rules, regulations and written statements listed above.

Public comments may be submitted through November 17, 1994. Facsimile copies will be considered only if followed

Schedules for Comprehensive Review of Regulations

by receipt of original within one week.

Comments should specifically cite regulation or written statement being addressed. Additionally, remarks should be directed to whether regulations or written statements should be terminated, amended, or retained in the present form and arguments to support conclusions.

Complete copies of the above cited regulations and written statements will be provided free of charge by contacting the individual noted as Commission contact.

Contact: Edward C. Wilson, Deputy Administrator, State Milk Commission, 200 N. Ninth Street, Suite 1015, Richmond, VA 23220, telephone (804) 786-2013, FAX (804) 786-3779.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Group 1: Regulations governing certification of mineral miners:

VR 480-04-2. Board of Examiners (Board of Mineral Mining Examiners) Certification Regulations (governing mineral mining).

Comments may be submitted from October 17, 1994, through November 16, 1994.

Contact: Conrad T. Spangler, Director, Department of Mines, Minerals and Energy, Division of Mineral Mining, P. O. Box 3727, Charlottesville, Virginia, 22903-0727.

Group 2: Regulations governing gas, oil and geothermal resources:

VR 480-05-22.1. Gas and Oil Regulation.

VR 480-05-22.2. Virginia Gas and Oil Board Regulation.

VR 480-05-96. Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells.

VR 480-05-13. Geothermal Regulations.

Comments may be submitted from October 17, 1994, through November 16, 1994.

Contact: B. Thomas Fulmer, Director, Department of Mines, Minerals and Energy, Division of Gas and Oil, P. O. Box 1416, Abingdon, Virginia, 24212.

Group 3: Regulations governing mineral mining safety and health:

VR 480-05-1.2. Health and Safety Regulations for Mineral Mining.

Comments may be submitted from January 9, 1995, through February 8, 1995.

Contact: Conrad T. Spangler, Director, Department of Mines, Minerals and Energy, Division of Mineral Mining, P. O. Box 3727, Charlottesville, Virginia, 22903-0727.

Group 4: Regulations governing coal mining reclamation:

VR 480-03-17. Virginia Coal Surface Mining Manual.

VR 480-03-19. Virginia Coal Surface Mining Reclamation Regulations.

VR 480-05-97. Rules and Regulations Governing Blasting in Surface Mining Operations.

Comments may be submitted from February 20, 1995, through March 22, 1995.

Contact: Danny R. Brown, Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P. O. Drawer 900, Big Stone Gap, Virginia, 24219.

Group 5: Regulations governing public participation in developing regulations:

VR 480-01-1. Public Participation Guidelines.

Comments may be submitted from July 10, 1995, through August 9, 1995.

Contact: O. Gene Dishner, Director, Department of Mines, Minerals and Energy, 202 North Ninth Street, 8th Floor, Richmond, Virginia, 23219.

Group 6: Regulations governing coal mining certifications:

VR 480-04-2. Board of Examiners (Board of Coal Mining Examiners) Certification Regulations (governing coal mining).

VR 480-05-2. Rules and Regulations Governing the Certification of Diesel Engine Mechanics in Underground Coal Mines.

Comments may be submitted from July 10, 1995, through August 9, 1995.

Contact: Harry D. Childress, Chief, Department of Mines, Minerals and Energy, Division of Mines, P. O. Drawer 900, Charlottesville, Virginia, 24219.

Group 7: Regulations governing mineral mining reclamation:

VR 480-03-16. Minerals Other than Coal Surface Mining Regulations.

Comments may be submitted from September 18, 1995, through October 18, 1995.

Contact: Conrad T. Spangler, Director, Department of Mines, Minerals and Energy, Division of Mineral Mining,

Schedules for Comprehensive Review of Regulations

P. O. Box 3727, Charlottesville, Virginia, 22903-0727.

Group 8: Regulations governing coal mining safety and health:

VR 480-03-3. Rules and Regulations Governing the Installation and Use of Automated Temporary Roof Support Systems.

VR 480-03-07. Rules and Regulations Governing Disruption of Communications in Mines.

VR 480-03-09.1. Rules and Regulations Governing Advanced First-Aid.

VR 480-03-09.2. Rules and Regulations Governing the Use of Diesel Powered Equipment in Underground Coal Mines.

VR 480-03-98. Rules and Regulations Governing the Installation and Use of Cabs and Canopies.

Comments may be submitted from February 20, 1996, through March 22, 1996.

Contact: Harry D. Childress, Chief, Department of Mines, Minerals and Energy, Division of Mines, P. O. Drawer 900, Charlottesville, Virginia, 24219.

The Department of Mines, Minerals and Energy is requesting public comments addressing the need to terminate, amend or retain regulations of the department, the Virginia Gas and Oil Board, the Board of Coal Mining Examiners and the Board of Mineral Mining Examiners. Comments are being requested as part of the Department of Mines, Minerals and Energy's review of regulations under Executive Order Fifteen (94) of Governor George Allen.

The Department of Mines, Minerals and Energy welcomes all comments on these regulations. Whenever possible, the department encourages person to address their comments to specific sections of the regulations. The department is especially interested in receiving comments in response to the following questions.

1. Are the regulatory requirements mandated under state law, federal law or federal regulation? If mandated, do the specific regulatory requirements exceed the minimum requirements of the mandate?
2. To what extent, and for what reasons are the regulatory requirements essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function?
3. Are there any less burdensome or less intrusive alternatives available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose of the regulations?

4. If less burdensome or intrusive alternatives are proposed, what is your estimate of the costs and benefits of the alternatives as compared to the existing requirement, and what are specific and measurable goals that the proposed alternatives would be intended to achieve?

5. Are individual sections of the regulation, and the regulation taken as a whole, clearly written and understandable?

6. What other recommendations do you have to improve the regulation?

The Department of Mines, Minerals and Energy will accept public comments on regulations according to the above schedule. Written comments should be submitted to the addresses listed in the schedule.

AGENCIES OF THE NATURAL RESOURCES SECRETARIAT

In keeping with Executive Order Number Fifteen (94), the agencies of the Natural Resources Secretariat are beginning the review of their existing regulations. This review is to determine whether the regulations are essential to protect public health, safety and welfare or unnecessarily burdensome or intrusive to citizens of the Commonwealth.

The review began September 15, 1994. Agencies with 10 or fewer regulations will complete the review of all regulations by July 1, 1995. Agencies with more than 10 regulations will complete the review of half of their regulations by July 1, 1995, and the other half by July 1, 1996.

According to the Governor's order, the review will be guided by the following principles:

Regulations must be designed to achieve the least possible interference in private enterprise and the lives of Virginia citizens. Unless otherwise mandated by statute, the only regulations that should remain in effect are those that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function.

No regulation should remain in effect if less burdensome or less intrusive alternatives are available that will satisfy legal requirements and achieve the same purposes.

Regulations should not be perpetual but subject to regular re-justification and re-evaluation based upon specific and measurable goals.

Regulations should be clearly written and easily understandable.

Schedules for Comprehensive Review of Regulations

Public participation requirements must be strictly followed or strengthened to ensure citizens have reasonable opportunity to present concerns and comments.

At the conclusion of the review, the agencies will forward their recommendations to the Secretary of Natural Resources and the Governor regarding which regulations should be retained, amended or abolished. The recommendations will also be reviewed by the Department of Planning and Budget. After approval by the Secretary and the Governor, the recommendations will be considered by the appropriate approving authority in conformance with appropriate Public Participation Guidelines and the Administrative Process Act.

The review schedule for each of the agencies within the Natural Resources Secretariat is set forth below, along with a brief description of the agencies' plans for public input into the review process.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

REVIEW BY JULY 1, 1995

VR 173-01-00:1. Public Participation Guidelines.

VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

With publication of this notice, the public comment period is open on both regulations listed above. Both of these regulations are mandated by state law. The board is specifically seeking comment on provisions of the regulations (i) which are not perceived to be mandated by state or federal law, are not essential to protect the health, safety and welfare of citizens, or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by individuals and entities affected. The board welcomes any suggestions regarding ways the regulations could be improved.

Written comments should be sent to Mr. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia 23219. Comments should be submitted by 4 p.m. on Friday, November 4, 1994.

In addition, the board will constitute four advisory committees representing groups of stakeholders affected by these regulations. The committees will represent (i) the land development industry, (ii) the agricultural and forestry industries, (iii) environmental organizations, watermen and citizen groups, and (iv) local governments and planning district commissions. These committees will meet with staff during the fall to discuss ways to improve

the regulations. As well, oral comments and questions will be accepted at one public information meeting which will be held at 7:30 p.m. on Thursday, October 20, 1994, in Senate Room B of the General Assembly Building in Richmond, Virginia.

All comments received will be considered by agency staff and the board during the review of the regulations. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources.

For additional information on this process or to review any of the regulations listed, please contact Scott Crafton at the address above or (804) 371-7503.

DEPARTMENT OF CONSERVATION AND RECREATION

REVIEW BY JULY 1, 1995

Board of Conservation and Recreation

VR 215-00-00. Regulatory Public Participation Procedures.

VR 215-02-00. Stormwater Management Regulations. (This review will be made in coordination with the ongoing regulatory action to amend the regulations.)

Department of Conservation and Recreation

VR 217-00-00. Regulatory Public Participation Procedures.

VR 215-01-01. Standards for the Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law.

VR 215-01-02. Virginia State Park Regulations.

VR 215-01-03. Virginia State Forest Regulations.

Virginia Soil and Water Conservation Board

VR 625-00-00:1. Regulatory Public Participation Procedures.

VR 625-01-00. Impounding Structure Regulations.

VR 625-03-00. Flood Prevention and Protection Assistance Fund Regulations.

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REVIEW BY JULY 1, 1996

Virginia Soil and Water Conservation Board

VR 625-02-00. Erosion and Sediment Control Regulations.

With publication of this schedule, the public comment period is open on all regulations to be reviewed by July 1,

Schedules for Comprehensive Review of Regulations

1995 listed above. The agency is specifically seeking comment on all regulations (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected.

Written comments should be sent to Leon E. App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, FAX (804) 786-6141. Comments should be submitted by close of business on Wednesday, November 30, 1994.

The department will use ad hoc committees and public meetings to enhance the public comment period. Notices of the ad hoc committee meetings and the public meetings to be held in the period of October 15 to November 15, 1994, will be given through The Virginia Register and regulatory mailing lists.

All comments received will be considered by the agency during the review of the regulations. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources. Anyone desiring further information concerning this process or to review any of the regulations listed should contact Leon E. App at the address above or by phone at (804) 786-4570.

DEPARTMENT OF ENVIRONMENTAL QUALITY

REVIEW BY JULY 1, 1995

VR 304-02-01. Oil & Gas Exploration in Tidewater.

Air Pollution Control Board

VR 120-01. Control and Abatement of Air Pollution.

Part I - All of General Definitions.

Part III - All of Ambient Air Quality Standards.

Part IV - Parts of Existing and Certain Other Sources.

Part V - Parts of New and Modified Sources.

Part VI - Parts of Hazardous Air Pollutant Sources.

Part VII - All of Air Pollution Episodes.

Part VIII - Parts of Permits for Stationary Sources.

Appendices

Virginia Waste Management Board

VR 672-20-11. Solid Waste Management Application Fees.

VR 672-20-32. Yard Waste Composting Facility.

VR 672-30-01. Transportation of Hazardous Materials.

VR 672-40-01. Management of Regulated Medical Waste.

VR 672-50-01. Development of Solid Waste Management Plans.

VR 672-50-11. Certification of Recycling Machinery/Equipment.

Litter Receptacle Regulations.

Grant Funds to Localities - Waste Management Act.

State Water Control Board

VR 680-01-01. Fees for Permits and Certificates.

VR 680-11-04. Dulles Watershed Policy.

VR 680-11-05. Occoquan Policy.

VR 680-14-07. Oil Discharge Contingency Plans and Fees.

VR 680-14-08. Vessel Financial Responsibility and Fees.

VR 680-14-12. Aboveground Storage Tank Registration.

VR 680-14-13. Aboveground Storage Tank Pollution Prevention Standards.

VR 680-15-01. Water Withdrawal Reporting.

VR 680-16-01 - VR 680-16-17. Water Quality Management Plans.

VR 680-31-01. Procedural Rule No. 1.

VR 680-31-04. Procedural Rule No. 4.

* * *

REVIEW BY JULY 1, 1996

Department of Environmental Quality

VR 304-01-01. Public Participation Guidelines.

Air Pollution Control Board.

VR 120-01. Control and Abatement of Air Pollution.

Part II - All of General Provisions.

Schedules for Comprehensive Review of Regulations

Part IV - Parts of Existing and Certain Other Sources.

Part V - Parts of New and Modified Sources.

Part VI - Parts of Hazardous Air Pollutant Sources.

Part VIII - Parts of Permits for Stationary Sources.

VR 120-99-01. Northern Virginia Vehicle Emissions: Basic Program Operation.

VR 120-99-02. Northern Virginia Vehicle Emissions: Basic Equipment Specifications.

VR 120-99-03. Northern Virginia Vehicle Emissions: Enhanced Program Operation.

Virginia Waste Management Board

VR 672-10-1. Hazardous Waste Management.

VR 672-20-10. Solid Waste Management.

VR 352-01-2. Hazardous Waste Facility Certification Fees.

VR 352-01-3. Technical Assistance Fund - Hazardous Waste.

VR 352-01-4. Administrative Procedures for Hazardous Waste Facility Siting.

VR 352-01-5. Hazardous Waste Facility Siting Criteria.

VR 672-01-1:1. Public Participation Guidelines.

State Water Control Board

VR 680-11-01. Shellfish Growing Areas Policy.

VR 680-11-02. Wetlands Policy.

VR 680-11-03. Water Resources Policy.

VR 680-13-02. Underground Storage Tanks Technical Standards.

VR 680-13-03. Underground Storage Tanks Financial Responsibility.

VR 680-13-04. Eastern Virginia Ground Water Management Area.

VR 680-13-05. Eastern Shore Ground Water Management Area.

VR 680-13-07. Ground Water Withdrawal.

VR 680-14-02. Nutrient Policy.

VR 680-14-04. Requirement No. 1.

VR 680-14-05. Regulation No. 5 - Pollution from Boats.

VR 680-14-09. General VPDES Permit for Sewage Discharges of less than 1,000 Gallons (Single Family Homes).

VR 680-14-11. Underground Storage Tank Corrective Action Plan General Permit.

VR 680-14-16 - VR 680-14-19. General VPDES Permits for Storm Water Discharges.

VR 680-14-20. General VPDES Permit for Nonmetallic Mineral Mining.

VR 680-15-02. Virginia Water Protection Permit.

VR 680-15-03. Surface Water Management Area.

VR 680-21-00. Water Quality Standards.

With publication of this schedule, the public comment period is open on all the regulations listed above. The agency is specifically seeking comment on provisions of the regulations (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected.

Written comments should be sent to Ms. Cindy M. Berndt, Regulatory Coordinator, Department of Environmental Quality, P. O. Box 10009, Richmond, Virginia 23240. Comments should be submitted by close of business on Thursday, December 1, 1994.

In addition, oral comments from the public will be accepted at two joint public meetings of the Department of Environmental Quality, State Air Pollution Control Board, State Water Control Board and Virginia Waste Management Board. These meetings will be held at 7:30 p.m. on Thursday, October 13, 1994, in Richmond and at 7:30 p.m. on Thursday, October 27, 1994, in Roanoke.

All comments received will be considered by the agency during the review of the regulations. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources.

For additional information on this process or to review any of the regulations listed, please contact Cindy M. Berndt at the address above or (804) 762-4378.

Schedules for Comprehensive Review of Regulations

DEPARTMENT OF GAME AND INLAND FISHERIES

REVIEW BY JULY 1, 1995

VR 325-01-1. Fee Structure for Miscellaneous Permits.

VR 325-04-2. Motorboat Numbering.

VR 325-05-1. Public Participation Guidelines.

With publication of this schedule, the public comment period is open on all the regulations listed above. The agency is specifically seeking comment on provisions of the regulations (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected.

Written comments should be sent to Larry Hart, Assistant Director of Boating and Facilities, Department of Game and Inland Fisheries, P. O. Box 11104, Richmond, Virginia 23230-1104. Comments should be submitted by close of business on Thursday, December 1, 1994.

In addition, oral comments from the public will be accepted at a public meeting of the Board of Game and Inland Fisheries to be held at 10 a.m. on Thursday, October 13, 1994, at the Department of Game and Inland Fisheries Headquarters at 4010 West Broad Street, Richmond, Virginia.

All comments received will be considered by the agency during the review of the regulations. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources.

For additional information on this process or to review any of the regulations listed, please contact Larry G. Hart at the address above or at (804) 367-9149.

DEPARTMENT OF HISTORIC RESOURCES

REVIEW BY JULY 1, 1995

VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains.

VR 390-01-03. Regulations for the Evaluation Criteria and Procedures for Designation of Virginia Landmarks by the Historic Resources Board.

VR 392-01-02. Regulations for Evaluation Criteria and Procedures for Nomination of Properties to the National Register or for Designation as National Historic

Landmarks by the Department of Historic Resources.

VR 390-01-01. Regulations Governing Public Participation Guidelines for the Historic Resources Board.

VR 392-01-01. Regulations Governing Public Participation for the Department of Historic Resources.

With the publication of this schedule, the public comment period is open on all the regulations listed above.

The agency is specifically seeking comments on provisions (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performances of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected.

Written comments should be sent to Ms. Margaret T. Peters, Regulatory Coordinator, Department of Historic Resources, 221 Governor Street, Richmond, Virginia 23219. Comments should be submitted by close of business on Thursday, December 1, 1994.

In addition, oral comments from the public will be accepted at two public meetings, the date, time and location of which will be announced in the Virginia Register.

All comments received will be considered by the Department of Historic Resources and the Historic Resources Board during the review of the regulations. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources.

For additional information on this process or to review any of the regulations listed, please contact Margaret T. Peters at the address above or (804) 786-3143.

MARINE RESOURCES COMMISSION

REVIEW BY JULY 1, 1995

Subaqueous Guidelines. Subtitled "Guidelines for the Permitting of Activities which Encroach In, On or Over the Submerged Lands of the Commonwealth of Virginia".

Wetlands Guidelines.

Coastal Primary Sand Dune/Beaches Guidelines. Subtitled "Guidelines for the Permitting of Activities Which Encroach into Coastal Primary Sand Dunes/Beaches".

VR 450-01-0015. Concerning the Requirement for Public

Schedules for Comprehensive Review of Regulations

Notice on All Applications to Encroach on Subaqueous Lands of the Commonwealth (XV).

VR 450-01-0045. Public Participation Guidelines.

VR 450-01-0047. Criteria for the Siting of Marinas or Community Facilities for Boat Mooring.

VR 450-01-0051. Wetlands Mitigation-Compensation Policy.

VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material along Beaches in the Commonwealth.

VR 450-01-0058. Coastal Primary Sand Dune/Beaches Guidelines: Barrier Island Policy.

With publication of this schedule, the public comment period is open on all the guideline documents listed above. The agency is specifically seeking comment on any provisions of the guidelines (i) which are not essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important government function; (ii) for which there are less burdensome or less intrusive alternatives available that will satisfy applicable state legal requirements and achieve the essential purpose for which the guideline was intended; or (iii) which are not clearly written and easily understandable by the individual and entities affected.

Written comments should be sent to Mr. Robert W. Grabb, Chief Habitat Management Division, Marine Resources Commission, P. O. Box 756, Newport News, Virginia 23607-0756. Comments should be submitted by close of business on Thursday, December 1, 1994.

In addition, oral comments from the public will be accepted at a public hearing which will be held at 7:30 p.m. on Thursday, October 20, 1994, at Commission headquarters in Newport News.

All comments received will be considered by the agency during the review of the guidelines. In addition, a summary of the comments received will be included in the agency's report to the Secretary of Natural Resources.

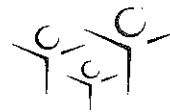
For additional information on this process or to review any of the guidelines listed, please contact Robert W. Grabb at the above address or (804) 247-2252.

COLLEGE OF WILLIAM AND MARY

Motor Vehicle Parking and Traffic Rules and Regulations.

Public comments may be submitted until October 28, 1994.

Contact: Mr. Mark Gettys, Parking Services, College of William and Mary, P. O. Box 8795, Williamsburg, VA 23187-8795.



VIRGINIA DEPARTMENT OF
**YOUTH &
FAMILY SERVICES**
Youth Begins With You.

DEPARTMENT OF YOUTH AND FAMILY SERVICES

VR 690-01-001. Public Participation Guidelines.

VR 690-10-001. Regulations Governing the Certification Process.

VR 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Construction Costs.

VR 230-40-003. Standards for Post-Dispositional Confinement for Secure Detention and Court Service Units.

Minimum Standards for Court Service Units.

The State Board of Youth and Family Services and the Department of Youth and Family Services announce a review of the above regulations, pursuant to Executive Order Number Fifteen (94).

The department anticipates completing its review of the stated regulations, and submitting a report of its findings to the Secretary of Public Safety, no later than December 16, 1994. The report will include the department's recommendations to retain the regulations in their current form, or to amend or terminate the regulations. If the Governor concurs in a recommendation to amend or terminate the regulation, the department will at that time submit the regulation for further comment pursuant to the Administrative Process Act. The board and department invite public comments on any aspect of these regulations, but especially welcome specific suggestions for clarifying the language and simplifying the requirements imposed by the regulations.

Public comments may be submitted through November 18, 1994.

No public hearings are anticipated as part of this review.

Contact: Mr. Donald R. Carignan, Department of Youth and Family Services, P. O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ALCOHOLIC BEVERAGE CONTROL BOARD)

Notice to the Public

Pursuant to the Virginia Department of Alcoholic Beverage Control's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Department of Alcoholic Beverage Control), the board will conduct a public meeting on Thursday, June 1, 1995, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s);
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs or savings to regulated entities, the public, or others incurred by this change as compared to current regulations;
7. Who is affected by recommended change? How affected?
8. Draft language; and
9. Supporting documents.

The board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the board no later than Friday, November 18, 1994.

The board will also be appointing an ad hoc advisory panel consisting of persons on its general mailing list who will be affected by or interested in the adoption, amendment or repeal of board regulations. This panel will consider regulation proposals, make recommendations, assist in development of draft language and provide such advice as the board may request. Anyone interested in serving on such panel should notify the contact person

identified below by Friday, November 18, 1994, requesting that their name be placed on the general mailing list.

Petitions for regulatory change and requests to be appointed to the ad hoc advisory panel should be sent to Sara M. Gilliam, Assistant Secretary to the Board, 2901 Hermitage Road, Richmond, Virginia 23220, or may be faxed to (804) 367-1802 if the original paperwork is also mailed.

Applicable laws or regulations (authority to adopt regulations): §§ 4.1-103 12, 4.1-111, 4.1-112, 4.1-113 and 9-6.14:1 et seq. of the Code of Virginia; VR 125-01-1 § 5.1, Board Regulations.

Entities affected: All licensees (manufacturers, wholesalers, importers, retailers) and the general public.

FOR FURTHER INFORMATION CONTACT: Sara M. Gilliam, Assistant Secretary, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 367-0617.

STATE BOARD OF HEALTH

Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1995

Pursuant to the authority vested in the State Board of Health by § 32.1-12 of the Code of Virginia and in accordance with the provisions of Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1995.

Written comments on the proposed plan will be accepted in the office of the Director, Division of Public Health Nutrition, Virginia Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219 until 5 p.m. on October 5, 1994.

The proposed State Plan for WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning September 5, 1994. Please contact your local health department for the location of this office in your area.

General Notices/Errata

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U. S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1917, and 1918

(Docket No. S-025)

LONGSHORING AND MARINE TERMINALS

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Proposed Rule; Notice of Informal Public Hearings.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposed on June 2, 1994 (59 FR 28594), to revise its Safety and Health Regulations for Longshoring and, to a far lesser extent, to amend its Safety and Health Regulations for Marine Terminals. The proposed rule covers cargo handling and related activities conducted aboard vessels and at Marine Terminals. The proposed amendments to the Marine Terminals standard are intended primarily to provide regulatory consistency with the proposed Longshoring ship-board rules.

The June 2, 1994, Federal Register notice and subsequent correction notice on June 13, 1994 (59 FR 30389), announced the cities and dates for three informal rulemaking hearings that will be held on all issues raised by the proposal. The dates of these hearings have been changed. This notice sets the new dates and specific locations of the informal public hearings to be held as part of the rulemaking process. In addition, it extends the original date for the submission of Notices of Intention to Appear by three weeks and reduces the time frame for the submission of documentary evidence and the text of lengthy testimony from 21 days to 14 days prior to the date of the hearing where the evidence will be presented.

TEXT: Full text of the proposed rule can be found in the Federal Register, Volume 59, No. 160, pg. 42785 (August 19, 1994).

DATES: Written comments on the standard must be postmarked on or before September 23, 1994.

Notices of Intention to Appear at the informal public hearings must be postmarked by September 14, 1994.

The hearings will begin at 9:30 a.m. and be held in the following cities, beginning on the following dates:

Charleston, South Carolina on October 4, 5 and 6, 1994.

Seattle, Washington on October 19, 20 and 21, 1994.

New Orleans, Louisiana on November 15, 16 and 17, 1994.

Parties who request more than 10 minutes for their presentation at the informal public hearing and parties who will submit documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence prior to the date of the hearing to be attended as follows:

Charleston, South Carolina: postmarked by September 20, 1994;

Seattle, Washington: postmarked by October 5, 1994; and

New Orleans, Louisiana: postmarked by November 1, 1994.

ADDRESSES: The Charleston hearings will be held at the SHERATON INN CHARLESTON, 170 Lockwood Drive, Charleston, South Carolina. The telephone (803) 723-3000.

The Seattle hearings will be held at the HOLIDAY INN CROWNE PLAZA, 1113 6th Avenue, Seattle, Washington. The telephone number is (206) 464-1980.

The New Orleans hearings will be held at THE INN ON BOURBON, 541 Bourbon Street, New Orleans, Louisiana. The telephone number is (504) 524-7611.

Written comments should be submitted in quadruplicate to the Docket Office, Docket No. S-025, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210. Telephone: (202) 219-7894. Comments of 10 pages or less may be faxed to the Docket Office, if followed by a hard copy. The OSHA Docket Office fax number is (202) 219-5046.

An additional hard copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219 or faxed, if 10 pages or less, to (804) 786-8418.

Notices of intention to appear, testimony and documentary evidence to be submitted at the hearing are to be sent to

Mr. Thomas Hall, OSHA Division of Consumer Affairs, Docket No. S-025, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, DC 20210, telephone (202) 219-8615.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219-8148.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08



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17. Signature and Title of Editor, Publisher, Business Manager, or Owner
Joan W. Smith Registrar of Regulations Date **Sept. 21, 1994**

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties).

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- Complete and file one copy of this form with your postmaster on or before October 1, annually. Keep a copy of the completed form for your records.
 - Include in items 10 and 11, in cases where the stockholder or security holder is a trustee, the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check box. Use blank sheets if more space is required.
 - Be sure to furnish all information called for in item 15, regarding circulation. Free circulation must be shown in items 15d, e, and f.
 - If the publication had second-class authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or the first printed issue after October, if the publication is not published during October.
 - In item 16, indicate date of the issue in which this Statement of Ownership will be printed.
 - Item 17 must be signed.
- Failure to file or publish a statement of ownership may lead to suspension of second-class authorization.*

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

October 18, 1994 - 10 a.m. – Open Meeting
October 19, 1994 - 8 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

An open meeting to conduct review and disposition of applications, correspondence, enforcement files, regulatory review and any other matters which may require board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for any appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

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

GOVERNOR'S ADVISORY BOARD ON AGING

October 5, 1994 - 4 p.m. – Open Meeting
October 6, 1994 - 10 a.m. – Open Meeting
Holiday Inn - Central, 3207 North Boulevard, Richmond,

Virginia. ☒ (Interpreter for the deaf provided upon request)

A general meeting of the board.

Contact: Bill Peterson, Board Staff, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2803, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Aquaculture Advisory Board

† **October 14, 1994 - 10:30 a.m.** – Open Meeting
Augusta County Extension Office, Conference Room,
Verona, Virginia. ☒

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the secretary of the Aquaculture Advisory Board at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-6094.

Pesticide Control Board

October 13, 1994 - 10 a.m. – Open Meeting
October 14, 1994 - 9 a.m. – Open Meeting
October 15, 1994 - 8 a.m. – Open Meeting
Holiday Inn, I-81 and U.S. 50, 1054 Millwood Avenue,
Winchester, Virginia. ☒

The board will conduct its normal quarterly meeting. During the meeting the board will engage in strategic planning, develop goals and objectives for the board's activities, and tour apple orchards in the Winchester area to observe pesticide management. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda at 9 a.m., October 14, 1994. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin

Calendar of Events

A. Lawson at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Sweet Potato Board

† **October 6, 1994 - 8 p.m.** – Open Meeting
Eastern Shore Agriculture Experiment Station, Research Drive, Painter, Virginia. ☒

The board will meet to discuss marketing, promotion, research and education programs for the state's sweet potato industry, and to adopt the board's budget. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: J. William Mapp, Program Director, Department of Agriculture and Consumer Services, Box 26, Onley, VA 23418, telephone (804) 787-5867.

Virginia Winegrower's Advisory Board

November 1, 1994 - 10 a.m. – Open Meeting
Boar's Head Inn and Sports Club, Route 250 West, Tack Room, Charlottesville, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to hear committee and project monitor reports and review old and new business. Public comment is welcome following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Bacon, Secretary, Virginia Winegrower's Advisory Board, 1100 Bank St., Suite 1009, Richmond, VA 23219, telephone (804) 786-0481.

STATE AIR POLLUTION CONTROL BOARD

† **October 3, 1994 - 9 a.m.** – Open Meeting
Hyatt Richmond, 6624 West Broad Street, Richmond, Virginia.

A regular business meeting.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4378.

State Advisory Board on Air Pollution

† **October 4, 1994 - 8:30 a.m.** – Open Meeting
Hyatt Richmond, 6624 West Broad Street, Richmond,

Virginia.

Twenty-eighth annual meeting of the State Advisory Board on Air Pollution.

Contact: Winston Evans, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4441.

ASAP POLICY BOARD - VALLEY

† **October 10, 1994 - 8:30 a.m.** – Open Meeting
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting of the local policy board which conducts business pertaining to the following: (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

Contact: Rhoda G. York, Executive Director, Holiday Court, Suite B, Staunton, VA 24401, telephone (703) 886-5616 or in Waynesboro (703) 943-4405.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **November 17, 1994 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 155-01-3, Public Participation Guidelines
VR 155-01-2, General Regulations

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Meredyth Partridge, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9941.

VIRGINIA AVIATION BOARD

† **October 17, 1994 - 7:30 p.m.** – Open Meeting
Sheraton Inn, Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. (Interpreter for the deaf

provided upon request)

A workshop for the Virginia Aviation Board. No formal actions will be taken. Location accessible to handicapped. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy P. Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625.

† October 18, 1994 - 10 a.m. - Open Meeting
Sheraton Inn, Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Location accessible to handicapped. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy P. Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625.

BOARD FOR BARBERS

October 3, 1994 - 9 a.m. - Open Meeting
December 5, 1994 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☐

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

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October 3, 1994 - 9 a.m. - Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

November 5, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Barbers

intends to amend regulations entitled: VR 170-01-1:1. Board for Barbers Regulations. The purpose of the proposed amendments is to establish the requirements for licensure of barbers, barber instructors, barber shops and barber schools, including a fee adjustment.

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

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0500.

CHILD DAY-CARE COUNCIL

† October 13, 1994 - 9 a.m. - Open Meeting
Verona Government Center, 4801 Lee Highway, Verona, Virginia. ☐ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comments can be provided at the public hearing starting at 3 p.m. The council may visit centers in the community. Please call ahead of time for possible changes in meeting time.

Contact: Richard Martin, Division of Management and Customer Services, Child Day-Care Council, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

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October 11, 1994 - 4 p.m. - Public Hearing
Wytheville Community College, 1000 East Main Street, Grayson Hall Commons, Wytheville, Virginia.

October 13, 1994 - 3 p.m. - Public Hearing
Verona Government Office, 4801 Lee Highway, Verona, Virginia.

October 17, 1994 - 4 p.m. - Public Hearing
Norfolk City Council Chambers, 810 Union Street, Hall Building, 11th Floor, Norfolk, Virginia.

October 19, 1994 - 4 p.m. - Public Hearing
Fairfax Government Center, 12011 Government Center Parkway, Human Services Building, 2nd Floor, Room 230, Fairfax, Virginia.

October 22, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled: VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger. The purpose of the proposed amendments is

Calendar of Events

to incorporate therapeutic child development and special needs child day standards into the child day center regulations, as well as review the existing standards for clarity and appropriateness.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 22, 1994, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Peggy Friedenberg, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

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October 11, 1994 - 4 p.m. – Public Hearing
Wytheville Community College, 1000 East Main Street, Grayson Hall Commons, Wytheville, Virginia.

October 13, 1994 - 3 p.m. – Public Hearing
Verona Government Office, 4801 Lee Highway, Verona, Virginia.

October 17, 1994 - 4 p.m. – Public Hearing
Norfolk City Council Chambers, 810 Union Street, Hall Building, 11th Floor, Norfolk, Virginia.

October 19, 1994 - 4 p.m. – Public Hearing
Fairfax Government Center, 12011 Government Center Parkway, Human Services Building, 2nd Floor, Room 230, Fairfax, Virginia.

October 22, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled: **VR 175-09-01. Minimum Standards for Child Day Centers Serving School Age Children.** The purpose of the proposed amendments is to incorporate therapeutic child development and special needs child day standards into the child day center regulations, as well as review the existing standards for clarity and appropriateness.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 22, 1994, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Peggy Friedenberg, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **November 9, 1994 - 9 a.m. – Open Meeting**
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia. ☒

An ad hoc committee will convene to review the following regulations in accordance with the Governor's Executive Order 15(94):

Agenda: 9 a.m. to 9:30 a.m.

VR 215-00-00. Regulatory Public Participation Procedures
VR 217-00-00. Regulatory Public Participation Procedures
VR 625-00-00:1. Regulatory Public Participation Procedures

9:30 a.m to 11:30 a.m.

VR 215-01-02. Virginia State Park Regulations
VR 215-01-03. Virginia State Forest Regulations

1 p.m. to 3 p.m.

VR 215-01-01. Standards for the Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law

Contact: Leon E. App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

† **November 9, 1994 - 7 p.m. – Open Meeting**
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia. ☒

A public meeting to accept public comments concerning the following regulations in accordance with the Governor's Executive Order 15(94):

Board of Conservation and Recreation

VR 215-00-00. Regulatory Public Participation Procedures
VR 215-02-00. Stormwater Management Regulations (this review will be made in coordination with the ongoing regulatory action to amend the regulations)

Department of Conservation and Recreation

VR 217-00-00. Regulatory Public Participation Procedures
VR 215-01-01. Standards for the Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law.
VR 215-01-02. Virginia State Park Regulations
VR 215-01-03. Virginia State Forest Regulations

Virginia Soil and Water Conservation Board

VR 625-00-00:1. Regulatory Public Participation Procedures

VR 625-01-00. Impounding Structure Regulations

VR 625-03-00. Flood Prevention and Protection Assistance Fund Regulations

Contact: Leon E. App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

Catoctin Creek Scenic River Advisory Board

October 28, 1994 - 2 p.m. – Open Meeting
The Frame Shop (next door to Taylorstown store), Taylorstown, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Virginia Chesapeake Bay Tributary Strategies

† **October 12, 1994 - 7:30 p.m. – Open Meeting**
King George High School, 8246 Dahlgren Road, King George, Virginia. ☒

† **October 13, 1994 - 7:30 p.m. – Open Meeting**
Northumberland High School, Route 360, P.O. Box 40, Heathsville, Virginia. ☒

† **October 17, 1994 - 7:30 p.m. – Open Meeting**
Augusta County Governmental Center, 4801 Lee Highway, Verona, Virginia. ☒

† **October 19, 1994 - 7:30 p.m. – Open Meeting**
Middleburg Community Center, 300 West Washington Street, Middleburg, Virginia. ☒

† **October 24, 1994 - 7:30 p.m. – Open Meeting**
Lord Fairfax Community College, 173 Skirmisher Lane, Middletown, Virginia. ☒

† **October 26, 1994 - 7:30 p.m. – Open Meeting**
Northern Virginia Community College, 8333 Littleriver Turnpike, Annandale, Virginia. ☒

Virginia is holding a series of meetings to gather information and ideas from the public in developing strategies to reduce nutrient loads in the Potomac River. Meetings are designed to get concerns, concepts and potential strategies on nutrient control from citizens of the Potomac River basin. The reduction strategies for the Potomac River will also serve to help develop similar strategies for Virginia's other

Chesapeake Bay tributaries. The reduction strategies will address point (treatment plants, industrial discharges, etc.) and nonpoint (runoff from agricultural fields, residential areas, stormwater, etc.) sources of pollution.

Contact: Gary Waugh, Public Relations Manager, Department of Conservation and Recreation, 203 Governor St., Suite 213, Richmond, VA 23219, telephone (804) 786-5045 or (804) 786-2121/TDD ☎

Board on Conservation and Development of Public Beaches

October 3, 1994 - 10:30 a.m. – Open Meeting
Holiday Inn, 1010 West Ocean View Avenue, Norfolk, Virginia. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Susan M. Townsend, Program Support Technician, Department of Conservation and Recreation, P.O. Box 1024, Gloucester, VA 23062, telephone (804) 642-7121.

BOARD FOR CONTRACTORS

† **October 12, 1994 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled meeting of the board which will address policy and procedural issues; review and render decisions on applications for contractor's licensees; and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session.

Contact: Geralde W. Morgan, Regulatory Boards Administrator Senior, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

October 13, 1994 - 9 a.m. – Open Meeting

October 14, 1994 - 9 a.m. – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A formal hearing in regard to the Board for Contractors v. Tomac Corporation. File Number 93-01269.

Contact: A.R. Wade, Assistant Director, Board for Contractors, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-0946.

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November 4, 1994 – Written comments may be submitted through this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to **repeal** regulations entitled: **VR 220-01-2, Board for Contractors Regulations**, and **adopt** regulations entitled: **VR 220-01-2:1, Board for Contractors Regulations**. The purpose of the proposed regulation is to adjust application and renewal fees, to add and clarify definitions, to promulgate requirements for Class C contractors in accordance with new statutory requirements, and to amend its standards of practice and conduct.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1102 of the Code of Virginia.

Contact: Geralde W. Morgan, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

Regulatory Review Committee

† **October 27, 1994 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

The committee will meeting to recommend the adoption of the proposed regulations and to review written comments from the public regarding the proposed regulations. The meeting is open to the public.

Contact: Geralde W. Morgan, Regulatory Boards Administrator Senior, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

BOARD OF CORRECTIONS

† **October 12, 1994 - 10 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond,
Virginia. ☒

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

November 7, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the

department of your request for accommodations at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

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† **November 7, 1994 - 10 a.m.** – Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

† **December 3, 1994** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to **repeal** regulations entitled: **VR 235-01-02, Board for Cosmetology Regulations**, and **VR 235-01-03, Nail Technician Regulations**, and **adopt** regulations entitled: **VR 235-01-02:1, Board for Cosmetology Regulations**. The purpose of this regulatory action is to repeal the existing Board for Cosmetology Regulations (VR 235-01-02) and Nail Technician Regulations (VR 235-01-03) and combine them into one set of new regulations (VR 235-01-02:1). The proposed regulations will achieve consistency with existing barber regulations and statutes as well as current board policies. Further, the proposed regulations will amend the Board for Cosmetology's license renewal procedures.

Statutory Authority: §§ 54.1-201 and 54.1-1202 B of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

October 5, 1994 - 9 a.m. – Public Hearing
General Assembly Building, 910 Capitol Street, House
Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to **adopt** regulations entitled: **VR 240-01-15. Rules Relating to Compulsory Minimum Training Standards For Radar Operators**. The proposed regulations include specific training requirements for public law-enforcement officers employed by state and local law-enforcement agencies who operate radar as part of their assigned duties. These training standards include 18 performance based training objectives which each officer required to

operate radar must meet prior to being able to operate the unit. Training for radar operators under the proposed regulations may be done at the employing agency by a certified radar operator instructor and records of the training provided are to be maintained by the employing agency. Retraining is required by December 31 of every third calendar year to ensure that the operating officer has retained proficiency in the operation of the speed measurement device. Provisions are available for the exemption or partial exemption of the training requirement based upon previous training and experience.

Statutory Authority: § 9-170(3a) of the Code of Virginia.

Contact: Paula Scott-Dehetre, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

† **October 5, 1994 - 1 p.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☒

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

Committee on Training

† **October 5, 1994 - 9 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☒

A meeting to discuss matters related to training for criminal justice personnel and to conduct a public hearing on the Rules Relating to Compulsory Minimum Training Standards for Radar Operators.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

BOARD OF DENTISTRY

† **November 4, 1994 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 255-01-2, Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9906.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

October 7, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **VR 270-01-0009. Regulations Governing Literary Loan Applications in Virginia.** These regulations are being amended to include language required by the 1989 and 1990 sessions of the General Assembly relating to the ceiling on indebtedness to the fund and consolidation incentives; to include changes by the 1991 session to § 22.1-140 of the Code of Virginia; to include changes by the 1994 session to § 22.1-146 of the Code of Virginia; and to increase the maximum loan amount from \$2.5 million to \$5 million per project.

Statutory Authority: §§ 22.1-140 and 22.1-142 et seq. of the Code of Virginia.

Contact: Kathryn S. Kitchen, Division Chief, Department of Education, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2025 or toll-free 1-800-292-3820.

October 27, 1994 - 8:30 a.m. – Open Meeting

November 17, 1994 - 8:30 a.m. – Open Meeting

General Assembly Building, 910 Capitol Square, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

October 26, 1994 - 6:30 p.m. – Open Meeting
Gloucester County Administration Building, 6582 Main Street, Conference Room, Gloucester, Virginia. ☒

The fall quarterly meeting. Matters to come before the committee include an annual update of the plan, appointment of a nominating committee and discussion of an annual exercise.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1478/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

October 5, 1994 - 3 p.m. – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A meeting to review and distribute the contingency plan if received from the publisher.

Contact: L.A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 13, 1994 - 7:30 p.m. – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

October 27, 1994 - 7:30 p.m. – Open Meeting
Roanoke County Administration Center, 5294 Bernard Drive, Board of Supervisor's Meeting Room, Roanoke, Virginia.

Pursuant to § 10.1-1184 of the Code of Virginia, representatives of the State Air Pollution Control Board, State Water Control Board, Virginia Waste Management Board and the Department of Environmental Quality will hold a joint public forum to receive public comments about environmental issues of concern to the Commonwealth. Additionally, a brief overview of the Department of Environmental Quality's reorganization and the department's regulatory review program will be presented.

Contact: Cindy M. Berndt, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378.

VIRGINIA FIRE SERVICES BOARD

† **October 6, 1994 - 7 p.m.** – Public Hearing
South Hill Fire Department, 114 North Brunswick Avenue, South Hill, Virginia.

† **October 12, 1994 - 7 p.m.** – Public Hearing
The Elks Lodge, Onley, Virginia.

† **October 17, 1994 - 7 p.m.** – Public Hearing
Lynchburg Fire Administration, 800 Madison Street, Lynchburg, Virginia.

A public hearing to discuss consolidation of fire and emergency service organizations. The hearing is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Virginia Fire Services Board, 2807 N. Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **October 18, 1994 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 320-01-5, Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Meredyth Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9941.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

† **October 12, 1994 - 10 a.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒

The board will hold a workshop to review and discuss its role and procedures for operating. Also, background information will be presented by agency staff on programs and functions of the department. The board

will not take any official actions during this session of its October meeting.

Contact: Belle Harding, Secretary to the Director, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

October 13, 1994 - 10 a.m. – Open Meeting

October 14, 1994 - 10 a.m. – Open Meeting

Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board intends, based upon public input received at a series of statewide meetings, to adopt changes governing seasons, bag limits, methods of take and possession of fish and nongame wildlife. It may also take final action on a regulation that will provide for the use of nontoxic shot other than steel shot for the taking of waterfowl and coots. It reserves the right to expand or restrict the regulations proposed at its August 25 and 26, 1994 meeting, as necessary for the proper management of fish and wildlife resources. Also, regulation changes may be proposed relating to the sale of unclaimed taxidermy mounts; the possession, transportation and release of wildlife by animal control officers; and commercial nuisance wildlife handlers. In addition, the topics of shooting preserves and fox pens may be discussed.

Administrative and procedural issues may also be discussed by the board. The board will also hold an executive session during this meeting, and committee chairmen of board committees may request committee meetings in conjunction with this meeting or thereafter.

Please note: The Board of Game and Inland Fisheries has changed its meeting procedure. Public comment is now accepted on the first meeting day, and if the board completes its agenda, they will not convene a meeting on October 14.

Contact: Belle Harding, Secretary to the Director, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **October 20, 1994 - 10 a.m. – Open Meeting**
Holiday Inn, 551 Highway 58 East, Norton, Virginia. ☒ (Interpreter for the deaf provided upon request)

There will be a work session from 10 a.m. to 5 p.m., and then an informal dinner at 6:30 p.m.

Contact: Susan R. Rowland, MPA, Assistant to the Commissioner, Department of Health, P.O. Box 2448, Suite

214, Richmond, VA 23219, telephone (804) 786-3564.

† **October 21, 1994 - 9 a.m. – Open Meeting**
Holiday Inn, 551 Highway 58 East, Norton, Virginia. ☒ (Interpreter for the deaf provided upon request)

A continued worksession and tour, a meeting with the legislators, and adjournment.

Contact: Susan R. Rowland, MPA, Assistant to the Commissioner, Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

BOARD OF HEALTH PROFESSIONS

† **October 18, 1994 - 11:30 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 365-01-1:1. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Robert A. Nebiker, Deputy Director, Board of Health Professions, 6606 W. Broad St, 4th Floor, Richmond, VA 23230, telephone (804) 662-9904.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

October 25, 1994 - 9:30 a.m. – Open Meeting
† **November 22, 1994 - 9:30 a.m. – Open Meeting**
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

October 8, 1994 – Written comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulations entitled: **VR 375-01-02. Board of Hearing Aid Specialists Regulations.** The proposed regulations define additional terminology, clarify entry criteria for licensure, establish examination provisions incorporating board policy, clarify renewal and reinstatement procedures and the provisions regarding standards of practice and conduct, and adjust licensing fees as needed in accordance with § 54.1-113 of the Code of Virginia. All other amendments are for clarity, simplicity and readability.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Contact: Karen O'Neal, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

October 20, 1994 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☐

The commission was created by SJR 139 and is charged with considering a variety of topics that are of interest to higher education in Virginia.

Contact: Anne M. Pratt or Pam Landrum, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629 or (804) 225-2632.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 21, 1994 - 10 a.m. – Public Hearing**
State Council of Higher Education for Virginia, 101 North 14th Street, 9th Floor, Conference Room, Richmond, Virginia.

† **December 4, 1994 –** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Council of Higher Education for Virginia intends to amend regulations entitled: **VR 380-01-00. Public Participation Guidelines.** The proposed amendments correct some unclear language and put the regulations in compliance with the Administrative Process Act and Chapter 898 of the 1993 Acts of Assembly.

Statutory Authority: §§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Contact: Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources

† **October 19, 1994 - 10 a.m. – Open Meeting**
State Capitol, House Room 1, Richmond, Virginia. ☐
(Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☐

† **November 2, 1994 - 7 p.m. – Open Meeting**
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request)

In compliance with Executive Order 15(94), the Department of Historic Resources and the Board of Historic Resources are reviewing their existing regulations. The department and the board will hold two public meetings to receive comments on the following regulations:

VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains

VR 390-01-03. Regulations for the Evaluation Criteria and Procedures for Designation of Virginia Landmarks by the Historic Resources Board

VR 392-01-02. Regulations for Evaluation Criteria and Procedures for Nomination of Properties to the National Register or for Designation as National Historic Landmarks by the Department of Historic Resources

VR 390-01-01. Regulations Governing Public Participation Guidelines for the Historic Resources Board

VR 392-01-01. Regulations Governing Public Participation for the Department of Historic Resources

The agency is specifically seeking comments on provisions (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential

purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected. Written comments will be received until December 1, 1994.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

† **November 9, 1994 - 7 p.m. – Open Meeting**
Roanoke Municipal Building, 215 Church Avenue, S.W., Council Chambers, Roanoke, Virginia. ☒ (Interpreter for the deaf provided upon request)

In compliance with Executive Order 15(94), the Department of Historic Resources and the Board of Historic Resources are reviewing their existing regulations. The department and the board will hold two public meetings to receive comments on the following regulations:

VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains

VR 390-01-03. Regulations for the Evaluation Criteria and Procedures for Designation of Virginia Landmarks by the Historic Resources Board

VR 392-01-02. Regulations for Evaluation Criteria and Procedures for Nomination of Properties to the National Register or for Designation as National Historic Landmarks by the Department of Historic Resources

VR 390-01-01. Regulations Governing Public Participation Guidelines for the Historic Resources Board

VR 392-01-01. Regulations Governing Public Participation for the Department of Historic Resources

The agency is specifically seeking comments on provisions (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected. Written comments will be received until December 1, 1994.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

State Review Board

† **October 18, 1994 - 10 a.m. – Open Meeting**
State Capitol, House Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

1. Alexandria National Cemetery, Alexandria.
2. Marion Norfolk and Western Railway Depot, Marion, Smyth County.
3. Oakton Trolley Station, Fairfax County.
4. Steamer Company No. 5, City of Richmond.
5. Sunrise, Frederick County.
6. Charlotte Court House Historic District, Charlotte County.

The board will receive public comment on the 1995 federal work plan.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 4, 1994 - 9 a.m. – Open Meeting
November 1, 1994 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF LABOR AND INDUSTRY

Migrant and Seasonal Farmworkers Board

October 5, 1994 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: John Crisanti, Director, Enforcement Policy, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384 or (804) 786-2376/TDD ☎

Calendar of Events

LIBRARY BOARD

† **November 14, 1994 - 10:30 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Executive Committee

† **November 13, 1994 - 7 p.m.** – Open Meeting
Location to be announced.

A meeting to discuss matters pertaining to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

† **November 14, 1994 - 8:30 a.m.** – Open Meeting
Library of Virginia, Library Development and Networking Division, 11th Street at Capitol Square, Room 4-24, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to Public Library Development and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

† **December 12, 1994 - 9 a.m.** – Open Meeting
† **December 13, 1994 - 9 a.m.** – Open Meeting
† **December 14, 1994 - 9 a.m.** – Open Meeting
Ashland-Hanover County area; site to be determined.

Oral presentations regarding the petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex territory in Hanover County by ordinance pursuant to § 15.1-1058.4 of the Code of Virginia. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508.

† **December 12, 1994 - 7:30 p.m.** – Public Hearing
Ashland-Hanover County area; site to be determined.

Public hearing regarding a petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex territory in Hanover County by ordinance pursuant to § 15.1-1058.4 of the Code of Virginia. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508.

VIRGINIA MANUFACTURED HOUSING BOARD

† **October 26, 1994 - 10 a.m.** – Open Meeting
Department of Housing and Community Development, Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular montly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, Jackson Center, 501 N. 2nd St., Richmond VA 23219-1321, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

October 21, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1100. Amount, Duration, and Scope of Services: (Reimbursement for Organ Transplant Services)**. The purpose of this proposal is to amend the state plan to clarify the requirements and process for determining the level of reimbursement available for covered transplant services.

As a result of court action in which the Department of Medical Assistance Services (DMAS) was required to reimburse providers for covered transplantation services, DMAS developed the current state plan amendment. At that time, emergency (and subsequently final) regulations were promulgated which stated that reimbursement for covered transplant services and any other medically necessary transplantation procedures that are determined to not be experienced or investigational would be based upon a rate negotiated with providers on an individual

basis, or a flat rate by procedure, or by procedure and facility.

This proposed regulation is intended to describe more specifically the reimbursement process that has been in effect since the promulgation of the current regulation. In summary, reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures shall be a fee based upon the greater of a prospectively determined, procedure-specific, flat fee determined by the agency, or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover all procurement costs, hospital costs, and physician costs, including such physicians as radiologists, pathologists, oncologists, surgeons, etc., but will not include pre- and post-hospitalization for the transplant procedure or pre-transplant evaluation. In addition, reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for procedures performed in state.

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

Written comments may be submitted through October 21, 1994, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

* * * * *

October 7, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-03-4.1940:1. Nursing Home Payment System (Balloon Loan Financing). The purpose of this action is to amend the State Plan for Medical Assistance to specifically address existing reimbursement policies relating to balloon loan financing, in light of regulations addressing refinancing for nursing facilities. This amendment is the result of policies adopted by the Board of Medical Assistance Services on December 14, 1992, regarding refinancing of balloon loans in response to requests by providers that DMAS establish a policy for balloon loan financing based on current State Plan language. This action incorporates the specific language of the balloon loan financing policy into the State Plan.

The Nursing Home Payment System (NHPS) provides that costs incurred due to a refinancing cannot exceed

the total costs that would have been allowable had the refinancing not occurred. This could be interpreted to prohibit reimbursement for the refinancing of a balloon loan at the expiration of the term of the original note since payment of the balloon principal would eliminate the debt on the nursing facility and the associated interest cost to the Medicaid program. Providers were asking for a specific policy to address balloon loan financing due to the reluctance of financial institutions to make long-term loans to the health care industry.

The department developed this policy in 1992 to accommodate the needs of the provider community at a minimum cost to the Medicaid program. Under this policy as promulgated, § 2.4 of the NHPS would permit the refinancing of a balloon loan as limited by the procedures.

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

Written comments may be submitted until October 7, 1994, to Richard Weinstein, Manager, Division of Cost Settlement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

* * * * *

November 4, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: VR 460-02-2.2100:1, Coverage and Conditions of Eligibility (Attachment 2.2-A); VR 460-02-2.6100:1, Eligibility Conditions and Requirements (Attachment 2.6-A); VR 460-03-2.6101:1, Income Eligibility Levels (Supplement 1 to Attachment 2.6-A); More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A); and VR 460-03-2.6108.2, More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A): Expanded Coverage for Children Ages 6 to 19. The purpose of these amendments is to conform existing policy with federal requirements regarding the placement of eligibility policy within the state plan.

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

Written comments may be submitted through November 4, 1994, to Ann Cook, Department of Medical Assistance Services, Division of Policy and Research, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator,

Calendar of Events

Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

October 13, 1994 - 8 a.m. - Open Meeting

October 14, 1994 - 8 a.m. - Open Meeting

October 15, 1994 - 8 a.m. - Open Meeting

October 16, 1994 - 8 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1, 2, 3 and 4, Richmond, Virginia.

☐

The board will meet on Thursday, October 13, 1994, in open session, to conduct general board business, receive committee reports, and discuss any other items which may come before the board. The board will also meet on October 13, 14, 15 and 16 to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

† **November 2, 1994 - 9 a.m. - Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 2, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 465-01-01. Public Participation Guidelines

VR 465-03-01. Physical Therapy

VR 465-04-01. Respiratory Therapy

VR 465-05-01. Physician's Assistant

VR 465-08-01. Occupational Therapy

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Eugenia Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9925.

Credentials Committee

October 14, 1994 - 8:15 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☐

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

November 4, 1994 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☐

(Interpreter for the deaf provided upon request)

The board will meet to (i) elect officers; (ii) receive reports; (iii) review and discuss NAFTA and licensure report; and (iv) discuss such other business that may become before the Advisory Board.

Special note: The proposed amendment to the regulations will not be discussed at this meeting. A special meeting will be scheduled to respond to written comments. The chairman will entertain public comments following the adoption of the agenda for 10 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Ad Hoc Committee on Radiology Technology

† **October 6, 1994 - 9 a.m. - Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☐

(Interpreter for the deaf provided upon request)

A review of the draft regulations for radiological technologists pursuant to House Bill Number 1300. The chairman will entertain public comments following the adoption of the agenda for 20 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

October 29, 1994 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall Board Room,
Lexington, Virginia. ☒

A regular meeting of the Board of Visitors. Committee reports will be received.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (703) 464-7206 or FAX (703) 464-7660.

STATE MILK COMMISSION

† **October 18, 1994 - Noon** – Open Meeting
Shenandoah's Pride Dairy, Corner of Route 11 and Route 257, Mount Crawford, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting has been scheduled for an orientation for new commission members and a tour of a dairy farm or the Valley of Virginia Cooperative Milk Producers Association milk plant, t/a Shenandoah's Pride Dairy, Mount Crawford, to help familiarize the new and old commission members about the dairy industry.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

† **October 19, 1994 - 8:30 a.m.** – Open Meeting
Shenandoah's Pride Dairy, Corner of Route 11 and Route 257, Mount Crawford, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters, and to receive reports from staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. Immediately following the meeting a tour of a dairy farm or the Valley of Virginia Cooperative Milk Producers Association, t/a Shenandoah's Pride Dairy, Mount Crawford, whichever of the two that was not conducted on the prior day. Any persons who require accommodations in order to participate at the meeting should contact Edward C. Wilson, Jr. at least five days prior to the meeting so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, 200 N. Ninth St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

JOINT COMMITTEE ON PRESCRIPTIVE AUTHORITY FOR NURSE PRACTITIONERS

† **December 5, 1994 - 1 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 465-12-01 and VR 495-03-01. Prescriptive Authority for Nurse Practitioners

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909.

BOARD OF NURSING

† **October 13, 1994 - 9:30 a.m.** – Open Meeting
Southside Regional Medical Center, 801 South Adams Street, Private Dining Room, Petersburg, Virginia. ☒ (Interpreter for the deaf provided upon request)

Three formal hearings will be held this day with certified nurse aides to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: Nancy Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

† **October 17, 1994 - 9 a.m.** – Open Meeting
† **October 18, 1994 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A special conference committee, comprised of two members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the board. Public comment will not be received.

Contact: M. Teresa Mullin, R.N., Assistant Executive

Calendar of Events

Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

† **November 15, 1994 - 1:30 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter services for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 495-04-01. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Nurse Aide Registry

† **October 12, 1994 - 9 a.m.** – Open Meeting
Virginia ABC Building, 4907 West Mercury Boulevard, Hampton, Virginia. ☎ (Interpreter for the deaf provided upon request)

A special conference committee will meet to conduct informal conferences for certified nurse aides. Public comment will not be received.

Contact: Nancy Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **November 29, 1994 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

- VR 500-01-2:1. General Regulations
- VR 500-01-3. Public Participation Guidelines

These regulations will be reviewed to ensure (i) that

it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Meredyth Partridge, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9941.

BOARD FOR OPTICIANS

October 14, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

AMENDED NOTICE

An open meeting to (i) conduct review and disposition of applications, (ii) review correspondence; (iii) review enforcement files; (iv) conduct regulatory review; and (v) review any other matters requiring board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period; however, the meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

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

BOARD OF OPTOMETRY

† **October 19, 1994 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal conference committee hearings.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

† **November 21, 1994 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 510-01-2. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

October 3, 1994 - 10 a.m. – Open Meeting
Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A general business meeting. Agenda available on request.

Contact: Leslie H. Grayson, Acting Executive Director, Virginia Outdoors Foundation, P.O. Box 322, Aldie, VA 22001, telephone (703) 327-6118.

BOARD OF PHARMACY

† **October 4, 1994 - 10 a.m. – Open Meeting**
Sheraton Inn-Fredericksburg, I-95 and Virginia Route 3, Board Room, Fredericksburg, Virginia.

Informal conferences. Public comments will not be received.

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

† **October 11, 1994 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A general business meeting of the board and formal disciplinary hearings. Public comment will be received from 9:15 a.m. until 9:30 a.m. Immediately following any public comment, the board will discuss the plan for implementing Executive Order 15(94), take action on October 18, 1993, NOIRA, consider approval of a new NOIRA to address identified problems, and consider proposal of regulations to implement 1994 legislation concerning licensure of foreign graduates.

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

† **October 11, 1994 - 12:30 p.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 530-01-3. Public Participation Guidelines VR 530-01-2. Physicians Selling Drugs

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

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

PRIVATE SECURITY SERVICES ADVISORY BOARD

October 26, 1994 - 9 a.m. – Open Meeting
Sheraton Oceanfront, 36th and Atlantic Avenues, Virginia Beach, Virginia. ☒

A meeting to discuss private security industry issues.

Contact: Roy Huhta, Assistant, Department of Criminal Justice Services, Private Security Section, P.O. Box 10110, Richmond, VA 23240-9998, telephone (804) 786-4700.

BOARD OF PROFESSIONAL COUNSELORS

† **December 2, 1994 - 9:30 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 560-01-01. Public Participation Guidelines VR 560-01-03. Substance Abuse Counselor Certification

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an

Calendar of Events

important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

October 6, 1994 - 7 p.m. – Public Hearing
Holiday Inn Tanglewood, 4468 Starkey Road, S.W., Roanoke, Virginia. ☎

October 11, 1994 - 7 p.m. – Public Hearing
Holiday Inn Tysons Corner, 1960 Chain Bridge Road, McLean, Virginia. ☎

October 13, 1994 - 7 p.m. – Public Hearing
Norfolk City Council Chamber, 810 Union Street, City Hall Building, 11th Floor, Norfolk, Virginia. ☎

The board will conduct a public hearing in connection with its study of the feasibility of establishing a licensing program for locksmiths. The study is a result of House Joint Resolution 181 and Senate Joint Resolution 134, both of which passed in the 1994 session of the Virginia General Assembly.

Contact: Joyce K. Brown, Secretary to the Board, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8564 or (804) 367-9753/TDD ☎

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

October 20, 1994 - 9 a.m. – Open Meeting
Shoney's Inn, 7007 West Broad Street, Conference Room 110, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly council meeting. Time is provided for public comment at the start of the meeting.

Contact: Kenneth Shores, PAIMI Coordinator, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962 VOICE/TDD ☎

BOARD OF PSYCHOLOGY

† **December 6, 1994 - 8:30 a.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 565-01-1:1. Public Participation Guidelines .

Each regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **October 13, 1994 - 10 a.m. – Open Meeting**
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

A quarterly meeting. Agenda will include a presentation on Bath/Highland radio project, NTIA grant awards, Strike Force reports, and other items of public telecommunications interest.

Contact: Carol Crawley, Executive Secretary, Virginia Public Telecommunications Board, 110 S. 7th St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5552.

RADIATION ADVISORY BOARD

† **October 25, 1994 - 9 a.m. – Open Meeting**
State Capitol, House Room 1, Richmond, Virginia. ☎

The board will conduct its annual meeting to discuss radiological health issues. The Bureau of Radiological Health will brief the board on its activities.

Contact: Leslie P. Foldesi, Director, Bureau of Radiological Health, 1500 E. Main St., Room 104A, Richmond, VA 23219, telephone (804) 786-5932 or toll-free 1-800-468-0138.

REAL ESTATE APPRAISER BOARD

November 1, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to

participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

Complaints Committee

October 11, 1994 - 10 a.m. – Open Meeting
November 16, 1994 - 10 a.m. – Open Meeting
December 6, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review complaints prior to the board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

† **October 12, 1994 - 8:45 a.m. – Open Meeting**
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance for consideration of your request.

Contact: Barbara B. Tinsley, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

† **October 13, 1994 - 1 p.m. – Public Hearing**
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

† **December 5, 1994 – Written comments may be**

submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Real Estate Board Regulations**. The proposed amendments differentiate between sales and leasing practices, eliminate rental location agent regulations, allow use of professional names, clarify other existing regulations, and adjust fees.

Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

VIRGINIA RESOURCES AUTHORITY

October 11, 1994 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of September 13, 1994; to review the authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

† **November 8, 1994 - 9:30 a.m. – Open Meeting**
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of October 11, 1994; to review the authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

† **December 13, 1994 - 9:30 a.m. – Open Meeting**
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the

Calendar of Events

meeting of November 8, 1994; to review the authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **November 2, 1994 - 10 a.m.** – Open Meeting
County of Henrico, Administrative Building, 4301 East Parham Road, Board of Supervisors Board Room, Richmond, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, Richmond, VA 23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

October 7, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **VR 615-01-29. Aid to Families with Dependent Children (AFDC) Program - Disregarded Income and Resources.** The proposed regulation modifies AFDC regulations to require that all bona fide loans be disregarded in the evaluation of financial eligibility for benefits. The regulation defines what is required for a loan to be considered bona fide.

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

Written comments may be submitted through October 7, 1994, to Constance O. Hall, AFDC Program Manager, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Peggy Friedenber, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

† **October 19, 1994 - 9 a.m.** – Open Meeting
† **October 20, 1994 - 9 a.m.** – Open Meeting (if necessary)
Holiday Inn Portsmouth Waterside, 8 Crawford Parkway, Portsmouth, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☒

BOARD OF SOCIAL WORK

† **October 7, 1994 - 10:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 620-01-3. Public Participation Guidelines

Each regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914.

† **October 7, 1994 - 1 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

An informal conference. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, or Bernice Parker, Administrative Assistant, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 663-7423.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Ad Hoc Committee

† **October 19, 1994 - 1 p.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Room B, Richmond, Virginia. ☒ (Interpreter for the deaf provided)

upon request)

Executive Order 15(94) requires all state agencies to review existing regulations. The ad hoc committee will meet to conduct a comprehensive review of VR 625-01-00, Virginia Impounding Structure Regulations.

Contact: Richard O. Dameron, Environmental Engineer, Sr., Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-6135 or (804) 786-2121/TDD ☎

† **October 25, 1994 - 9 a.m.** – Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia. ☎

Executive Order 15(94) requires all state agencies to review existing regulations. The ad hoc committee will meet to conduct a comprehensive review of VR 625-01-00, Virginia Impounding Structure Regulations.

Contact: Paul Scott Peckens, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-6133 or (804) 786-2121/TDD ☎

VIRGINIA STUDENT ASSISTANCE AUTHORITIES

Board of Directors

† **October 11, 1994 - 12:30 p.m.** – Open Meeting
411 East Franklin Street, 2nd Floor Board Room, Richmond, Virginia. ☎

A general business meeting.

Contact: Laura Parker, Executive Assistant, Virginia Student Assistant Authorities, One Franklin Square, 411 E. Franklin St., Suite 300, Richmond, VA 23219, telephone (804) 775-4648 or toll-free 1-800-792-5626.

SUBCOMMITTEE ON TEEN PREGNANCY PREVENTION

† **October 6, 1994 - 10 a.m.** – Open Meeting
Belmont Recreation Center, 1600 Hilliard Road, Richmond, Virginia. ☎

A regularly scheduled quarterly business meeting.

Contact: Jeanne McCann, Coordinator, or Hope Richardson, Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-1530.

COMMONWEALTH TRANSPORTATION BOARD

† **October 11, 1994 - 2 p.m.** – Open Meeting
Natural Bridge Hotel, Natural Bridge, Virginia. ☎

(Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: Robert E. Martinez, Secretary of Transportation, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

BOARD OF VETERINARY MEDICINE

† **October 3, 1994 - 9 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal conferences will be conducted.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

† **October 4, 1994 - 8:30 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

A board meeting, formal hearing, and regulatory review will be conducted.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

† **December 7, 1994 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 645-01-0:1. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated

Calendar of Events

or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

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

VIRGINIA RACING COMMISSION

† **October 12, 1994 - 9:30 a.m.** – Open Meeting
State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

A discussion of applicants to construct, own and operate a racetrack in the Commonwealth.

Contact: William A. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA VOLUNTARY FORMULARY BOARD

October 27, 1994 - 10:30 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Bureau of Pharmacy Services, Virginia Voluntary Formulary Board, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 7, 1994 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled **VR 672-20-20. Regulation Governing Management of Coal Combustion By-Products.** The purpose of the proposed regulation is to provide for the use of coal combustion by-products and to establish appropriate standards for siting, design, construction, operation and administrative procedures pertaining to their use, reuse, or reclamation. The board seeks specific comments regarding clarification or the need for testing schedules (frequency/volumes) for TCLP tests for coal combustion by-products as presented in § 4.1 C 4.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted through October 7, 1994, to Deborah G. Pegram, Hearing Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009.

Contact: Walt Gulevich, Office Director, Department of Environmental Quality, P. O. Box 10009, Richmond, Virginia, 23240-0009, telephone (804) 762-4218.

STATE WATER CONTROL BOARD

† **October 18, 1994 - 10 a.m.** – Public Hearing
Tidewater Regional Office, 287 Pembroke Office Park, Suite 310, Conference Room, Virginia Beach, Virginia. ☒
(Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public meeting to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA 0004821 for Texaco Lubricants Company, Norfolk Plant, P.O. Box 5827, Chesapeake, Virginia 23324. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Deborah G. Pegram, Hearing Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4041 or (804) 762-4021/TDD ☎

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

NOTE: CHANGE IN MEETING TIME

October 6, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

AMENDED NOTICE

An open meeting to conduct regulatory review and other matters which may require board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period; however, the meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

VIRGINIA WORKER'S COMPENSATION COMMISSION

October 7, 1994 - 2 p.m. – Public Hearing
General Assembly Building, 910 Capitol Square, House
Room C, Richmond, Virginia. ☐

A public hearing regarding managed care, care utilization review and other methods of medical cost containment in workers' compensation cases. Speakers will be limited to 10 minutes each and should preregister. Copies of proposals under consideration may be obtained from the Commission's Comptroller's office after September 20, 1994.

Contact: Lois E. Tunstall, Administrative Staff Assistant, Virginia Worker's Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-0580.

LEGISLATIVE

JOINT COMMISSION STUDYING THE MANAGEMENT OF THE COMMONWEALTH'S WORKFORCE

October 13, 1994 - 2 p.m. – Public Hearing
George Mason University, Mason Hall, Board Room, Fairfax, Virginia.

The Joint Commission will receive public comments on its proposed recommendations regarding the management of the Commonwealth's workforce. The commission will receive comment on (i) compensation and employee benefits; (ii) career development and training; (iii) work and family policies; (iv) human resources planning and organization; and (v) quality improvement. Individuals who wish to receive a copy of the Workforce Commission's recommendations may contact John McE. Garrett at the number listed below.

Serving with Senator Holland on the Joint Commission are: Delegate Robert B. Ball, Sr. of Henrico County, Vice-Chairman; Senator Hunter B. Andrews of Hampton; Senator Stanley C. Walker of Norfolk; Senator Joseph B. Benedetti of Richmond City; Delegate George H. Heilig, Jr. of Norfolk; Delegate Robert D. Hull of Fairfax County; Delegate John S. Reid of Henrico; Delegate Lacey E. Putney of Bedford County; and Delegate Watkins M. Abbitt, Jr. of Appomattox.

Contact: John McE. Garrett, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

October 12, 1994 - 10 a.m. – Open Meeting
October 13, 1994 - 10 a.m. – Open Meeting

The Williamsburg Lodge, Williamsburg, Virginia.

A meeting of the commission to review the proposed Virginia Growth Strategies Act, implementation to date of the Virginia Geographic Information Network, and a draft Regionalism: Shared Decision Making paper.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Building, 910 Capitol St., Room 519B, Richmond, VA 23219, telephone (804) 371-4949.

Executive Committee

November 7, 1994 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia. ☐

A meeting of the committee to review the Virginia Growth Strategies Act and to discuss recommendations from the October commission meeting.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Building, 910 Capitol St., Room 519B, Richmond, VA 23219, telephone (804) 371-4949.

JOINT SUBCOMMITTEE STUDYING STATE AND FEDERAL LAW ON PRIVACY, CONFIDENTIALITY AND MANDATORY DISCLOSURE OF INFORMATION HELD OR USED BY GOVERNMENTAL AGENCIES

† **November 15, 1994 - 2 p.m. – Open Meeting**
General Assembly Building, 910 Capitol Square, House
Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of hearing recommendations. HJR 66.

Contact: Ginny Edwards, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

† **October 14, 1994 - 10 a.m. – Open Meeting**
General Assembly Building, 910 Capitol Square, Speaker's
Conference Room, 6th Floor, Richmond, Virginia. ☐

A quarterly commission meeting.

Contact: William McCollum, Executive Director, Virginia Alcohol Safety Action Program Commission, 701 E. Franklin St., Suite 1110, Richmond, VA 23219, telephone (804) 786-5895.

Calendar of Events

VIRGINIA CODE COMMISSION

Title 15.1 Recodification Task Force

October 20, 1994 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Street, 6th Floor
Conference Room, Richmond, Virginia. ☒

A meeting to review working documents for Title 15.1
recodification.

Contact: Michelle L. Browning, Operations Staff Assistant,
Division of Legislative Services, General Assembly
Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219,
telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 3

- † Air Pollution Control Board, State
- Barbers, Board for
- Conservation and Recreation, Department of
 - Board on Conservation and Development of Public Beaches
- Outdoors Foundation, Virginia
- † Veterinary Medicine, Board of

October 4

- † Air Pollution Control Board, State
- State Advisory Board of Air Pollution
- Hopewell Industrial Safety Council
- † Pharmacy, Board of
- † Veterinary Medicine, Board of

October 5

- Aging, Governor's Advisory Board on
- † Criminal Justice Services Board
 - Committee on Training
- Emergency Planning Committee, Local - Winchester
- Labor and Industry, Department of
 - Migrant and Seasonal Farmworker's Board

October 6

- Aging, Governor's Advisory Board on
- † Agriculture and Consumer Services, Department of
 - Virginia Sweet Potato Board
- † Medicine, Board of
 - Ad Hoc Committee on Radiology Technology
- † Teen Pregnancy Prevention, Subcommittee on
- Waterworks and Wastewater Works Operators, Board for

October 7

- † Social Work, Board of

October 10

- † ASAP Policy Board, Valley

October 11

- † Pharmacy, Board of
- Real Estate Appraiser Board
 - Complaints Committee
- Resources Authority, Virginia
- † Student Assistance Authorities, Virginia
 - Board of Directors
- † Transportation Board, Commonwealth

October 12

- † Conservation and Recreation, Department of
 - Virginia Chesapeake Bay Tributary Strategies
- † Contractors, Board for
- † Corrections, Board of
- † Game and Inland Fisheries, Board of
- † Nursing, Board of
 - Nurse Aide Registry
- Population Growth and Development, Commission on
- † Real Estate Board
- † Virginia Racing Commission

October 13

- Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- † Child Day-Care Council
- † Conservation and Recreation, Department of
 - Virginia Chesapeake Bay Tributary Strategies
- Contractors, Board for
- Environmental Quality, Department of
- Game and Inland Fisheries, Board of
- Medicine, Board of
- † Nursing, Board of
- Population Growth and Development, Commission on
- † Public Telecommunications Board, Virginia

October 14

- † Agriculture and Consumer Services, Department of
 - Virginia Aquaculture Advisory Board
 - Pesticide Control Board
- † Alcohol Safety Action Program, Virginia Commission on
- Contractors, Board for
- Game and Inland Fisheries, Board of
- Medicine, Board of
 - Credentials Committee
- Opticians, Board for

October 15

- Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- Medicine, Board of

October 16

- Medicine, Board of

October 17

- † Aviation Board, Virginia
- † Conservation and Recreation, Department of

Calendar of Events

- Virginia Chesapeake Bay Tributary Strategies
- † Nursing, Board of

October 18

- Accountancy, Board for
- † Aviation Board, Virginia
- † Funeral Directors and Embalmers, Board of
- † Health Professions, Board of
- † Historic Resources, Department of
 - State Review Board
- † Milk Commission, State
- † Nursing, Board of

October 19

- Accountancy, Board for
- † Conservation and Recreation, Department of
 - Virginia Chesapeake Bay Tributary Strategies
- † Historic Resources Board, Virginia
- † Milk Commission, State
- † Optometry, Board of
- † Social Services, State Board of
- † Soil and Water Conservation Board, Virginia
 - Ad Hoc Committee

October 20

- † Health, State Board of
- Higher Education, Commission on the Future of Protection and Advocacy for Individuals with Mental Illness Advisory Council
- † Social Services, State Board of
- Virginia Code Commission
 - Title 15.1 Recodification Task Force

October 21

- † Health, State Board of

October 24

- † Conservation and Recreation, Department of
 - Virginia Chesapeake Bay Tributary Strategies

October 25

- † Radiation Advisory Board
- † Soil and Water Conservation Board, Virginia
 - Ad Hoc Committee

October 26

- † Conservation and Recreation, Department of
 - Virginia Chesapeake Bay Tributary Strategies
- Emergency Planning Committee, Local - Gloucester County
- † Health Services Cost Review Council, Virginia
- † Manufactured Housing Board, Virginia
- Private Security Services Advisory Board

October 27

- † Contractors, Board for
 - Regulatory Review Committee
- Education, Board of
- Environmental Quality, Department of
- Voluntary Formulary Board, Virginia

October 28

- Conservation and Recreation, Department of
 - Catocin Creek Scenic River Advisory Board

October 29

- Virginia Military Institute
 - Board of Visitors

November 1

- Agriculture and Consumer Services, Department of
 - Virginia Winegrower's Advisory Board
- Hopewell Industrial Safety Council
- Real Estate Appraiser Board

November 2

- † Historic Resources, Department of
 - Historic Resources Board
- † Medicine, Board of
- † Sewage Handling and Disposal Appeals Review Board

November 4

- † Dentistry, Board of
- Medicine, Board of
 - Advisory Board on Physical Therapy

November 7

- Cosmetology, Board for
- Population Growth and Development, Commission on
 - Executive Committee

November 8

- † Resources Authority, Virginia

November 9

- † Conservation and Recreation, Department of
- † Historic Resources, Department of
 - Historic Resources Board

November 13

- † Library Board
 - Executive Committee

November 14

- † Library Board
 - Public Library Development Committee

November 15

- † Nursing, Board of
- † Privacy, Confidentiality and Mandatory Disclosure of Information Held or Used by Governmental Agencies, Joint Subcommittee Studying State and Federal Law on

November 16

- Real Estate Appraiser Board
 - Complaints Committee

November 17

- † Audiology and Speech-Language Pathology, Board of
- Education, Board of

Calendar of Events

November 21

† Optometry, Board of

November 22

† Health Services Cost Review Council, Virginia

November 29

† Nursing Home Administrators, Board of

December 2

† Professional Counselors, Board of

December 5

Barbers, Board for
† Prescriptive Authority for Nurse Practitioners, Joint
Committee on

December 6

† Psychology, Board of
Real Estate Appraiser Board
- Complaints Committee

December 7

† Veterinary Medicine, Board of

December 12

† Local Government, Commission on

December 13

† Local Government, Commission on
† Resources Authority, Virginia

December 14

† Local Government, Commission on

Child Day-Care Council

† Real Estate Board

Management of the Commonwealth's Workforce, Joint
Commission Studying the

Professional and Occupational Regulation, Board of

October 17

Child Day-Care Council

† Fire Services Board, Virginia

October 18

† Water Control Board, State

October 19

Child Day-Care Council

October 21

† Higher Education for Virginia, State Council of

November 7

† Cosmetology, Board for

December 12

† Local Government, Commission on

PUBLIC HEARINGS

October 3

Barbers, Board for

October 5

Criminal Justice Services, Department of

October 6

† Fire Services Board, Virginia
Professional and Occupational Regulation, Board of

October 7

Worker's Compensation Commission, Virginia

October 11

Child Day Care Council
Professional and Occupational Regulation, Board of

October 12

† Fire Services Board, Virginia

October 13