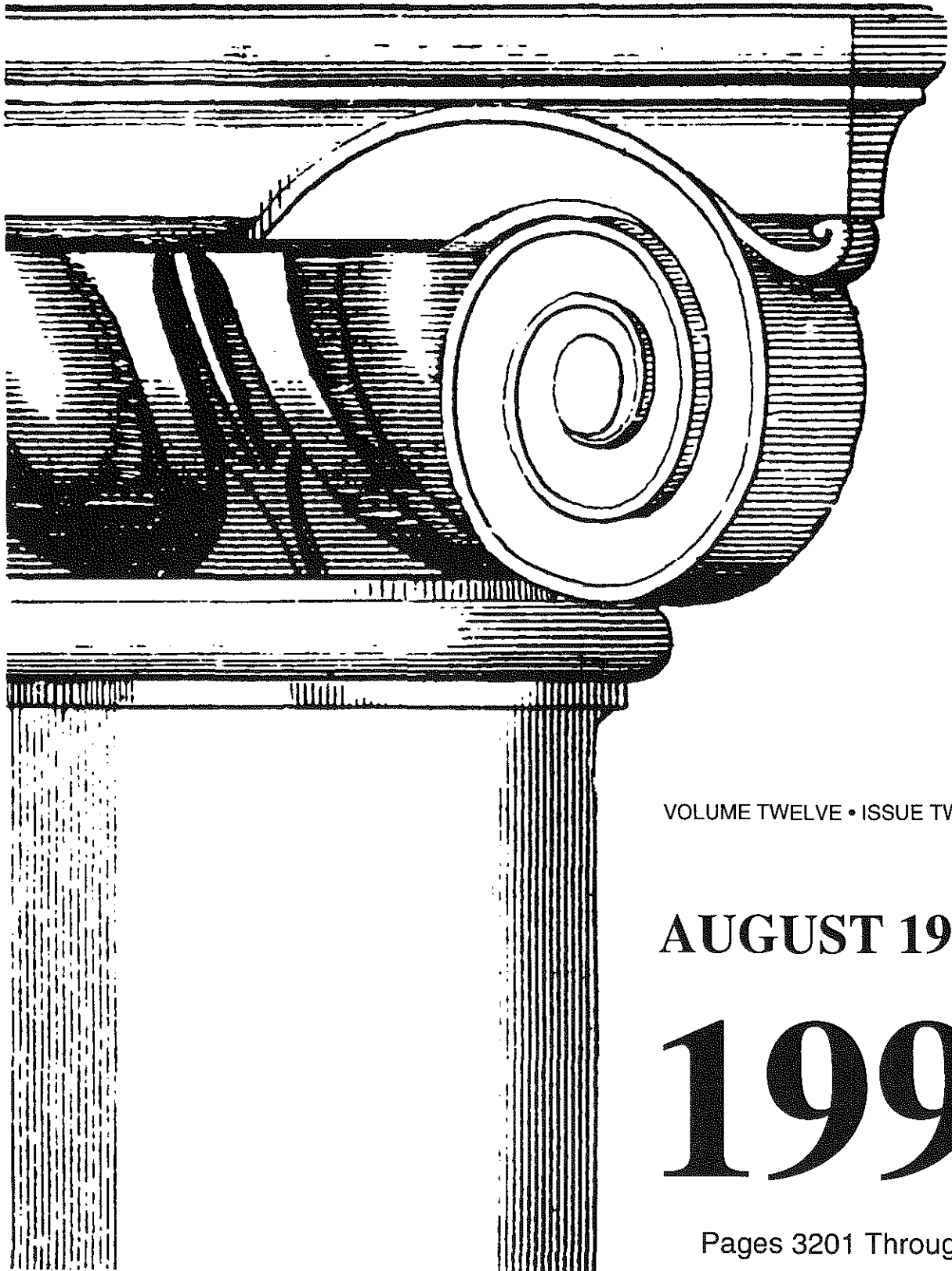


THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME TWELVE • ISSUE TWENTY-FOUR

AUGUST 19, 1996

1996

Pages 3201 Through 3308

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 new and amended sections of regulations, both as proposed and as finally adopted, 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 and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 V.A.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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The Virginia Register of Regulations is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies, if available, may be purchased for \$4.00 each from the Registrar of Regulations.

Members of the Virginia Code Commission: **Joseph V. Gartlan, Jr.**, Chairman; **W. Tayloe Murphy, Jr.**, Vice Chairman; **Robert L. Calhoun**; **Russell M. Carneal**; **Bernard S. Cohen**; **Jay W. DeBoer**; **Frank S. Ferguson**; **E. M. Miller, Jr.**; **Jackson E. Reasor, Jr.**; **James B. Wilkinson**.

Staff of the Virginia Register: **E. M. Miller, Jr.**, Acting Registrar of Regulations; **Jane D. Chaffin**, Deputy Registrar of Regulations.

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July 1996 through June 1997

**Material Submitted
By Noon Wednesday**

Will Be Published On

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August 19, 1996

August 14, 1996

September 2, 1996

August 28, 1996

September 16, 1996

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September 25, 1996

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December 4, 1996

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March 3, 1997

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Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats, and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they can also recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies. This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of the contemplated regulatory action is to review the regulation for effectiveness and continued need including, but not limited to, a proposal to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstances at a particular time would allow -- whether stage 1 or stage 5, or any stage in between. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel, (ii) an ad-hoc advisory panel, (iii) a consultant with groups, (iv) a consultant with individuals, or (v) any combination thereof. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on August 26, 1996, to Dr. W. M. Sims, Jr., Department of Agriculture and Consumer Services, Division of Animal Industry Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: T. R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Office of Veterinary Services, P.O. Box 1163, Richmond, VA 23218-1163, telephone (804) 786-2483.

VA.R. Doc. No. R96-388; Filed May 28, 1996, 2:30 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **2 VAC 5-205-10 et seq. Rules and Regulations Pertaining to Shooting Enclosures.** The purpose of the proposed regulation is to establish regulations pertaining to shooting enclosures pursuant to § 3.1-763.5:5 of the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof.

Statutory Authority: § 3.1-763.5:5 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on September 20, 1996, to Dr. W. M. Sims, Jr., Department of Agriculture and Consumer Services, Division of Animal Industry Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: T. R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Office of Veterinary Services, P.O. Box 1163, Richmond, VA 23218-1163, telephone (804) 786-2483.

VA.R. Doc. No. R96-505; Filed July 23, 1996, 4:50 p.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **18 VAC 30-20-10 et seq. Regulations Governing Audiology and Speech-Language Pathology.** The purpose of the proposed action is to eliminate unnecessary or redundant regulations, clarify or simplify regulations according to recommendations of the board in its review pursuant to Executive Order 15(94), and consider regulations on the appropriate use of unlicensed support personnel. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2600 et seq. of the Code of Virginia.

Public comments may be submitted until September 18, 1996.

Contact: Elizabeth Kirksey, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad

Notices of Intended Regulatory Action

St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-507; Filed July 25, 1996, 12:31 p.m.

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to consider amending regulations entitled: **18 VAC 55-20-10 et seq. Board for Cosmetology Regulations.** The purpose of the proposed action is to revise examination language to incorporate reference to the Public Procurement Act and to simplify provisions of current regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 5, 1996.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R96-479; Filed July 8, 1996, 11:58 a.m.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

Notice of Intended Regulatory Action

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 consider amending regulations entitled: **6 VAC 20-20-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers.** The purpose of the proposed action is to amend the regulations relating to minimum training standards for law-enforcement officers to update these based on the 1995 job task analysis which identified the knowledge, skills, and abilities required to perform the duties of the position at a minimally acceptable level. Updated standards and training will be consistent with performance expectations for law-enforcement officers in the Commonwealth that best meet the goal of maintaining public safety. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-170 of the Code of Virginia.

Public comments may be submitted until September 5, 1996, to Lex Eckenrode, Deputy Director, Bureau of Operations, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Judy Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 371-8981.

VA.R. Doc. No. R96-494; Filed July 17, 1996, 10:02 a.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

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 consider amending regulations entitled: **8 VAC 20-130-10 et seq., Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to ensure improved compliance with the Standards of Quality which require the Board of Education to promulgate regulations establishing standards for accrediting public schools in Virginia. The board seeks to amend the existing standards of accreditation to focus the accreditation and evaluation of schools more strongly on student academic achievement and school level progress toward meeting the academic objectives in the standards of learning recently adopted by the board. The Board of Education will hold preliminary public hearings in August to receive suggestions from the public for revisions to the accrediting standards. The specific dates, times, and location will be published in a future issue of the Virginia Register, as well as announced at the July 25 Board of Education meeting and advertised through the state media. Speakers are requested to provide their comments in writing, if possible, at the time they speak. Comments will also be received by mail at the Board of Education, P.O. Box 2120, Richmond, Virginia 23218-2120. In addition to these preliminary public hearings, the board will hold additional hearings following publication of the proposed revisions to the regulations.

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-253.13:3 B of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Lin Corbin-Howerton, Policy Director, Department of Education, P.O. Box 2120, Richmond, VA, 23218-2120, telephone (804) 225-2543, toll free (800) 292-3820 or FAX (804) 225-2053.

DEPARTMENT OF FORESTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to consider repealing regulations entitled: **4 VAC 5-40-10 et seq. State Forests Regulations.** The purpose of the proposed action is to repeal regulations that regulate uses, maintain order and preserve the conditions of all state forests including the roads, ponds, lakes, streams, rivers, beaches, food patches and recreational areas where the public may visit. The Department of Forestry believes that current laws provide sufficient protection over its varied interests and allows the full enjoyment without degradation to the state forest resources. The department also believes that a separate regulation to administer state forests is redundant with many public safety laws and is not necessary. The

Notices of Intended Regulatory Action

agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 10.1-1101 of the Code of Virginia.

Public comments may be submitted until September 9, 1996.

Contact: Ronald Jenkins, Administration Officer, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 293-2768, or (804) 977-6555/TDD ☎

VA.R. Doc. No. R96-492; Filed July 17, 1996, 9:44 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to consider repealing regulations entitled: **4 VAC 5-60-10 et seq. Reforestation of Timberlands.** The purpose of the proposed action is to repeal the regulations that provide for the administration of resources, i.e., personnel, equipment, materials and supplies. These regulations provide for the protection, preservation and perpetuation of the state's forest resources. The regulations were recommended for repeal after the Executive Order 15(94) review revealed that state law provides necessary guidance to administer the state reforestation program and protect the state's forest resources. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 10.1-1101 of the Code of Virginia.

Public comments may be submitted until September 9, 1996.

Contact: Ronald Jenkins, Administration Officer, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 293-2768, or (804) 977-6555/TDD ☎

VA.R. Doc. No. R96-493; Filed July 17, 1996, 9:44 a.m.

STATE BOARD OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-110-10 et seq. Minimum Standards for Court Service in Juvenile and Domestic Relations District Courts.** The purpose of the proposed action is to update existing standards for court service units, and possibly incorporate into this regulation additional standards to be developed for community sanctions and services pursuant to the Virginia Juvenile Community Crime Control Act, as well as standards for outreach detention. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-233 through 16.1-235; 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until September 6, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-481; Filed July 15, 1996, 1:06 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **12 VAC 30-100-250 et seq. Part III, HIV Premium Assistance Program.** The purpose of the proposed action is to promulgate a permanent regulation, which is substantially the same as the emergency regulation, to supersede the current emergency regulation. The program pays health insurance premiums for persons diagnosed as HIV-positive. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until September 19, 1996, to Michael Lupien, Supervisor, PDS, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-513; Filed July 31, 1996, 11:44 a.m.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Public Telecommunications Board intends to consider repealing regulations entitled: **VR 410-01-02, Master Plan for Public Telecommunications, 1973.** The purpose of the proposed action is to repeal the 1973 plan. The revised version adopted in 1991 is not a regulation. The agency intends to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 2.1-563.25 of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Suzanne J. Piland, Public Telecommunications Branch Manager, Department of Information Technology, 110 South 7th Street, Richmond, VA, 23219, telephone (804) 371-5544 or FAX (804) 371-5556.

Notices of Intended Regulatory Action

REAL ESTATE APPRAISER BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to consider amending regulations entitled: **18 VAC 130-20-10 et seq. Real Estate Appraiser Board Rules and Regulations.** The purpose of the proposed action is to provide for less burdensome alternatives than current regulations while still protecting the health, safety and welfare of the public and complying with state and federal mandates. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Public comments may be submitted until September 5, 1996.

Contact: Karen O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VA.R. Doc. No. R96-480; Filed July 8, 1996, 11:58 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

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

DEPARTMENT OF CORRECTIONAL EDUCATION

September 16, 1996 - 10 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, 7th Floor,
Richmond, Virginia.

October 18, 1996 -- Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Correctional Education intends to adopt regulations entitled: **6 VAC 10-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed regulation is to provide interested parties with a means to request the development, amendment or repeal of a regulation.

Statutory Authority: §§ 9-6.14:7.1 and 22.1-343 of the Code of Virginia.

Contact: Mark Monson, Budget Manager, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3310, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

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.

DEPARTMENT OF CORRECTIONAL EDUCATION

Title of Regulation: 6 VAC 10-10-10 et seq. **Public Participation Guidelines.**

Statutory Authority: § 22.1-343 of the Code of Virginia.

Public Hearing Date: September 16, 1996 - 10 a.m.

Public comments may be submitted until October 18, 1996.

(See Calendar of Events section for additional information)

Basis: The supervision of the Department of Correctional Education (the department) is vested in the Board of Correctional Education (the board). The board is authorized by the legislature to adopt and enforce all necessary rules and regulations for the management and operation of the correctional schools, pursuant to § 22.1-343 of the Code of Virginia.

Purpose: The department has concluded that the proposed regulations are necessary to protect the health, safety and welfare of citizens. Research has shown that education is considered one of the most effective tools available for reducing the incidences of criminal recidivism. Sample data from selected correctional facilities in Virginia produced evidence that there is a significant reduction in recidivism among inmates who complete an educational program. This means that more ex-offenders will become taxpayers and productive citizens who are equipped to work and further their education after release or parole. Accordingly, the promulgation of these regulations is to allow the department to utilize the regulatory process to implement new programs where public participation would be required.

Substance: The key provisions of the new regulation will not change the current status of the law, but will provide the means for the department to solicit the input of interested persons in the formation, development, amendment or repeal of regulations. Solicitation is conducted through direct mail notification and through publication of the department's intent to initiate the regulatory process.

Issues: The advantage for the public and for the Commonwealth in promulgating public participation guidelines is that the guidelines will provide a means for interested parties to comment on the request from the Secretary of Public Safety that the board consider privatizing the educational services in state correctional facilities. There are no disadvantages for either the public or the Commonwealth. The alternatives to regulations considered by the Superintendent of Correctional Education are (i) to include all applicable policies and procedures in comprehensive contract terms or (ii) to incorporate by reference all policies and procedures into one contract term and mandate compliance with future policy changes. The department, however, has been advised by the Attorney General's Office that the promulgation of regulations is the

most effective way to insure compliance with department objectives and to protect the interests of the Commonwealth.

Impact: The adoption of these proposed guidelines will have no known impact on any particular localities.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic affects.

Summary of the Proposed Regulation. The proposed regulation establishes procedures for public participation in Department of Correctional Education (DCE) rulemaking, details items to be included in the agency's Notice of Intended Regulatory Action and Notice of Public Comment, and requires the agency to prepare and distribute a summary of comments received in response to the Notice of Public Comment.

Estimated Economic Impact. Although the proposed regulation is expected to facilitate public participation in DCE rulemaking, it is not expected to have economic consequences. As a result, the proposed regulation is not expected to have an economic impact.

Businesses and Entities Particularly Affected. All business, or other entities, affected by DCE rulemaking would be affected by this proposed regulation.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not expected to have a significant effect on employment.

Affects on the Use and Value of Private Property. The proposed regulation is not expected to have a significant effect on the use and value of private property.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The Department of Correctional Education concurs with the economic impact analysis prepared by DPB.

Summary:

The new regulation administers the agency's policy on public participation in its regulatory promulgation,

amendment and repeal processes. This regulation sets out the procedure that the agency follows in the regulatory process. In addition, it lays out from whom the agency will solicit comments when considering regulatory action and how and when the public may participate in the agency's regulatory process. The agency's promulgation of its Public Participation Guidelines is in full compliance with the Virginia Register Act, the Administrative Process Act, and Chapter 898 of the 1993 Acts of Assembly. These guidelines shall apply to all regulations proposed or promulgated by the Board of Correctional Education that are subject to the Administrative Process Act.

CHAPTER 10. PUBLIC PARTICIPATION GUIDELINES.

6 VAC 10-10-10. Definitions.

The following words and terms, when used in this chapter, shall mean the following unless the context clearly states otherwise:

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Correctional Education.

"Approving authority" means the Board of Correctional Education established pursuant to Chapter 18 (§ 22.1-339 et seq.) of Title 22.1, of the Code of Virginia as the legal authority to adopt regulations.

"Formal hearing" means an agency process other than an informational or factual inquiry of an informal nature provided in § 9-6.14:7.1 of the Administrative Process Act, and includes an opportunity for private parties to submit factual proofs in evidential hearings as provided in § 9-6.14:8 of the Administrative Process Act.

"Locality particularly affected" means a locality that bears an identified disproportionate material impact that would not be felt by other localities.

"Participatory approach" means a method for the use of (i) standing advisory committees, (ii) ad hoc advisory groups or panels, (iii) consultation with groups or individuals registering interest in working with the agency, or (iv) a combination of these in the formation and development of regulations for agency consideration. When an ad hoc advisory group is formed, the group shall include representatives of the regulated community and the general public. The decisions as to membership of the group shall be at the discretion of the superintendent.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or other legal entity.

"Public hearing" means an informal proceeding, held in conjunction with the Notice of Comment Period, and similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, to afford persons an opportunity to submit views and data relative to regulations on which a decision of the appropriate authority is pending.

"Public meeting" means an informal proceeding conducted by the agency in conjunction with the Notice of Intended Regulatory Action to afford persons an opportunity to submit comments relative to intended regulatory action.

"Superintendent" means the Superintendent of the Department of Correctional Education, or his designee.

6 VAC 10-10-20. General provisions; petitioning for the adoption, amendment or repeal of a regulation.

A. The procedures in 6 VAC 10-10-30 shall be used for soliciting input of interested persons in the formation, development, amendment or repeal of regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 (§ 9-6.14:4.1 C) of the Administrative Process Act.

B. The failure of any person to receive a notice or copies of a document provided under these guidelines shall not affect the validity of a regulation.

C. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of the petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;

6 VAC 10-10-30. Public participation guidelines.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations. Any person wishing to be placed on a list may do so by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization or publication it believes will be interested in participating in the promulgation of regulations. Individuals and organizations may be periodically requested to state their desire to continue to receive documents or be deleted from a list. Individuals and organizations may be deleted from a list at the request of the individual or at the discretion of the agency when mail is returned as undeliverable.

B. Whenever the approving authority so directs, or on its own initiative, the agency may begin the regulatory adoption process and proceed to draft a proposal according to these procedures.

C. The agency shall use the participatory approach to assist in the development of the proposal or use one of the following alternatives:

1. Proceed without using the participatory approach if the approving authority specifically authorizes the agency to proceed without using the participatory approach.
2. Include in the Notice of Intended Regulatory Action (NOIRA) a statement inviting comment on whether the agency should use the participatory approach to assist

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the agency in the development of the proposal. If the agency receives written responses from at least five persons during the associated comment period indicating that the agency should use the participatory approach, the agency shall use the participatory approach requested. Should different approaches be requested, the superintendent shall determine the specific approach to be utilized.

D. The agency shall issue a NOIRA whenever it considers the adoption, amendment or repeal of a regulation.

1. The NOIRA shall include at least the following:

- a. A description of the subject matter of the planned regulation.
- b. A description of the intent of the planned regulation.
- c. A brief statement as to the need of the regulatory action.
- d. A brief description of available alternatives to meet the need.
- e. A request for comments on the intended regulatory action, to include ideas to assist the agency in the development of a proposal.
- f. A request for comments on the costs and benefits of the stated alternatives or other alternatives.
- g. A statement of the agency's intent to hold at least one public hearing on the proposed regulation after it is published in the Virginia Register of Regulations.
- h. A statement inviting comment on whether the agency should use the participatory approach to assist the agency in the development of a proposal. This statement shall only be required when the agency makes a decision to pursue the alternative provided in subdivision C 2 of this section.

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of a regulation unless the approving authority specifically authorizes the agency to proceed without holding a public meeting. In those cases where the public meeting or meetings will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register of Regulations, time and place of the public meeting or meetings.

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register of Regulations.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations; and
2. Distribution by mail to persons on the list or lists established under subsection A of this section.

F. After consideration of public input, the agency may draft the proposed regulation and supporting documentation required for review. If the participatory approach is being

used, the draft regulation shall be developed in consultation with the participants. A summary or copies of the comments received in response to the NOIRA shall be distributed to the participants during development of the draft regulation. The summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. On approval of the draft proposed regulation by the approving authority, the agency shall publish a Notice of Comment Period (NOCP) and the proposal for public comment.

H. The NOCP shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, the location where copies of the draft may be obtained, and the name, address and telephone number of the individual to contact for further information about the proposed regulation.
2. A request for comments on the costs and benefits of the proposal.
3. The identity of a locality particularly affected by the proposed regulation.
4. A statement that an analysis of the following has been conducted by the agency and is available to the public on request:
 - a. A statement of purpose: the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare.
 - b. A statement of estimated impact:
 - (1) Projected number and types of regulations entities or persons affected.
 - (2) Projected cost, expressed as a dollar figure or range, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member, or on members of the regulated community.
 - (3) Projected cost to the agency for implementation and enforcement.
 - (4) The beneficial impact the regulation is designed to produce.
 - c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.
 - d. An estimate of the impact of the proposed regulation on small businesses as defined in § 9-199 of the Code of Virginia or on organizations in Virginia.
 - e. A description of provisions of the proposed regulation which are more restrictive than applicable

federal requirements together with the reason why the more restrictive provisions are needed.

f. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

g. A schedule setting forth when, after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. The public hearing may be held during the public comment period, and whenever practicable, no less than 15 days before the close of the public comment period. The public hearing may be held in a location that the agency determines will best facilitate input from interested persons. In those cases where the agency chooses to conduct a formal hearing, the notice shall show that the formal hearing will be held in accordance with § 9-6.14:8 of the Administrative Process Act.

I. The public comment period shall close no less than 60 days after publication of the NOCP in the Virginia Register of Regulations.

J. The agency shall disseminate the NOCP to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Publication in a newspaper of general circulation published at the state capitol and other newspapers as the agency may deem appropriate.

3. Distribution by mail to persons on the list or lists established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOCP and the agency's response to the comments received. The agency shall send a draft of the summary of comments to the public comment participants on the proposed regulation at least five days before final adoption of the regulation. The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the approving authority, made available, on request, to interested persons.

L. If the agency determines that the process to adopt, amend or repeal a regulation should be ended after approval of the draft proposed regulation by the approving authority, the agency shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

M. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

VA.R. Doc. No. R96-504; Filed July 18, 1996, 10:47 a.m.

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 regulation.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulation: 4 VAC 15-40-10 et seq. **Game:** In General (amending 4 VAC 15-40-20).

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

Effective Date: September 18, 1996.

Summary:

The amendment allows hunters possessing a medical doctor's written statement based on a physical examination declaring that such persons have a permanent physical disability that prevents them from hunting with conventional archery equipment to hunt with a crossbow on the private land of another, with the written permission of the landowner, during the special archery seasons. The amendment requires such disabled hunters to advise the landowner of their intent to hunt with a crossbow.

Agency Contact: Copies of the regulation may be obtained from Phil Smith, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-40-20. Hunting with crossbows, arrows to which any drug, chemical or toxic substance has been added or explosive-head arrows prohibited.

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

B. Crossbows permitted for persons with permanent physical disabilities. For the purposes of this section any person, possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, or drawing or pulling or releasing the bow string of a conventional bow, and thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow on his own property or on the private property of another with the written permission of the landowner during established special

archery seasons. *Disabled hunters seeking such permission shall advise the landowner of their intent to hunt with a crossbow during the special archery seasons.* The doctor's written statement must be carried by the person while hunting and a copy of the doctor's written statement must be provided to the department on a form provided by the department, prior to hunting with a crossbow and the department's verification form shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.

VA.R. Doc. No. R96-512 Filed July 31, 1996, 11:22 a.m.

Title of Regulation: 4 VAC 15-90-10 et seq. **Game:** Deer (amending 4 VAC 15-90-70).

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

Effective Date: September 18, 1996.

Summary:

The amendment allows disabled hunters whose permanent physical disabilities prevent them from hunting with conventional archery equipment to hunt deer during the special archery deer seasons with a crossbow on the private property of another with written permission from the landowner.

Agency Contact: Copies of the regulation may be obtained from Phil Smith, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-90-70. Bow and arrow hunting.

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

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

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

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

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

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

G. Crossbows permitted for persons with permanent physical disabilities. As provided in 4 VAC 15-40-20 B, it shall be lawful for persons whose permanent physical disabilities prevent them from hunting with conventional archery equipment to hunt deer with a crossbow on their own property or on private property of another with the written permission of the landowner as provided in subsections A, B, C, D, and F of this section.

EDITOR'S NOTICE: The forms used in administering regulations for the Department of Game and Inland Fisheries are listed below. The list can be found in the Virginia Administrative Code following the regulations for the Department of Game and Inland Fisheries. Added and deleted forms are reflected in the listing and a copy of the form is also provided. The forms are available for review at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia, and at the Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia.

FORMS

- Virginia state resident hunting license.
- Special application for domicile resident licenses and permits to hunt, fish or trap in Virginia.
- Resident bear-deer-turkey hunting license.
- Resident bonus deer permit.
- Virginia nonresident bear-deer-turkey hunting license.
- Nonresident bonus deer permit.
- Nonresident 3 day trip hunting license.
- Virginia national forest hunting permit.
- Nonresident hunting license.
- Resident junior hunting license.
- Virginia county or city resident hunting license.
- State resident muzzleloading hunting license.
- Resident junior bear-deer-turkey license.
- Resident 65-and-older hunting license.
- Resident archery hunting license.
- Nonresident archery hunting license.
- Stationary blind hunting permit.
- Floating blind hunting permit.
- Nonresident shooting preserve license.
- Nonresident muzzleloading hunting license.
- DGIF license sales agent hunting certificates sales report.
- Application for state resident disabled veteran's lifetime state license to hunt and fish in inland waters (eff. 5/17).
- Resident disabled veteran's permanent state license to hunt and fish.
- Permit for persons permanently unable to walk to shoot from a stationary vehicle, LAW-28A (eff. 8/94).
- Physician's affirmation as to one's permanent inability to walk.
- State resident license to trap.
- Virginia county or city residence license to trap.
- State resident age 65-and-older license to trap.
- Nonresident trapping license.
- Resident fresh water fishing license.
- Resident fishing license renewal application.
- State nonresident fresh water fishing license.
- County or city resident fresh water fishing license.
- State resident trout fresh water fishing license.
- State nonresident trout fresh water fishing license.
- National forest certificate.
- State nonresident fresh water 5-day fishing license.
- 65 and over state resident fresh water fishing license.
- State resident fresh water 5-day fishing license.
- Individual saltwater sport fishing license.
- Temporary 10-day saltwater sport fishing license.
- Saltwater boat sport fishing license.
- Fishing certificates sales report, #79-F1 (eff. 1/95).
- Application for disabled resident special lifetime hunting, fresh water, or saltwater fishing license. (eff. 6/93).
- Disabled resident hunting and fresh water fishing license physicians' affidavit.
- Disabled resident special lifetime fishing license.
- Disabled resident special lifetime fishing and hunting license.
- Application for lifetime hunting and/or lifetime fresh water fishing licenses. (eff. 10/94).
- Resident special lifetime hunting and fishing license.
- Resident special lifetime hunting license.

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- Resident special lifetime fishing license.
- Nonresident lifetime fishing license.
- Nonresident lifetime hunting license.
- Nonresident hunting, fresh water, saltwater recreational fishing license order form. (eff. 10/94).
- Nonresident application for permit to deal in furs.
- Annual raw fur dealer's report. (eff. 6/94).
- Nonresident permit to deal in furs.
- Resident application for permit to deal in furs. (eff. 6/94).
- Resident application to deal in furs.
- Application for field trial permit. (eff. 8/94).
- Raccoon hound field trial permit conditions.
- Application for establishing a licensed shooting preserve. (eff. 7/94)
- Shooting preserve annual report.
- ~~Verification of permanent disability to use crossbow.~~
~~Crossbow Application (rev. 7/22/96).~~
- Striped bass fishing tournament data sheet.
- Competitive freshwater fishing tournament notice. (eff. 7/1/93).
- Competative freshwater fishing tournament data summary.
- Special guest fishing license application.
- Nonresident complimentary fishing license.
- Special guest fishing license.
- Application for Virginia freshwater fish citation. (eff. 8/1/93).
- Fish stocking permit (to stock fish in Virginia inland waters).
- Application for authorization to establish a regulated trout fishing preserve. (eff. 2/7/94).
- Trout fishing preserve annual report.
- Application for enrollment in the community fishing clinics program.
- Application for fallow deer farming permit. (eff. 6/94).
- Deer management assistance program application.
- Official kill permit, to kill wild animals during closed season. (eff. 5/93).
- Request for certification in the Virginia DGIF wildlife habitat program. (eff. 6/94).
- Application for permit to stuff and mount birds, animals or fish and parts thereof for sale or compensation.
- Permit to stuff or mount birds, animals, or fish.
- Application for scientific collection or salvage permit (to collect fish or wildlife for scientific purposes or salvage fish or wildlife for scientific or educational purposes).
- Scientific collection/salvage permit supplemental amendment form.
- Application for Virginia endangered species permit.
- Non-native (exotic) animal permit.
- Application for wolf-hybrid permit. (eff. 6/94).
- Application/permit wildlife rehabilitator.
- Application/permit to propagate for private use certain game and migratory game birds.
- Brood stock reports (species, number, and origin of brood stock for certain game and migratory game birds).
- Application/permit to propagate and sell certain wildlife.
- Brood stock report (species, number, and origin of brood stock for certain amphibians and reptiles).
- Annual reporting form for propagating and selling certain wildlife (permitted tilapia, frogs, snakes, game birds, game animals, and furbearers).
- Application/permit to exhibit wild animals.
- Application/permit to import certain non-native (exotic) wildlife into Virginia.
- Application/permit to hold and sell certain fish, snakes, snapping turtles, crayfish, and hellgrammites for sale.
- Annual reporting form for propagating certain wildlife for private use.
- Exotic species application/permit to import certified triploid grass carp for aquatic vegetation control in private ponds.
- Application for motorboat certificate of number/certificate of title, #BRT10/94-100M.
- Affidavit covering repossession of vessel title number.
- Application for marine event.
- Application to transfer saltwater recreational boat license.
- Application for duplicate certificate of (watercraft) title, #BC/DCT9/93-2M.
- Boating education notice/course application.
- Statement of authorization to add or delete a (boat) purchaser(s).
- Affidavit of compliance for enforcement of liens on vessels under a judicial order (appraised value of \$3001 and over).
- Affidavit of compliance for enforcement of liens on vessels under a judicial order (appraised value of \$3000 or less).
- (Boat) length certificate affidavit.
- Affidavit of authority to transfer registration/title of a watercraft; procedure to transfer a Virginia certificate of title/registration when watercraft owner is deceased.
- Procedure to acquire title/registration on an abonded vessel: affidavit; sample letter; sample notice.
- Statement of missing title and assignment of title to a vessel, SMT-3/94-2M.

Stolen boat, motor, and trailer report.

Application for supplemental lien or transfer of lien.

Affidavit for transfer when watercraft certificate of title is lost, etc. (eff. 4/89).

Affidavit for transfer of certificate of number (registration) when bill of sale is not available from last registered owner. (eff. 4/89).

Application for establishment of regulatory markers on public waters of Virginia.

(Public boating landing) Special use permit.

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VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES CROSSBOW APPLICATION

(Under Authority of §29.1-306 of the Code of Virginia, 4 VAC 15-40-20)

Objective: To provide for the use of crossbows by persons with permanent physical disabilities during the special archery seasons.

Pursuant to Virginia Department of Game and Inland Fisheries Regulation 4 VAC 15-40-20 B - For the purposes of this section only any person, possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, or drawing or pulling or releasing the bow string of a conventional bow, and thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow on his or her own property, or on the private property of another with written permission of the landowner, during established special archery seasons. Disabled hunters seeking such permission shall advise the landowner of their intent to hunt with a crossbow during the special archery seasons. The doctor's written statement must be carried by the person while hunting and a copy of the doctor's written statement must be provided to the department on a form provided by the department, prior to hunting with a crossbow and the department's verification form shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.

APPLICANT INFORMATION:

Name: _____ Social Security # _____

Address: _____

City: _____ State: _____ Zip: _____ County: _____

Home Phone #: _____ Business Phone #: _____

Applicant's Signature: _____ Date: _____

Please return this completed form to: Virginia Department of Game and Inland Fisheries, Permits and Licensing Section, P.O. Box 11104, 4010 West Broad Street, Richmond, Virginia 23230-1104. (804)367-1076.

Revised July 22, 1996

VERIFICATION OF PERMANENT DISABILITY
TO HUNT WITH A CROSSBOW

This form is to be completed by a Physician licensed to practice medicine to determine the applicants eligibility to use a crossbow during Virginia's archery hunting season.

The following permanent physical disability (ies) allows persons to hunt with a crossbow: 1) cannot hold the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, 2) cannot draw or pull the bow string of a conventional bow and arrow; 3) cannot release the bow string of a conventional bow. Please verify one or more of the following that CANNOT be accomplished by the individual due to a PERMANENT physical condition or conditions:

- holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body.
- drawing or pulling the bow string of a conventional bow and arrow.
- releasing the bow string of a conventional bow and arrow.

If the individual meets one or more of the listed criteria, the individual qualifies to use a crossbow per the restrictions provided.

Physicians, please describe the individual's permanent physical condition which prohibits the use of a conventional bow and arrow (Please Print):

I hereby certify that _____ is unable to hunt with a conventional bow and arrow due to a permanent physical disability.

Signature of the Physician: _____

Printed Name of the Physician: _____

Office Address: _____

Office Telephone Number: _____ Date of Examination: _____

Revised July 22, 1996

VA.R. Doc. No. R96-511: Filed July 31, 1996, 11:22 a.m.

Final Regulations

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

EXEMPTION NOTICE: Section 23-7.4:3 B of the Code of Virginia exempts the State Council of Higher Education for Virginia from the provisions of the Administrative Process Act when issuing or revising guidelines for determining domicile and eligibility for in-state tuition.

Title of Regulation: 8 VAC 40-120-10 et seq. Guidelines for Determining Domicile and Eligibility for In-State Tuition. (amending 8 VAC 40-120-10 through 8 VAC 40-120-110, 8 VAC 40-120-150, 8 VAC 40-120-160, 8 VAC 40-120-170, 8 VAC 40-120-190 through 8 VAC 40-120-230, and 8 VAC 40-120-250 through 8 VAC 40-120-280).

Statutory Authority: § 23-7.4:3 B of the Code of Virginia.

Effective Date: July 26, 1996.

Summary:

The Guidelines for Determining Domicile and Eligibility for In-State Tuition Rates set forth the general policies and procedures that institutions of higher education should use when determining if a student is eligible for in-state tuition rates. The council is charged with establishing these guidelines in order to ensure the application of uniform criteria in determining eligibility for in-state tuition rates by institutions.

The key provisions of the guidelines prescribe (i) the in-state tuition eligibility requirements for domiciliary residents of Virginia, spouses and dependent children of active-duty military members, and non-Virginia residents employed in Virginia, (ii) the reduced or in-state tuition eligibility requirements under special arrangements contracts and for other nonresidents, and (iii) the appeals process that must be in place for students denied in-state tuition rates.

Agency Contact: Copies of the regulation may be obtained from Melissa A. Collum, State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, Richmond, VA 23219, telephone (804) 371-0554.

8 VAC 40-120-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.¹

"Date of alleged entitlement" means the first official day of class within the semester or term of the program in which the student is enrolled. For special classes, short courses, intensive courses, or courses not otherwise following the normal calendar schedule, the date of alleged entitlement refers to the starting date of the nontraditional course in which the student is enrolled.

"Dependent student" means one who ~~(i) is listed as a dependent on the federal or state income tax returns of the~~

~~parents or legal guardians or, even if not so listed, (ii) receives substantial financial support from a parent or legal guardian, is listed as a dependent on the federal or state income tax return of his parents or legal guardian or who receives substantial financial support from his spouse, parents or legal guardian. It shall be presumed that a student under the age of 24 on the date of the alleged entitlement receives substantial financial support from his parents or legal guardian, and therefore is dependent on his parents or legal guardian, unless the student (i) is a veteran or an active duty member of the U. S. armed forces; (ii) is a graduate or professional student; (iii) is married; (iv) is a ward of the court or was a ward of the court until age 18; (v) has no adoptive or legal guardian when both parents are deceased; (vi) has legal dependents other than a spouse; or (vii) is able to present clear and convincing evidence that he is financially self-sufficient.~~

"Domicile" means a person's the present, fixed home of an individual to which he returns following temporary absences and at which he intends to stay indefinitely. No individual may have more than one domicile at a time. Domicile, once established, shall not be affected by mere transient or temporary physical presence in another jurisdiction.

"Domiciliary intent" means present intent to remain indefinitely.

"Emancipated minor" means a person student under the age of 18 on the date of the alleged entitlement whose parents or guardians have surrendered the right to his care, custody and earnings, and who no longer claim him as a dependent for tax purposes.

"FTE" means a full-time equivalent student. FTE is a statistic derived from the student-credit hour productivity of an institution. The number of FTE students in the term is obtained by dividing the total number of undergraduate, first professional, and graduate credit-hours per term by 15, 15, and 12 respectively.

"Full-time employment" means employment resulting in at least an annual earned income reported for tax purposes equivalent to 50 work weeks of 40 hours at minimum wage. This means that a person must earn the equivalent amount of 50 weeks of work, for 40 hours, at minimum wage; it does not require that the person work full time for all 50 weeks each year. ~~As of April 1, 1991~~ Currently, the federal minimum wage is \$4.25 per hour. Therefore, the person must have earned income of at least \$8,500 to be considered as a full-time employee (50 x 40 x \$4.25). The person may have earned this money in less than 50 weeks, but the time period in which the money is earned (up to one year) is irrelevant. ~~One simply must have earned this minimum amount; furthermore, these wages must be reported for income tax purposes. The individual must also report these wages for income tax purposes.~~

"Independent student" means one whose parents have surrendered the right to his care, custody and earnings, have ceased to support him, and have not claimed him as a dependent on federal and state income tax returns for at least 12 months prior to the date of the alleged entitlement. ~~do not claim him as a dependent on federal or state income tax~~

¹ Nothing herein is intended, nor shall be construed, to repeal or modify any provision of law.

returns, and have ceased to provide him substantial financial support. (See also, "Dependent student," above).

"*Rebuttable presumption*" means that a student is presumed, or assumed, to have the fact (or domicile) in question, unless the student can show the contrary by clear and convincing evidence. ~~The point to be made is that~~ The student *should* be given the chance to rebut the presumed fact by clear and convincing evidence.

"*Special arrangement contract*" means a written contract ~~between an institution of higher education and a Virginia employer, or the authorities controlling a federal installation or agency located in Virginia.~~ a Virginia employer or the authorities controlling a federal installation or agency located in Virginia and a public institution of higher education.

"*Substantial financial support*" means the amount of support which equals or exceeds the amount necessary to qualify the individual to be listed as a tax dependent on federal and state income tax returns.

"*Unemancipated minor*" means a student under the age of 18 on the date of the alleged entitlement who is under the legal control of and is financially supported by either of his parents, legal guardian, or other person having legal custody.

"*Virginia employer*" means entities, including corporations, partnerships, or sole proprietorships, organized under the laws of Virginia, or having income from Virginia sources. Also included are public or nonprofit organizations authorized to operate in Virginia.

8 VAC 40-120-20. Determining eligibility for in-state tuition.

A. The institution shall first determine from the information furnished by the applicant whether the applicant is a dependent or independent student, emancipated or unemancipated minor.

B. The institution shall then determine whether the student has clearly and convincingly established Virginia domicile for the requisite one-year period. If the date of the alleged entitlement is, for example, September 1, 1995 1996, then Virginia domicile must have been established no later than September 1, 1994 1995, and continued for the entire year.

1. An independent student or emancipated minor must establish by clear and convincing evidence that for a period of at least one year immediately prior to the date of alleged entitlement, the student was domiciled in Virginia and had abandoned any previous domicile.

2. An *A dependent student* or unemancipated minor must establish by clear and convincing evidence that for a period of at least one year immediately prior to the date of alleged entitlement, the parent or legal guardian through whom the student claims eligibility was domiciled in Virginia and had abandoned any previous domicile.

3. A dependent student is rebuttably presumed to have the domicile of the parent or legal guardian listing the student as an exemption for tax purposes or providing substantial financial support. A dependent student 18 or over may seek to show a domicile independent of such parent or legal guardian *regardless of financial*

dependency, however, the student is presumed to have the same domicile as his parents or legal guardian unless he can show to the contrary by clear and convincing evidence.

4. The one-year period applies to all classifications and is waived only for two groups of persons: (i) active-duty military personnel residing in the Commonwealth who voluntarily elect to establish Virginia as their permanent residence for domiciliary purposes, and (ii) dependent spouses or children claiming eligibility through an active-duty military member residing in Virginia who voluntarily elects to establish Virginia as his permanent residence for domiciliary purposes.

8 VAC 40-120-30. Domicile: residence requirement.

A. Domicile is defined in the law as "the present fixed home of an individual to which he returns following temporary absences and at which he intends to stay indefinitely." No person may have more than one domicile.

1. Domicile cannot be initially established in Virginia unless one actually resides, in the sense of being physically present, in Virginia with domiciliary intent.

2. Domiciliary intent means present intent to remain indefinitely, *that is*, the individual has no plans or expectation to move from Virginia. Residence in Virginia for a temporary purpose or stay, even if that stay is lengthy, with present intent to return to a former state or country upon completion of such purpose, does not constitute domicile.

B. Once a person has established domicile in Virginia, actual residence here is no longer necessarily required.

1. Temporary absence from the state does not negate a claim of Virginia domicile unless the person does something incompatible with that claim, such as registering to vote in the new state, ~~which indicates~~ *indicating* an intent to establish domicile in another state.

2. A person who has established Virginia domicile but resides in another state may be required by laws of the host state to fulfill certain obligations of the host state. Performing acts in the host state required by law of all residents, irrespective of domicile, does not automatically constitute an abandonment of Virginia domicile. However, such acts will need to be examined to determine if they were voluntary.

3. The question is whether ~~all~~ of the individual's acts, ~~most importantly~~ *especially* voluntary acts, show the formation of a new domicile in the host state and abandonment of Virginia domicile.

C. The physical presence requirement means that a person who has never resided in Virginia, or who was not residing here at the time he formed the intent to make Virginia his home, cannot be domiciled here *until actually moving to Virginia and taking the appropriate steps*. For example, a New York resident who has resolved to move to Virginia and to remain indefinitely in Virginia is still domiciled in New York for tuition eligibility purposes. The New York resident cannot establish Virginia domicile until actually

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moving to Virginia, and taking the appropriate steps, and residing here for at least the one-year period with the requisite domiciliary intent.

8 VAC 40-120-40. Domicile: intent requirement.

A. Where a person resides is relatively easy to determine. It can be difficult to ascertain whether a person has resided in Virginia with domiciliary intent.

1. Domiciliary intent is normally determined from the affirmative declaration and objective conduct of the person. Intent is necessarily a subjective element; however, a person demonstrates his intent through objective conduct. When evidence is conflicting, the opposing facts must be balanced against each other.

2. The burden is on the applicant to show Virginia domicile by clear and convincing evidence and to demonstrate abandonment of any prior domicile demonstrate by clear and convincing evidence that his domicile is Virginia and that he has abandoned any prior domicile.

3. The law also requires that a person claiming eligibility for in-state tuition as a through Virginia domicile (or the person through whom eligibility is being claimed) shall have demonstrated Virginia domicile for at least one year immediately prior to the date of the alleged entitlement.

B. *Prior determination of a student's domiciliary status by one institution is not conclusive or binding when subsequently considered by another institution; however, assuming no change of facts, the prior judgment should be considered.*

C. *Each case presents a unique combination of factors, and the institution must determine from among them those core factors which clearly and convincingly demonstrate the person's domiciliary intent.*

1. *Having isolated the core factors in a given case, the institution must look at the date on which the last of these essential acts was performed. It is at that point that domiciliary intent is established, and the clock starts running for purposes of the one-year domicile requirement.*

2. *In complex cases, it might be helpful to chart on a timeline the steps taken to establish domicile. After establishing domicile, an individual must continue to meet the factors demonstrating domiciliary intent throughout the one-year period prior to the date of alleged entitlement.*

D. *It is important to reiterate the reference to clear and convincing evidence. A student who claims domiciliary residence must support that claim by clear and convincing evidence. Clear and convincing evidence is not as stringent a standard as proof beyond a reasonable doubt, as required in the criminal context, but is a degree of proof higher than a mere preponderance of the evidence. Clear and convincing evidence is that degree of proof that will produce a firm conviction or a firm belief as to the facts sought to be established. The evidence must justify the claim both clearly and convincingly.*

B. E. Section 23-7.4 of the Code of Virginia includes a list of objective conduct that may be relevant in evaluating a claim of domiciliary intent. Necessarily, each of the objective criteria will not carry the same weight or importance in an individual case. No one factor is necessarily determinative but should be considered as part of the totality of evidence presented. The objective criteria that may be relevant include the following:

1. Continuous residence for at least one year immediately prior to the date of alleged entitlement. Continuous residence may be evidence supporting that the person intends to make Virginia his home indefinitely. As noted previously, once a person has affirmatively established Virginia domicile, actual residence in Virginia is not required in order to retain it. However, residence in another state or country is still relevant because it may be that the person has established a new domicile in the foreign jurisdiction.

2. State to which income taxes are filed or paid.

a. Failure to file a tax return in Virginia when one is required to is evidence that one is not a Virginia domicile. Domiciliaries are required to file returns regardless of the fact that they may reside elsewhere.

(1) The general rule is that Virginia domiciliaries residing temporarily outside the Commonwealth must file resident income tax returns if they wish to maintain their Virginia domicile.

(2) Persons claiming that they are exempt from this requirement, such as those who reside overseas and are employed by certain non-U.S. companies, have the burden of clearly identifying the exemption and demonstrating their entitlement to it.

b. Considering payment or nonpayment of income tax as a factor assumes that the individual had taxable income. Moreover, under current 1996 tax law, a Virginia domicile domiciliary is not required to file a Virginia return if the person's adjusted gross income was less than \$5,000. Thus, failure to file a return by someone who had no income in Virginia or whose adjusted gross income was less than \$5,000 is not determinative of domiciliary status.

c. A member of the armed forces who does not claim Virginia as his tax situs for military income is normally not a Virginia domiciliary but may present clear and convincing evidence rebutting this presumption; generally cannot qualify as a Virginia domiciliary.

d. The filing of an income tax return in Virginia or the paying of income taxes to Virginia is supporting evidence, but not conclusive evidence, that a person is domiciled in Virginia. For example, a student with a part-time job may be required to pay income tax to Virginia on wages earned in the state, even though he is a temporary resident or residing outside of Virginia.

e. Paying income taxes to another state or country is also not automatically determinative of domiciliary status; a Virginia domicile domiciliary may be required by another state to pay income taxes on income

earned in that state irrespective of ties to the state; However, such payment may be considered, along with all of the other evidence, in evaluating a claim of Virginia domicile.

3. Driver's license.

a. Possession of a Virginia driver's license may be evidence of intent to establish domicile in Virginia.

b. Possession of a driver's license from another state may be evidence of intent to retain domicile in that state.

4. Motor vehicle registration.

a. Registration of a motor vehicle in Virginia may be evidence of intent to establish domicile in Virginia.

b. Registration of a motor vehicle in another state may be evidence of intent to be domiciled in that state.

c. Virginia law permits, but does not require, registration by a nonresident student. Thus, a student-owner who does register in Virginia, when not required to by law, has shown *some* evidence of Virginia domicile. However, vehicle registration alone is not determinative.

5. Voter registration.

a. Actual voting.

(1) Voting in person or by absentee ballot in another state or country during the year immediately prior to the date of the alleged entitlement is strong evidence that the individual has not established domicile in Virginia.

(2) Voting in Virginia in local or state elections is evidence of domicile, but it is not determinative.

(3) Failing to vote in state or local elections is also evidence that the person is not a domiciliary; however, it is not determinative in all cases since the individual may forget to vote, choose not to, or in the case of certain aliens, may not be entitled to vote.

b. Voter registration.

(1) Registering to vote in Virginia within the past year is evidence of domiciliary intent, but it is not determinative. The institution is not bound by the voter registrar's determination; however, it should be considered.

(2) The fact that a person is still registered in another state, but has not voted there in the past year, does not conclusively mean that the person is not domiciled in Virginia; however, it should be considered.

(3) Failure to register to vote by a person who, on principle, has never registered to vote anywhere should not be taken as conclusive evidence that the person lacks domiciliary intent.

6. Employment.

a. Employment in Virginia is not required for establishing domicile. If a person has otherwise shown residence in the state with domiciliary intent, unemployment does not preclude a finding that the person is a Virginia domiciliary.

b. Fulfillment of state licensing requirements in order to be certified to practice a profession in Virginia (e.g., bar examination attorney, clinical psychologist, nursing certificates), is evidence of domiciliary intent; however, it is not determinative.

c. Employment in Virginia post-graduation.

~~(1) Accepting a formal offer of permanent employment with a Virginia employer following graduation is strong evidence of domiciliary intent.~~

~~(2) The burden is on the student to demonstrate that such employment exists, for example, through a written commitment between the student and the prospective employer.~~

~~(3) This factor is particularly important in reclassification cases.~~

d. c. Summer employment.

(1) Employment in Virginia during the summer may be evidence of domiciliary intent, albeit not conclusive evidence.

(2) A student returning each summer to his parents' domicile outside Virginia may be evidence of retaining that domicile.

7. Ownership of real property.

a. Ownership of real property (e.g., land, house, cottage, etc.) in Virginia may be evidence of domiciliary intent.

b. Payment of real property taxes to Virginia in the absence of other supportive evidence is insufficient to establish that a person is domiciled in Virginia. Owners of real property in Virginia are required to pay real estate taxes irrespective of their domicile.

c. A person who may have purchased real property in Virginia while domiciled here, but who subsequently left to take up residence in another state, cannot establish ~~eligibility~~ domicile solely through continued ownership of Virginia property. Even though the person still has taxable real property in Virginia, the individual's actions may show that Virginia domicile has been abandoned.

8. Sources of financial support.

a. Acceptance of financial assistance from public agencies or private institutions located in another state likely precludes establishing Virginia domicile when such financial assistance is offered only to domiciliaries of the other state.

b. Acceptance of such assistance would not prohibit a student, at a later time, from showing a change of intent or that the student did not know that he was representing domicile of another state. Such claims

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are suspect and must be proven by clear and convincing evidence.

c. Institutions shall also consider financial support obtained from parents or other relatives. Substantial financial support from a parent or relative in another state could be evidence of continuing ties to that state.

9. ~~Location of checking or passbook savings accounts~~ ~~Military records.~~

a. ~~In order to establish domicile a military member must pay Virginia taxes on all military income.~~

b. ~~A student should submit military documents such as the Home of Record and the Leave Earnings Statement as evidence of Virginia domicile. It is more important that the military member currently reports residence or domicile in Virginia for the purpose of paying Virginia taxes than that he reported Virginia as his home of record when entering the military.~~

10. ~~Employment in Virginia post-graduation.~~

a. ~~Accepting a formal offer of permanent employment with a Virginia employer following graduation from the institution is strong evidence of domiciliary intent. Evidence of employment in Virginia following graduation without other indications of domiciliary intent is not determinative.~~

b. ~~The burden is on the student to demonstrate that such employment exists, for example, through a written commitment between the student and the prospective employer.~~

c. ~~Students nearing graduation and seeking reclassification provide strong evidence of domiciliary intent with proof of likely employment in Virginia following graduation. Such students not providing for employment, or actively soliciting employment, in Virginia following graduation is evidence disfavoring reclassification.~~

11. Social and economic relationships.

a. ~~The fact that a person has immediate family ties to Virginia, such as a brother or sister domiciled here, may be offered to support a claim of domiciliary intent.~~

b. ~~Professional and business licenses issued by Virginia agencies support a person's claim of domicile, as does the acceptance of a formal offer for permanent employment in Virginia.~~

c. ~~Other social and economic ties to Virginia that may be presented include membership in religious organizations, community organizations, and social clubs.~~

~~A person shall not ordinarily be able to establish domicile by performing acts which are auxiliary to fulfilling educational objectives or which are required or routinely performed by temporary residents of the Commonwealth.~~

~~Prior determination of a student's domiciliary status by one institution is not conclusive or binding when subsequently considered by another institution; however,~~

~~assuming no change of facts, the prior judgment should be taken into account in the interest of consistency.~~

~~Each case presents a unique combination of factors, and the institution must determine from among them those core factors which clearly and convincingly demonstrate the person's domiciliary intent.~~

~~1. Having isolated the core factors in a given case, the institution must look at the date on which the last of these essential acts was performed. At that time, domiciliary intent is established, and the clock starts running for purposes of the one-year domicile requirement.~~

~~2. In complex cases, it might be helpful to chart the steps taken to establish domicile on a time line. The factors demonstrating domiciliary intent must be shown throughout the one-year period prior to the date of alleged entitlement.~~

~~It is important to reiterate the reference to clear and convincing evidence. A student who claims domiciliary residence must support that claim by clear and convincing evidence. Clear and convincing evidence is not as stringent a standard as proof beyond a reasonable doubt, as required in the criminal context, but is a degree of proof higher than a mere preponderance of the evidence. Clear and convincing evidence is that degree of proof that will produce a firm conviction or a firm belief as to the facts sought to be established. The evidence must justify the claim both clearly and convincingly.~~

8 VAC 40-120-50. Residence for educational purposes.

A. Mere physical presence or residence primarily for educational purposes does not confer domiciliary status. For example, a student who moves to Virginia for the primary purposes of becoming a full-time student is not a Virginia domicile, even if the student has been in Virginia for the required one-year period.

B. A person shall not ordinarily be able to establish domicile by performing acts which are auxiliary to fulfilling educational objectives or which are required or routinely performed by temporary residents of the Commonwealth.

C. The issue is whether the individual has moved to Virginia with the primary purpose of becoming a full-time student or with the primary purpose of establishing indefinitely his home in Virginia. In questionable cases, the institution should closely scrutinize acts performed by the individual which indicate an intent to become a Virginian.

D. Students often attempt to reclassify as a Virginia domiciliary after completing a few semesters at the institution. Institutions should examine the number of credits taken by the student in past semesters in determining if the student came to Virginia with the primary purpose of attending school. For example, a student who has enrolled for at least six credits during at least one semester in the 12 months prior to applying for reclassification may have come to Virginia for educational purposes.

8 VAC 40-120-60. Unemancipated minors.

A. An unemancipated minor automatically takes the domicile of his parents.

B. If the unemancipated minor is in the care of a legal guardian, the minor takes the domicile of the legal guardian unless there are circumstances indicating that the guardianship was created primarily for the purpose of conferring a Virginia domicile on the minor. With parents surviving, the guardianship must have been created by law, such as a court order. A copy of the court decree should routinely be required as proof of legal guardianship.

C. In most cases, the domicile of the parents will be the same; however, it is possible for the parents to have different domiciles.

1. Where the parents have not been divorced or legally separated by court order, the unemancipated minor may claim the domicile of either parent.

2. Parents legally separated or divorced.

a. The unemancipated minor is not automatically assigned the domicile of the custodial parent. Rather, the domicile of the unemancipated minor may be either (i) the domicile of the parent with whom he resides, (ii) the domicile of the parent who claims the minor as a dependent for federal and Virginia income tax purposes, currently and for the tax year prior to the date of alleged entitlement, or (iii) the domicile of the parent who provides substantial financial support. This derives from the definition of unemancipated minor and dependent student.

b. *For example*, if a minor lives with the mother, but the father, who is a Virginia domiciliary, claims the minor as a dependent on his federal and Virginia income tax returns, the minor may claim Virginia domicile through the father.

8 VAC 40-120-70. Dependent students children.

~~A. The domicile of a dependent student is rebuttably presumed to be the domicile of the parent or legal guardian claiming the student as an exemption for federal or state income tax purposes currently and for the tax year prior to the date of alleged entitlement or providing substantial financial support. A dependent child is a student who is listed as a dependent on the federal or state income tax return of his parents or legal guardian or who receives substantial financial support from his parents or legal guardian.~~

1. A dependent student *child* is not required to live with a parent or legal guardian.

2. A dependent student *child* does not have to be a full-time student.

~~3. A dependent student may be over the age of 18. In fact, a married student may be a dependent student if listed as a tax dependent or provided substantial financial support by a parent or legal guardian as indicated above.~~

B. Presumption of dependency for students under 24.

1. A student under age 24 on the date of the alleged entitlement shall be rebuttably presumed to receive substantial financial support from his parents or legal guardian and therefore is presumed to be a dependent child, unless the student:

a. Is a veteran or an active duty member of the U.S. Armed Forces;

b. Is a graduate school or professional school student;

c. Is married;

d. Is a ward of the court or was a ward of the court until age 18;

e. Has no adoptive or legal guardian when both parents are deceased;

f. Has legal dependents other than a spouse; or

g. Is able to present clear and convincing evidence of financial self-sufficiency.

2. If the student is under 24, the student is presumed to have the domicile of his parents because he is presumed to be financially dependent on his parents, unless the student is able to meet one of the seven exceptions. Institutions should examine the student's application carefully to determine if the student meets one of exceptions (i) through (vi). The burden is on the student to provide clear and convincing evidence of financial self-sufficiency under exception (vii).

3. The presumption of dependency closely follows the federal financial aid definition of dependent student.

4. If the student is 24 or older, there is no presumption of dependency on parents nor is there a presumption of independence. The student may be classified as an independent student unless the student presents evidence of financial dependency on his parents, legal guardian, or spouse, that is, the student receives substantial financial support from parents, legal guardian, or spouse.

C. Tax dependency.

A student who does not qualify as a dependent child under the dependency presumption may still be a dependent student if the amount of support a student receives from a parent or legal guardian would qualify the student to be claimed as a tax dependent and the student is listed as a dependent on the federal or state income tax returns of his parents or legal guardian.

~~B. In some cases, the institution may need to consult with tax authorities to determine if the amount of support a student receives from a parent or legal guardian would qualify the student to be claimed as a tax dependent.~~

1. Normally, a student will be classified as a dependent of the parent or legal guardian who provides more than one half of the student's expenses for food, shelter, clothing, medical and dental expenses, transportation, and education.

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2. Only financial support provided by the parent or legal guardian is considered. Earned income of the student paid by parent or legal guardian for bona fide employment is not counted as part of the parental or guardian support; however, gifts of money, or other things of value, from the parent or legal guardian to the student are counted toward the parental legal or guardian support to the extent that the student relies upon it for support.

C. D. A dependent student who is financially dependent on one or both parents may rebut the presumption that the student's domicile is the same as the parent's.

1. When the parents are separated or divorced, and the parent claiming the student as a dependent for income tax purposes is domiciled in another state, the student may rebut this presumption by showing residence with the other parent, who is a Virginia domiciliary.

2. A dependent student 18 years of age or older may also rebut the presumption that the student has the domicile of the parent claiming the student as a dependent for income tax purposes by showing that Virginia domicile was established independent of the parents. The burden is on the student to show by clear and convincing evidence that he has established a Virginia domicile independent of the out-of-state parents despite the fact that the parents are claiming the student as a dependent for income tax purposes or providing substantial financial support.

3. Finally, a student may rebut the presumption that the student has the same domicile as an out-of-state parent by offering clear and convincing evidence that the parent misreported the student as a dependent for tax purposes. In this case the institution should evaluate the student as an independent student, and consider informing the relevant tax authority.

D. E. Military dependent children.

1. When determining the domiciliary status of a student whose parent is a member of the military, the institution should always first determine if the military parent or the nonmilitary parent is a Virginia domiciliary. A military parent may reside in Virginia but choose not to claim Virginia as his domicile and has the right to choose another state as his home state for taxation of military income purposes.

a. Paying taxes to Virginia on all military income is evidence that the military parent is a Virginia domiciliary and should be evaluated with all of the other pertinent information. To pay taxes to Virginia on military income, the military member must file a State of Legal Residence Certificate claiming Virginia as his domicile and changing change the Leave and Earnings Statement ~~authorizing to authorize~~ the withholding of Virginia income tax. A military member becomes a Virginia domiciliary once the military member declares Virginia domicile and takes the appropriate steps to satisfy some of the factors for establishing domicile as set forth in 8 VAC 40-110-40 B.

b. Military members do not have to satisfy the one-year residence requirement, nor do dependent children claiming Virginia domicile through them. *A dependent child of a military member claiming domicile through the military member becomes eligible for in-state tuition immediately after the military member has taken actions to establish domicile in Virginia, including paying Virginia income taxes.*

~~b. c.~~ If the military parent claims another state as his income tax situs while stationed in Virginia, the rebuttable presumption is that the parent is not a Virginia domiciliary.

2. If the student's nonmilitary parent is a Virginia domiciliary and the requisite one-year period is met, the dependent child may claim domicile through the nonmilitary parent and receive in-state rates if the student is claimed as a dependent of the nonmilitary parent.

a. As with anyone else, the strength of the nonmilitary parent's ties to Virginia should withstand scrutiny. *Spouses of military members do not have to be employed to establish domicile in Virginia.*

b. In addition to the factors listed in 8 VAC 40-110-40 B E, the institution should consider the duration of residence in Virginia and the nonmilitary parent's domiciliary history. Evidence that the nonmilitary parent has accompanied the military parent on each tour of duty outside Virginia and taken steps to establish domicile in other states may show that the nonmilitary parent has not established a Virginia domicile independent of the military parent.

3. a. If one of the parents is a Virginia domiciliary, the student may claim eligibility through that parent, provided that the student is a dependent of that parent (see subsection A).

b. The institution should consider the requirements of the military exception (see Part III) only if the student is not eligible under this section as a dependent of a parent (military or nonmilitary) who is a domiciliary of Virginia.

8 VAC 40-120-80. Independent students.

~~A. Upon reaching the age of majority, 18, students are capable of establishing domicile independent of their parents or legal guardian. Such a student must demonstrate clearly and convincingly through positive steps the establishment of an independent domicile. An independent student is one whose parents have surrendered the right to his care, custody and earnings, do not claim him as a dependent on federal or state income tax returns, and have ceased to provide him substantial financial support.~~

~~B. An independent student's parents or legal guardian do not list the student as a dependent on any tax return, nor have they done so for at least 12 months prior to the date of alleged entitlement. Further, the student is not relying on a parent or legal guardian for substantial financial support. Students under age 24 must be able to demonstrate financial~~

self-sufficiency or meet one of the exception requirements to be classified as an independent student.

C. Due to the one-year requirement, the earliest an independent student would be eligible for in-state rates by virtue of having established an independent domicile in Virginia would be on his the student's 19th birthday.

8 VAC 40-120-90. Emancipated minors.

A. By virtue of having been emancipated prior to reaching age 18, an emancipated minor becomes eligible to establish a domicile independent of parents as of the date of emancipation. If positive steps are necessary in order to establish a Virginia domicile, the earliest an emancipated minor may become eligible for in-state tuition is one year after the date of emancipation. A student who establishes domicile prior to emancipation is eligible for in-state tuition upon emancipation.

B. Emancipation requires that the parents or legal guardian consider regard the child as emancipated ; that is, the child is not financially supported by his parents or legal guardian or other person having legal control and is not under or subject to the control or direction of his parents, legal guardian or other person with custody.

1. A minor's declaration of emancipation is not conclusive. For example, a minor who runs away from home is not necessarily emancipated, even though the minor may not desire any further contacts with the parents or legal guardian.

2. The parents or legal guardian must no longer support the minor, and they must recognize the minor's right to retain his own earned wages and to live independently of them beyond their direction or control.

3. If the parents or legal guardian list the minor as a dependent on income tax returns, he cannot be emancipated. A student who claims emancipation from the parents or legal guardian must provide evidence that his the parents or legal guardian consider him the student emancipated and do not claim the student as a tax dependent. The institution may require a copy of the tax returns if needed to substantiate the claimed emancipation.

8 VAC 40-120-100. Married persons.

A. The domicile of a married person shall be determined in the same manner as the domicile of an unmarried person. A person's domicile is not automatically altered by marriage. ~~A person cannot acquire Virginia domiciliary status simply by marrying a Virginia domiciliary. Institutions should never presume that an individual is financially dependent on a spouse.~~

B. Marriage is may be a factor in determining whether or not an individual under age 18 is emancipated from the parents, but it is not conclusive. A person under age 24 who is married is presumed to be independent.

~~C. There is no presumption that one spouse has the same domicile as the other spouse. Each spouse must establish Virginia domicile, irrespective of the domicile of the other spouse.~~

C. Dependent spouses.

1. A married person may choose to claim dependency on and, therefore, domicile through a spouse if the individual receives substantial financial support from the spouse.

2. Substantial financial support is at least one-half of the total financial support required for that person.

3. The dependent spouse "stands in the shoes" of the person providing the support. Therefore, the dependent spouse's actions in establishing or not establishing domicile in Virginia are irrelevant. The institution should only consider whether the person through whom the applicant is claiming dependency has met the requirements for establishing domicile.

D. Military dependent spouses.

1. A dependent spouse may claim Virginia domicile through a military member after the military member has taken actions to establish domicile in Virginia, including paying Virginia taxes.

2. Since the dependent spouse is standing in the shoes of the military member, there is no one-year domicile requirement.

~~D. The spouse of a military member also must establish domicile independent of the military spouse.~~ 3. An institution should only apply the requirements of the military exception (see Part III) if the spouse has not established eligibility as a Virginia domiciliary for the required one-year period prior to the date of alleged entitlement.

8 VAC 40-120-110. Aliens.

A. The mere fact that a person is a citizen of another country does not automatically disqualify the person from establishing domicile in Virginia. When a foreign national claims Virginia domicile, the institution must initially examine the federal immigration documents controlling the alien's purpose and length of stay in the United States. (For immigrants, this is usually Form I-551; for nonimmigrants, it is Form I-94.)

1. The purpose of examining immigration documents is to determine whether the alien is required to maintain a foreign domicile, as well as the terms and conditions governing the alien's presence in the United States relevant to evaluating the claim of Virginia domicile for the requisite one-year period.

2. If the immigration documents indicate that a person cannot establish domicile then the student is not eligible for in-state tuition rates.

3. Federal immigration laws are complex and ever evolving. Treaties may also be controlling. The burden is upon the student claiming Virginia domicile to bring pertinent information to the attention of the institution.

B. An institution should preliminarily determine under which alien category the student falls and then proceed with the evaluation of domicile in accordance with this chapter.

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1. Immigrants are admitted for permanent residence.
2. Nonimmigrants are admitted for specific time periods and for particular purposes (e.g., tourism, study, or temporary employment).²
3. The remainder may be persons who are on a paroled status or granted asylum.

C. In reviewing the domiciliary intent factors, keep in mind that there may be factors, such as voter registration, which are inapplicable to foreign nationals by law.

1. Aliens cannot register to vote.
2. Salaries paid by many international organizations to non-U.S. citizens are exempt from federal and state taxation by treaty or international agreement (i.e., the International Bank for Reconstruction and Development, also known as the World Bank).
3. In such instances, a record of nonvoting or nonpayment of taxes is immaterial to the domicile consideration. Unless the institution is aware of the inapplicability of any evidentiary factor, the responsibility and burden is always on the student to bring such information to the attention of the institution.

D. *An alien may claim eligibility for in-state tuition through the Virginia domicile of the student's parent, like any other student. An alien may claim eligibility for in-state tuition through the Virginia domicile of the student's spouse if the student demonstrates dependency on that spouse.*

D. E. Aliens holding Form I-551 (green cards) are lawfully admitted as immigrants for permanent residence in the United States.³ Such individuals are not prohibited from forming domicile in this country. Thus, immigrants may claim, and seek to show, eligibility for in-state tuition rates as Virginia domiciles as any citizen of the United States. The burden is on the student to establish, clearly and convincingly, domicile in Virginia for the requisite one-year period.

E. F. Conditional permanent resident aliens.

1. A person, and that person's children, may acquire permanent resident status through marriage to a United States citizen or lawful permanent resident. In order to discourage fraudulent applications based on sham marriages, the Immigration and Naturalization Service, pursuant to the Immigration and Nationality Act, is now issuing two-year "conditional" Alien Registration Receipt Cards (Form I-551) to such persons. These differ from the regular Form I-551 only insofar as there is an expiration date on the back. During the last 90 days of the two-year period, the couple must appear before the INS and file a petition to remove the condition, swearing under oath that the marriage was and is valid, and that it

was not entered into for the purpose of procuring an alien's entry as an immigrant.

2. In these cases, the institution should assume that the conditional basis will be removed and analyze the alien as a lawful permanent resident; however, the institution should verify at the appropriate time that the conditional basis of the alien's permanent resident status has in fact been removed. If permanent residence status is terminated by Immigration, the institution may, in accordance with the policies concerning falsification of information, reconsider the student's application for in-state status to determine whether it was fraudulent. If so, the institution may change the student's status retroactive to the term for which the fraudulent application was made.

F. G. Legalization (amnesty) program.

1. The Immigration Reform and Control Act provides for the legalization of aliens who establish that they were in the United States illegally as of January 1, 1982, and maintained continuous residence thereafter.
2. Several of the usual exclusion grounds have been waived for the purposes of the legalization program, and the United States Attorney General has discretion to waive most of the others. However, an alien who has been convicted of a felony or three misdemeanors is currently ineligible.
3. An applicant for legalization must go through several stages to receive permanent resident status.
4. Holders of Form I-688A or I-688 are eligible to receive in-state tuition rates upon the requisite showing of Virginia domicile for the one-year period.
5. The standards for adjustment to permanent resident status for a special group of agricultural workers (SAWs) who worked in seasonal agricultural services between May 1, 1985, and May 1, 1986, are even more liberal than for the main legalization program. Applications for in-state status from SAWs who have been issued Form I-688 should be analyzed in the same manner as legalized immigrants.

G. H. Political refugees/asylees. Political refugees/asylees are generally admitted into the United States for an indefinite period of time without domiciliary restriction. They usually carry Form I-94 endorsed to show either refugee or asylee status. Although some of the I-94s may have an expiration date, e.g., one year, they are usually renewed indefinitely until the person adjusts to permanent resident status. Like immigrants, such political refugees and asylees are eligible for in-state tuition rates upon clear and convincing evidence that for the period of at least one year prior to the date of alleged entitlement, they were domiciled in Virginia and abandoned any previous domicile.

H. I. Undocumented aliens. When faced with determining the eligibility for in-state tuition for undocumented aliens, the institution:

1. May contact the U.S. Immigration and Naturalization Service (INS) to seek clarification on the immigration status of the individual. There may be one or more

² 8 USC 1101 (a) 15; 8 CFR 214 et seq.; 22 CFR 40-42.

³ The front side of the card contains the photograph and fingerprints of the alien and an eight-digit number preceded by the letter "A". The reverse side of the card states that "the person identified by this card is entitled to reside permanently and work in the United States."

explanations for an alien not having current documentation. It may be that the documentation or visa has lapsed in oversight, the matter is being processed by INS, or some special treaty, policy, or INS decision applies to the student.

2. Shall presume inability of undocumented aliens to establish domicile in the United States. Lack of legal status with INS is a strong indicator of lack of intent to remain in the state indefinitely. The burden is on the student to produce clear and convincing evidence to show eligibility.

For example, a student could live in Virginia for 10 years under an eligible nonimmigrant visa category, pay taxes to Virginia, obtain a driver's license and vehicle registration in Virginia, own property in Virginia, graduate from a Virginia high school, and establish other social and economic ties to the Commonwealth. If the student allows the visa to expire without renewing it, he would then be an undocumented alien. However, the student may meet the intent requirement, rebutting the presumption that undocumented aliens cannot establish domicile in Virginia.

f. J. Nonimmigrants.

1. Unlike immigrants, nonimmigrants are authorized entry into the United States temporarily for specific purposes.

2. a. The document showing their admission status is the Arrival-Departure Record (Form I-94), which is usually stapled into the passport. This form normally contains the nonimmigrant visa category under which the alien is admitted and an expiration date.

b. The nonimmigrant visa is a stamp placed on one of the pages of the alien's passport. It is useful to distinguish between the nonimmigrant visa and Form I-94. A visa does not guarantee entry, it merely allows a person to board a plane whose destination is the United States and to apply for admission at the border. Form I-94 determines whether the alien will be admitted and how long he will be permitted to stay. When the expiration dates of the visa and the I-94 are different, the I-94 controls.

c. Institutions should also examine a Nonimmigrant's Employment Authorization Document for evidence of permission to work in the United States.

3. Eligibility to establish domicile.

a. Several of the categories listed below indicate that holders of these visas are eligible to establish domicile in Virginia. This does not mean that the individual should be conferred domiciliary status, but merely that the student be allowed to present evidence of domiciliary intent as would be presented by a U.S. citizen attempting to establish domicile. A visa holder must present clear and convincing evidence of domiciliary intent and satisfy the one-year durational requirement to receive in-state tuition.

b. Aliens who enter the United States under those categories indicated as ineligible are prohibited by

federal and state law to form domicile in the United States. As a condition of entry, such aliens have pledged, and are required, to retain their foreign residence while living temporarily in this country.

c. Minor children or dependent children of aliens who enter the United States under any of the ineligible visa categories are similarly ineligible to establish Virginia domicile. However, they may be eligible for in-state status through the natural or adoptive parent or legal guardian. As with anyone else, the person through whom eligibility is claimed must have been a Virginia domiciliary for the requisite one year.

4. The present nonimmigrant visa categories are described below. The function of the institution is not to judge the appropriateness of the alien's classification but to analyze the claim of domicile, taking into account the terms and conditions of the classification and the expiration date as it appears on the I-94.

a. (1) A-1: ~~Includes ambassadors Ambassador, public ministers minister, career diplomats diplomat, and or consular officers officer~~ accredited by a foreign government and recognized by the Secretary of State, and their immediate family.

(2) A-2: ~~Other foreign government officials and employees official or employee~~ accepted by Secretary of State, and immediate family.

(3) A-3: ~~Attendants, servants or personal employees Attendant, servant, or personal employee~~ of A-1 or A-2, and their immediate family.

(4) A-1, A-2, and A-3 visa holders are eligible to establish domicile.

b. (1) B-1: Temporary visitor for business having residence in foreign country which he has no intention of abandoning.

(2) B-2: Temporary visitor for pleasure having residence in foreign country which he has no intention of abandoning.

(3) B-1/B-2-Temporary visitor for pleasure and business having residence in foreign country which he has no intention of abandoning.

(4) B-1, B-2, and B-1/B-2 visa holders are ineligible.

c. (1) C-1: Alien in immediate and continuous transit through the United States.

(2) C-2: Alien in transit to United States ~~Nations~~ headquarters.

(3) C-3: ~~Foreign government officials, members of immediate family, attendants, and servants, Foreign government official, members of immediate family, attendant, or servant, who are in transit through the United States.~~

(4) C-1, C-2, and C-3 visa holders are ineligible.

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- d. D: Alien crewman serving on board a vessel or aircraft, who intends to land temporarily and solely in pursuit of his duties and to depart with the vessel on which he arrived or on another vessel. D visa holders are ineligible.
- e. (1) E-1: *Aliens Alien* and immediate family permitted to enter the United States under treaty to engage in substantial business. Allowed to remain in the United States as long as business requires.
- (2) E-2: *Aliens Alien* and immediate family permitted to enter United States under treaty for investment purposes. Allowed to remain in the United States as long as investment purposes require.
- (3) E-1 and E-2 visa holders are eligible to establish domicile.
- f. (1) F-1: Bona fide student permitted entry solely for purpose of pursuing a full course of study, having a residence in a foreign country which he has no intention of abandoning.
- (2) F-2: Spouse or child of F-1, having a residence in a foreign country which he has no intention of abandoning.
- (3) F-1 and F-2 visa holders are ineligible to establish domicile.
- g. (1) G-1: Principal resident representative of recognized foreign member government to international organization, staff, and members of immediate family.
- (2) G-2: Other ~~representatives~~ *representative* of recognized foreign member government to international organization and immediate family.
- (3) G-3: Representative of nonrecognized or nonmember foreign government to international organization and members of immediate family.
- (4) G-4: International organization, officer or employee thereof, and members of immediate family.
- (5) G-5: Attendant, servant, or personal employee of G-1, G-2, G-3 and G-4 classes and members of immediate family.
- (6) G-1, G-2, G-3, G-4, and G-5 visa holders are eligible to establish domicile.
- h. (1)(a) H-1A: *Alien coming to the United States to perform services other than services as a registered nurse.*
- (1) (b) H-1B: Temporary worker of distinguished merit and ability.
- (2) (a) H-2A: *Aliens Alien* temporarily in the United States to perform agricultural labor or services and who ~~have~~ *has* residence in a foreign country which ~~they have~~ *he has* no intention of abandoning.
- (2) (b) H-2B: *Aliens Alien* temporarily in United States to perform nonagricultural labor or services and who have residence in a foreign country which they have no intention of abandoning.
- (3) H-3: Trainee having a residence in a foreign country which he has no intention of abandoning.
- (4) H-4: Spouse or child of alien classified as H-1, H-2, H-3; if spouse or parent is H-2 or H-3, has a residence in a foreign country which he has no intention of abandoning.
- (5) H-1 and H-4 accompanying H-1 visa holders are eligible to establish domicile; H-2, H-3, and H-4 accompanying H-2 or H-3 visa holders are ineligible.
- i. I: Representative of foreign information media, spouse, and children. I visa holders are eligible to establish domicile.
- j. (1) J-1: Exchange visitor under educational program designated by Secretary of State and having a residence in a foreign country which he has no intention of abandoning.
- (2) J-2: Spouse or child of exchange visitor and having a residence in a foreign country which he has no intention of abandoning.
- (3) J-1 and J-2 visa holders are ineligible.
- k. (1) K-1: Fiance or fiancée of United States citizen who seeks to enter United States solely to conclude a valid marriage in 90 days.
- (2) K-2: Minor child of K-1 visa holder.
- (3) K-1 and K-2 visa holders are eligible to establish domicile.
- l. (1) L-1: Intra-company transferee (executive, managerial, specialized personnel) continuing employment with international firm or corporation.
- (2) L-2: Spouse or minor child of alien classified as L-1.
- (3) L visa holders are granted initial admission for up to three years; one two-year renewal may be obtained for a maximum stay of five years, except for registered nurses who may be granted up to six years. While their authorized stay is presently fixed in time by law, it is not clear whether Congress has thereby required such aliens to maintain their foreign domicile or prohibited domiciliary residence in the United States during their stay in the United States.
- (4) Until officially clarified, the institutions should give such applicants the benefit of the doubt and give them the opportunity to claim and show, by clear and convincing evidence, that they have abandoned their former domicile and that Virginia is their domiciliary residence and has been for the requisite one year.

- m. (1) M-1: Vocational or other recognized nonacademic student having residence in a foreign country which he has no intention of abandoning.
- (2) M-2: Spouse or minor child of M-1, having residence in a foreign country which he has no intention of abandoning.
- (3) M-1 and M-2 visa holders are ineligible.
- n. (1) N-8 The parent of an alien who has been accorded the status of special immigrant, but only if and while the alien is a child; or the child of such a parent accorded the status of special immigrant.
- (2) N-9: *Minor child of N-8.*
- (3) N-8 and N-9: Visa holders are eligible to establish domicile.
- o. (1) O-1: An alien with extraordinary ability in the sciences, arts, education, business, or athletics who is in the United States to continue work in this area, and immediate family, having a foreign residence which he does not intend to abandon.
- (2) O-2: An alien entering the United States solely to assist in the artistic or athletic performance by an alien who is admitted under an O-1 visa, and immediate family, having a foreign residence which he does not intend to abandon.
- (3) O-3: *Minor child of O-1 or O-2.*
- (4) O-1 and O-2 O-2, and O-3 visa holders are ineligible.
- p. (1) P-1: An alien who is an athlete or entertainer of international reputation and is in the United States temporarily and solely for the purpose of performing, or the spouse or child of such an alien, who has a foreign residence which he does not intend to abandon. P visa holders are ineligible.
- (2) P-2: *Artist or entertainer in reciprocal exchange program.*
- (3) P-3: *Artist or entertainer in a culturally unique program.*
- (4) P-4: *Spouse or child of P-1, P-2, or P-3.*
- (5) P visa holders are ineligible.
- q. (1) Q: An alien having a foreign residence that he has no intention of abandoning who is in the United States for a period not to exceed 15 months as a participant in an international cultural exchange program designated by the U.S. Attorney General. Q visa holders are ineligible.
- (2) Q visa holders are ineligible.
- r. (1) R-1 An alien, and the spouse and children of that alien, if accompanying or following to join the alien, who for the two years immediately preceding the time of application for admission to the country has been a member of a religious denomination having a bona fide, nonprofit religious organization in the United States.
- (2) R-2: *Spouse or child of R-1.*
- (3) Until officially clarified, the institutions should give such applicants the benefit of the doubt and give them the opportunity to claim and show, by clear and convincing evidence, that they have abandoned their former domicile and that Virginia is their domiciliary residence and has been for the requisite one year.
- s. (1) S-5: An alien who the U.S. Attorney General determines is in possession of information concerning a criminal organization or enterprise and whose presence in the U. S. is essential to the success of an authorized criminal investigation.
- (2) S-6: *An alien who the Secretary of State and U. S. Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation.*
- (3) S-7: *Spouse, children and parents following to join an S-5 or S-6 visa holder.*
- (4) S-5, S-6, and S-7 visa holders are ineligible.
- t. (1) TN: *NAFTA professional.*
- (2) TD: *Spouse or child of NAFTA professional.*
- (3) TN and TD visa holders are ineligible.
- u. (1) NATO-1: Principal permanent representative of member of state to NATO, and resident staff and immediate family.
- (2) NATO-2: Other representatives representative to NATO, including dependents of member of force entering U.S. in accordance with the NATO Status of Forces Agreement.
- (3) NATO-3: Official clerical staff and immediate family accompanying NATO-1 or NATO-2 holder.
- (4) NATO-4: Officials Official of NATO (other than NATO-1) and immediate family.
- (5) NATO-5: ~~Experts~~ *Expert*, other than NATO officials classifiable under NATO-4, employed on missions mission on behalf of NATO and their dependents.
- (6) NATO-6: ~~Members~~ *Member* of civilian component accompanying a force entering U.S. in accordance with the NATO Status of Forces Agreement; ~~members~~ *member* of civilian components employed by Allied Headquarters; and dependents.
- (7) NATO-7: ~~Attendants and servants~~ *Attendant or servant* of NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, and NATO-6.

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(8) Aliens admitted into the United States, pursuant to the NATO Status of Forces Agreement, who are members of the armed forces, are not eligible under terms of this agreement to establish domicile in the United States.⁴ Since the domicile prohibition of the NATO agreement does not apply to civilians accompanying members of the armed forces, these individuals may be able to establish domicile as any other person. The alien must demonstrate the inapplicability of the treaty agreement and provide clear and convincing evidence that he is eligible to establish domicile.

5. Pending status changes.

a. A student who has petitioned the federal government to reclassify his restricted status to immigrant status, or some other status, will continue to be ineligible despite the petition for reclassification.

b. When such petition is acted favorably upon by the federal government, the student may seek to prove Virginia domicile as anyone else and may, in the interest of fairness, claim that such domicile existed back to the date of the filing of the petition, not necessarily from the date of reclassification by the federal government. An institution may require evidence of the date that the reclassification was approved or petition filed, or both.

c. For example, an alien here under a restricted visa may be permitted by the U.S. Attorney General to remain indefinitely, and not be deported, because of racial, religious, or political persecution in the home country. The student should be prepared to submit evidence of the U.S. Attorney General's decision.

d. Merely receiving approval of a petition for an accelerated preference in a category with quotas does not constitute a reclassification for domicile purposes.

8 VAC 40-120-150. General.

A. ~~Subsection E of § 23-7.4 Section 23-7.4:2(A)~~ of the Code of Virginia deals with spouses and dependent children of military personnel who do not otherwise qualify for in-state tuition privileges, i.e., they are unable to show by clear and convincing evidence that Virginia is their domicile.

B. Institutions should apply the provisions of this section only if a military member, spouse, or dependent child is unable to present sufficient evidence of establishing domicile. Military personnel, their spouse, and dependent children are entitled to show eligibility for in-state tuition rates in the same manner as nonmilitary personnel, except that the one-year ~~durational~~ *domicile* period may *shall* be waived for active duty

military personnel (and their dependent *spouse* or children) who voluntarily elect Virginia as their permanent residence for domiciliary purposes.

8 VAC 40-120-160. Children of military members.

Students who are the children of military members are also eligible for in-state tuition rates when *all of* the following conditions are met:

1. The student is not a member of the armed forces;
2. One of the student's parents is a member of the armed forces residing in Virginia pursuant to military orders; and
3. For the year immediately prior to the date of the alleged entitlement, the student's nonmilitary parent has:
 - a. Resided in Virginia;
 - b. Been employed full-time;
 - c. Paid personal income tax to Virginia; and
 - d. Claimed the student as a dependent for Virginia and federal income tax purposes. Filing a joint federal return claiming the student as a dependent is sufficient as long as the nonmilitary parent claims the student as a dependent for Virginia tax purposes.

8 VAC 40-120-170. Spouses of military members.

Students who are spouses of military members are also eligible for in-state tuition rates when *all of* the following conditions are met:

1. The student is not a member of the armed forces;
2. The student is the spouse of a member of the armed forces residing in Virginia pursuant to military orders; and
3. For the year immediately prior to the date of alleged entitlement, the spouse of the military person has:
 - a. Resided in Virginia;
 - b. Been employed full-time; and
 - c. Paid personal income tax to Virginia.

8 VAC 40-120-190. Grace period tuition.

(Note: ~~§ 23-7.4 E (iii) § 23-7.4:2(A)(iii)~~ of the Code of Virginia which grants one year of in-state tuition to the spouse and children of military personnel has been suspended for the ~~1994-1996 biennium by § 4-2.01 (b)(4) of Chapter 966 of the 1994 Virginia Acts of Assembly 1996-1998 biennium by § 4-2.01(b)(4) of Chapter 912 of the 1996 Virginia Acts of Assembly.~~ Until funding is restored, military members are not able to receive any benefit outlined in this section.)

A. The spouse and dependent children of active duty military personnel who reside in Virginia pursuant to military orders may be eligible for in-state tuition rates for a one-year period anytime during the period that the military parent or spouse is residing in Virginia. The one-year grace period gives spouses and dependent children of military members time to take the necessary steps to establish domicile.

⁴ NATO Statute of Forces Agreement, June 19, 1951; 4 U.S.T., 1793, T.I.A.S. 2846. Article III thereof provides that the NATO force "shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State." It has also been held that a member of the Royal Air Force of the United Kingdom stationed to a U.S. Naval aircraft base in Virginia Beach, pursuant to a NATO visa, cannot be a Virginia domicile for purposes of initiating a divorce suit in Virginia's state courts. See official opinion of the Attorney General to delegate Howard E. Copeland, dated May 16, 1983.

1. The dependent child or spouse may take advantage of the entitlement at any time during the period that the military person is residing in Virginia.

2. ~~Section 23-7.4~~ Section 23-7.4:2(A)(iii) of the Code of Virginia refers to the spouse and dependent children of military personnel and not the military personnel themselves.

B. Requirements for one year of in-state tuition.

1. The military parent or spouse must reside in Virginia.

2. A student must be eligible to take advantage of this benefit on the first official day of class.

3. The burden is on the student to provide copies of military documents establishing his entitlement.

C. Institutions of higher education must identify and report to the Council of Higher Education the number of students who are eligible for in-state rates. A report form will be distributed with the annual reports calendar.

D. Military personnel should be advised not only of the temporary nature of the grace period, but also of the inherent limitations of § 23-7.4-E § 23-7.4:2(A)(iii) of the Code of Virginia: the privileges are forfeited when the military member is assigned to a new duty station away from Virginia.

8 VAC 40-120-200. Military members and domiciliary status.

A. Eligibility for in-state tuition rates can be preserved by the military member's adoption of Virginia domicile while residing in Virginia as explained in Part II of this chapter.

1. To begin to establish domicile, a military member should file a State of Legal Residence Certificate claiming Virginia domicile and changing the Leave and Earning Statement to authorize the withholding of Virginia income tax.

2. Other objective indicators of domicile include, but are not limited to, obtaining a driver's license, registering a motor vehicle, registering to vote, and showing that he has not established domicile in another state or country.

3. Once established, Virginia domicile is not lost when the military member leaves the Commonwealth pursuant to military orders, provided that the member retains Virginia as state of legal residence and does nothing inconsistent with the claim of Virginia domicile.

B. In determining the domiciliary intent of active-duty military personnel residing in Virginia who voluntarily elect to establish Virginia as their permanent residence for domiciliary purposes, the requirement of one year shall be waived if all other conditions for establishing domicile are satisfied.

C. Dependent children and dependent spouses of military members may become eligible for in-state tuition by claiming dependency on a military member who has satisfied the conditions for establishing domicile. The requirement of one-year domicile shall be waived for children and spouses claiming domicile through a Virginia domiciled military member.

8 VAC 40-120-210. Eligibility for in-state rates for nonresidents employed in Virginia.

~~A. Individuals who physically live~~ *A nondomiciliary student who physically lives outside Virginia but who work works full time in the Commonwealth may be eligible for in-state tuition provided that the student:*

1. ~~They live outside Virginia~~ *Lives outside Virginia; meaning, the student commutes from a residence outside Virginia to a work-site in Virginia;*

2. ~~They have~~ *Has been employed full time in Virginia for at least one year immediately prior to the term or semester for which reduced tuition is sought; and*

3. ~~They have~~ *Has paid Virginia income taxes on all taxable income earned in the Commonwealth of Virginia for the tax year prior to the date of alleged entitlement.*

~~B. A nondomiciliary dependent student who lives~~ *Students claimed as dependents for federal and Virginia income tax purposes who live outside of Virginia will be eligible under this exception if the nonresident parent through whom the student claims eligibility claiming him as a dependent:*

1. ~~Lives outside Virginia and claims the student as a tax dependent~~ *meaning, the parent commutes from a residence outside Virginia to a work-site in Virginia;*

2. ~~Has been employed full-time in Virginia for at least one year immediately prior to the date of alleged entitlement; and~~

3. ~~Has paid Virginia income taxes on all taxable income earned in Virginia for the tax year prior to the date of the alleged entitlement.~~

Note: Students may claim eligibility for in-state tuition under this section only through dependency on parents. A nonresident dependent spouse is not eligible for in-state tuition under this section through the individual's spouse.

C. Such students shall continue to be eligible for in-state tuition charges so long as they or their qualifying parent are employed full time in Virginia, paying Virginia income taxes on all taxable income earned in this Commonwealth, and claiming the student as a dependent for Virginia and federal income tax purposes. It is incumbent upon the student to provide to the institution current information concerning classification under this category.

8 VAC 40-120-220. Application of provision.

This part does not apply to individuals who reside in a state with which Virginia has income tax reciprocity.⁵ Students who reside in reciprocity states cannot qualify under this section for in-state tuition rates; however, keep in mind that such students have the right to claim in-state rates as Virginia domiciles or under the military spouse or dependent provisions.

⁵ As of [April 1995 May 1996], the states having income tax reciprocity with Virginia are: [Arizona, California, District of Columbia,] Kentucky, Maryland, [Oregon,] Pennsylvania, and West Virginia.

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8 VAC 40-120-230. Reduced tuition under Special Arrangement Contracts.

A. Nondomiciliaries employed by a Virginia employer, including federal agencies located in Virginia, may ~~enjoy reduced rate tuition benefits~~ *qualify for reduced tuition rates* if the employer assumes the total liability of paying the tuition of these employees to the legal limit allowable and if the employer has entered into a Special Arrangement Contract with the institution.

B. Instruction may be provided in groups or on an individual basis on or off campus. (Group instruction is a collection of individuals enrolled for a given course.)

C. This chapter applies to all instruction which is reported to the Council of Higher Education for FTE purposes.

8 VAC 40-120-250. In-state tuition eligibility.

A. The Code of Virginia provides in ~~§ 23-7.2~~ *§ 23-7.4:2(D)* that the governing boards of any state institution may charge in-state tuition to (i) persons enrolled in programs designated by the State Council of Higher Education for Virginia who are from states which are a party to the Southern Regional Education Compact and provide reciprocity to Virginians; (ii) foreign nationals in foreign exchange programs; and (iii) high school or magnet school students under a dual enrollment agreement with a community college where early credit may be earned. In such circumstances, governing board policy should be consulted and the provisions of the cited statute reviewed.

B. Pursuant to ~~§ 23-7.2:4~~ *§ 23-7.4:2(E)* of the Code of Virginia, the governing board of the Virginia Community College System may charge reduced tuition to any person enrolled in one of the system's institutions who is domiciled in, and is entitled to in-state charges in, the institutions of higher learning in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.

C. Pursuant to *§ 23-7.4:2(F)* of the Code of Virginia, the advisory board of Clinch Valley College and the Board of Visitors of the University of Virginia may charge reduced tuition to any person enrolled in Clinch Valley College who lives within a 50-mile radius of the college, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Kentucky if Kentucky has similar provisions for persons domiciled in Virginia.

8 VAC 40-120-260. Reduced tuition rates, waiver of tuition and fees, and other benefits.

The Code of Virginia authorizes institutions to provide certain benefits to several categories of students, including, but not limited to: children of persons killed or disabled due to war service or who are prisoners of war or missing in action (~~§ 23-7.4~~ *§ 23-7.4:1(A)* of the Code of Virginia); children and spouses of certain law-enforcement officers, correctional and jail personnel, sheriffs, members of the Virginia National Guard, fire fighters, and members of rescue squads (~~§ 23-7.4:04~~ *§ 23-7.4:1(B)* of the Code of Virginia); *certain foreign exchange students* (*§ 23-7.4:1(D)* of the Code of Virginia); certain National Guard members (~~§ 23-7.3~~ *§ 23-7.4:2(C)* of the Code of Virginia); ~~students participating in the Virginia~~

~~Higher Education Tuition Trust Fund (§ 23-38.75 et seq. of the Code of Virginia); cooperating teachers (§ 23-8.2:1 of the Code of Virginia); students receiving unfunded scholarships (§ 23-31 of the Code of Virginia); and senior citizens under the Senior Citizen's Higher Education Act (§ 23-38.56 of the Code of Virginia).~~

It is the student's responsibility to *timely* notify the institution of his eligibility under one of these provisions and to provide supporting evidence. Institutions should refer to the relevant provisions of the Code of Virginia.

8 VAC 40-120-270. Institutional appeals process.

A. Public institutions of higher education in Virginia are required to establish an appeals process for applicants denied in-state tuition. Each institution is required to have in place such an appeals process which includes the following:

1. An intermediate review of the initial determination; and
2. A final administrative review including a decision in writing, clearly stated with explanation, and reached in accordance with the statute and this chapter. The institution shall send a copy of the decision to the student.

B. A student seeking reclassification should begin at the intermediate level of review. The institution does not have to make another initial determination for enrolled students.

C. Either the intermediate review or the final administrative review shall be conducted by an appeals committee consisting of an odd number of members.

D. No person who ~~serves~~ *decides* at one level of the appeals process shall be eligible to ~~serve~~ *decide* at any other level of this review.

E. In order to provide for the orderly and timely resolution of all disputes, the appellate procedure of the institution must be in writing and must state time limitations in which decisions will be made.

8 VAC 40-120-280. Appeal to circuit court.

A. An applicant who is denied in-state tuition privileges by a final administrative decision may have the decision reviewed by the circuit court for the jurisdiction where the public institution is located. The student must file the petition for review of the final administrative decision within 30 days of receipt of the final decision. To the extent practicable, each institution should attempt to record the date of actual receipt as in the case of hand deliveries or by certified mailing (return receipt).

B. Upon the filing of a petition for review with the court, and being noticed thereof, the institution shall:

1. Immediately advise legal counsel for the institution that a petition for review has been filed with the circuit court; and
2. Coordinate with legal counsel to file with the court a copy of this chapter, and the written decision of the institution, including the application forms and all other documentary information considered by, or made available to, the institution.

C. As provided by law, the court's function shall be only to determine whether the decision reached by the institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious or otherwise contrary to law.

VA.R. Doc. No. R96-506; Filed July 26, 1996, 12:31 p.m.

REGISTRAR'S NOTICE: The State Council of Higher Education for Virginia is claiming an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Title of Regulation: 8 VAC 40-130-10 et seq. Virginia Student Financial Assistance Program Regulations.

Statutory Authority: § 23-38.53:4 of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

The Virginia Student Financial Assistance Program Regulations set forth the general policies and procedures that institutions of higher education should use when determining if a student is eligible for state funds awarded under this program. The key provisions of the regulations prescribe (i) the eligibility requirements for undergraduate and graduate students; (ii) the use of funds; and (iii) the responsibilities of the council and the institutions.

Agency Contact: Copies of the regulation may be obtained from Melissa Collum, State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, 10th Floor, Richmond, VA 23219, telephone (804) 371-0554.

CHAPTER 130.
VIRGINIA STUDENT FINANCIAL ASSISTANCE PROGRAM
REGULATIONS.

PART I.
DEFINITIONS.

8 VAC 40-130-10. Definitions.

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

"Academic year" means the enrollment period which normally extends from late August to May or June and which is normally comprised of two semesters 15 to 16 weeks in length. The semesters do not include intersessions or short terms that precede or follow the regular semesters.

"Applicant" means any undergraduate student who is a domiciliary resident of Virginia, who has completed an approved application for need-based aid, and who has filed the application with the participating institution at which the student will enroll.

"Awards" mean grants from state funds appropriated for the Virginia Student Financial Assistance Program; these grants are called Commonwealth and VGAP awards.

"Cost of attendance" means the sum of tuition, required fees, room, board, books and supplies, and other education related expenses, as determined by an institution for purposes of calculating a student's financial need and awarding federal student aid funds.

"Council" means the State Council of Higher Education for Virginia.

"Domiciliary resident of Virginia" means a student who is determined by the council or by a participating institution to meet the eligibility requirements specified by § 23-7.4 of the Code of Virginia.

"Eligible course of study" means a curriculum of courses in a certificate, diploma, or degree program at the undergraduate, graduate, or first professional level which requires at least one academic year to complete.

"Expected family contribution" or "EFC" means the amount a student and his family is expected to contribute toward the cost of college attendance. A student's EFC will be determined by the federal aid need analysis method used for Title IV programs. The participating institution may exercise professional judgment to adjust the student's EFC, as permitted under federal law, based on factors which affect the family's ability to pay.

"Financial need" means any positive difference between a student's cost of attendance and the student's expected family contribution (see "remaining need").

"Fiscal year" means the period extending from July 1 to June 30.

"Full-time study" means enrollment for at least 12 credit hours per semester or its equivalent at the undergraduate level and enrollment for at least nine credit hours per semester or its equivalent at the graduate or first professional level. The total hours counted will not include courses taken for audit, but may include required developmental or remedial courses and other elective courses which normally are not counted toward a degree at the participating institution.

"Fund" means a student loan fund.

"Gift assistance" means financial aid in the form of scholarships, grants, and other sources that do not require work or repayment.

"Graduate student" means a student enrolled in an approved master's, certificate of advanced graduate study, specialist, doctoral, or first professional degree program.

"Half-time study" means enrollment for at least six credit hours per semester or quarter, or its equivalent at the undergraduate level. The total hours counted will not include courses taken for audit, but may include required developmental or remedial courses and other elective courses which normally are not counted toward a certificate, diploma, or degree at the participating institution.

"Nontraditional or nonstandard program" means a degree program where the terms of the program do not conform to the standard terms of the institution's academic year.

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"Participating institution" means any public institution of higher education in Virginia participating in the Virginia Student Financial Assistance Program.

"Program" means the Virginia Student Financial Assistance Program.

"Proportionate award schedule" means the table or formula used by institutions to award program funds such that needier students receive larger awards than do less needy students.

"Remaining need" means any positive difference between a student's financial need and the sum of all gift assistance (see "financial need").

"Satisfactory academic progress" means:

1. Acceptable progress towards completion of an approved program, as defined by the institution for the purposes of eligibility under Title IV of the federal Higher Education Act, as amended (hereafter, Title IV programs); and
2. For a student receiving a Virginia Guaranteed Assistance Program award, acceptable progress towards completion of an approved program in which a student earns not less than the minimum number of credit hours required for full-time standing during an academic year.

"Undergraduate" means a program-placed student in an approved program leading to a certificate, diploma, associate's degree, or bachelor's degree.

"VGAP" means the Virginia Guaranteed Assistance Program, as authorized by the laws of the Commonwealth including §§ 23-38.53:4, 23-38.53:5 and 23-38.53:6 of the Code of Virginia.

PART II. USE OF FUNDS.

8 VAC 40-130-20. Use of funds.

An institution shall establish and maintain financial records that accurately reflect all program transactions as they occur. The institution shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

PART III. GENERAL INFORMATION.

8 VAC 40-130-30. Priority for awards.

Priority for awards will be given to those students who file an application for financial aid by the institutional deadline. Those students who file an application after the institution has completed its financial aid packaging may receive an award; however, the award will be based on the funds available at the time the award is made and may be based on a new award schedule.

8 VAC 40-130-40. Award schedule.

Institutions shall develop and use proportionate award schedules or formulas based on remaining need. Institutions may set a minimum award amount. The schedules shall be

used to determine priority for and amount of awards. Schedules may vary due to the time of packaging. For students whose awards are packaged at the same time, the same schedule shall be used. The Virginia Community College System may, with council approval, use an alternative award schedule.

8 VAC 40-130-50. Financial need and individual awards.

An institution shall determine a student's financial need by using the federal aid need analysis method used for Title IV programs to determine expected family contribution. An award under the program will be set by the institution so that the program award will not exceed the student's need.

8 VAC 40-130-60. Refund of awards.

A student who receives an award and who, during a semester, withdraws from the institution which made the award must surrender the balance of the award. The tuition refund policy in effect at the institution will determine the amount that must be reclaimed by the institution.

8 VAC 40-130-70. Summer session awards.

An award made to assist a student in attending an institution's summer session shall be prorated according to the size of comparable awards for students with similar financial needs made in that institution's regular session. Institutions may elect to limit awards to the regular academic year.

8 VAC 40-130-80. Exceptions.

The provisions of this chapter shall not apply to medical and dental scholarships authorized by § 23-35.1 of the Code of Virginia, or to the soil scientist scholarships authorized by § 23-38.3 of the Code of Virginia.

PART IV. UNDERGRADUATE FINANCIAL ASSISTANCE.

Article 1. Commonwealth Awards.

8 VAC 40-130-90. Undergraduate eligibility criteria for an initial award.

In order to participate, an undergraduate student shall:

1. Be admitted and enrolled for at least half-time study in an approved degree, certificate, or diploma program at the institution making the award;
2. Be a domiciliary resident of Virginia; and
3. Demonstrate financial need.

8 VAC 40-130-100. Type of awards.

Any institution may, with the approval of the council, use funds from its appropriation to provide the institutional contribution to any undergraduate student financial aid grant program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

Awards may include one or both of the following:

1. Grants to undergraduate students enrolled at least half time in an approved degree, certificate, or diploma program; and

2. Institutional contributions to federal or private undergraduate student aid grant programs requiring matching funds by the institution, except for programs requiring work.

8 VAC 40-130-110. Amount of awards.

No academic year award may exceed the cost of tuition and required fees at the institution making the award.

8 VAC 40-130-120. Renewability of awards.

Awards may be renewed provided that the student:

1. Maintains satisfactory academic progress; and
2. Continues to meet all of the requirements of 8 VAC 40-130-90 of these regulations.

Students who transfer to a participating institution shall be considered renewal students if they received an award during the prior year providing they meet renewal criteria.

Article 2.

Virginia Guaranteed Assistance Awards.

8 VAC 40-130-130. VGAP eligibility criteria for an initial award.

In order to participate, a VGAP-eligible student shall:

1. Be admitted and enrolled for full-time study in an approved degree, certificate, or diploma program;
2. Be a domiciliary resident of Virginia;
3. Demonstrate financial need;
4. Be a graduate from a Virginia high school (students who obtain a GED or complete home schooling are not eligible);
5. Have at least a cumulative 2.5 grade point average on a 4.0 scale (or its equivalent) at the time of admission to the institution or according to the latest available high school transcript; and
6. Be classified as a dependent student for federal financial aid purposes.

8 VAC 40-130-140. Type of awards.

Any institution may, with the approval of the council, use funds from its appropriation to provide the institutional contribution to any undergraduate student financial aid grant program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

Awards may include one or both of the following:

1. Grants to undergraduate students enrolled full-time in an approved degree, certificate, or diploma program; and
2. Institutional contributions to federal or private undergraduate student aid grant programs requiring

matching funds by the institution, except for programs requiring work.

8 VAC 40-130-150. Amount of awards.

No academic year award may exceed the cost of tuition, required fees, and a book allowance of \$500. Those VGAP students who fall into the neediest category (as defined by the institution and reflected in its award schedule) and who apply by the institution's deadline (as discussed in 8 VAC 40-130-30) must receive awards of at least tuition.

8 VAC 40-130-160. Renewability of awards.

Awards may be renewed for up to three additional years provided that the student:

1. Continues to be enrolled in an approved degree, certificate, or diploma program;
2. Maintains domiciliary residency in Virginia;
3. Demonstrates continued financial need;
4. Maintains at least a 2.0 GPA on a 4.0 scale, or its equivalent;
5. Maintains satisfactory academic progress;
6. Maintains full-time standing during the academic year unless granted an exception due to mitigating circumstances and approved by the institution in consultation with the council;
7. Maintains continuous enrollment from the time of receipt of the initial award (excluding the summer term) unless granted an exception for cause by the council; and
8. Continues to be classified as a dependent student for federal financial aid purposes.

Students who transfer to a participating institution shall be considered renewal students if they received an award during the prior year provided they meet renewal criteria. Once a student loses his classification as VGAP-eligible, the student cannot reestablish such eligibility. However, the student may qualify for a Commonwealth Award.

PART V.

GRADUATE FINANCIAL ASSISTANCE.

8 VAC 40-130-170. Graduate eligibility criteria for an initial award.

In order to participate, a graduate student will be admitted to and enrolled full-time in an approved degree, certificate, or diploma program.

8 VAC 40-130-180. Type of awards.

Any institution may, with the approval of the council, use funds from its appropriation to provide the institutional contribution to any graduate student financial aid grant program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

Funds may be used for one, all, or any combination of the following:

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1. Grants to full-time graduate students;
2. Institutional contributions to federal or private graduate student aid grant programs requiring matching funds by the institution except for programs requiring work; and
3. Awards made from the transfer of funds to the education and general account to establish an employment program requiring specific service to the institution for graduate students. No more than 50% of an institution's graduate funds may be transferred to the education and general account for this purpose. These awards must be made in accordance with the Chart of Accounts for institutions of higher education dated July 1, 1990, as promulgated by the council.

8 VAC 40-130-190. Amount of awards.

An individual award may be based on financial need but may, in addition to or instead of, be based on other criteria determined by the institution making the award. The amount of an award shall be determined by the institution making the award; however, the institution shall annually notify the council of the maximum size of a graduate award that is paid from funds in the appropriation.

8 VAC 40-130-200. Renewability of awards.

Awards may be renewed provided that the student:

1. Maintains satisfactory academic progress; and
2. Continues to be enrolled full-time in an approved degree, certificate, or diploma program.

Students who transfer to a participating institution shall be considered renewal students if they received an award during the prior year providing they meet renewal criteria.

PART VI. ADMINISTRATION.

8 VAC 40-130-210. Responsibility of the council.

The council shall collect such student specific information for both graduate and undergraduate students as is necessary for the operation of this program and other information deemed necessary by the council.

8 VAC 40-130-220. Responsibility of participating institutions.

Participating institutions shall:

1. Provide reports to the council which will include, but not be limited to, information describing the students served, the awards received, and the number and value of awards. Each institution shall annually report to the council its definition of "neediest" students;
2. Maintain documentation necessary to demonstrate that students' awards calculated during the same packaging cycle used the same proportionate award schedule;
3. Provide the council with the initial award schedule or formula that will be used to package on-time applications when submitting an annual report;

4. In the absence of a high school transcript, have on file a letter from the student's high school certifying a VGAP student's high school GPA; and

5. Upon request by a student transferring to another institution, send to the other institution information about the student's VGAP eligibility.

8 VAC 40-130-230. Program reviews.

The council periodically will review institutional administrative practices to determine institutional compliance with prescribed guidelines and this chapter. If a review determines that an institution has failed to comply with guidelines and this chapter, the council may withhold approval of expenditure plans for the program until the end of the next General Assembly session. No attempt to determine compliance with the guidelines and this chapter should be solely based on information from either the student financial aid data file or the graduate financial assistance data file.

PART VII. DISCONTINUED STUDENT LOAN PROGRAM.

8 VAC 40-130-240. Terms and conditions of the loans.

An institution with a loan program established from previous general fund appropriations may continue the loan program, under such terms and rules as the governing board of the institution may prescribe, but shall not expand the loan program with currently appropriated funds. The loan program shall meet the following requirements:

1. In any one academic year no student shall receive a loan or loans from the fund of an institution which would result in that student owing a net outstanding amount at the end of that year in excess of the tuition and required fees charged by the institution;
2. The annual interest rate charged on loans to students from a fund shall be 3.0%;
3. An institution shall make every effort to collect each loan made from its student loan fund using the provisions of the Virginia Debt Collection Act (§ 2.1-726 et seq. of the Code of Virginia); and
4. The Auditor of Public Accounts shall at least biennially audit and exhibit the account of student loan funds at each institution.

8 VAC 40-130-250. Eligibility criteria.

In order to be eligible for the student loan program, a student shall meet the criteria of 8 VAC 40-130-90, 8 VAC 40-130-130, and 8 VAC 40-130-170.

8 VAC 40-130-260. Discontinuing student loan programs.

If any federal student loan program for which the institutional contribution was appropriated by the General Assembly is discontinued, the institutional share of the discontinued loan program shall be repaid to the fund from which the institutional share was derived unless other arrangements are recommended by the council and approved by the Department of Planning and Budget. Should the institution be permitted to retain the federal contributions to the program, the funds shall be used according to

arrangements authorized by the council and approved by the Department of Planning and Budget.

An institution may discontinue its student loan program. The full amount of cash in the discontinued loan fund shall be paid into the state treasury into a nonrevertible nongeneral fund account. Prior to such payment, the State Comptroller shall verify its accuracy, including the fact that the cash held by the institution in the loan fund will be fully depleted by such payment. The loan fund shall not be reestablished for that institution.

The cash paid into the state treasury shall be used only for awards to undergraduate students in the Virginia Student Financial Assistance Program according to arrangements authorized by the council and approved by the Department of Planning and Budget. Payments of any promissory notes held by the discontinued loan fund shall continue to be received by the institution and deposited to the nonrevertible nongeneral fund account and to be used for the awards noted above.

Document Incorporated by Reference

Chart of Accounts, July 1, 1990, State Council of Higher Education for Virginia.

VA.R. Doc. No. R96-516; Filed August 1, 1996, 10:30 a.m.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: 13 VAC 5-110-10 et seq. Virginia Enterprise Zone Program Regulations (REPEALED).

Title of Regulation: 13 VAC 5-111-10 et seq. Virginia Enterprise Zone Program Regulations.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Effective Date: September 19, 1996.

Summary:

The regulations address changes made during the 1995 General Assembly session to the Virginia Enterprise Zone Program. As a result of 1995 legislative action, four new incentives were created to replace state incentives effective under the former Virginia Enterprise Zone Program. These incentives, which include general income tax credit, real property improvement tax credit, zone investment tax credit, and job grants will stimulate new job creation and private investment in areas designated as state enterprise zones. In addition, these regulations also provide greater flexibility for enterprise zone businesses qualifying for state incentives. There are no substantive changes between the proposed regulations and the final regulations. The changes reflected in the final regulation package are clarification changes and additions only.

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 M. Shea Hollifield, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7030.

CHAPTER 111.

ENTERPRISE ZONE PROGRAM REGULATION.

PART I.

DEFINITIONS AND PURPOSE.

13 VAC 5-111-10. Definitions.

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

"Average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. In calculating the average number of permanent full-time employees, a business firm may count only those permanent full-time employees who worked at least half of their normal work days during the payroll period. Paid leave time may be counted as work time.

2. For a business firm which uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm shall be defined as the sum of the average number of permanent full-time employees for each class of employee.

"Base taxable year" (for purposes of qualifying for the general tax credit) means the taxable year preceding the first taxable year for which a firm qualifies for state tax incentives under this program. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. The following definition applies to businesses applying for enterprise zone incentives on or after July 1, 1995: "Base taxable year" (for purposes of qualifying for the general tax credit) means the lower of two taxable years immediately preceding the first year of qualification, at the choice of the business firm.

"Base year" (for purposes of qualifying for enterprise zone incentive grants) as provided in Part VI (13 VAC 5-111-210 et seq.) means either of the two calendar years immediately preceding a business firm's first year of grant eligibility, at the choice of the business firm.

"Business firm" means any business entity, incorporated or unincorporated, which is authorized to do business in the Commonwealth of Virginia and which is subject to state individual income tax, state corporate income tax, state franchise or license tax on gross receipts, or state bank franchise tax on net taxable capital.

1. The term "business firm" includes partnerships and small business corporations electing to be taxed under Subchapter S of the federal Internal Revenue Code, and which are not subject to state income tax as partnerships or corporations, but the taxable income of which is

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passed through to and taxed as income of individual partners and shareholders.

2. The term "business firm" does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the federal Internal Revenue Code, § 512, nor does it include homeowners associations as defined in the federal Internal Revenue Code, § 528.

"Common control" means those firms as defined by Internal Revenue Code § 52(b).

"Department" means the Department of Housing and Community Development.

"Develop" means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure or structures to accommodate the principal use to which the land is or will be put. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995, shall use the term qualified zone improvements for purposes of qualification for credits under § 59.1-280 of the Code of Virginia.

"Employee of a zone establishment" means a person employed by a business firm who is on the payroll of the firm's establishment or establishments within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment or establishments for at least one-half of his normally scheduled work days.

["Enterprise zone incentive grant" or "grant" means a grant provided for creating permanent full-time positions pursuant to § 59.1-282.1 of the Code of Virginia.]

"Establishment" means a single physical location where business is conducted [or] where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

["Enterprise zone incentive grant" or "grant" means a grant provided for creating permanent full-time positions pursuant to § 59.1-282.1 of the Code of Virginia.]

"Existing business firm" means one that was actively engaged in the conduct of trade or business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone. [An existing business firm is also one that was not previously conducted in the

Commonwealth by such taxpayer who acquires or assumes a trade or business and continues its operations.]

"Family" means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's federal income tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family; or (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

"Family income" means all income actually received by all family members over 16 from the following sources:

1. Gross wages and salary (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing family income, income of a spouse or other family members or both shall be counted for the portion of the income determination period that the person was actually a part of the family.

"Family size" means the largest number of family members during the income determination period.

"First year of grant eligibility" means the first calendar year for which a business firm was both eligible and applied for an enterprise zone incentive grant.

"Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period or two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. The term "full-time employee" does not include unpaid volunteer workers, leased employees or contract labor. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone

incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995, shall use the term permanent full-time position for purposes of qualification pursuant to 13 VAC 5-111-90.

"Grant year" means the calendar year for which a business firm applies for an enterprise zone incentive grant pursuant to § 59.1-282.1 of the Code of Virginia.

"Gross receipts attributable to the active conduct of trade or business within an Enterprise Zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment or establishments within the zone. The proportion of gross receipts arising from the firm's activities or from its investment and use of capital within the zone shall be calculated by dividing the total expenses of the firm's establishment or establishments within the zone by the firm's total expenses both inside and outside the zone.

1. This calculation must be used to allocate and apportion taxable gross receipts against which state franchise or license tax credits may be claimed (see 13 VAC 5-111-50 C).

2. This calculation may not be used to allocate and apportion Virginia Taxable Income against which state corporate and individual income tax credits may be claimed or taxable net capital against which state franchise tax credits may be claimed.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives [and grants] under this program.

"Jurisdiction" means the county, city or town which made the application to have an enterprise zone. In the case of a joint application, it means all parties making the application.

"Local zone administrator" means the chief executive of the county, city, or town in which an enterprise zone is located, or [their his] designee.

"Low-income person" means a person who is [a full-time employee of a business firm seeking qualification and whose family had an income which was less than 80% of median family income during the income determination period. This definition only applies to business firms qualified prior to July 1, 1995, and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. The following definition applies to businesses applying for enterprise zone incentives on or after July 1, 1995: "Low-income person"] employed in a permanent full-time position with a business firm in an enterprise zone that is seeking qualification for enterprise zone incentives and whose family income was less than or equal to 80% of area median family income during the income determination period. [Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying

business firms must claim these persons as either low-income or zone resident.]

"Median family income" means the dollar amount, adjusted for family size, as determined annually by the department for the city or county in which the zone is located.

"Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

"Net loss" means (i) that the gross permanent full-time employment of a business firm located in the Commonwealth was greater than the gross permanent full-time employment of the business firm after relocating within an enterprise zone or zones; or (ii) after the business firm expands a trade or business into an enterprise zone the gross permanent full-time employment of a business firm's locations outside of an enterprise zone or zones in the Commonwealth has been reduced.

"New business" means a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

"Number of eligible permanent full-time positions" means the amount by which the number of permanent full-time positions at a business firm in a grant year exceeds the threshold number.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Permanent full-time position" means a job of indefinite duration at a business firm located in an enterprise zone, and requiring either (i) a minimum of 35 hours of an employee's time a week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, or (ii) a minimum of 35 hours of an employee's time a week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm. Seasonal, temporary, leased or contract labor positions, or a position created when a job function is shifted from an existing location in this Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions.

"Placed in service" means: (i) the final certificate of occupancy has been issued by the local jurisdiction for real property improvements; or (ii) the first moment that machinery becomes operational and is used in the manufacturing of a product for consumption; or (iii) in the case of tools and equipment it means the first moment they are used in the performance of duty or service.

"Qualified business firm" means a business firm meeting the business firm requirements in 13 VAC 5-111-50 or 13 VAC 5-111-90 and designated a qualified business firm by the department.

"Qualified zone improvements" means the amount of property chargeable to a capital account for improvements to

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rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use.

1. Qualified zone improvements include, but are not limited to, the costs associated with excavation, grading, paving, driveways, roads, sidewalks, landscaping or other land improvements, demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning and clean-up.

2. Qualified zone improvements do not include (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees, (iii) loan fees; points or capitalized interest; (iv) legal, accounting, realtor, sales and marketing or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, inspection fees; (vi) bids insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; utility hook-up or access fees; outbuildings or the cost of any well, septic, or sewer system; or [(vii)] cost of acquiring land or an existing building.

[3. In the case of new construction, qualified zone improvements also do not include land, land improvements, paving, grading, driveway, and interest.]

"Qualified zone investment" means the sum of qualified zone improvements and the cost of machinery, tools [,] and equipment used in manufacturing tangible personal property and placed in service on or after July 1, 1995. Machinery, equipment, [tools,] and real property [that are] leased through a capital lease and that [is are] being depreciated by the [leasee lessee or that are transferred from out-of-state to a zone location by a business firm] may be included as qualified zone investment. Such leased [or transferred] machinery, equipment, [tools,] and real property shall be valued using the depreciable basis for federal income tax purposes. Machinery, tools and equipment shall not include the basis of any property: (i) for which a credit was previously granted under § 59.1-280.1 of the Code of Virginia; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, or a trade or business under common control; or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person whom acquired, or Internal Revenue Code § 1014 (a).

"Qualified zone resident" means an owner or tenant of real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business by such owner or tenant within the enterprise zone. In the case of a partnership, limited liability company or S corporation, the term "qualified zone resident"

means the partnership, limited liability company or S corporation.

"Redetermined base year" means the base year for calculation of the number of eligible permanent full-time positions in a second or subsequent three-year grant period. If a second or subsequent three-year grant period is requested within two years after the previous three-year period, the redetermined base year will be the last grant year. [The calculation of this redetermined base year will be determined by the number of positions in the preceding base year, plus the number of threshold positions, plus the number of permanent full-time positions receiving grants in the final year of the previous grant period.] If a business firm applies for subsequent three-year periods beyond the two years immediately following the completion of a three-year grant period, the firm shall use one of the two preceding calendar years as the base year, at the choice of the business firm.

"Real property improvements tax credit" means a credit provided to a qualified zone resident pursuant to § 59.1-280.1 B of the Code of Virginia.

"Related party" means those as defined by Internal Revenue Code § 267(b).

"Seasonal employment" means any employee who normally works on a full-time basis and whose customary annual employment is less than nine months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three-month period are seasonal employees.

"Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards.

1. In the case of land owned by a unit of local government (i) the land is not being used for a public purpose nor designated [or] targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.

2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

3. In the case of land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the needs of the State Highway Commission and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154 of the Code of Virginia. The Commonwealth Transportation Commissioner, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to

other state agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

"Tax year" means the year in which the assessment is made.

"Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts or state taxable net capital is accrued.

"Threshold number" means 110% of the number of permanent full-time positions in the base year for the first three-year period in which a business firm is eligible for an enterprise zone incentive grant. For a second and any subsequent three-year period of eligibility, the threshold means 120% of the number of permanent full-time positions in the applicable base year as redetermined for the subsequent three-year period. If such number would include a fraction, the threshold number shall be the next highest integer. Where there are no permanent full-time positions in the base year, the threshold will be zero.

"Transferred employee" means an employee of a firm in the Commonwealth that is relocated to an enterprise zone facility owned or operated by that firm.

"Unit of local government" means any county, city or town. Special purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

"Zone" means an enterprise zone declared by the Governor to be eligible for the benefits of this program.

"Zone investment tax credit" means a credit provided to a qualified zone resident pursuant to § 59.1-280.1 J of the Code of Virginia.

"Zone resident" means a person whose principal place of residency is within the boundaries of a given locality's enterprise zone or zones. [Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident.] Zone residency must be verified annually.

13 VAC 5-111-20. Purpose of program.

The purpose of the Virginia Enterprise Zone Program is to stimulate business and industrial growth which would result in neighborhood, commercial and economic revitalization by means of regulatory flexibility and tax incentives. This program is to be directed to areas of the Commonwealth that need special governmental attention to attract private sector investment.

PART II.

BUSINESS FIRM REQUIREMENTS FOR BUSINESSES QUALIFYING PRIOR TO JULY 1, 1995.

13 VAC 5-111-30. Requirements for becoming a qualified business firm.

A. In order to become qualified for the purpose of receiving state tax incentives, a business firm must meet the requirements of subsections B and C of this section.

B. Requirements for new firms. A business firm which begins the operation of a trade or business within a zone after the date of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; and (ii) at least 40% of the average number of full-time employees of its zone establishment or establishments must be low-income persons.

C. Requirements for existing firms. A business firm which is engaged in the conduct of a trade or business in a zone at the time of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; (ii) the average number of full-time employees of its zone establishment or establishments must be at least 10% greater than the average for the base taxable year; and (iii) at least 40% of such increase must be low-income persons.

PART III.

BUSINESS FIRM PROCEDURES FOR BUSINESSES QUALIFYING PRIOR TO JULY 1, 1995.

13 VAC 5-111-40. Procedures for becoming a qualified business firm.

A. In order to become qualified for the purpose of receiving state tax incentives under this program, a new business firm must submit to the department Form EZ-4N stating that it meets the requirements of 13 VAC 5-111-30 B. An existing business firm must submit Form EZ-4E stating that it meets the requirements of 13 VAC 5-111-30 C. These forms must be prepared by an independent certified public accountant (CPA) licensed by the Commonwealth.

B. Proof of qualification. Form EZ-4N or Form EZ-4E, when completed and signed by an independent CPA, shall be prima facie evidence that a business firm is qualified to receive state tax incentives.

C. Determination of employee low-income status. In determining whether a business firm meets the requirements of 13 VAC 5-111-30 B or C, an independent CPA may accept a signed statement from an employee affirming that he meets the definition of a low-income person.

D. Annual submission of form. A business firm must submit either Form EZ-4N or Form EZ-4E for each year in which state tax incentives are requested. Form EZ-4N or Form EZ-4E must be submitted to the department no later than 30 calendar days prior to the firm's normal or extended

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deadline for filing a return for state corporate income tax, state individual income tax, state franchise or license tax on gross receipts, or state franchise tax on net capital.

E. Certification by the department. Within 14 calendar days of receipt of Form EZ-4N or Form EZ-4E, the department will:

1. Review the form;
2. Certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and
3. Forward three copies of the certification to the firm (one copy for the firm's records and two copies to be filed with the applicable state tax returns) or notify the firm that it fails to qualify for state tax incentives under 13 VAC 5-111-30.

F. Submission of state tax returns. A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive or incentives requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit or credits against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

G. Time limits for receiving Virginia state tax incentives. Businesses that began operations before July 1, 1992, are eligible to receive five years of tax incentives beginning with the first taxable year in which the firm qualifies. Businesses that began operations after July 1, 1992, are eligible to receive tax incentives for 10 years beginning with the first taxable year in which they qualify. If a firm fails to become qualified for any taxable year during its qualification period, it forfeits the right to request state tax incentives for that year. However, the firm is eligible to become qualified for any remaining years of its five- or 10-year cycle.

H. Prohibition on requalification due to reorganization of a firm. A business firm may not qualify for state tax incentives for more than its qualification period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

13 VAC 5-111-50. Procedures for requesting state tax incentives.

A. A business firm shall submit annually to the department, along with Form EZ-4N or Form EZ-4E, a statement requesting one or more of the state tax incentives provided for in this section. In the case of a partnership or a small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code, the

statement requesting state tax incentives shall include the name, address and social security number of each partner or shareholder requesting a credit or credits against state individual income tax as provided for in subsection C of this section.

B. State corporate income tax credits. A qualified business firm subject to the corporate income tax under Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia may request credits against any such tax due. Corporate income tax credits shall not extend for more than five consecutive tax years for firms that began operations before July 1, 1992, or 10 consecutive tax years for firms that began operations after July 1, 1992.

The sum of the corporate income tax credits claimed under this section shall not exceed the business firm's state corporate income tax liability. Corporate income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside a zone shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit. A credit may be claimed against corporate income tax liability for each of five or 10 consecutive years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future years.

2. Unemployment tax credit. A credit may be claimed against corporate income tax liability for each of five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the state unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable corporate income remaining after the subtraction of any general credit claimed under subdivision 1 of this subsection. An unused unemployment tax credit may be applied to future tax years within the five- to 10-year period established by subdivision C 2 of this section.

C. State individual income tax credits. A qualified business firm which is subject to state individual income tax under Article 2 (§ 58.1-320 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia may request credits against any such tax due. Individual income tax credits shall not extend more than five consecutive tax years for firms beginning operations

before July 1, 1992, or 10 consecutive tax years for firms beginning operations after July 1, 1992. The sum of the individual income tax credits claimed under § 59.1-280 of the Code of Virginia shall not exceed the business firm's state individual income tax liability. When a partnership or a small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code is eligible for this tax credit, each partner or shareholder may request the credit on his individual income tax in proportion to the amount of income received by that partner from the partnership, or shareholder from his corporation, respectively.

Individual income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside the zone shall allocate and apportion its taxable income attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420 of Title 58.1 of the Code of Virginia.

1. **General credit.** A credit may be claimed against individual income tax liability for each of the five or 10 consecutive tax years in an amount equaling: Firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. **Unemployment tax credit.** A credit may be claimed against individual income tax liability for each of the five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the state unemployment tax due on employees of zone establishments for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under subdivision 1 of this subsection. An unused employment tax credit may be applied to future tax years within the five- or 10-year period established by subdivision 2 of this subsection.

D. **Credits against state franchise or license tax on gross receipts.** A qualified business firm which is subject to state franchise tax on gross receipts or state license tax on gross premium receipts may request a credit against any such tax due. Credits against state franchise or license tax on gross receipts shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992, or 10 consecutive tax years for firms beginning operations after July 1, 1992. The sum of the credits against state franchise or license tax on gross receipts claimed under this section

shall not exceed the business firm's state franchise or license tax liability. Credits against state franchise or license tax on gross receipts shall apply only to taxable gross receipts attributable to the active conduct of trade or business within a zone. A business firm having taxable gross receipts from business activity both inside and outside the zone shall allocate and apportion its taxable gross receipts attributable to conduct of business in accordance with the procedures outlined in the definition for "gross receipts attributable to the active conduct of a trade or business within an "enterprise zone."

1. **General credit.** A credit may be claimed against tax liability on gross receipts for each of the five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. **Unemployment tax credit.** A credit may be claimed against tax liability on gross receipts for each of the five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the state unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under subdivision E 1 of this section. An unused unemployment tax credit may be applied to future tax years within the five- or 10-year period established by this part.

E. **Credits against state franchise tax on net capital.** A qualified business which is subject to state franchise tax on net capital may request credits against any such tax due. Credits against state franchise tax on net capital shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992, or 10 consecutive tax years for firms beginning operations after July 1, 1992.

1. **General credit.** A credit may be claimed against tax liability on net capital for each of the five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

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2. **Unemployment tax credit.** A credit may be claimed against tax liability on net capital for each of the five or 10 consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the state unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years.

Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unemployment tax credit may only be claimed against the amount of taxable net capital remaining after the subtraction of any general credit claimed under subdivision 1 of this subsection. Any unused unemployment tax credit may be applied to future tax years within the qualification period established by subdivision 2 of this subsection.

3. **State sales and use tax exemption.** A qualified business firm may request an exemption from state taxes on all items purchased or leased for the conduct of trade or business within a zone as required under § 58.1-600 et seq. of the Code of Virginia. This exemption applies only to the state portion of the sales and use tax and not to any portion of the tax levied under local option. A business firm in its statement to the department requesting an exemption shall specify the amount of state sales and use tax actually paid during the year for which the exemption is claimed. The Virginia Department of Taxation shall review the amount requested and make an appropriate refund to the firm. State sales and use tax exemptions shall not extend for more than five consecutive tax years.

G. **Notification to localities of requests for state tax incentives.** The department shall forward to the local governing body of the jurisdiction in which the zone is located: (i) a copy of the business firm's statement requesting state tax incentives; and (ii) the department's determination that the firm is qualified or not qualified to receive such incentives in accordance with the requirements of 13 VAC 5-111-30.

13 VAC 5-111-60. Allowance for business firms qualified prior to July 1, 1995, to use other enterprise zone incentives.

Business firms already qualified prior to July 1, 1995, may apply for both the real property tax credits provided by Part V (13 VAC 5-111-140 et seq.) and enterprise zone incentive grants provided in Part VI (13 VAC 5-111-210 et seq.), provided the appropriate provisions are met. However, businesses qualified prior to July 1, 1995, are not eligible for additional general tax credit periods other than those previously qualified for.

PART IV.

BUSINESS FIRM PROCEDURES FOR BUSINESSES QUALIFYING FOR GENERAL TAX CREDIT ON OR AFTER JULY 1, 1995.

13 VAC 5-111-70. Effective dates.

Beginning on and after July 1, 1995, but before January 1, 2005, a qualified business firm shall be allowed a credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.) Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia as provided in this regulation for 10 consecutive years in an amount equaling up to 80% of the tax due the first tax year, and up to 60% of the tax due for the second through tenth tax years.

13 VAC 5-111-80. Calculation of credit.

A. The amount of credit allowed shall not exceed the tax imposed for such taxable year. An unused tax credit may not be applied to future years. Any credit not useable for the taxable year the credit was allowed shall not be carried back to a preceding taxable year. The credit is not refundable.

[B. If, due to adjustments, the amount of actual tax liability as reported on the application changes, the amount of credit that the qualified business firm will be eligible to receive will not exceed the amount of credit authorized by the department. However, if, as a result of adjustments, the tax liability decreases from the amount stated on the application, the qualified business firm will receive a lower credit amount based on the new tax liability.]

[~~B. C.~~] If a qualified business firm makes qualified zone investments in excess of \$25 million dollars, and such qualified zone investments result in the creation of at least 100 full-time positions, the percentage amounts of the income tax credits available to such qualified business firms under 13 VAC 5-111-70 shall be determined by agreement between the department and the qualified business firm. The negotiated percentage amount shall not exceed the percentages specified in 13 VAC 5-111-70 [A].

[~~C. D.~~] Any business firm having taxable income from business activity both within and without the enterprise zone, shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

[~~D. E.~~] The credit provided for in [this] 13 VAC 5-111-70 and 13 VAC 5-111-150 are subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in § 59.1-280 A of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation each taxpayer shall be granted a pro rata amount as determined by the department. The amount of such prorated [grant credit] shall be determined by applying a fraction, the numerator of which shall be the gross credits requested by the taxpayer for such year, and the denominator of which shall be the total gross credits

requested by all taxpayers for such year, to the Commonwealth's annual financial limitation. The credit which may be requested each year shall be subject to the limitations provided by 13 VAC 5-111-70 [A] and 13 VAC 5-111-170 A.

[E. F.] In the event that a taxpayer who is subject to the annual fiscal limitation imposed pursuant to subsection [D E] of this section and is also allowed another credit pursuant to another section of the Code of Virginia, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carry forward provision, and then any credit which is carried forward from a preceding taxable year, prior to utilization of any credit granted pursuant to this section.

13 VAC 5-111-90. Qualified business.

Qualification for the credit can occur by satisfying the criteria in subdivisions 1 through 3 of this section. Any business firm may be designated a qualified business for the purpose of this credit if it meets the following criteria:

1. A business firm establishes within an enterprise zone a trade or business not previously conducted in the Commonwealth of Virginia by such taxpayer, and at least 40% or more of the permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone must either have incomes below 80% of the median income for the jurisdiction prior to employment or are zone residents. Zone residency will be subject to annual verification, while low-income status verification is only required upon initial employment. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

2. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth of Virginia, and increases the average number of permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone by at least 10% over the lower of the two preceding taxable years' employment with no less than 40% of such increase being employees who have incomes below 80% of the median income for the jurisdiction prior to employment or are zone residents. In the event that a company has activities both inside and outside the enterprise zone, the business firm may not aggregate activity from outside the zone for calculation of employment increase. Other employment positions that shall not be used in the calculation of the 10% employment increase are referred to in subdivision 3 of this section and 13 VAC 5-111-120.

3. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone and increases the average number of permanent full-time employees by at least 10% over the lower of two preceding taxable years' employment with no less than 40% of such increase being employees who

have incomes below 80% of the median income for the jurisdiction prior to employment or are zone residents. Current employees of the business firm that are transferred directly to the enterprise zone facility from another site within the state resulting in a net loss of employment at that site shall not be included in calculating the increase in the average number of permanent full-time employees by the business firm within the enterprise zone.

[4. A business firm that was not previously conducted in the Commonwealth by such taxpayer who acquires or assumes a trade or business and continues its operations must meet the requirements for qualification described in subdivision 3 of this section and 13 VAC 5-111-120.]

[4. 5.] A business firm located within a locality's enterprise zone or zones that moves to another location within that locality's enterprise zone or zones must meet the requirements for qualification described in subdivisions 1, 2, and 3 of this section, 13 VAC 5-111-100, and 13 VAC 5-111-120.

[5. 6.] A business firm moving from one locality's enterprise zone to another locality's enterprise zone prior to being qualified shall be subject to the requirements described in subdivision 3 of this section and 13 VAC 5-111-120.

[6. 7.] A business firm that has already qualified for enterprise zone incentives and moves from one locality's enterprise zone into another locality's enterprise zone shall no longer be qualified unless the firm increases its permanent full-time employment by an additional 10% over the last year of qualification.

[7. 8.] The business firm must certify annually to the Department of Housing and Community Development on prescribed form or forms, and other documentation as required by the department, that the firm has met the criteria for qualification prescribed in subdivisions 1 through [6 7] of this section. The form or forms referred to in this subdivision must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the definition of a qualified business.

13 VAC 5-111-100. Application submittal and processing.

A. Any business firm who qualifies for general tax credits on or after July 1, 1995, and whose taxable year ends on or before December 31, 1995, shall submit an application requesting a general tax credit to the department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995, and on or before January 1, 1997, applications requesting a general tax credit shall be submitted to the department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, applications requesting a general tax credit shall be

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submitted to the department by no later than May 1 of the subsequent calendar year.

[D. Any business firm which is interested in amending past tax returns in order to qualify for and receive general tax credits shall submit an application requesting general tax credits to the department by no later than May 1 of any three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Because this credit was not available prior to July 1, 1995, business firms cannot request or amend returns for tax years prior to 1995.]

[D. E.] The department shall review all applications for completeness and notify business firms of any errors no later than June 1. Business firms must respond to any unresolved issues by no later than June 15.

[E. F.] The department shall notify all applicants by June 30 as to the amount of applicable general credit it may claim for the taxable year the request was made.

[F. G.] Applications must be made on forms prescribed by the department, and [either hand delivered by the date specified in this section or] sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

[G. H.] Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-111-80 A and 13 VAC 5-111-170 A.

13 VAC 5-111-110. Certification to Tax Commissioner in accordance with § 59.1-280 A of the Code of Virginia.

A. The department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward two copies of the certification to the firm, one copy for the firm's records and one copy to be filed with the applicable state tax return or returns, or notify the firm that it fails to qualify for state tax incentives under this part.

B. Submission of state tax returns. A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive or incentives requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit or credits against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

13 VAC 5-111-120. Anti-churning.

A. A permanent full-time position shall not include any employee:

1. For which a credit under this [regulation chapter] was previously earned by a related party, [as defined by the Internal Revenue Code § 267(b)] or a trade or business under common control;

2. Who was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;

3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;

4. Whose previous job function previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control;

5. Whose job function counted for purposes of determining a 10% increase by an existing business firm and credited in an earlier taxable year on behalf of the taxpayer, a related party, or a trade or business under common control; [or]

[6. Whose job function was filled in the Commonwealth and the trade or business where this job function was located was acquired or assumed by another taxpayer.]

B. A new full-time position which otherwise qualifies for the credit will not be disqualified for purposes of the credit where the employer chooses to use more than one individual to fill the position. This exception is limited to those situations where no more than two employees are used to fill a position, such employees are eligible for essentially the same benefits as full-time employees, and each employee works at least 20 hours per week for at least 48 weeks per year.

13 VAC 5-111-130. Pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which profits are allocated for federal income tax purposes.

PART V.

PROCEDURES FOR QUALIFYING FOR REAL PROPERTY IMPROVEMENT TAX CREDIT AND ZONE INVESTMENT TAX CREDIT.

13 VAC 5-111-140. Effective dates.

For taxable years beginning on and after July 1, 1995, but before January 1, 2005, a taxpayer shall be allowed a credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.); Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26

of Title 58.1 of the Code of Virginia, as provided in this [regulation chapter].

13 VAC 5-111-150. Computation of credit.

A. For any qualified zone resident, the amount of credit earned shall be equal to 30% of the qualified zone improvements. In no event shall the cumulative credit allowed to a qualified zone resident exceed \$125,000 dollars in any five-year period. An unused tax credit may not be applied to future years. Any credit not useable for the taxable year the credit was allowed shall not be carried back to a preceding taxable year. Any credit determined in accordance with this subsection that exceeds the tax liability for the taxable year it is requested shall be refunded to the taxpayer subject to the limitations contained in subsection C of this section.

B. Qualified zone improvements shall not include the basis of any property: (i) for which a credit under this section was previously granted; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, or a trade or business under common control; or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired, or Internal Revenue Code § 1014 (a).

C. The credit provided for in this section is subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in §§ 59.1-280 A and 59.1-280.1 J of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation the taxpayer shall be granted a pro rata amount by the department, determined in accordance with 13 VAC 5-111-80 [D E].

13 VAC 5-111-160. Eligibility.

A. A business firm is eligible to receive a credit for real property improvements provided:

1. The total amount of the rehabilitation or expansion of depreciable real property placed in service during the taxable year within the enterprise zone equals or exceeds \$50,000 and the assessed value of the original facility immediately prior to rehabilitation or expansion.
2. The cost of any newly constructed depreciable nonresidential real property (as opposed to rehabilitation or expansion) is at least \$250,000 with respect to a single facility. For purposes of this subdivision, land, land improvements, paving, grading, driveway and interest shall not be deemed to be qualified zone improvements.

B. The business firm must certify to the Department of Housing and Community Development on the prescribed form or forms, and other documents as prescribed by the department, that the firm has met the criteria for qualification prescribed in this section. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the qualifications.

13 VAC 5-111-170. Zone investment tax credits.

A. In the event that a qualified zone resident makes a qualified zone investment in excess of \$100 million and such qualified zone investments result in the creation of at least 200 permanent full-time positions, then the qualified zone resident shall be eligible for a credit in an amount of up to 5.0% of the qualified zone investments in lieu of the credit provided for in 13 VAC 5-111-150 A. The zone investment tax credit provided by this subsection shall not exceed the tax imposed for such taxable year, but any tax credit not usable for the taxable year generated may be carried over until the full amount of such credit has been utilized.

B. The percentage amount of the zone investment tax credit granted to a qualified zone resident shall be determined by agreement between the department and the qualified zone resident, provided such percentage amount does not exceed 5.0%.

C. The percentage amounts of the business income tax credit provided in 13 VAC 5-111-80 A which may be granted to a qualified business firm is also subject to agreement between the department in the event that a qualified zone resident is also a qualified business firm, provided such percentage amounts shall not exceed the percentage amounts otherwise provided in 13 VAC 5-111-80 A.

D. The credit provided for in § 59.1-280.1 J of the Code of Virginia (and any credit that is available to a qualified zone resident that is also a qualified business firm pursuant to § 59.1-280) is subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in § 59.1-280.1 J of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation, each taxpayer shall be granted a pro rata credit as determined by the department. The amount of such prorated grant shall be determined by applying a fraction, the numerator of which shall be the gross credit requested by the taxpayer for such year, and the denominator of which shall be the total gross credits requested by all taxpayers for such year to the Commonwealth's annual fiscal limitation. The credit which may be requested each year shall be subject to the limitation provided by subsection A of this section.

E. In the event that a taxpayer who is subject to the annual fiscal limitation imposed pursuant to subsection D of this section and is also allowed another credit pursuant to another section of the Code of Virginia, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carry forward provision, and then any credit which is carried forward from a preceding taxable year, prior to utilization of any credit granted pursuant to this section.

13 VAC 5-111-180. Pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which profits are allocated for federal income tax purposes.

13 VAC 5-111-190. Application submittal and processing.

A. Any business firm whose taxable year begins on or after July 1, 1995, and ends on or before December 31,

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1995, shall submit an application for real property improvements tax credit (13 VAC 5-111-150) and zone investment tax credits (13 VAC 5-111-170) to the department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995, and before January 1, 1997, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1 of the subsequent calendar year.

[D. Any business firm which is interested in amending past tax returns in order to qualify for and receive real property improvement tax credits shall submit an application requesting real property improvement tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Because this credit was not available prior to July 1, 1995, business firms cannot amend returns for tax years beginning prior to July 1, 1995.]

[D. E.] The department shall review all applications for completeness and notify business firms of any errors by no later than June 1. Business firms must respond to any unresolved issues by no [latter later] than June 15.

[E. F.] The department shall notify all applicants by June 30 as to the amount of applicable credit or refund it is eligible for in the taxable year the request was made.

[F. G.] Applications must be made on forms prescribed by the department, and sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

[G. H.] Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-111-80 A and 13 VAC 5-111-170 A.

13 VAC 5-111-200. Certification to Tax Commissioner in accordance with § 59.1-280.1 G of the Code of Virginia.

A. The department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward two copies of the certification to the firm; one copy for the firm's records and one copy to be filed with the applicable state tax return or returns or notify the firm that it fails to qualify for state tax incentives under Part IV (13 VAC 5-111-70 et seq.).

B. Submission of state tax returns. A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the

applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive or incentives requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit or credits against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

PART VI. PROCEDURES FOR QUALIFYING FOR ZONE INCENTIVE GRANTS.

13 VAC 5-111-210. Effective dates.

Beginning on and after July 1, 1995, but before January 1, 2005, a business firm shall be eligible to receive enterprise zone incentive grants for the creation of new permanent full-time positions.

13 VAC 5-111-220. Grant funding.

There is a special fund established in the state treasury known as the Enterprise Zone Grant Fund, which shall be administered by the department. The fund includes moneys as may be appropriated by the General Assembly from time to time. The fund shall be used solely for the payment of enterprise zone incentive grants to business firms pursuant to § 59.1-282.1 of the Code of Virginia.

13 VAC 5-111-230. Computation of grant amount.

A. For any eligible business firm, the amount of any grant earned shall be equal to (i) \$1,000 multiplied by the number of eligible permanent full-time positions filled by zone residents, and (ii) \$500 multiplied by the number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone.

1. The number of eligible permanent full-time positions filled by zone residents shall be determined for any grant year by multiplying the number of eligible permanent full-time positions by a fraction, the numerator of which shall be the number of employees hired for permanent full-time positions from January 1 of the applicable [grant base] year through December 31 of the grant year who are zone residents, and the denominator of which shall be the total number of employees hired for permanent full-time positions by the business firm during the same period. Zone residency is subject to annual verification and if an employee moves outside the zone he cannot be considered a zone resident for the remaining grant period.

2. The number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone shall be determined for any grant year by subtracting the number of eligible positions filled by employees whose permanent place of residence is within the enterprise zone, as determined in

subdivision 1 of this subsection, from the number of eligible positions.

B. The amount of the grant for which a business firm is eligible with respect to any employee who is employed in an eligible position for less than 12 full months during the grant year will be determined by multiplying the grant amount by a fraction, the numerator of which is the number of full months that the employee worked for the business firm during the grant year, and the denominator of which is 12.

C. The maximum grant that may be earned by a business firm in one grant year, is limited to \$100,000. Each member of an affiliated group of corporations shall be eligible to receive up to a maximum grant of \$100,000 in a single grant year.

13 VAC 5-111-240. Eligibility.

A. A business firm shall be eligible to receive job grants for three consecutive calendar years commencing with the first year of grant eligibility. Business firms applying for the first three-year period shall demonstrate that they have increased the business firm's enterprise zone permanent full-time positions by 10% over the base year. Permanent full-time positions created during the second or third year of the grant period are eligible for additional grant funding over the previous year level at the option of the business firm, but only during the three-year grant period.

B. For the second and any subsequent three-year period of grant eligibility, the business firm must demonstrate that [~~they have~~ it has] increased employment by 20% over a redetermined base year.

1. If a business firm applies for a subsequent three-year period within two years immediately following the completion of the first three-year period, the firm must base the increase on the number of [positions in the preceding base year, plus the number of threshold positions, plus the number of] permanent full-time positions receiving grants in the final year of the previous grant period.

2. If a business firm applies for subsequent three-year periods later than two years following the completion of the first three-year period, the firm must base the increase of permanent full-time positions over one of the two preceding calendar years.

C. The amount of the grant for which a business firm is eligible in any year shall not include amounts for the number of eligible positions in any year other than the preceding calendar year, except as provided in 13 VAC 5-111-260 A, regarding carryforward of unsatisfied grant amounts.

D. In order to claim the grant an application must be submitted to the local zone administrator by March 31 of the year following the grant year. Applications for grants shall be made on form or forms as prescribed by the department and may include other documentation as requested by the local zone administrator or department. The form or forms referred to in [this] subsection [~~E of this section~~] must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the eligibility requirements.

E. The local zone administrator shall review applications and determine the completeness of each application and the requested documentation, and forward applications for grants to the department by no later than April 30 of the year following the grant year.

F. The department shall review all applications for completeness and notify business firms of any errors no later than June 1 of the year following the grant year. Business firms must respond to any unresolved issues by no [~~later~~ later] than June 15 of the year following the grant year.

G. The department shall notify all businesses by June 30 as to the amount of applicable zone incentive grant it is eligible for the calendar year the request was made.

H. Any business firm receiving an enterprise zone incentive grant under § 59.1-282.1 of the Code of Virginia shall not be eligible for a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia with respect to any enterprise zone location which is receiving an enterprise zone incentive grant.

13 VAC 5-111-250. Anti-churning.

No grant shall be allowed for any permanent full-time position:

1. [~~For which~~ Which] a grant under this [regulation chapter] was previously earned by a related party, or a trade or business under common control;

2. [~~Who~~ Where an employee filling that position] was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;

3. [~~Whose~~ Which] job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;

4. [~~Whose previous job function~~ Which] previously qualified for a grant in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control [; or]

[5. That was filled in the Commonwealth of Virginia and the trade or business where that position was located was purchased by another taxpayer.]

13 VAC 5-111-260. Grant allocations.

A. Upon receiving applications for grants from the local zone administrators, the department shall determine the amount of the grant to be allocated to each eligible business firm by June 30 of the year following the grant year. The department shall allocate moneys in the following order of priority:

1. First, to unpaid grant amounts carried forward from prior years because business firms did not receive the full amount of any grant to which they were eligible for in a prior year.

2. Second, to other eligible applicants.

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B. In the event that moneys in the fund are less than the amount of grants to which applicants in any class of priority are eligible, the moneys in the fund shall be apportioned among eligible applicants in such class pro rata, based upon the amount of the grant to which an applicant is eligible and the amount of money in the fund available for allocation to such class.

C. In the event that a business firm is allocated less than the full grant amount to which it is eligible in any year, the firm shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which the firm was eligible shall be carried forward by the department to the following year and shall be in the class of priority as provided in subsection A of this section.

13 VAC 5-111-270. Assignment of enterprise zone incentive grants.

A. A business firm may assign all or any portion of any enterprise zone incentive grant to which it is eligible to the owner of any real property within an enterprise zone occupied by the business firm as tenant or to a financial institution regularly engaged in business of lending money which has made a loan to the business firm for the purpose of expanding, constructing or rehabilitating a nonresidential building or facility for the conduct of a trade or business by the business firm within the enterprise zone, or both, as they may agree.

B. A business firm that has assigned its interest in an enterprise zone incentive grant shall notify the department within 30 days. Following the receipt of such notification, the department may request the Comptroller to issue warrants in the name of the firm's assignee for grant payments that the business firm would have received.

PART VII.

ENTERPRISE ZONE ELIGIBILITY CRITERIA.

13 VAC 5-111-280. Eligible applicants for zone designation.

A. Eligible applicants include the governing body of any county, city or town.

B. The governing body of a county may apply for designation of an enterprise zone on behalf of a town located within the county.

C. Two or more adjacent jurisdictions may file a joint application for an enterprise zone lying in the jurisdictions submitting the application.

D. Jurisdictions may apply for more than one [~~enterprise zone~~] enterprise zone designation. This includes the submission of a joint application with other jurisdictions. Each county, city and town is limited to a total of three enterprise zones, however, a county with a population of 150 or fewer persons per square mile at the most recent decennial census shall be limited to a total of two zones.

13 VAC 5-111-290. Zone eligibility requirements.

A. To be eligible for consideration, an application for an enterprise zone must meet the requirements set out in this section.

B. For counties, cities and towns the proposed zone must consist of an area made up of contiguous United States Census tracts or block groups or any part thereof. However, counties with a population density of 150 or fewer persons per square mile at the most recent decennial census may have one zone which contains no more than two noncontiguous areas of at least one square mile each.

C. The proposed zone must meet at least one of the following distress criteria as enumerated in the most current U. S. Census or current data from the Center for Public Service or local planning district commission: (i) 25% or more of the households must have had incomes below 80% of the median household income of the county or city; (ii) the unemployment rate must have been at least 1.5 times the state average; or (iii) demonstrate a floor area vacancy rate of industrial and/or commercial properties of 20% or more.

D. All proposed zones shall conform to the following size guidelines:

1. Metropolitan Central Cities - Minimum: ½ square mile (320 acres); Maximum: one square mile (640 acres) or 7.0% of the jurisdiction's land area or population, whichever is largest.

2. Towns and cities other than Metropolitan Central Cities - Minimum: ¼ square mile (160 acres); Maximum: ½ square mile (320 acres) or 7.0% of the jurisdiction's land area or population, whichever is largest.

3. Unincorporated areas of counties - Minimum: ½ square mile (320 acres); Maximum: six square miles (3,840 acres).

4. Counties with a population density of 150 or fewer persons per square mile at the most recent decennial census may have one zone which contains no more than two noncontiguous areas and each area must be at least one square mile (640 acres). The maximum combined land area cannot exceed six square miles (3,840 acres).

5. Consolidated cities. Zones in cities the boundaries of which were created through the consolidation of a city and county or the consolidation of two cities, shall conform substantially to the minimum and maximum size guidelines for unincorporated areas of counties as set forth in subdivision 3 of this subsection.

6. In no instance shall a zone consist only of a site for a single business firm.

PART VIII.

PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.

13 VAC 5-111-300. Procedures for zone application and designation.

A. Up to 50 enterprise zones may be designated by the Governor in accordance with the procedures and requirements set out in this section.

B. Applications for zone designation will be solicited by the department in accordance with the following procedures and requirements:

1. An application for zone designation must be submitted on Form EZ-1 to the Director, Virginia Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219, on or before the submission date established by the department.

2. The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the department. Notification of the public hearing is to be in accordance with § 15.1-431 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application as Attachment A.

3. In order to be considered in the competitive zone designation process an application from a jurisdiction must include all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in subdivision 2 of this subsection.

4. As part of its application a locality may propose local incentives including but not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) special subclassifications and rates for business professional and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221 of the Code of Virginia; [(vi) (v)] infrastructure improvements; [(vii) and (vi)] crime reduction measures [; and (viii) partial rebate of machinery and tools tax]. When making an application jurisdictions may also make proposals for regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform; (iii) exemptions from local ordinances; (iv) removal of regulatory barriers to affordable housing; and [(v) (v)] other public incentives proposed. A jurisdiction may also create a local enterprise zone association to assist in the planning process and future management of the enterprise zone to assure that major decisions affecting the zone's future take into account the needs of both the public and private sector, including citizens of the involved zone communities.

5. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of state tax incentives, will be factors in evaluating applications.

6. A locality may establish eligibility criteria for local incentives for business firms that are the less than, the same as, or more stringent than, the criteria for eligibility of grants or other benefits that the state provides.

7. Proposed local incentives may be provided by the local governing body itself or by an assigned agent such as a local redevelopment and housing authority, an industrial development authority, a private nonprofit

entity or a private for-profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing unincorporated county areas as well as portions of one or more towns, the county may designate the governing body of the town to serve as its assigned agent.

C. Within 60 days following the application submission date, the department shall review and the director shall recommend to the Governor those applications that meet a minimum threshold standard as set by the department and are competitively determined to have the greatest potential for accomplishing the purposes of the program.

D. The department, in consultation with the Virginia [Department of] Economic Development [Partnership], may allow up to five enterprise zone designations to be utilized in an open submission process for significant economic development opportunities in areas that are otherwise qualified under provisions of these regulations and meet minimum threshold standards. The selection of these zones by the Governor shall be made upon recommendation and certification of consistency with the program regulations by the department.

E. The Governor shall designate, upon recommendation of the director, enterprise zones for a period of 20 years. The Governor's designation shall be final.

F. A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

13 VAC 5-111-310. Procedures and requirements for joint applications.

A. Two or more adjacent jurisdictions submitting a joint application as provided for in 13 VAC 5-111-300 C must meet the requirements set out in this section.

B. The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in 13 VAC 5-111-380 and 13 VAC 5-111-390.

C. In order to submit a joint application, Form EZ-1 must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in subdivisions B 1 through 4 of 13 VAC 5-111-300. In addition, a copy of Form EZ-1-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy of Form EZ-1-JA must be submitted to the department with Form EZ-1.

D. The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

Final Regulations

PART IX. PROCEDURES FOR ZONE AMENDMENT.

13 VAC 5-111-320. Relationship to federal enterprise zone program.

If any portion of an area designated as an enterprise zone by the Governor is included in an area designated as an enterprise zone by an agency of the federal government, the area designated by the Governor shall be enlarged to include the area designated by the federal agency.

If an area that has not been designated as an enterprise zone is designated by an agency of the federal government as a federal enterprise zone, that area shall then receive designation as a state zone effective January 1 of the year following its designation as a federal enterprise zone.

13 VAC 5-111-330. Amendment of approved applications.

A. A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the procedures and requirements set out in this section.

B. The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the department. In the case of a boundary amendment that involves the elimination of an area or areas, the local governing body must separately notify each property owner and business located within the affected area of the proposed amendment prior to holding the public hearing.

C. A request for an amendment must be submitted to the department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in subsection B of this section [prior to the adoption of the resolution]. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by Form EZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.

D. Beginning on and after July 1, 1995, enterprise zone jurisdictions will be required to thoroughly examine their previously approved applications every five years. The jurisdiction shall review all aspects of the application boundaries, goals, objectives, strategies, actions and incentives, as well as barriers to development, and include as part of their annual report an explanation of why the application or sections of the application need or do not need to be amended to improve enterprise zone performance. Application amendments relating to these requirements will be required every five years if:

1. The jurisdiction has not yet developed goals, objectives, strategies and actions to overcome barriers to development within the zone.
2. The jurisdiction has incentives that have not been utilized during the five year period.

E. An enterprise zone application may be amended annually by the jurisdiction. Amendments may be to the entire application or individual sections such as the

boundary, goals, objectives, strategies and actions, or incentives.

F. A proposed boundary amendment must meet the following requirements:

1. The area proposed for expansion must be contiguous to the existing zone, except for a county with a population density of 150 or fewer persons per square mile (see 13 VAC 5-111-290 D 4).

2. The enlarged zone must meet at least one of the distress criteria outlined in 13 VAC 5-111-290 C.

3. Boundary amendments that involve the elimination of area or areas from a zone shall be reviewed on a case-by-case basis with the potential impact on affected businesses and property owners being given primary consideration. Such boundary changes cannot impact the zone's ability to meet the required distress criteria and cannot involve more than 15% of the total zone acreage.

G. The enlarged zone shall not exceed the maximum size guidelines outlined in 13 VAC 5-111-290 D. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.

H. The department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment or if the proposed cumulative local incentive package is equal to or greater than those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries or the goals, objectives, strategies and actions only if the proposed amendment is deemed to be consistent with the purposes of the program as determined by the department.

I. A local governing body that is denied either a boundary, goals, objectives, strategies and actions, or local incentive amendment shall be provided with the reasons for denial.

PART X. PROCEDURES FOR ZONE TERMINATION.

13 VAC 5-111-340. Failure to provide local program incentives.

A. If a local governing body or its assigned agent or agents is unable or unwilling to provide any of the approved local program incentives, the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent or agents is unable or unwilling to provide approved local incentives.

B. A local governing body must notify the department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.

C. A local governing body will have 60 days after submission of the notice required in subsection B of this section to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in 13 VAC 5-111-330 D.

D. The department will review requests for amendments in accordance with the criterion set forth in 13 VAC 5-111-330 G. Approval of an amendment will allow a zone to continue in operation. If a local governing body fails to provide notice as set forth in subsection B of this section, or has its request for an amendment denied, then the department may recommend to the Governor that the zone be terminated.

E. Upon review of the department's recommendation, the Governor may terminate the zone.

13 VAC 5-111-350. Failure to qualify for state incentives.

A. If no business firms have qualified for state incentives within a five-year period beginning on July 1, 1995, the department shall terminate the enterprise zone designation.

B. The department shall annually provide enterprise zone localities with a current listing of all business firms that have applied and qualified for state incentives.

13 VAC 5-111-360. Zone termination and business qualification.

A. A zone shall be terminated in accordance with the procedures set forth in 13 VAC 5-111-340 and 13 VAC 5-111-350 upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.

B. Qualified business firms located in a terminated zone may continue to request state tax incentives provided under §§ 59.1-280 and 59.1-282 of the Code of Virginia for any remaining taxable years in the qualification period for which they are eligible.

C. After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program.

PART XI.

ADMINISTRATIVE REQUIREMENTS.

13 VAC 5-111-370. Sale of surplus public land.

A. The Commonwealth and any unit of local government that owns land within the zone shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. The department may waive this requirement only if the owner can demonstrate to the department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.

B. The Commonwealth or any unit of local government that sells surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional conditions on the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the program and the local development objectives outlined in the application for zone designation. If

the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.

C. In order to monitor compliance with the requirements of this section, the department will request annually from local governing bodies and state agencies with responsibility for overseeing the disposition of surplus state land, information concerning the identification and sale of surplus land. A local governing body shall document compliance with this section in its annual report to the department (see 13 VAC 5-111-390). The department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Transportation, lists of surplus state land within zones and actions taken to sell such land.

13 VAC 5-111-380. Survey of zone business conditions.

Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing business conditions to serve as a basis for program evaluation. Survey data shall be submitted to the department on Form EZ-3-S. The survey shall include information on business and employment conditions in the zone as requested on Form EZ-3-S.

13 VAC 5-111-390. Annual reporting.

A. A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the department on Form EZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with 13 VAC 5-111-370 and data for the purpose of program evaluation as requested on Form EZ-3-AR. Annual reports shall also include an evaluation of the program's success in achieving identified local development objectives.

B. The department shall annually review the effectiveness of state and local incentives in increasing investment and employment in each of the enterprise zones and provide an annual report of its findings to the Senate Finance Committee, Senate Committee on Commerce and Labor, the House Finance Committee, and the House Committee on Labor and Finance.

When the potential exists that the annual fiscal limitations on the general tax credit, the real property improvements tax credit, the zone investment tax credits, or zone incentive grants will be fully utilized, thus triggering their pro rata distribution, the department shall include this information in the annual report.

Final Regulations

VIRGINIA ENTERPRISE ZONE PROGRAM
Tax Credit Qualification Form
EXISTING FIRMS

Form EZ-SE

PART I: BACKGROUND INFORMATION

1. Name of Zone and Locality _____ Date your business began operation in the zone location _____

2. BUSINESS FIRM IDENTIFICATION (BOTH NUMBERS ARE REQUIRED)
Federal Employee I.D. No. (FEIN) _____ Virginia Employment Commission I.D. No. (VEC) _____

3. NAME OF BUSINESS FIRM
(Legal Name) _____ (Trading Name if Different From Legal Name) _____

4. ADDRESS (Indicate the actual address of the zone establishment and four digit principle business activity number)
Street _____ City or Town _____ Activity Number (see instruction manual) _____

5. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)
Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

6. BUSINESS FIRM CONTACT:
Name of Person _____ (Area Code) Business Telephone Number _____

7. Check the appropriate line to indicate type of business organization. IF "OTHER" SPECIFY TYPE:
Sole Proprietor _____ S Corporation _____ Partnership _____ Corporation _____ Other _____

8. Check the appropriate line to indicate which type of state tax applies to your firm:
Corporate Income Tax _____ Franchise Tax on Net Capital _____
Franchise Tax or License Tax on Gross Receipts _____ Individual Income Tax _____

9. STATE CORPORATE INCOME TAX: Complete this item only if the firm is a subsidiary. Provide the following information about the parent corporation.
Legal Name _____ Federal Employer I.D.# _____

10. STATE INDIVIDUAL INCOME TAX: Complete this only if the firm is a partnership or a Subchapter S Corporation. List the name and address of each partner or shareholder. List in the same order as on the appropriate federal and Virginia returns: for partnerships, Schedule K-1 or Schedule K of Form 1065 and Form 501, for S Corporations, Schedule K of Form 1120S and Form 501S. Please attach a separate sheet and provide information on each partner/shareholder including their name, address and social security number.

PART II: QUALIFICATION INFORMATION

1. Qualification is requested for taxable year beginning _____, 19____ and ending _____, 19____

2. Base taxable year for business firm beginning _____, 19____ and ending _____, 19____

3. EMPLOYMENT TEST

(a) Average number of permanent full-time employees who were employed by the firm in Virginia, both inside and outside the zone during the base taxable year. _____

(b) Average number of permanent full-time employees who were employed at the firm's zone establishment(s) during the base taxable year. _____

(c) Average number of permanent full-time employees who were employed by the firm in Virginia, both inside and outside the zone during the qualification year. _____

(d) Average number of new permanent full-time employees who were employed at the firm's zone establishment(s) during the qualification year. _____

(e) Average number of new permanent full-time employees that were hired at the zone location after the base taxable year. Subtract line (b) from line (d). _____

(f) Percent increase in the average number of new permanent full-time employees. Divide line (e) by line (b) and multiply by 100, please round to the nearest whole percent. _____

(g) Average number of new permanent full-time zone employees that meet the definition of low-income. _____

(h) Average number of new permanent full-time zone employees who are zone residents. _____

(i) Total number of new permanent full-time employees that are low-income or zone residents. Add lines g and h. _____

(j) Percentage of the increase in the average number of new permanent full-time employees that are low-income or zone residents. Divide line (i) by line (d) and multiply by 100, please round to the nearest whole percent. _____

4. ACTUAL taxable income attributable to the conduct of trade or business within the enterprise zone \$ _____

PART III: DECLARATION

BUSINESS FIRM REPRESENTATIVE

I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature _____ Typed or Printed Name _____ Title _____ Date _____

2. **CERTIFIED PUBLIC ACCOUNTANT**

I, the undersigned, declare that this form has been prepared by me and is, to the best of my knowledge, an accurate statement. I further affirm that this business firm meets the requirements for becoming a qualified firm as set forth in the Rules and Regulations of the Virginia Enterprise Zone Program and that the establishment listed on Part I, Item 1 is located within the boundaries of the enterprise zone. I further affirm that I am not an employee of the business firm which is seeking to qualify for state tax incentives under this Program.

Signature of CPA _____ Typed or Printed Name _____ Title _____

Accounting Firm _____ (Area Code) Business Telephone Number _____

Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only: Received _____ Processed _____ Certificate No. _____

PLEASE DETACH LAST COPY AND KEEP FOR YOUR RECORDS. SEND BY CERTIFIED MAIL OR HAND DELIVER REMAINING COPIES TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 501 SOUTH STONEYBROOK, RICHMOND, VIRGINIA 23219.

VIRGINIA ENTERPRISE ZONE PROGRAM
JOB GRANT
Qualification Form

Form EZ-5J

PART I: BACKGROUND INFORMATION

1. Name of Zone and Locality _____ Date your business began operation in the zone location _____

2. BUSINESS FIRM IDENTIFICATION (BOTH NUMBERS ARE REQUIRED)
Federal Employee I.D. No. (FEIN) _____ Virginia Employment Commission I.D. No. (VECN) _____

3. NAME OF BUSINESS FIRM
(Legal Name) _____ (Trading Name If Different From Legal Name) _____

4. ADDRESS (Indicate the actual address of the zone establishment and four digit principle business activity number)
Street _____ City or Town _____ Activity Number (see instruction manual) _____

5. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)
Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

6. BUSINESS FIRM CONTACT: _____
Name of Person _____ Area Code/Business Telephone Number _____

7. Check the appropriate line to indicate type of business organization. IF "OTHER" SPECIFY TYPE:
Sole Proprietor _____ S Corporation _____ Partnership _____ Corporation _____ Other _____

8. Check the appropriate line to indicate the type of job creation activity in the enterprise zone.
Expansion of existing firm _____ New firm (start-up) _____ Relocation of a firm from outside Virginia _____

PART II: QUALIFICATION INFORMATION

1. Qualification is requested for calendar year _____, 19____

2. Base calendar year used by the business firm _____, 19____

3. EMPLOYMENT TEST

(a) Actual number of permanent full-time employees employed by the firm during the base calendar year. _____

(b) Actual number of permanent full-time employees employed by the firm during the qualifying calendar year. _____

(c) Actual increase in the number of new permanent full-time employees over the base year.
Subtract line (a) from line (b). _____

(d) Percent increase in the number of permanent full-time employees.
Divide line (c) by line (a). _____

(e) Minimum number of permanent full-time employees needed to meet the threshold requirement.
Multiply line (a) by 10 or 20 percent (see instructions). Round to the nearest whole number. _____

(f) Actual number of eligible permanent full-time employees that are above the minimum required threshold.
Subtract line (e) from line (d). _____

(g) Eligible number of new permanent full-time employees from line (e) that are zone residents. _____

(h) Eligible number of new permanent full-time employees from line (e) that are non-zone residents. _____

4. Attach a certified list of each employee that qualifies for job grants, see the application instructions for appropriate format.

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE:
I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature _____ Typed or Printed Name _____ Title _____ Date _____

2. CERTIFIED PUBLIC ACCOUNTANT:
I, the undersigned, declare that this form has been prepared by me and is, to the best of my knowledge, an accurate statement; I further affirm that this business firm meets the requirements for zone incentives as set forth in the Regulations of the Virginia Enterprise Zone Program and that the establishment listed in Part I, item 4 is located within the boundaries of the enterprise zone. I further affirm that I am licensed by the Commonwealth of Virginia and I am not an employee of the business firm which is seeking to qualify for State tax incentives under this Program.

Signature of CPA _____ Typed or Printed Name _____ Date _____

Accounting Firm _____ Area Code/Business Telephone Number _____

Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only: Received _____ Processed _____ Certificate No. _____

Comments _____

PLEASE DETACH LAST COPY AND KEEP FOR YOUR RECORDS. SEND FORMS BY CERTIFIED MAIL OR DELIVER REMAINING COPIES TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 501 NORTH SECOND STREET, RICHMOND, VIRGINIA 23219.

Final Regulations

VIRGINIA ENTERPRISE ZONE PROGRAM
REAL PROPERTY TAX CREDIT
Qualification Form

Form EZ-5R

PART I: BACKGROUND INFORMATION

1. Name of Locality and Zone _____ Date Real Property was Placed in Service _____

2. Check the appropriate line to indicate the type of applicant:
 Lease Holder Owner (Occupant)

3. Check the appropriate line to indicate the type of real property improvements made in the enterprise zone:
 Rehabilitation of an existing facility Expansion of an existing facility New Construction

4. BUSINESS FIRM IDENTIFICATION _____

5. NAME OF BUSINESS FIRM _____ Federal Employee ID No. (FEIN) _____
 (Legal Name) (Trading Name if Different From Legal Name)

6. ADDRESS (Indicate the actual address of the zone establishment and four digit principle business activity number)

 Street City or Town Activity Number (see instruction manual)

7. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)

 Route, Street or P.O. Box City or Town State Zip Code

8. BUSINESS FIRM CONTACT: _____
 Name of Person Area Code Business Telephone Number

9. Check the appropriate line to indicate type of business organization. IF "OTHER" SPECIFY TYPE:
 Sole Proprietor S Corporation Partnership Corporation Other _____

10. Check the appropriate line to indicate which type of state tax applies to your firm:
 Corporate Income Tax Franchise Tax on Net Capital
 Franchise Tax or License Tax on Gross Receipts Individual Income Tax

11. STATE CORPORATE INCOME TAX: Complete this item only if the firm is a subsidiary. Provide the following information about the parent corporation.
 Legal Name _____ Federal Employer ID # _____

12. STATE INDIVIDUAL INCOME TAX: Complete this only if the firm is a partnership or a Subchapter S Corporation. List the name and address of each partner or shareholder. List in the same order as on the appropriate federal and Virginia returns for partnerships, Schedule K-1 or Schedule K of Form 1065 and Form 501, for S Corporations, Schedule K of Form 1120S and Form 5008. Please attach a separate sheet and provide information on each partner/shareholder including their name, address and social security number.

PART II: QUALIFICATION INFORMATION

1. Qualification is requested for taxable year beginning _____ 19____ and ending _____ 19____

2. ELIGIBILITY TEST

(a) Assessed value of real property prior to rehabilitation or expansion. _____ \$
 Multi-tenant proration (Attach proration and square footage documentation).

(b) Actual dollar amount of qualified zone improvements made by the business firm. _____ \$
 Attach a list certified by the CPA that outlines the qualified zone improvements made to the enterprise zone property (see instructions).

(c) Multiply line (b) by 30%, this is the amount of credit the firm is requesting. _____ \$

3. Has this business received a state real property improvement credit within the last five years?
 If yes, indicate the amount of credit that was granted. If no, place N/A on this line. _____ \$

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE:
 I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)
 Signature _____ Typed or Printed Name _____ Title _____ Date _____

2. CERTIFIED PUBLIC ACCOUNTANT:
 I, the undersigned, declare that this form has been prepared by me and is, to the best of my knowledge, an accurate statement. I further affirm that this business firm has made and paid for the qualified zone improvements as set forth in the Regulations of the Virginia Enterprise Zone Program and that the establishments listed in Part I, Item 4 is located within the boundaries of the enterprise zone. I further affirm that I am licensed by the Commonwealth of Virginia and I am not an employee of the business firm which is seeking to qualify for state tax incentives under this Program.
 Signature of CPA _____ Typed or Printed Name _____ Date _____
 Accounting Firm _____ Area Code Business Telephone Number _____
 Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only: Received _____ Processed _____ Certificate No. _____

Comments:
 PLEASE DETACH LAST COPY AND KEEP FOR YOUR RECORDS. SEND FORMS BY CERTIFIED MAIL OR HAND DELIVER REMAINING COPIES TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 501 NORTH SECOND STREET, RICHMOND, VIRGINIA 23219.

**VIRGINIA ENTERPRISE ZONE PROGRAM
Tax Credit Qualification Form
NEW FIRMS**

Form EZ-5N

PART I: BACKGROUND INFORMATION

1. Name of Zone and Locality _____ Date your business began operation in the zone location _____

2. BUSINESS FIRM IDENTIFICATION (BOTH NUMBERS ARE REQUIRED)
Federal Employer I.D. No. (FEIN) _____ Virginia Employment Commission I.D. No. (VEC) _____

3. NAME OF BUSINESS FIRM
(Legal Name) _____ (Trading Name If Different From Legal Name) _____

4. ADDRESS (Indicate the actual address of the zone establishment and four digit principle business activity number)
Street _____ City or Town _____ Activity Number (see instruction manual) _____

5. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)
Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

6. BUSINESS FIRM-CONTACT: _____
Name of Person _____ Area Code/Business Telephone Number _____

7. Check the appropriate line to indicate the type of new business locating in the enterprise zone.
 Start-up firm Relocation of a firm from outside Virginia New facility established by a existing firm

8. Check the appropriate line to indicate type of business organization. IF "OTHER" SPECIFY TYPE:
 Sole Proprietor S Corporation Partnership Corporation Other: _____

9. Check the appropriate line to indicate which type of state tax applies to your firm:
 Corporate Income Tax Franchise Tax on Net Capital
 Franchise Tax or License Tax on Gross Receipts Individual Income Tax

10. STATE CORPORATE INCOME TAX: Complete this item only if the firm is a subsidiary. Provide the following information about the parent corporation.
Legal Name _____ Federal Employer I.D.# _____

11. STATE INDIVIDUAL INCOME TAX: Complete this only if the firm is a partnership or a Subchapter S Corporation. List the name and address of each partner or shareholder. List in the same order as on the appropriate federal and Virginia returns; for partnerships: Schedule K-1 or Schedule K of Form 1065 and Form 501; for S Corporations: Schedule K of Form 1120S and Form 5005. Please attach a separate sheet and provide information on each partner/shareholder including their name, address and social security number.

PART II: QUALIFICATION INFORMATION

1. Qualification is requested for taxable year beginning _____ 19____ and ending _____ 19____

2. EMPLOYMENT TEST
(a) Average number of permanent full-time employees who were employed by the firm in Virginia, prior to the initial qualification year. _____
(b) Average number of permanent full-time employees who were employed by the firm in Virginia, both inside and outside the zone during the qualification year. _____
(c) Average number of permanent full-time employees who were employed at the firm's zone establishment(s) during the qualification year. _____
(d) Average number of new permanent full-time zone employees that meet the definition of low-income. _____
(e) Average number of new permanent full-time zone employees who are zone residents. _____
(f) Total number of new permanent full-time zone employees that are low-income or zone residents. Add lines (d) and (e). _____
(g) Percentage of the average number of new permanent full-time employees that are low-income or zone resident. Divide line (f) by line (c) and multiply by 100, please round to the nearest whole percent. _____

3. ACTUAL taxable income attributable to the conduct of trade or business within the enterprise zone. \$ _____

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE:
I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)

Signature _____ Typed or Printed Name _____ Title _____ Date _____

2. CERTIFIED PUBLIC ACCOUNTANT:
I, the undersigned, declare that this form has been prepared by me and is, to the best of my knowledge, an accurate statement. I further affirm that this business firm meets the requirements for becoming a qualified firm as set forth in the Rules and Regulations of the Virginia Enterprise Zone Program and that the establishment listed on Part I, Item 4 is located within the boundaries of the enterprise zone. I further affirm that I am licensed by the Commonwealth of Virginia and I am not an employee of the business firm which is seeking to qualify for State tax incentives under this Program.

Signature of CPA _____ Typed or Printed Name _____ Date _____

Accounting Firm _____ Area Code/Business Telephone Number _____

Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only: Received _____ Processed _____ Certificate No. _____

Comments: _____

PLEASE DETACH LAST COPY AND KEEP FOR YOUR RECORDS. CERTIFICATE NUMBER: _____

Final Regulations

VIRGINIA ENTERPRISE ZONE PROGRAM
INVESTMENT TAX CREDIT
Qualification Form

Form EZ-51

PART I: BACKGROUND INFORMATION

1. Name of Locality and Zone _____ Date Real Property was Placed in Service _____
2. BUSINESS FIRM IDENTIFICATION (BOTH NUMBERS ARE REQUIRED) _____
3. NAME OF BUSINESS FIRM _____
Federal Employer I.D. No. (FEIN) _____ Virginia Employment Commission I.D. No. (VEC) _____
(Legal Name) _____ (Trading Name If Different From Legal Name) _____
4. ADDRESS (Indicate the actual address of the zone establishment and four digit principle business activity number)
Street _____ City or Town _____ Activity Number (see instruction manual) _____
5. PRINCIPAL MAILING ADDRESS (where determination of qualification will be sent)
Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____
6. BUSINESS FIRM CONTACT: _____
Name of Person _____ Area Code/Business Telephone Number _____
7. Check the appropriate line to indicate type of business organization. IF "OTHER" SPECIFY TYPE:
____ Sole Proprietor ____ S Corporation ____ Partnership ____ Corporation Other _____
8. Check the appropriate line to indicate which type of state tax applies to your firm:
____ Corporate Income Tax ____ Franchise Tax on Net Capital ____
____ Franchise Tax or License Tax on Gross Receipts ____ Individual Income Tax ____
9. STATE CORPORATE INCOME TAX: Complete this item only if the firm is a subsidiary. Provide the following information about the parent corporation.
Legal Name _____ Federal Employer I.D.# _____
10. STATE INDIVIDUAL INCOME TAX: Complete this only if the firm is a partnership or a Subchapter S Corporation. List the name and address of each partner or shareholder. List in the same order as on the appropriate federal and Virginia returns: for partnerships: Schedule K-1 or Schedule K of Form 1065 and Form 991, for S Corporations: Schedule K of Form 1120S and Form 990S. Please attach a separate sheet and provide information on each partner/shareholder including their name, address and social security number.
11. Check the appropriate line to indicate whether or not the firm is requesting a general tax credit as well as the investment tax credit.
____ Yes the firm is also requesting a general tax credit. ____ No general tax credit is being requested in conjunction with the investment tax credit

PART II: QUALIFICATION INFORMATION

1. Qualification is requested for taxable year beginning _____, 19____ and ending _____, 19____
2. EMPLOYMENT AND INVESTMENT TEST
 - (a) Total number of permanent full-time positions created during the initial qualification year. _____
 - (b) Total number of permanent full-time positions as of the qualification year. _____
 - (c) Actual dollar amount of qualified zone investments made by the business firm. \$ _____
(If this is the initial application, attach a list that outlines the qualified zone investments made within the enterprise zone.)
3. Actual amount of credit negotiated by the business firm. \$ _____
4. Actual income tax liability that the firm is requesting as an investment tax credit for the taxable year. \$ _____

PART III: DECLARATION

1. BUSINESS FIRM REPRESENTATIVE:
I, the undersigned representative of the business firm for which this request is made, declare that this request has been examined by me and is, to the best of my knowledge, an accurate statement. (The signer must be authorized to sign on behalf of the business firm.)
Signature _____ Typed or Printed Name _____ Title _____ Date _____
2. CERTIFIED PUBLIC ACCOUNTANT:
I, the undersigned, declare that this form has been prepared by me and is, to the best of my knowledge, an accurate statement. I further affirm that this business firm has created the necessary new permanent full-time positions and made the necessary qualified zone investments as set forth in the Regulations of the Virginia Enterprise Zone Program and that the establishment listed in Part I, Item 4 is located within the boundaries of the enterprise zone. I further affirm that I am licensed by the Commonwealth of Virginia and I am not an employee of the business firm which is seeking to qualify for State tax incentives under this Program.
Signature of CPA _____ Typed or Printed Name _____ Date _____
Accounting Firm _____ Area Code/Business Telephone Number _____
Route, Street or P.O. Box _____ City or Town _____ State _____ Zip Code _____

Office Use Only Received _____ Processed _____ Certificate No. _____
Comments _____

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VIRGINIA RACING COMMISSION

Title of Regulation: 11 VAC 10-180-10 et seq. Medication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: September 18, 1996.

Summary:

The regulations provide for the use of one medication in racehorses on race day and quantitative levels for two other medications. The regulations also set forth applicable definitions, procedures for the collection of test samples, determination of positive tests, and rights of testing of split samples.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from William H. Anderson, Virginia Racing Commission, P. O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363.

CHAPTER 180. MEDICATION.

11 VAC 10-180-10. Definitions.

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

"Bleeder" means a horse which has been diagnosed as suffering from exercise-induced pulmonary hemorrhage based on external or endoscopic examination by the commission veterinarian, licensee's veterinarian or private practitioner who is a permit holder.

"Bleeder list" means a tabulation of all bleeders to be maintained by the stewards.

"Commission" means the Virginia Racing Commission.

"Controlled substance" means any substance included in the five classification schedules of the U.S. Controlled Substances Act of 1970 (21 USC § 801 et seq.).

"Injectable substance" means a liquid or solid substance, which may require the addition of a liquid via a needle and syringe to change it from a solid into a liquid, contained in a vial with a rubber top which can be accessed and administered only via a needle and syringe.

"Prescription substance" means any substance which is administered or dispensed by or on the order of a private practitioner, who is a permit holder, for the purpose of medical treatment of an animal patient when a bona fide doctor-patient relationship has been established.

"Primary laboratory" means a facility designated by the commission for the testing of test samples.

"Prohibited substance" means any drug, medication or chemical foreign to the natural horse, whether natural or synthetic, or a metabolite or analog thereof, the use of which is not expressly permitted by the regulations of the commission.

"Race day" means a 24-hour period beginning at midnight before a race.

"Reference laboratory" means a facility designated by the commission for the testing of split samples.

"Substance" means any drug, medication or chemical foreign to the natural horse or human being, whether natural or synthetic, or a metabolite or analog thereof.

"Test sample" means any sample of blood, urine, saliva or tissue obtained from a horse or person for the purpose of laboratory testing for the presence of substances.

"Tubing" means the administration to a horse of any substance via a naso-gastric tube.

11 VAC 10-180-20. Generally.

A. Administration on race day prohibited. No person shall administer any substance to a horse on race day other than furosemide, and then only under the procedures set forth in this chapter.

B. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a private practitioner who is a permit holder, in which case the horse shall be scratched. The practice of administration of any substance, via a tube or dose syringe, into a horse's stomach on race day is considered a violation of this chapter.

C. Possession of needles prohibited. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

D. Possession of injectables prohibited. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

E. Prescription substances for animal use. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The permit holder actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a private practitioner who is a permit holder;
2. The prescription substance is labelled with a dosage for the horse or horses to be treated with the prescription substance; and
3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

F. Possession of substances. No veterinarian or permit holder shall possess or administer any substance to a horse stabled within the enclosure:

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1. That has not been approved by the U.S. Food and Drug Administration, pursuant to the Federal Food, Drug and Cosmetic Act (21 USC § 30 et seq.); or

2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §§ 811 and 812.

G. Human use of needles and substances. Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a substance for use on his person, providing the permit holder or veterinarian possesses documentary evidence that a valid medical prescription has been issued to the permit holder or veterinarian.

Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a hypodermic syringe or needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

11 VAC 10-180-30. Bleeders.

A. Examination of bleeders. A horse which is alleged to have bled in Virginia must be physically examined by the commission veterinarian, licensee's veterinarian or private practitioner who is a permit holder in order to confirm the horse's inclusion on the bleeder list. The veterinarians may conclude a horse is a bleeder under the following circumstances:

1. If the examination takes place immediately following the race or exercise and before the horse leaves the racing surface, a veterinarian may conclude the horse is a bleeder and an endoscopic examination is not required for inclusion on the bleeder list; or

2. If the examination takes place after the horse leaves the racing surface but within 90 minutes following the finish of a race or exercise in which the horse participated, a veterinarian shall require an endoscopic examination for inclusion on the bleeder list.

B. Confirmation of a bleeder. The commission veterinarian, licensee's veterinarian or private practitioner who is a permit holder, shall decide, based upon his experience and professional training, whether the horse suffers from exercise-induced pulmonary hemorrhage and should be placed on the bleeder list. The confirmation of a bleeder shall be certified in writing by the commission veterinarian, licensee's veterinarian or private practitioner who is a permit holder, and the horse shall be placed on the bleeder list. Upon request, a copy of the certification shall be provided to the owner of the horse or his agent.

C. Posting of bleeder list. The bleeder list shall be maintained by the stewards, with the assistance of the commission veterinarian, and posted in the office of the racing secretary. No horse shall be removed from the bleeder list without the approval of the stewards.

D. Restrictions on bleeders. Horses placed on the bleeder list shall be subject to the following restrictions:

1. For the first occurrence of bleeding, the horse shall be placed on the bleeder list and shall not be eligible to race for at least 10 days;

2. For the second occurrence of bleeding, the horse shall not be eligible to race for at least 30 days;

3. For the third occurrence of bleeding, the horse shall not be eligible to race for at least 90 days; and

4. For the fourth occurrence of bleeding, the horse shall be barred from further racing at race meetings licensed by the commission.

E. Bleeders from other jurisdictions. The commission veterinarian may designate a horse as a bleeder from another jurisdiction upon receipt of documentation confirming that the horse is a bleeder, providing that the requirements for inclusion on the bleeder list in Virginia have been satisfied.

11 VAC 10-180-40. Collection of samples.

A. Test barn. All test samples shall be collected in the test barn under the supervision of the commission veterinarian. The commission veterinarian, may at his discretion, permit test samples to be collected in the horse's stall or any other location he deems appropriate. Under these circumstances, the commission veterinarian shall inform the stewards of his decision.

B. Horses to be tested. The stewards or commission veterinarian may, at any time, order the taking of test samples from any horse stabled within the enclosure of the horse racing facility, prior to racing or after racing. However, the stewards shall designate at least one horse from each race for the collection of test samples.

C. Collection procedure.

1. The trainer and groom of a horse sent to the test barn for the collection of test samples shall cooperate with the commission veterinarian and the commission's veterinary technicians in the performance of their duties.

2. Horses, from which samples are to be collected, shall be escorted, following the race, directly to the test barn by the commission's veterinary technicians and the horses shall remain in the test barn until released by the commission veterinarian.

3. Stable equipment, other than that which is necessary for washing and cooling out of a horse, is prohibited in the test barn. A private practitioner may attend a horse in the test barn only in the presence of the commission veterinarian or the commission's veterinary technicians.

4. During the collection of test samples, the owner, trainer or an assistant designated by the owner or trainer, shall be present and witness the collection of the test sample, the splitting of the sample and sealing of containers. In the case of a claimed horse, the owner or trainer, or an assistant designated by the owner or

trainer in whose name the horse started, shall be present to witness the collection of the test samples.

5. The test and split samples collected from a horse shall have identification tags affixed. One portion of the tag, bearing a printed identification number, shall remain with the sealed test and split samples, and the other portion of the tag bearing the same printed identification numbers shall be detached in the presence of the witness. The commission's veterinary technician shall on the detached portion of the tags identify the horse from which the test and split samples were collected, the race and date, and other information deemed appropriate. The detached portion of the tag shall be witnessed by the owner or trainer, or an assistant designated by the owner or trainer, and shall be delivered to the commission's general business office.

6. A horse's identity shall be confirmed by examining its lip-tattoo number. A horse that has not been lip-tattooed shall be reported immediately to the stewards.

7. If, after a horse remains for a reasonable time in the test barn, a test sample of urine cannot be collected from the horse, the commission veterinarian may, at his discretion, collect a test sample of blood or permit the horse to be returned to its barn where a test sample may be collected under the supervision of the commission veterinarian or the commission's veterinary technicians.

11 VAC 10-180-50. Laboratory findings and reports.

A. *Primary testing laboratory.* The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards and the commission veterinarian.

B. *Reference laboratories.* The commission shall designate one or more laboratories, other than the primary testing laboratory, as reference laboratories. These laboratories will conduct confirmatory analysis of split samples as shipped by the commission veterinarian. Any reference laboratory must be accredited by the Association of Racing Commissioners International and be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. *Chief racing chemist's responsibilities.* The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. *Reporting procedures.* The chief racing chemist shall submit to the executive secretary of the commission, the stewards and the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag

number, whether the test sample was negative or there was a chemical identification.

E. *Chemical identifications.* If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. *Review of chemical identifications.* Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification which shall include but not be limited to the chief racing chemist, the commission veterinarian and the commission's veterinary-pharmacological consultant. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;

2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;

3. The commission's veterinary-pharmacological consultant shall submit a written statement to the stewards including but not limited to the classification of the substance, its probable effect on a racehorse, and the efficacy of the substance at the levels found in the test sample;

4. The stewards may ask questions at any time and request further documentation as they deem necessary;

5. If the chemical identification involves a Class 1 or Class 2 substance, as specified by this regulation, then the stewards shall determine that the chemical identification constitutes a violation of the regulations of the commission and it is deemed a positive test result;

6. If the chemical identification and quantification involves a Class 3, Class 4 or Class 5 substance, as specified by this regulation, then the stewards shall determine whether the chemical identification does or does not constitute a violation of the regulations of the commission and whether it should be deemed a positive test result;

7. In the event of a positive test result, the stewards shall notify the trainer of the horse, in writing, of his right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

8. The stewards shall take no disciplinary action against any permit holder until the results of confirmatory testing are received, and the findings shall be a part of the record of any subsequent informal fact-finding conference; and

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9. The chief racing chemist's report of a chemical identification, the commission's veterinary-pharmacological consultant's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. Barred from racing. No horse from which a positive test sample was collected shall be permitted to race until the stewards have made a final determination in the matter. Such a horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state for a period of six months. In the event of a positive test result involving a Class 1, Class 2 or Class 3 substance, the commission or stewards shall direct that the stored frozen samples collected from the horses raced by the trainer shall be tested for the presence of the identified substance. The results of this testing may be considered by the stewards or commission in assessing any disciplinary actions.

I. Split samples. The commission veterinarian shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be stored in secured location inside a locked freezer in accordance with the following procedures:

1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.

2. Upon shipment of the test samples to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian who shall be responsible for securing possession of the keys.

3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.

4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen.

5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the

freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.

6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.

K. Shipment of split samples. The trainer or owner of the horse shall have 48 hours from receipt of the written notice of a positive test result to request that the split sample be shipped to one of the reference laboratories designated by the commission and the split sample shall be shipped to the requested reference laboratory within an additional 48 hours. The cost of shipment and additional testing shall be paid by the permit holder requesting the testing of the split sample.

L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:

1. Date and time the split sample is removed from the freezer;

2. The test sample number;

3. The address of the reference laboratory;

4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;

5. Verification of retrieval of the split sample from the freezer;

6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;

7. Verification of the address of the reference laboratory on the split sample package;

8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory;

9. The date and time custody of the split sample package was transferred to the carrier; and

10. The commission veterinarian, or his designee, and the trainer or owner of the horse, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.

M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:

1. The split sample shall be removed from the freezer by the commission veterinarian, or his designee, in the presence of the trainer or owner, or his designee.

2. The trainer or owner, or his designee, shall pack the split sample in the presence of the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.

3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

4. The package containing the split sample shall be transported in the presence of the commission veterinarian, or his designee, and the trainer or owner, or his designee, to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.

5. The commission veterinarian, or his designee, and the trainer or owner, or his designee, shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

6. The commission veterinarian, or his designee, and the trainer or owner, or his designee, shall complete the chain of custody verification form.

11 VAC 10-180-60. Medications and substances.

A. *Disciplinary actions.* The stewards may, at their discretion, refer to the following guidelines in imposing a disciplinary action upon a permit holder for a positive test result for one of the five classifications listed in subsection B of this section. However, the stewards may, at their discretion and in consideration of the circumstances, impose a greater or lesser disciplinary action. The guidelines are:

1. Class 1. One to five years suspension and at least \$5,000 fine and loss of purse;
2. Class 2. Six months to one year suspension and \$1,500 to \$2,500 fine and loss of purse;
3. Class 3. Sixty days to six months suspension and up to \$1,500 fine and loss of purse;
4. Class 4. Fifteen to 60 days suspension and up to \$1,000 fine and loss of purse; and
5. Class 5. Zero to 15 days suspension with a possible loss of purse or fine or both.

B. *Classes of prohibited substances.* The classes of prohibited substances are:

1. Class 1. Drugs found in this class are substances which are potent stimulants of the nervous system and included in this class are opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) Scheduled I and II drugs. Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a racehorse is very high.

2. Class 2. Drugs found in this class have a high potential for affecting the outcome of a race. Most drugs in this class are generally not accepted therapeutic agents in the racehorse. Many drugs in this class are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some drugs in this class, such as injectable local anesthetics, have legitimate use in equine

medicine, but should not be found in a racehorse. The following groups of drugs are in this class:

- a. Opiate partial agonists, or agonist-antagonists;
- b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- c. Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- d. Drugs with prominent CNS depressant action;
- e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- f. Muscle blocking drugs which have a direct neuromuscular blocking action;
- g. Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and
- h. Snake venoms and other biological substances which may be used as nerve blocking agents.

3. Class 3. Drugs found in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racehorse. The following groups of drugs are in this class:

- a. Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);
- b. A local anesthetic which has nerve blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);
- c. Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;
- d. Primary vasodilating/hypotensive agents; and
- e. Potent diuretics affecting renal function and body fluid composition.

4. Class 4. This class of drugs is comprised primarily of therapeutic medications routinely used in racehorses. These drugs may influence performance but generally have a more limited ability to do so. The following groups of drugs are in this class:

- a. Nonopiate drugs which have a mild central analgesic effect;
- b. Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects:
 - (1) Drugs used solely as topical vasoconstrictors or decongestants;
 - (2) Drugs used as gastrointestinal antispasmodics;

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(3) Drugs used to void the urinary bladder; and

(4) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.

c. Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

d. Mineralocorticoid drugs;

e. Skeletal muscle relaxants;

f. Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

(1) Nonsteroidal Anti-inflammatory Drugs (NSAIDs)--aspirin-like drugs;

(2) Corticosteroids (glucocorticoids); and

(3) Miscellaneous anti-inflammatory agents.

g. Anabolic or androgenic steroids, or both, and other drugs;

h. Less potent diuretics;

i. Cardiac glycosides and antiarrhythmics including:

(1) Cardiac glycosides;

(2) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol);

(3) Miscellaneous cardiotoxic drugs.

j. Topical anesthetics--agents not available in injectable formulations;

k. Antidiarrheal agents; and

l. Miscellaneous drugs including:

(1) Expectorants with little or no other pharmacologic action;

(2) Stomachics; and

(3) Mucolytic agents.

5. Class 5. Drugs found in this class are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically in this class of drugs are agents with very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

11 VAC 10-180-70. Phenylbutazone.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of phenylbutazone in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone has been administered shall be subject to having test samples taken at the direction of the commission veterinarian to determine the quantitative level of phenylbutazone or the presence of other substances which may be present.

C. Disciplinary actions. The stewards shall take the following disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 5.0 micrograms per milliliter of serum:

1. A written reprimand shall be issued to the trainer for the first violation of this chapter;

2. A fine of \$500 shall be issued to the trainer for the second violation of this chapter;

3. A 15-day suspension shall be issued to the trainer and the horse shall be disqualified for the third violation of this chapter; and

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone is permitted by the commission, regardless of whether or not the same horse is involved.

11 VAC 10-180-80. Furosemide.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of furosemide in only those horses that have been placed on the bleeder list by the stewards.

B. Procedures for usage. The use of furosemide shall be permitted by the commission only on horses already on the bleeder list and under the following circumstances:

1. Furosemide shall be administered intravenously, within the enclosure of the horse race facility, no less than four hours prior to post time for which the horse is entered to race.

2. The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 ml (150 mg). Dosage levels between each race shall not vary by more than 3 ml (150 mg).

3. The private practitioner, who is a permit holder, administering the furosemide shall deliver to the commission's office at the racetrack no later than one hour prior to post time for the race in which the horse is entered a furosemide treatment form containing the following:

a. The trainer's name, date, horse's name, and horse's identification number;

b. The time furosemide was administered to the horse;

c. The prior dosage level of furosemide administered to the horse and the dosage level administered for this race;

d. The barn and stall number; and

e. The signature of the private practitioner, who is a permit holder.

C. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of plasma in horses administered furosemide and with urine specific gravity measuring 1.010 or lower. Furosemide must be present in the plasma of any horse racing in Virginia which

has been designated in the program as being treated with the substance.

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subsection C of this section), the stewards shall issue a written reprimand to the trainer.
2. For the second violation of the regulation pertaining to furosemide quantification (subsection C of this section), the stewards shall fine the trainer an amount not to exceed \$500;
3. For the third violation of the regulation pertaining to furosemide quantification (subsection C of this section) within a 12-month period, the stewards shall suspend or fine the trainer or both; and
4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

E. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first or second starts while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

F. Removal from the bleeder list. A trainer or owner may remove his horse from the bleeder list with the permission of the stewards prior to entering the horse in a race.

11 VAC 10-180-90. Bicarbonate testing.

A. Generally. By this regulation, the Virginia Racing Commission prohibits the use of any bicarbonate containing substance or any substance which effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in the horse.

B. Test values. For a test sample collected from a horse one hour following a race in the test barn, the serum total carbon dioxide concentration shall not exceed 36 millimoles per liter for horses not administered furosemide prior to racing or shall not exceed 38 millimoles per liter for horses administered furosemide prior to racing. A serum total carbon dioxide level exceeding these values constitutes a positive test.

C. Testing procedure. The stewards or commission veterinarian may, at their discretion and at any time, order the collection of test samples from any horses present within the enclosure for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. A sample shall be taken from the horse one hour after racing to determine the serum total carbon dioxide concentration. The procedures for split samples do not apply to bicarbonate testing procedures.

D. Positive test results. Upon receipt of a positive test report, the stewards shall inform the trainer of the horse from which the sample was collected of the result. The stewards shall inform the trainer that he has two options:

1. The trainer shall pay a \$1,000 fine and serve a 45-day suspension, and in addition, the horse will lose any purse money earned; or
2. The trainer shall make arrangements with the stewards to have the horse quarantined within the enclosure of the racetrack for a period of 24 hours under conditions acceptable to the stewards and at the expense of the trainer. At the conclusion of the quarantine period, the horse shall have a workout before and acceptable to the stewards with a post-quarantine test sample collected from the horse one hour after the workout. In addition, the feed and water supplied by the trainer shall be subjected to testing.

3. If the post-quarantine serum total carbon dioxide value exceeds 36/38 mm/L, then there is no positive test and the trainer is not subject to disciplinary action. However, if the post-quarantine total carbon dioxide value does not exceed 36/38 mm/L, then the post-race total carbon dioxide constitutes a positive test and the trainer is subject to disciplinary actions beyond those specified in subdivision 1 of this subsection.

STATE CORPORATION COMMISSION

FINAL REGULATION

Division of Communications

Title of Regulation: 20 VAC 5-400-190. Virginia State Corporation Commission Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 USC §§ 251 and 252.

Statutory Authority: §§ 12.1-13, 12.1-28 and 56-265.4:4 of the Code of Virginia.

Effective Date: July 31, 1996.

Agency Contact: Copies of the regulation may be obtained from Vishwa Bhargava Link, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, telephone (804) 371-9671. There is a charge for copies of \$1.00 for the first two pages and 50¢ for each page thereafter.

AT RICHMOND, JULY 31, 1996

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUC960059

Ex Parte: In the matter of investigating and adopting procedural rules for implementing the Telecommunications Act of 1996

ORDER ADOPTING RULES

By order entered May 21, 1996, the Commission prescribed notice and invited comments regarding procedural rules, which had been prepared by the Commission Staff and denoted as Attachment A of that order, for implementing §§ 251 and 252 of the Telecommunications Act of 1996, Public Law No. 104-104 (47 U.S.C. §§ 251, 252) ("the Act"). On June 24, 1996, comments were received from various parties. No party requested a hearing. On July 19, 1996, the Division of Consumer Counsel, Office of the Attorney General filed a motion to file late comments along with its comments on the procedural rules.

The Commission finds that the expedient adoption of these procedural rules is necessary for it to carry out its obligations under §§ 251 and 252 of the Act. The proposed rules have been amended to reflect some concerns of the commenting parties. For example, the requirement for prefiled direct testimony has been modified in order to provide the flexibility requested by some commenting parties. In addition, the Commission has provided itself more flexibility in these proceedings by recognizing its ability to consolidate cases and issues as well as the ability to grant or deny hearing requests under its discretion. A new provision allowing parties to an arbitrated agreement to file reply comments during the final review process has also been added in response to the comments filed.

The Commission believes the procedural rules, as now amended, will allow the Commission to best fulfill its obligations under §§ 251 and 252 of the Act within the time frames allotted. Therefore, the Commission adopts these

rules as final and applies them on a going forward basis to any cases which have heretofore been filed with the Commission under §§ 251 and 252 of the Act.

Some commenting parties expressed concern on not being provided a definition of the term "supporting documentation" as used in the procedural rules. Supporting documentation is all evidence, including any prefiled direct testimony, cost studies, and any other factual material that supports the party's position in the case. When a party requests a hearing or will participate in a hearing, supporting documentation includes all evidence it intends to present at the hearing.

NOW THE COMMISSION, having considered the comments by interested parties and incorporated some changes into the proposed procedural rules, finds it appropriate to adopt the procedural rules in final form and these rules will apply to any present proceedings and future proceedings under §§ 251 and 252 of the Act. Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) The Commission rules attached hereto as Attachment A are hereby adopted as final pursuant to Virginia Code § 12.1-28 and §§ 251 and 252 of the Telecommunications Act of 1996, Public Law No. 104-104 (47 U.S.C. §§ 251, 252).

(2) Any pending case before the Commission filed under §§ 251 and 252 of the Act shall be bound on a going forward basis to the procedural provisions of these rules adopted herein.

(3) This docket shall remain open in order to facilitate the appropriate service list for interested parties established by the procedural rules in this matter and any amendments to the procedural rules under §§ 251 and 252 of the Act.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: All Certificated Local Exchange Telephone Companies as set out in Appendix A; all Certificated Interexchange Carriers as set out in Appendix B; Edward L. Petrini, Esquire, Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Louis R. Monacell, Esquire, and Alexander F. Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Mark Argenbright, Manager, Regulatory Analysis, LDDS Worldcom, 515 East Amite Street, Jackson, Mississippi 39201-2702; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald G. Owens, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; Ronald B. Mallard, Fairfax County Consumer Affairs, 12000 Government Center Parkway, Suite 443, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber of Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, #210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., #750, Washington, D.C. 20005-3934; Cecil O. Simpson, United

States Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tetelbaum, Citizens Telecommunications, 1400 16th Street, N.W., #500, Washington, D.C. 20036; Naomi C. Klaus, Esquire, Metro Washington Airports Authority, 44 Canal Center Plaza, #218, Alexandria, Virginia 22314; Jodie Donovan-May, Esquire, Teleport Communications Group, 1133 21st Street, N.W., Washington, D.C. 20036; Andrew O. Isar, Telecommunications Resellers, 4312 92nd Avenue, N.W., Gig Harbor, Washington 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K Street, N.W., #300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James B. Wright, Esquire, Senior Attorney, Central Telephone Company of Virginia, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; Kenworth E. Lion, Jr., Esquire, Virginia Citizens Consumer Council, 2201 West Broad Street, Suite 100, Richmond, Virginia 23220; Warner F. Brundage, Jr., Esquire, Bell Atlantic-Virginia, P.O. Box 27241, Richmond, Virginia 23261; Edward L. Flippen, Esquire, AT&T Communications of Virginia, P.O. Box 1122, Richmond, Virginia 23208-1122; Jack H. Derrick, Esquire, 1108 East Main Street, #1200, Richmond, Virginia 23219; Patrick T. Horne, Esquire, and Stephen H. Watts, Esquire, McGuire, Woods, Battle & Boothe, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Scott McMahon, LCI International Worldwide, 8180 Greensboro Drive, McLean, Virginia 22102; Robert Smithmidford, Nationsbank Services, Inc., 8001 Villa Park Drive, Richmond, Virginia 23228-6502; J. Christopher Lagow, Esquire, Bellsouth Cellular Corporation, P.O. Box 1998, Richmond, Virginia 23218; Ralph L. Frye, Executive Director, Virginia Telecommunications Industry Association, 11 South 12th Street, Suite 310, Richmond, Virginia 23219; Eric M. Page, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Richmond, Virginia 23060; James C. Falvey, Esquire, American Communications Services, 131 National Business Parkway, #100, Annapolis Junction, Maryland 20701; and the Commission's Divisions of Communications, Economics and Finance, and Public Utility Accounting, and Office of General Counsel.

Bell Atlantic - Virginia
Mr. Hugh R. Stallard, President and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Amelia Telephone Corporation
Ms. Joy Brown, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia
Mr. Martin H. Bockock
Vice President and General Manager
P. O. Box 6788
Charlottesville, Virginia 22906

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company
Mr. David R. Maccarelli, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Cox Fibernet Commercial Services, Inc.
Alexandria Skirpan, Jr., Esquire
Christian & Barton
909 East Main Street, Suite 1200
Richmond, Virginia 23219-3095

GTE South, Inc.
Stephen C. Spencer, Reg. Director
External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

GTE
Joe W. Foster, Esquire
Law Department
P.O. Box 110 - FLTC0007
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Jones Telecommunications of Virginia, Inc.
Christopher W. Savage, Esquire
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 20006

APPENDIX A

TELEPHONE COMPANIES IN VIRGINIA

INTERPRISE-Alternet of Virginia Data Communications
Leonard J. Kennedy, Esquire
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W., Suite 800
Washington, D.C. 20036-6802

AT&T Communications of Virginia, Inc.
Wilma R. McCarey, Esquire
3033 Chainbridge Road, Room 3-D
Oakton, Virginia 22185-0001

Amelia Telephone Corporation
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

State Corporation Commission

MFS Intelenet of Virginia, Inc.
Mr. Gary Ball
Director of Regulatory Affairs
Eastern Region
33 Whitehall, Suite 1600
New York, New York 10006

MCImetro Access Transmission Services of Virginia, Inc.
Howard W. Dobbins
Williams, Mullen, Christian & Dobbins
1021 East Cary Street
P.O. Box 1320
Richmond, Virginia 23210-1320

Mountain Grove-Williamsville Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President
P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
C. Douglas Wine, Manager
P. O. Box 236
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.
President & General Manager
P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
1000 Roanoke Road
P.O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. William J. Franklin, Jr.
Executive Vice President
P. O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. H. John Brooks
Vice President & General Manager
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

APPENDIX B

INTER-EXCHANGE CARRIERS

INTERPRISE-Alternet of Virginia Data Communications
Leonard J. Kennedy, Esquire
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W., Suite 800
Washington, D.C. 20036-6802

AlterNet of Virginia
Mr. Leonard J. Kennedy, Counsel
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, Suite 800
Washington, D.C. 20036

AT&T Communications of Virginia
Ms. Wilma R. McCarey, General Attorney
3033 Chain Bridge Road, Third Floor
Oakton, Virginia 22185-0001

CF-W Network Inc.
Mr. James S. Quarforth
Chairman and CEO
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Government & Industry Relations
1108 East Main Street, Suite 1200
Richmond, Virginia 23219-3535

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Cox Fibernet Access Services, Inc.
Alexander F. Skirpan, Esquire
Christian and Barton, L.L.P.
909 East Main Street, Suite 1200
Richmond, Virginia 23219-3095

GTE South, Inc.
Mr. Stephen Spencer
One James Center
901 East Cary Street
Richmond, Virginia 23219

Hyperion Telecommunications of Virginia, Inc.
Leonard J. Kennedy
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, Suite 800
Washington, D.C. 20036

Institutional Communications Company - Virginia
Ms. Anne LaLena
8100 Boone Boulevard, Suite 500
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia, Inc.
Prince I. Jenkins, Esquire
1133 19th Street, N.W., 11th Floor
Washington, D.C. 20036

MCImetro Access Transmission Services of Virginia, Inc.
Sarah Hopkins Finley, Esquire
P.O. Box 1320
Richmond, Virginia 23210

Metromedia Communications Corporation
d/b/a LDDSMetromedia Communications
Mr. Brian Sulmonetti
Regulatory Affairs
1515 South Federal Highway
Boca Raton, Florida 33432

R&B Network, Inc.
Mr. Allen Layman, Executive Vice President
P. O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. William J. Franklin, Executive VP & Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President & General Manager
P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
d/b/a Cable and Wireless, Inc.
Mr. Charles A. Tievsky
Regulatory Attorney
1919 Gallows Road
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Virginia MetroTel, Inc.
Mr. Richard D. Gary
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Virginia WorldCom, Inc.
d/b/a LDDS Worldcom
Mr. Richard Marmel, Manager
Regulatory Affairs

One Meadowlands Plaza
East Rutherford, New Jersey 07073

20 VAC 5-400-190. Virginia State Corporation Commission Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, [Public Law No. 104-104 47 USC §§ 251 and 252] .

A. Preliminary matters.

1. Any reference in these procedural rules to "interested parties" shall initially refer to the service list attached to the Order Prescribing Notice and Inviting Comments entered in this case, PUC960059. Any other person [~~or entity~~] who wishes to be included on this service list as an "interested party" under this section may file such a request with the Clerk of the State Corporation Commission ("commission"). A master list shall be kept by the Clerk of the Commission and shall be updated as necessary. Any reference in this section to service upon interested parties shall subsequently mean service on all parties included on this master service list as updated by the Clerk's Office [, unless this service list has been modified in accordance with subdivisions B3, C5, and D3 of this section. Any reference in this section to a person shall include a person or an entity] .

2. [~~An interconnection agreement~~ Any arbitration request] which has issues resolved through negotiations [, but not filed as a separate agreement] , [~~as well as one or more unresolved issue or issues which need to be decided by the commission through arbitration,~~] will be [~~handed considered~~] as one proceeding through the arbitration procedure set out in subsection C of this section. The resolved portions of the agreement shall be reviewed under [47 USC] § 252(e)(2)(A) [~~of the Telecommunications Act of 1996, Public Law No. 104-104 ("the Act")~~] , and arbitrated portions of the agreement shall be reviewed under [47 USC] § 252(e)(2)(B) [~~of the Act~~] . [Any arbitration request having issues resolved through negotiations and filed as a separate agreement will be considered as two proceedings. The separate negotiated agreement shall be considered under subsection B of this section and any unresolved issues will be considered under subsection C of this section.]

3. The commission may deviate from the provisions of this section as it deems necessary to fulfill its obligations under [~~the Act~~ 47 USC §§ 251 and 252] .

4. The filing of an arbitration request shall not preclude the parties from continuing negotiations on unresolved issues. Those issues that are resolved after an arbitration request has been filed with the commission shall be considered negotiated provisions, subject to appropriate notice [~~and comment deadlines requirements~~] under the proposed arbitration procedures.

[~~5. Requests for mediation under § 252(a)(2) of the Act shall be treated as an informal proceeding under Practice and Procedure Rule 5:4 (5 VAC 5-10-300) of the State Corporation Commission Rules of Practice and Procedure (5 VAC 5-10-10 et seq.).~~]

State Corporation Commission

[6. 5.] To the extent there is conflict between this section and the [State Corporation] Commission's Rules of Practice and Procedure [(5 VAC 5-10-10 et seq.)] (hereinafter referred to as "Practice and Procedure Rules"), this section shall control.

[7. 6.] No provision of this section shall interfere with the commission's power to direct a hearing examiner to consider any issue or issues which arise during these proceedings.

[8. 7.] The provisions of this section which require the filing of supporting documentation or [testimony evidence] shall require strict compliance. Failure to file supporting documentation or [testimony evidence] as required by this section may result in denial of the relief sought by the party failing to comply, or in a decision adverse to that party's position on the merits.

[8.] The commission may, in its discretion, order an evidentiary hearing to address issues that arise in these proceedings or may deny a hearing request when a hearing is not necessary to resolve the issues at hand. The commission may also consolidate proceedings or common issues from two or more proceedings.]

B. Agreements arrived at through negotiation. The following procedure shall be [followed observed] when parties who have negotiated and entered into a binding agreement for interconnection, services, or network elements under [47 USC] § 252(a)(1) [of the Act] submit their voluntarily negotiated agreement for review by the commission under [47 USC] § 252(e) [of the Act] :

1. The parties shall file the agreement [, along with all supporting documentation,] with the [Clerk of the] commission and on or before that same day [,] shall serve a notice of filing [,] which describes the terms and conditions of the agreement or a copy of the negotiated agreement itself, on all interested parties and the commission staff, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). If [an interested party a person] specifically requests a copy of the negotiated agreement, the parties shall [promptly] serve a copy of the agreement on the [party person] making the request.

2. Within 21 days of the filing of the negotiated agreement, any [interested party person] may submit comments regarding the agreement. Such comments shall include all supporting documentation. The comments shall be limited to the criteria for review under [47 USC] § 252(e)(2)(A) [of the Act] . Any request for hearing must be filed with the comments. Absent a showing of good cause for a hearing, the commission may review the negotiated agreement without a hearing. Any [interested party person] filing comments or [requests a request] for hearing, or both, shall, on or before the date of filing of such comments or request, serve a copy on the parties to the negotiation and the commission staff in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). Upon the request of any other [interested party, an interested party person, a person] shall promptly serve a copy of [

its the] comments or request for hearing, or both, on the [interested party persons] making the request.

3. After the deadline for comments or requests for hearing, the service list for the case shall be limited to the parties to the negotiations, the commission staff and any [interested parties persons] filing comments or requests for hearing, or both (hereinafter referred to as "modified service list").

4. Within 35 days of the filing of the negotiated agreement, the parties to the negotiated agreement may file a response to any comments filed. Such a response shall include all supporting documentation, and shall be served on the modified service list and the commission staff, on or before the filing date, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390).

C. Agreements arrived at through compulsory arbitration.

The following procedure shall be followed when a party [to a negotiation] petitions the commission to arbitrate any unresolved issues under [47 USC] § 252(b) [of the Act] :

1. Any party to a negotiation may petition ("petitioning party") the commission to arbitrate any unresolved issue in accordance with the deadlines set out in [47 USC] § 252(b)(1) [of the Act] . The arbitration request shall be filed as a petition [,] including all supporting documentation [,] and [will must] conform with [47 USC] § 252(b)(2) [of the Act] . [Along with its petition,] the petitioning party shall file any request for hearing along with [its direct testimony, if a hearing is requested any prefiled direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. In its petition, the petitioning party shall certify its compliance with the duty to negotiate in good faith provision of 47 USC § 251(c)(1)] . In addition to its obligation to serve a copy of the petition on the other party or parties to the negotiation, the petitioning party shall serve a notice of filing which describes the contents of the arbitration petition or a copy of the petition itself on all interested parties and the commission staff, on or before the same day it is filed with the commission, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). If [an interested party a person] specifically requests a copy of the petition, the petitioning party shall [promptly] serve a copy of the petition on the [party person] making the request.

2. Within 25 days after the petition requesting arbitration is filed with the commission, the nonpetitioning party to the negotiation ("responding party") may file a response and any additional information as provided under [47 USC] § 252(b)(3) [of the Act] . In addition, [with its response,] if a request for hearing was filed by the petitioning party, the responding party shall file [its any] prefiled direct testimony [with its response and all materials it will rely on to support its case at the hearing, including all evidence it intends to present] . If no request for hearing was filed by the petitioning party, the responding party may file [, with its response,] a request for hearing along with any prefiled direct testimony [with

its response and all materials it will rely on to support its case at the hearing, including all evidence it intends to present] . The [~~responding party shall file~~ response shall include] any supporting documentation and shall [~~serve the response be served~~] on the petitioning party and commission staff, and [~~shall serve~~] a notice of filing which describes the contents of the response or a copy of the response itself [shall be served] on all interested parties, on or before the date the response is filed with the commission, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). If [~~an interested party a person~~] specifically requests a copy of the response, the responding party shall [promptly] serve a copy of the response on the [party person] making the request. [If no timely request for hearing is received, the commission may arbitrate the unresolved issues and review the resolved issues without a hearing.]

3. Comments on the petition and response may be filed no more than [~~24~~ 45] days after the [~~response~~ petition] is filed with the commission. Comments relating to unresolved issues in the petition shall be limited to the standards for reviewing arbitrated agreements under [§ 47 USC] § 252(c) and [47 USC §] 252(e)(2)(B) [~~of the Act~~] . Comments relating to the issues resolved in the negotiation which is the subject of the arbitration petition shall be limited to the standards for reviewing negotiated agreements under [47 USC] § 252(e)(2)(A) [~~of the Act~~] . Comments shall include all supporting documentation. [If no hearing request has been filed, an interested party may request a hearing in its comments. The commission will grant the hearing request of an interested party only if good cause is shown.]

4. If a hearing request has been filed by either the petitioning or the responding party, any person wishing to participate in the hearing shall file, by the deadline for filing comments, a notice of participation which shall contain (i) a precise statement of the party's interest in the proceeding; (ii) a full and clear statement of the facts which the interested party is prepared to prove by competent evidence, the proof of which will warrant the relief sought; and (iii) a statement of the specific relief sought and legal basis therefor. Along with the notice of participation, the person wishing to participate in the hearing shall also file all supporting documentation, including testimony and evidence it will rely on to support its position at the hearing.] Any [~~interested party person~~] filing comments [or a notice of participation, or both,] shall, on or before the day of the filing, serve a copy [~~of the comments~~] on the petitioning and responding parties and the commission staff in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). Upon the request of any other [~~interested party, an interested party person, a person~~] filing comments or a [~~request for hearing~~ notice of participation] , or both, shall promptly serve a copy of the comments or [~~request notice~~] on the [~~interested party person~~] making the request. [If a hearing request has been filed by either the petitioning or responding party, any interested party wishing to participate in the hearing shall file its prefiled direct testimony with its comments.] In addition, if the responding party filed a hearing request, the petitioning

party's prefiled direct testimony [, if any, and all materials it will rely on to support its case at the hearing, including all evidence it intends to present] shall be [~~due simultaneously with~~ filed and served on the responding party and the commission staff by] the deadline for [filing] comments [~~of interested parties by persons~~] . [If no timely request for hearing is received, the commission may arbitrate the unresolved issues and review the resolved issues without a hearing.]

[4. 5.] After the deadline for comments or [~~requests for hearing~~ notices of participation] , the service list for the case shall be the modified service list, limited to the parties to the arbitration petition, the commission staff and any [~~interested parties persons~~] filing comments or [~~requests for hearing~~ notices of participation] , or both.

[5. If neither the petitioning nor responding party has requested a hearing, but an interested party requests a hearing, the commission shall determine the schedule of prefiled direct testimony by commission order.]

6. [~~On or before the ninth month~~ Nine months or sooner] after the [~~interconnection~~] request [for interconnection, services, or network elements] was received by the incumbent local exchange company, the commission shall issue its decision resolving the unresolved issues. In its order, the commission shall provide a deadline for the parties to the negotiation to provide the commission with a formalized agreement.

7. The parties shall submit the formalized agreement as an agreement adopted by arbitration for commission review under [47 USC] § 252(e) [~~of the Act~~] , in compliance with the deadlines set by the commission. On or before submission of the formalized agreement, the parties will serve a copy of the agreement on the parties on the modified service list, and the commission staff, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390).

8. Within 10 days after the formalized agreement is filed with the commission, any [~~interested party person~~] may file comments on the agreement. Such comments shall be limited to the grounds for rejection as listed in [47 USC] § 252(e)(2) [~~of the Act~~] and shall include all supporting documentation. Simultaneously with their filing, comments shall be served on the parties to the agreement [, and] the commission staff [by next day delivery] , and [to] the parties on the modified service list, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390).

[9. Within 15 days after the formalized agreement is filed with the commission, any party to the agreement may file reply comments in direct response to any comments filed under subdivision 7 of this subsection. Such reply shall include all supporting documentation, and shall be served on the modified service list and the commission staff, on or before the filing date, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390).]

D. Statement of generally available terms. The following procedure shall be followed when a Bell Operating Company

State Corporation Commission

("BOC") files a statement of generally available terms and conditions:

1. The BOC shall [,] on or before the day the statement is filed with the Clerk of the Commission, serve a notice of filing which generally describes the terms and conditions of the statement or a copy of the statement itself on all interested parties in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). If [an interested party a person] specifically requests a copy of the statement, the BOC shall [promptly] serve a copy of the statement on the [party person] making the request. The BOC shall, on or before the date of filing, serve a copy of the statement on the commission staff in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). The filing shall include a detailed explanation of how the statement complies with [~~§ 251 and its implementing regulations, and § 252(d) of the Act~~ 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder] , and shall include all supporting documentation.

2. Comments may be filed within 21 days of the filing of the statement. Comments shall be limited to whether the statement complies with [~~§ 251 and its implementing regulations, and § 252(d) of the Act~~ 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder] , and shall include all supporting documentation. Any request for hearing shall be filed with the comments. The commission will grant a hearing request only if good cause is shown. Comments or requests for hearing, or both, shall, on or before the date of filing, be served upon the BOC and the commission staff in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390). Upon the request of any other [interested party, an interested party person, a person] shall [promptly] serve a copy of [its the] comments or request for hearing, or both, on the [interested party person] making the request.

3. After the deadline for comments or requests for hearing has passed, the service list for the case shall be the modified service list, limited to the BOC, the commission staff, and any [interested parties persons] filing comments or requests for hearing, or both.

VA.R. Doc. No. R96-510; Filed July 31, 1996, 11:01 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: 9 VAC 5-91-10 et seq. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. It is required to meet federal mandates contained in the federal Clean Air Act. While I share the goal of improving air quality in "non-attainment" areas, I also believe that we should try to meet clean air goals in ways that impose the least burdens on Virginians.

While I reserve the right to take action under the Administrative Process Act during the final adoption period, I do not object to this regulation at this time based on the information and public comment currently available.

/s/ George Allen

Governor

Date: June 25, 1996

VA.R. Doc. No. R96-514; Filed July 31, 1996, 12:15 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: 12 VAC 5-371-10 et seq. Regulations for the Licensure of Nursing Homes.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: July 26, 1996

VA.R. Doc. No. R96-515; Filed July 31, 1996, 12:15 p.m.

The Legislative Record

Volume 6 No. 2

July 1996

HJR 63

Campaign Finance Reform

July 12, 1996, Richmond

Study Directive

A special subcommittee of the House Committee on Privileges and Elections met and decided to conduct a broad review of Virginia's Campaign Finance Disclosure Act (CFDA), including improvements in processing and accessing disclosure reports and new directions for campaign finance reform.

Although HJR 63 failed to pass, the Speaker referred the resolution to the Privileges and Elections Committee so that the issues raised by the resolution would be considered during the 1996 interim. Chairman Davies convened the meeting and stressed that he will coordinate the subcommittee's work with the Senate Committee on Privileges and Elections and the State Board of Elections (SBE).

Background

The subcommittee received three reports to set the context for its study. These reports covered the pending court challenge to certain key CFDA provisions, present procedures and future plans of the SBE for administering the CFDA, and background materials on campaign finance reform efforts in other states and Virginia.

Virginia Society for Human Life, Inc. v. Caldwell

The counsel to the Attorney General reported that the plaintiffs in this case have challenged the application of the CFDA provisions which define "committee," require the filing of statements of organization by committees, and require the filing of periodic disclosure reports by committees. The gist of their complaint is that the CFDA is unconstitutional and overly broad to the extent it requires disclosure by groups

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engaged primarily in "issue advocacy." The Commonwealth has defended the CFDA by arguing that it should be narrowly construed to require disclosure only in the area of "candidate advocacy." Judge Samuel G. Wilson of the federal District Court (Western Division) temporarily enjoined the enforcement of these provisions with respect to the plaintiffs in the case in late 1995.

The 1996 General Assembly amended these CFDA provisions in response to this litigation. Plaintiffs are in the process of amending their complaint in light of the 1996 amendments. Developments in the case may affect the scope and implementation of the CFDA.

Administration of the CFDA by the SBE

The secretary of the SBE reported that the present system for processing candidate campaign finance reports is handled by hand and on paper. The growth in the volume of paper has far outstripped increases

VIRGINIA DIVISION OF LEGISLATIVE SERVICES

in staff and resources. The board will be implementing three initiatives adopted by the 1996 General Assembly:

1. An appropriation for two additional full-time employees for the division that administers the CFDA and for computer scanning equipment to produce copies of disclosure reports for customers such as the press and public;
2. § 24.2-914.1, which requires the board to approve standards for the electronic preparation, production, and transmittal of campaign disclosure reports; and
3. SJR 71, which requests a study by the board of improvements in the filing and accessing of campaign finance reports and in enforcement procedures.

The SBE will be seeking public comment in connection with the SJR 71 study, and the secretary suggested that the subcommittee and the board could coordinate their efforts in this area.

Background Materials

Staff provided reports on campaign finance reform efforts in other states and in Virginia. One example discussed by the subcommittee and referenced specifically in HJR 63 involves limits on campaign fund-raising during legislative sessions. Twenty-four states now restrict campaign fund-raising during sessions. These provisions vary. Some restrict fund-raising by officeholders, candidates, or both; some prohibit contributions or fund-raising by lobbyists; some restrict fund-raising only during sessions; and others apply to sessions and periods before and after sessions.

The subcommittee also focused on materials illustrating Internet access to campaign finance disclosure reports: the San Francisco '95 Online Campaign Finance Database and the Florida Campaign Finance Database.

Future Meetings

The subcommittee scheduled two meetings — 2:00 p.m., Monday, September 30, and 10:00 a.m., Tuesday, October 1. One meeting will focus on improvements in campaign finance reporting with an emphasis on technology; and the other meeting will cover campaign finance reforms such as limits on fund-raising during sessions and contribution caps.

The meetings will depart from the traditional public hearing format and involve discussions with interested parties. The subcommittee wishes to solicit advice from concerned parties and experts — persons who must comply with and administer the CFDA — and persons who use the disclosure reports (public interest groups, the media, the academic community). Interested parties should contact Barbara Regen (804-786-7681) or Mary Spain (804-786-3591).

The Honorable John J. Davies III, *Chairman*
Legislative Services contact: Mary R. Spain



HJR 158

Joint Subcommittee Studying Independent Pharmacies

July 11, 1996, Richmond

Citing the historical contributions to the health of community citizens and the recent decline in the number of independent pharmacies owned and operated by private individuals, the 1996 General Assembly adopted HJR 158 to evaluate the impact of this development and make recommendations to the 1997 General Assembly. At the organizational meeting, staff briefed the joint subcommittee on the background issues relating to the demise of independent pharmacies, individuals directly affected by the problem testified, and attorneys explained the status of current litigation.

Background

Independent pharmacies are quickly becoming relics of the past. After 45 years of steady growth, total sales in the average independent pharmacy dropped 7.7 percent in 1994. There are two primary reasons for this decline: competing sources and preferential pricing.

Chain Drug Stores

Independent pharmacies face a variety of threats to their continuing livelihood — from chain drug stores, supermarkets connected to large mass merchandisers, and managed care or drug benefits plans. Chain drug stores filled one of every two retail prescriptions in 1994, and they control a 38 percent share of the total pharmaceutical market of \$71.3 billion. Many of these large chains and other merchandisers can afford to lose money on prescriptions because they sell a multitude of other items, in “one-stop shopping,” which have a potential for higher markup and profit. Additionally, today 55 percent of all prescriptions are for customers enrolled in various managed care or drug benefits plans, up from 26 percent in 1990. That number may reach 80 percent by 2000.

Preferential Pricing

The growth of managed care drug dispensing has led to the problem of preferential pricing or discounting, which is a recent development in the pharmaceutical industry. Traditionally, aside from discounts offered to large volume customers, each distributor or pharmacy paid the same price to the manufacturer. In the 1980s, some hospitals and emerging HMO plans developed formularies, or preferred drugs, for use by doctors in their system so as to contain costs. With the multitude of drugs that are pharmaceutically equivalent, costs can be cut by carrying only one brand. In order to gain access to these markets,

manufacturers were required to discount those drugs that would be recommended to the participating physicians. Competition with other manufacturers discounted the prices even further and enabled HMOs and other similar plans to offer drug benefit plans at sharply reduced prices. Retail pharmacies, however, have been left out of the process and receive no discounts. In addition, retail pharmacists must carry a full spectrum of drugs to comply with physicians' orders and, therefore, have limited bargaining power with the manufacturers.

Value of Independent Pharmacies

Delegate Harvey Morgan, whose family's independent pharmacy has recently gone out of business, stressed that because there has been such a revolution of new drugs that interact and interfere with one another, there is more need than ever before for a one-on-one relationship between pharmacist and patient. However, independent pharmacies are closing at a rate of one per week in Virginia, according to the Virginia Pharmacists Association. In addition to the problems of chain competition and differential pricing, Delegate Morgan argued that independent pharmacies are being strangled by third party payers, who reimburse pharmacists at actual cost, so that no profit is made.

Representatives from the Virginia Pharmacists Association described the role of community pharmacists as an integral part of a truly managed system of health care. Pharmacists' role as primary health care providers is evident in their accessibility to the patient, with some even delivering medication to the patient's door, and in their training and skills in appropriate medication therapy, which is a cornerstone for the management of chronic disease states. Proper pharmaceutical care, moreover, can improve the patient's quality of life and significantly reduce health care costs. Finally, because most prescriptions are dispensed with a 30-day supply, it is the pharmacist who sees the patient more often than any other health care provider and who can therefore detect problems more immediately.

Pharmacists can provide services that extend the effectiveness of the physician, cut health care costs, and improve the quality of care; however, marketplace demands are making it difficult if not impossible to be successful. A 1995 study cited by the Virginia Pharmacists Association estimates that for every dollar spent to purchase prescription drugs, Americans spend another dollar to fix the problems caused by underuse and misuse of those drugs. Thus, if the independent pharmacists are lost, also lost is a solution to an immediate and real public health problem.

Current Litigation

Attorneys from Durette, Irvin and Bradshaw briefed the subcommittee on the status of current litigation on the discounting issue. In a class-action suit, retail pharmacists claim that numerous drug manufacturers have violated portions of the Sherman Antitrust Act and the Robinson-Patman Act. This is the largest antitrust action in American legal history, consoli-

dating suits from 48 states, and involving over 4,000 independent pharmacies against 27 major drug manufacturers and three mail-order pharmacies. A trial date has not yet been set. While the plaintiffs are optimistic, they fear that a decision may come too late to save many struggling independent pharmacies.

Scope of the Study

In discussing the scope of the study, the subcommittee decided to narrow its focus, targeting specific areas where legislation can make an impact. Members would especially like to learn more about the third party reimbursement issue. Since rural areas are being so negatively impacted by the closing of neighborhood pharmacies, the subcommittee's next meeting will be held in Charlottesville to allow individuals from that area a chance to address the issues. The meeting will be held in September.

The Honorable John J. Davies III, *Chairman*
Legislative Services contact: Gayle Vergara



SJR 92

Rappahannock River Basin Study Panel

June 19, 1996, Fredericksburg

The Rappahannock River Basin Study is made up of nine members of the General Assembly from the Rappahannock River basin and representatives from the City of Fredericksburg and each of the 15 counties in the river basin. Its purpose is to evaluate and make recommendations on the potential structures and goals of a mechanism to address coordination, communication, and strategic planning on issues of basin-wide significance.

At its first meeting, the study panel heard briefings by the four planning district commissions covering the basin on the demographics and growth patterns of the geographic areas for which they have responsibilities. Staff provided a briefing paper and an overview of the laws affecting the use of the Rappahannock river and its resources.

Objectives

The panel's discussions focused on the study's objectives and any mechanism for communication and coordination that may grow from the panel's efforts. Out of that discussion grew the following eight objectives:

1. To determine the interdependent needs and benefits to the localities of the basin of the creation of a Rappahannock River Basin Commission.

2. To examine the efforts of various entities relative to the river, including state and local governments, regional agencies, organizations, businesses, and individuals, and to recommend strategies to increase the efficiency of those efforts.
3. To document the various uses that the people of the basin make of the river, the impact of the uses of the river, and the importance of the river to the region and to the Commonwealth.
4. To examine, discuss, and evaluate the concerns of various entities with an interest in the river.
5. To research and consider the applicability of the methods used in other areas to increase communication and coordination among the entities concerned with a major river.
6. To facilitate citizen involvement in the discussion of basin issues.
7. To identify and recommend means of improving communication between state agencies and local governments on issues and policies of concern to local governments within the basin.
8. To identify, discuss, and recommend the resources necessary to establish an ongoing effort for basin-wide planning, communication, and coordination.

Next Meeting

The next meeting of the study panel will begin at 2:00 p.m. on August 21 in Fredericksburg, when the panel members will hear from the Secretary of Natural Resources on efforts to create a nutrient reduction plan for the basin, will discuss the localities' uses of the river and their concerns, and will discuss potential structures for a continuing effort at basin-wide communication and planning. A public hearing will be held that evening.

The Honorable R. Edward Houck, *Chairman*
Legislative Services contact: Shannon R. Varner



HJR 202

Select Committee Examining the Gross Premium Tax Imposed on Insurance Companies

July 9, 1996, Richmond

HJR 202 directs a select committee of the House and Senate Finance Committees to examine Virginia's gross receipts tax imposed on insurance companies and ensure that it is equitable and competitive with that of other states.

Gross Premium Tax

Insurance companies operating in Virginia are required to pay a license tax based on their gross premiums in lieu of cor-

porate income tax. An insurer's gross premium tax liability is determined by multiplying taxable premiums, assessments, dues and fees collected (excluding premiums received for reinsurance and earnings on returned or canceled policies) by the applicable tax rate. Annuities, health maintenance organizations, fraternal benefit societies, and certain mutual assessment fire insurance companies are exempt from the gross premium tax. Workers' compensation insurers, who are taxed by the Workers' Compensation Commission, are also exempt from the gross premium tax.

Premiums from life, accident and sickness, property and casualty, title, home protection, and prepaid legal insurance are taxed at 2.25 percent. For cooperative nonprofit life benefit, cooperative or assessment life and casualty, industrial sick benefit insurance, domestic nonprofit mutuals, and certain mutual assessment companies, the rate is one percent. For health care, dental and optometric plans providing open enrollment, the rate is 0.75 percent. Trigon Blue Cross/Blue Shield's premium income from policies issued to primary small employers (two to 25 employees) is taxed at 2.25 percent, while premium income from individual and large group policies is taxed at 0.75 percent. Insurers receive a credit against their gross premium tax liability for a portion of their guaranty fund association assessments; in 1995, guaranty fund credits totaled \$5.8 million.

The gross premium tax, administered by the State Corporation Commission (SCC), generates \$220 million of general fund revenue annually. Almost 97 percent of the gross premium tax collections is paid by life, accident and health, and property and casualty insurers. This tax is the Commonwealth's fifth largest source of general fund revenue (2.84 percent).

Other Taxes and Fees

In addition to the gross premium tax, insurers are liable for several other taxes and fees. These include:

- ▶ Maintenance assessment levied by the SCC's Bureau of Insurance at a rate of 0.06 percent of a company's direct gross premium income (\$6.7 million generated annually).
- ▶ Fire Programs Fund assessment, paid by companies writing fire, miscellaneous property, marine, homeowners and farmowners insurance, at a rate of one percent of total direct gross premiums (\$8.7 million).
- ▶ Help Eliminate Auto Theft (HEAT) Fund assessment, paid by companies writing motor vehicle insurance, at a rate of 0.25 percent of direct gross premiums for automobile physical damage insurance other than collision (\$6.8 million).
- ▶ Flood Prevention and Protection Assistance Fund assessment, paid by companies writing flood insurance policies but excluding premiums written pursuant to the National Flood Insurance Act, at a rate of one percent with a \$100 minimum assessment (\$151,393).
- ▶ Appointment fees, paid by insurance companies for each appointment of a licensed agent, at \$12 per agent (\$5.3 million).

- ▶ Assessments paid to the Life and Health Guaranty Association, Property and Casualty Guaranty Association, and Medical Malpractice Joint Underwriting Association.

Other States

All but a few states levy a gross premium tax on insurance companies. Gross premium tax rates range from 4.625 percent in Hawaii to 0.75 percent in Wyoming. The average rate of the gross premium tax rates on life insurers is 2.076 percent, and the median rate is 2 percent. The average rate of the tax on property and casualty insurers is 2.305 percent, and the median is 2.1 percent.

The tax obligations of insurers in different states cannot accurately be compared by examining only gross premium tax rates. Insurers are often required to pay a variety of additional taxes and fees, including premium surcharges, a corporate income or franchise tax, maintenance assessments, and regulatory fees. States also provide various credits against retaliatory tax liability, such as credits for local ad valorem taxes paid to localities, for regulatory assessments and license fees, for corporate income taxes, for retaliatory taxes paid to other states, for domestic investments, and for locating a home or regional office in the taxing state.

Comparing tax burdens is further complicated by the fact that some states tax activities that Virginia exempts from taxation. Examples include levying a maintenance tax on third-party administrators of ERISA-exempt self-insurance plans, subjecting HMOs to the gross premium tax, and taxing annuities.

Industry Relocation Criteria Survey

The November 1994 edition of Best's Review reported the results of a survey in which industry representatives were asked to rank cities on their attractiveness to insurance companies. The five highest-ranked cities are listed below:

Overall	Back-Office Operations	Agency & Brokerage Operations	Head-quarters
Des Moines	Des Moines	Tampa	Chicago
Tampa	Tampa	Atlanta	Minneapolis
Minneapolis	Milwaukee	Columbus	New York
Milwaukee	Kansas City	Minneapolis	Boston
Kansas City	Baltimore	Indianapolis	Atlanta

According to the survey, the overriding concern in selecting an insurance location, cited by 61 percent of respondents, is the quality of the labor force. Other important criteria include (i) good educational systems (ii) favorable salary and cost struc-

tures, (iii) favorable regulatory environments, and (iv) attractive living environments.

While it did not figure prominently in most preferences regarding headquarters location, a state's regulatory climate was a major factor in selecting a state of domicile and states in which to market their products. The five states judged to have the best regulatory climate were Illinois, Iowa, Ohio, New York, and Wisconsin, while the five states with the worst regulatory environments were California, Texas, New York, Florida, and New Jersey.

In recent years, Des Moines has become a global insurance mecca, while Hartford has experienced a substantial decline in insurance carrier employment. Des Moines' attractiveness to insurers has been attributed to highly targeted programs designed to attract and support the insurance industry, labor quality, low operating costs, educational institutions, and a favorable regulatory environment. Another factor has been Iowa's elimination of personal property and sales taxes on computer equipment for insurance companies.

Though insurance operations are widely dispersed around the country, the top 25 cities account for 49 percent of total insurance industry employment nationwide. The attractiveness of a city to insurance companies is also aided by a "critical mass" of insurance industry presence, producing a pool of qualified employees. In Des Moines and Hartford, more than 10 percent of the work force is employed in the insurance industry.

Relationship of Tax to Industry Employment

The 28,000 Virginians employed by insurance carriers account for 0.9 percent of total nonagricultural employment in the Commonwealth. Nearly 2 percent of all Americans employed by insurance carriers are Virginians. Between 1984 and 1994, insurance carrier employment nationwide grew 17 percent, from 1.2 million to 1.4 million. In Virginia, employment grew in the same decade from 20,200 to 28,400, an increase of 41 percent. Life insurance and property and casualty insurance companies employed approximately 69 percent of both Virginians and all Americans employed by insurance carriers.

Of the 10 states with the largest numbers of life and property and casualty insurance employees, seven had gross premium tax rates below the average rates. Of the 10 states with the fewest such employees, seven had gross premium tax rates that exceeded the average rates. The evidence of a correlation between gross premium tax rates and insurance industry employment levels is not conclusive. For example, the state with the most insurance company employees (California) has gross premium tax rates that exceed the averages for both life and property and casualty insurance. The state with by far the lowest gross premium tax rates (Wyoming) also has the fewest insurance industry employees.

A state's population may be a factor in the ranking of a state's insurance industry employment levels. Of the 10 states with the most insurance industry employees, eight are among the top 10 in population. Of the 10 states with the fewest insurance industry employees, seven are among the 10 least populous. Though its gross premium tax rates exceed the national median rates, the Commonwealth (which ranks 12th in population) ranks 18th in combined life insurance and property and casualty insurance employment.

All four jurisdictions with an employment rank 10 or more units higher than their population rank (Connecticut, Iowa, New Hampshire, and the District of Columbia) have gross premium tax rates below the national average. The only state with an employment rank 10 or more units lower than its population rank (Nevada) has tax rates above the national average.

The divergent fortunes of Connecticut and Iowa as insurance carrier employment centers are not explained by their gross premium tax rates: Connecticut's rate is 1.75 percent while Iowa's rate is 2 percent. However, Iowa does not levy an income or franchise tax on insurers, and Connecticut has been criticized for requiring companies to pay both a tax on insurance premiums and a corporate income tax.

Retaliatory Tax

Every state except Hawaii imposes a retaliatory tax on insurance companies based in other states. Virginia's retaliatory tax law provides that if another state imposes taxes, fees, and assessments on a Virginia insurer that are higher than what an insurer from that other state would pay to Virginia, Virginia will impose an additional tax, equal to the difference, on that state's insurers. Thus, if Virginia's taxes and fees exceed those of another state, an insurer from that state would not pay retaliatory tax to Virginia. However, a Virginia insurer doing business in that state would pay retaliatory taxes to that state.

A representative of the SCC's Bureau of Insurance explained that the purposes of the retaliatory tax are to ensure uniformity and moderation of taxation and reciprocity in the treatment of insurers, rather than to raise revenue. In fiscal year 1996, Virginia's retaliatory tax generated almost \$3 million, or 1.5 percent of premium tax collections. Over the past three years, 20 percent of foreign insurers licensed in Virginia have paid retaliatory taxes to the Commonwealth.

Insurance Industry Perspectives

Representatives of domestic and foreign insurers advised the select committee that reducing Virginia's gross premium tax rate could reduce the retaliatory taxes paid by Virginia-based insurers to other states but increase the retaliatory taxes paid by foreign insurers to Virginia. One suggested that reducing the current 20-year period for amortizing guaranty fund assessments would reduce the retaliatory tax burden on domestic insurers. Another, speaking on behalf of the Alliance of American Insur-

ers and Nationwide Insurance Company, suggested that reducing Virginia's gross premium tax rate could be an economic development tool by making Virginia a more attractive place for insurers to locate. A third, representing the American Council of Life Insurers, noted that a benefit of the gross premium tax is its relative ease of administration. Taxing insurers on the basis of profitability would be difficult, and replacing the gross premium tax with Virginia's corporate income tax at current rates would substantially reduce general fund revenues.

Next Meeting

Among the issues to be addressed at the select committee's next meeting are (i) the revenue impact of offering a credit for retaliatory taxes paid by Virginia insurers to other states and (ii) the potential increase in retaliatory tax revenue collected by the Commonwealth resulting from a reduction in Virginia's gross premium tax rate.

The Honorable William J. Howell, *Chairman*
Legislative Services contact: Franklin D. Munyan



HJR 230

Joint Subcommittee Studying the Licensure and Certification of Employee Assistance Programs and Professionals

July 9, 1996, Richmond

At the joint subcommittee's initial meeting, the president of the Washington D.C. Area Chapter of the Employee Assistance Professionals Association (EAPA) provided members with a brief history and overview of employee assistance programs and employee assistance professionals. An employee assistance program is a work-site-based program designed to identify and resolve personal employee problems that may impair productivity in the workplace. Employee assistance professionals serve employers and their employees and dependents through such programs to deal effectively with employee alcohol and substance abuse, family and marital problems, and legal, emotional, or other personal concerns that may adversely affect job performance and productivity. Employee assistance professionals do not provide health care or treatment to troubled employees. Rather, professionals are trained to identify employees' physical or mental health problems and refer such employees to an appropriate health care provider, if necessary.

The concept of employee assistance programs originated in the 1940s in companies such as Dupont and Kodak, which created occupational alcohol programs to address decreasing profits and increasing absenteeism due to employee alcoholism. By

the 1970s, such programs throughout the private sector and the government were expanded to confront not only alcohol abuse, but a broader spectrum of employee-related problems and concerns. At present, the EAPA estimates that approximately 1.3 million Virginia employees have the services of an employee assistance professional available at their work place.

Regulation of the Profession

Employee assistance professionals regulate their occupation under the National Employee Assistance Program Standards, as recommended by the EAPA, and the professional certification requirements of the Employee Assistance Certification Commission (EACC). In addition, EAPA members helped draft the Model Employee Assistance Professional Act, one of 42 model acts recommended by the December 1993 White House Commission on Model State Drug Laws. However, other than self-regulation, the profession is largely unregulated by either the federal or state governments. Consequently, members of the profession have urged lawmakers in 17 states to consider legislation establishing a system of state licensure and regulation for the profession.

As a result of these efforts, Florida and Georgia have passed legislation that reduces workers' compensation premiums for employers who implement drug-free work place programs. Because such programs often involve the services of employee assistance programs, these laws have had an indirect regulatory effect upon the profession. Two neighboring states of the Commonwealth, Tennessee and North Carolina, have addressed the licensure issue directly. Each state has crafted a system of licensure for employee assistance professionals that: (i) creates an occupational board; (ii) authorizes the board to adopt professional regulations; (iii) establishes minimum licensing standards; and (iv) allows the board to condition, suspend, or revoke a professional's license depending on the severity of the violation. Staff was directed to research the legislative background and current operational status of the North Carolina and Tennessee systems.

Scope of the Study

The General Assembly has directed the joint subcommittee to consider the following issues during its deliberations:

- ▶ The curriculum developed by the EACC for certification;
- ▶ Minimum requirements for professional competency;
- ▶ Possible requirements for professional licensure and renewal;
- ▶ Possible requirements for program licensure and renewal;
- ▶ The cost of state regulation;
- ▶ Potential sources of funding; and
- ▶ The appropriate state agency to administer such licensure and certification.

During the subcommittee's initial meeting, members also desired further investigation and research on the confidentiality of employee assistance consultations, the cost-effectiveness

of employee assistance programs, and the nature and frequency of professional impropriety and related harm to consumers.

Next Meeting

The subcommittee plans to meet again during the third week in August. The anticipated agenda includes presentations by staff on the process of licensure in Virginia as well as testimony by an employee assistance professional who is work-site based and by a professional who serves an employer from an external site. An opportunity for public comment will be provided.

The Honorable L. Karen Darner, *Chair*

Legislative Services contact: Kenneth W. Gibson



HJR 81

Joint Subcommittee Studying Availability of Dental Hygienists

July 11, 1996, Richmond

At the initial meeting of the joint subcommittee, four speakers addressed the perceived shortage of dental hygienists in the Commonwealth, provided information about current dental hygienist training programs in Virginia, and discussed their somewhat differing views on the scope of the problem.

Virginia Dental Association

According to the Virginia Dental Association (VDA), a shortage of licensed dental hygienists exists in Virginia, or, at the very least, the Commonwealth suffers from a "maldistribution" of dental hygienists throughout the state. The VDA spokesman suggested that various areas of the state are underserved, by both dentists and dental hygienists, and that the General Assembly has recognized the problem by establishing two new dental hygienist training programs at Danville and Lord Fairfax Community Colleges. The programs, however, remain unfunded.

Virginia Dental Hygienists Association

A representative of the Virginia Dental Hygienists Association (VDHA) provided the results of an informal survey of statewide newspaper classified advertisements that would seem to cast doubt on the contention that a shortage of dental hygienists exists. The survey showed relatively few dental hygienist positions available, with almost all advertised positions in the Northern Virginia and Richmond metropolitan areas — neither of which are considered underserved areas.

The VDHA supports the VDA's call for examination of "alternative" dental hygienist training programs, with the proviso that no decrease in standards results. A satellite program involving Virginia Western and Danville Community Colleges was mentioned as an example of an alternative program.

Training Programs

Two representatives of dental hygienist training programs, one from VCU-MCV in Richmond and the other from Virginia Western Community College in Roanoke, addressed the joint subcommittee. They compared and contrasted their programs and agreed that the typical student profiles at the two-year and four-year institutions are becoming more similar: students are older, frequently pursuing a second career, almost universally rely on financial aid or are employed while attending the program, and usually have family responsibilities.

Discussion

The members of the joint subcommittee, with the assistance of several speakers, discussed the issues of importance to the study and attempted to define the focus of the joint subcommittee's future meetings and deliberations.

Central to the joint subcommittee's work is the question of whether or not a shortage of dental hygienists exists in Virginia. Dentists are more likely to reply in the affirmative than are dental hygienists. A 1990 study, prepared for the VDA by the Survey Research Laboratory at VCU, was inconclusive on this question, stating that it was "unable to determine how serious the shortage of hygienists in Virginia is." The study

further concluded that "the current [1990] situation looks more like a seller's market than a serious labor shortage." This latter statement clarifies nicely the differing perceptions among dentists and hygienists on the existence of a shortage.

According to the Department of Health Professions, Board of Dentistry, approximately 2,200 licensed dental hygienists currently reside in Virginia, although not all of those licensed are currently employed as dental hygienists. This is well above the projected need calculated by the VCU study, which projected a need for about 2,000 dental hygienists by 1995. Whether a true shortage exists, in addition to an unequal distribution of dental hygienists across Virginia, remains an open question. Members of the joint subcommittee agreed to consider this question, the answer to which will influence the direction and focus of its deliberations and recommendations.

Other issues likely to command the attention of the joint subcommittee include examining Kentucky's innovative mobile training program, addressing the unequal distribution of dental hygienists in Virginia, and considering the question of how to induce idle licensed dental hygienists (currently about 14 percent of the work force) to return to work.

Future Meetings

The joint subcommittee's tentative schedule calls for fall meetings and public hearings in various areas of the Commonwealth, probably including the Shenandoah Valley, Tidewater, Southside, and Northern Virginia.

The Honorable John J. Davies III, *Chairman*
Legislative Services contact: Lyn Hammond



The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia. *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*.



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GENERAL NOTICES/ERRATA

Symbol Key

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

GOVERNOR'S COMMISSION ON ENVIRONMENTAL STEWARDSHIP

† Notice

The Governor's Commission on Environmental Stewardship will examine Virginia's environmental programs and policies and make recommendations to improve the stewardship of Virginia's rich natural heritage. The commission is also specially charged by the Governor to study ways to foster growth of the environmental technologies industry in Virginia.

The commission will:

Examine Virginia's laws and policies related to pollution prevention, compliance and enforcement, and make appropriate findings and recommendations regarding strategies for improvement;

Evaluate and provide recommendations for enhancing the awareness, understanding, commitment, and active involvement of Virginia citizens in ensuring wise stewardship of the Commonwealth's natural resources, now and in the future, through education, volunteerism, public/private partnerships, and incentive programs;

Evaluate Virginia's laws, programs, and policies relating to conservation, recreation, parks, natural areas, open spaces, private property protection, and wildlife management, and make appropriate findings and recommendations for improvement;

Examine the development of advanced environmental technologies in Virginia, and make recommendations for fostering growth of the environmental technologies industry in Virginia, including development of markets and promotion of the use of such advanced environmental technologies in Virginia and regionally, nationally, and internationally;

Evaluate the laws, programs, and policies of the Commonwealth regarding waste management, litter control and recycling, and make appropriate findings and recommendations regarding strategies for improvement; and

Examine the role of citizen boards in the development, implementation and oversight of policies affecting natural resource conservation, environmental quality, and economic development, and make appropriate findings and recommendations for improvement.

Several public meetings will be conducted at different locations in the Commonwealth commencing in August, 1996. These meetings will be open to the public and public comment will be received. Dates, times, and locations will be announced as soon as determined. The commission also invites written public comments and recommendations.

Comments and requests to be notified of meeting dates, times and locations may be submitted to the commission's e-mail address, GREENVA@OAG.STATE.VA.US, by FAX to (804) 786-0034, or by mail to:

Governor's Commission on Environmental Stewardship
Commonwealth of Virginia
c/o Office of the Attorney General
Natural Resources Section
900 East Main Street
Richmond, Virginia 23219

The commission's activities will also be updated on its internet homepage at: www.state.va.us/~greenva/gces.htm.

Contact: Carl Josephson, Assistant Attorney General, Office of the Attorney General, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-2444 or FAX (804) 786-0034.

DEPARTMENT OF LABOR AND INDUSTRY

† Miscellaneous Changes to General Industry and Construction Standards; Proposed Paperwork Collection, Comment Request for Coke Oven Emissions and Inorganic Arsenic

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

Miscellaneous Changes to General Industry and Construction Standards; Proposed Paperwork Collection, Comment Request for Coke Oven Emissions and Inorganic Arsenic

29 CFR Part 1910 and 1926

(Docket No. S-778)

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of proposed Federal rulemaking.

SUMMARY: Federal Occupational Safety Health Administration (OSHA) is continuing the process of removing or revising standards that are out of date, duplicative, unnecessary, or inconsistent in response to a March 4, 1995,

memorandum from President Clinton. This notice proposes substantive changes to both health and safety standards to reduce regulatory requirements while maintaining employee protection. Changes proposed include reducing chest x-ray frequency and eliminating sputum cytology examinations for the coke oven and inorganic arsenic standards, changing the emergency-response provisions of the vinyl chloride standard, eliminating public safety provisions of the temporary labor camp standard, eliminating unnecessary OSHA standard references in the textile industry standards and others.

TEXT: Full text of the proposed rulemaking can be found at 61 FR 37849 of the July 22, 1996, issue of the Federal Register.

DATES: Written comments and requests for a hearing on this proposal must be postmarked by September 20, 1996.

ADDRESSES: Comments on the proposal should be submitted in quadruplicate or 1 original (hardcopy) and 1 diskette (5¼ or 3½ inch) in WordPerfect 5.0, 5.1, 6.0 or 6.1, or ASCII to: Docket Officer, Docket No. S-778, Room N-2634, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 219-7894. Any information not contained on disk (e.g., studies, articles) must be submitted in quadruplicate.

Written comments limited to 10 pages in length also may be transmitted by facsimile to (202) 219-5046, provided an original and 3 copies are sent to the Docket Office thereafter. An additional copy should be submitted to the Director of Discrimination, Evaluation, Legal and Technical Assistance (DELTA), Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219-8615.

Comments on the reduction of paperwork burden and renewal of paperwork authorization for inorganic arsenic and coke oven emissions should be sent to the OSHA docket and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., Rm. 10235, 725 17th, N.W., Washington, DC 20503, Attn.: OSHA Desk Officer.

For an electronic copy of this **Federal Register** notice, contact the Labor News Bulletin Board at (202) 219-4748; or OSHA's WebPage on the Internet at <http://www.OSHA.gov>. For new releases, fact sheets and other short documents, contact OSHA FAX at (900) 555-3400 at \$1.50 per minute.

FOR FURTHER INFORMATION CONTACT: Technical inquiries should be directed to Mr. Pat Cattafesta, Office of Electrical/Electronic and Mechanical Safety Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3609, 200 Constitution Ave., N.W., Washington, DC 20210, telephone (202) 219-7202; FAX (202) 219-7477.

Requests for interviews and other press inquiries should be directed to Ms. Ann Cyr, U.S. Department of Labor, Occupational Safety and Health Administration, Office of

Information and Consumer Affairs, Room N-3647, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone (202) 219-8148.

STATE WATER CONTROL BOARD

† Enforcement Action Proposed Consent Special Order Roanoke Electric Steel Corporation

The State Water Control Board proposes to issue a Consent Special Order and will consider it at a meeting in September 1996.

This order will allow Roanoke Electric Steel approximately 11 months to construct an improved wastewater treatment system and to comply with the final effluent limits in its VPDES Permit No. VA0001589 which was modified effective July 15, 1996. The order also reconciles monitoring and toxicity testing requirements on the existing combined process water - stormwater overflow during this period.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed amendment for 30 days from the date of publication of this notice. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, P.O. Box 7017, Roanoke, Virginia 24019, and should refer to the Roanoke Electric Steel order.

The proposed order may be examined at the Department of Environmental Quality, Office of Enforcement and Compliance Auditing, 629 E. Main St., P.O. Box 10009, Richmond, VA 23240-0009, or at the Department of Environmental Quality, West Central Regional Office, 3015C Peters Creek Road, Roanoke, VA 24019. A copy of the order may be obtained in person or by mail from these offices.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

General Notices/Errata

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS -
RR08

ERRATA

BOARD OF JUVENILE JUSTICE

Title of Regulation: 6 VAC 35-70-10 et seq. Standards for
Juvenile Correctional Centers.

Publication: 12:22 VA.R. 2949 -2964 July 22, 1996.

Correction to Final Regulation:

Page 2953, column 2, 6 VAC 35-70-90 F, line 3, after
"least" insert "annually."

THE VIRGINIA REGISTER OF REGULATIONS

Publication Date: 12:22 VA.R. July 22, 1996

Correction to Volume Citation:

Pages 2891 through 3059, change footer notation from
"Volume 11" to "Volume 12"

CALENDAR OF EVENTS

Symbol Key

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

♿ Location accessible to handicapped

☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† **September 21, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

The board will meet for a "brainstorming" session on privatization of the Board for Accountancy. Written comments from the public will be accepted prior to and 10 days after the meeting. There will be no public comment period during the meeting since this is a work session only on privatization of accountancy. No other business will be discussed at this meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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 Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

Privatization Task Force

† **September 30, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

A meeting of the Privatization Task Force to further discuss privatization of the Board for Accountancy. This is a work session. No other business will be discussed at this meeting. This task force is a three-member ad-hoc committee. Written comments may be submitted prior to the meeting for consideration by the task force. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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 Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

August 26, 1996 - 1 p.m. -- Open Meeting
August 27, 1996 - 9 a.m. -- Open Meeting
Best Western Motel, 1467 Carrsville Highway, Franklin, Virginia.

The annual meeting of the Virginia Agricultural Council. The agenda will consist of an annual review of finances, progress reports on approved projects, and general business matters. The council will allot 30 minutes at the conclusion of all other business for the public to appear before the council. Any person who needs any accommodations in order to participate at the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Suite 515, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia State Apple Board

August 27, 1996 - 10 a.m. -- Open Meeting
Harrisonburg Animal Health Lab, 116 Reservoir Street, Harrisonburg, Virginia.♿

A meeting to (i) review tax collections and revenues for 1995 crop; (ii) discuss crop estimates for 1996; and (iii) review and approve the budget. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who

Calendar of Events

needs any accommodations in order to participate at the meeting should contact Nancy L. Israel at least five days before the meeting date so that suitable arrangements can be made.

Contact: Nancy L. Israel, Program Director, Virginia State Apple Board, Washington Bldg., 1100 Bank St., Suite 1008, Richmond, VA 23219, telephone (804) 371-6104 or FAX (804) 371-7786.

Virginia Horse Industry Board

August 20, 1996 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ☎

A meeting to review the budget for the 1995-1996 fiscal year and to discuss recently awarded grants and the 1997 proposed educational seminar. The board will also discuss additional avenues to market the economic impact study of the 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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Irish Potato Board

September 5, 1996 - 8 p.m. -- Open Meeting

Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia. ☎

A meeting to discuss programs (promotion, research and education), the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

STATE AIR POLLUTION CONTROL BOARD

September 9, 1996 -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to **repeal** regulations entitled: **9 VAC 5-90-10 et seq., Regulations for the Control of Motor**

Vehicle Emissions, 9 VAC 5-100-10 et seq., Regulations for Vehicle Emissions Control Program Analyzer Systems, and 9 VAC 5-110-10 et seq., Regulations for the Control of Motor Vehicle Emissions; and adopt regulations entitled: **9 VAC 9-91-10 et seq., Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.** The purpose of the regulation is to require that motor vehicles undergo periodic emissions inspection and be maintained in compliance with emission standards in order to reduce harmful emissions of hydrocarbons, carbon monoxide and oxides of nitrogen. The regulation is being promulgated in response to state and federal laws requiring the emissions inspection program. The regulation applies to vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. It requires biennial emissions inspections in order to register the motor vehicle in the area described above. The regulation also describes requirements for inspection stations, inspectors, repair facilities and repair technicians.

It is further proposed that the board authorize for public comment the repeal of existing regulations to be replaced by 9 VAC 5-91-10 et seq. Specifically, the proposal is to repeal:

9 VAC 5-90-10 et seq. Regulation for the Control of Motor Vehicle Emissions (present program)

9 VAC 5-100-10 et seq. Regulation for Vehicle Emission Control Program Analyzer Systems (present program)

9 VAC 5-110-10 et seq. Regulation for the Enhanced Motor Vehicle Emissions Inspection Program in the Northern Virginia Area (test-only regulations)

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The following localities will bear a disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

The Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Nonattainment and Mobile Sources Planning (Eighth Floor), 629 East Main Street, Richmond, Virginia and the Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia 22401
Ph: (540) 899-4600

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia 22150
Ph: (703) 644-0311

Lorton Mobile Sources Operations
Department of Environmental Quality
7240-D Telegraph Square Drive
Lorton, Virginia 22079

Statutory Authority: §§ 46.2-1178.1, 46.2-1179, 46.2-1180 and 46.2-1187.2 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on Monday, September 9, 1996, to the Director, Office of Nonattainment and Mobile Sources Planning, Department of Environmental Quality, 629 East Main Street, Eighth Floor, P.O. Box 10009, Richmond, Virginia 23240.

Contact: David J. Kinsey, Policy Analyst, Office of Nonattainment and Mobile Sources, Air Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4432 or (FAX) (804) 698-4510.

ALCOHOLIC BEVERAGE CONTROL BOARD

August 26, 1996 - 9:30 a.m. -- Open Meeting
† **September 9, 1996 - 9:30 a.m.** -- Open Meeting
† **September 23, 1996 - 9:30 a.m.** -- Open Meeting
† **October 7, 1996 - 9:30 a.m.** -- Open Meeting
† **October 21, 1996 - 9:30 a.m.** -- Open Meeting
† **November 4, 1996 - 9:30 a.m.** -- Open Meeting
† **November 18, 1996 - 9:30 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **September 6, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting of members of the land surveyors section and exam consultants to compile the Virginia portion of the

land surveyor examination that will be administered in October 1996.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

Board for Architects

August 30, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Landscape Architects

† **August 28, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† **August 21, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507 or (804) 367-9753/TDD ☎

Calendar of Events

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **August 22, 1996 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Elizabeth Young Kirksey, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

August 21, 1996 - 9 a.m. -- Open Meeting
August 23, 1996 - 9 a.m. -- Open Meeting
Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, 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, funding allocations will be announced, and other matters of interest to the Virginia aviation community will be discussed. This meeting is being held in conjunction with the 23rd Annual Virginia Aviation Conference. For further information on the conference being held at the Hotel Roanoke and Conference Center on August 21-23, 1996, contact Betty Wilson at (804) 225-3783. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3625, or (804) 236-3624/TDD ☎

STATE BOARD FOR COMMUNITY COLLEGES

† **September 11, 1996 - 1 p.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TDD ☎

† **September 12, 1996 - 8:30 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219,

telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TDD ☎

COMPENSATION BOARD

August 29, 1996 - 11 a.m. -- Open Meeting
† **September 26, 1996 - 11 a.m.** -- Open Meeting
† **October 31, 1996 - 11 a.m.** -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Study of Alternative Funding Sources for Soil and Water Conservation Districts

† **August 23, 1996 - 9:30 a.m.** -- Open Meeting
Henrico County Government Center, 8600 Dixon Powers Drive, 2nd Floor, Demonstration Kitchen, Richmond, Virginia. ☎

The Department of Conservation and Recreation is conducting a study under the Appropriations Act, Chapter 912 of the 1996 Acts of Assembly, to identify and recommend potential revenue sources to supplement the funding of soil and water conservation districts. The study is to consider the merits of a statewide waste disposal fee among other options. The meeting is a working meeting of the ad hoc committee appointed by the Director of the Department of Conservation and Recreation. There is no time set aside on the agenda to hear public comments.

Contact: Leon E. App, Agency 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 ☎

Board on Conservation and Development of Public Beaches

August 26, 1996 - 10 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Meeting Room, Newport News, Virginia. ☎

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Carlton Lee Hill, Engineer, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

Falls of the James Scenic River Advisory Board

† **September 5, 1996 - Noon** -- Open Meeting
 † **October 3, 1996 - Noon** -- Open Meeting
 City Hall, 900 East Broad Street, Planning Commission
 Conference Room, 5th Floor, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program
 Manager, Department of Conservation and Recreation,
 Division of Planning and Recreation Resources, 203
 Governor St., Suite 326, Richmond, VA 23219, telephone
 (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD

BOARD FOR CONTRACTORS

Recovery Fund Committee

September 10, 1996 - 9 a.m. -- Open Meeting
 Department of Professional and Occupational Regulation,
 3600 West Broad Street, Richmond, Virginia.☎

A meeting to consider claims against the Virginia
 Contractor Transaction Recovery Fund. This meeting
 will be open to the public; however, a portion of the
 discussion may be conducted in Executive Session.
 Persons desiring to participate in the meeting and
 requiring special accommodations or interpreter services
 should contact Holly Erickson at least two weeks prior to
 the meeting so that suitable arrangements can be made.
 The board fully complies with the Americans with
 Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for
 Contractors, 3600 W. Broad St., Richmond, VA 23230,
 telephone (804) 367-8561.

DEPARTMENT OF CORRECTIONAL EDUCATION

September 16, 1996 - 10 a.m. -- Public Hearing
 James Monroe Building, 101 North 14th Street, 7th Floor,
 Richmond, Virginia.

October 18, 1996 -- Public comments may be submitted until
 this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of
 the Code of Virginia that the Department of Correctional
 Education intends to adopt regulations entitled: **6 VAC
 10-10-10 et seq. Public Participation Guidelines.** The
 purpose of the proposed regulation is to provide
 interested parties with a means to request the
 development, amendment or repeal of a regulation.

Statutory Authority: §§ 9-6.14:7.1 and 22.1-343 of the Code
 of Virginia.

Contact: Mark Monson, Budget Manager, Department of
 Correctional Education, James Monroe Bldg., 101 N. 14th
 St., 7th Floor, Richmond, VA 23219, telephone (804) 225-
 3310, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

BOARD FOR COSMETOLOGY

† **October 7, 1996 - 10 a.m.** -- Open Meeting
 Department of Professional and Occupational Regulation,
 3600 West Broad Street, Richmond, Virginia.☎

A general business meeting. Persons desiring to
 participate in the meeting and requiring special
 accommodations or interpreter services should contact
 Karen W. O'Neal. The department fully complies with
 the Americans with Disabilities Act. Please notify the
 department of your request at least two weeks in
 advance.

Contact: Karen W. O'Neal, Assistant Director, Department
 of Professional and Occupational Regulation, 3600 W. Broad
 St., Richmond, VA 23230, telephone (804) 367-8552, FAX
 (804) 367-2475 or (804) 367-9753/TDD ☎

BOARD OF DENTISTRY

August 27, 1996 - 9 a.m. -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf
 provided upon request)

A meeting of the informal conference committee to hear
 disciplinary cases. This is a public meeting; however, no
 public comment will be taken.

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

BOARD OF EDUCATION

August 19, 1996 - 7 p.m. -- Public Hearing
 Nandua High School, Onley, Virginia.☎

August 20, 1996 - 7 p.m. -- Public Hearing
 Osbourn Park High School, 8909 Euclid Avenue, Manassas,
 Virginia.☎

August 21, 1996 - 7 p.m. -- Public Hearing
 Harrisonburg High School, 395 South High Street,
 Harrisonburg, Virginia.☎

Public hearings to solicit public input on the current
 Regulations Establishing Standards for Accrediting
 Public Schools in Virginia.

Contact: Lin Corbin-Howerton, Policy Director, Department
 of Education, Division of Policy and Public Affairs, P.O. Box
 2120, Richmond, VA 23218-2120, telephone (804) 225-2543,
 FAX 1-800-225-2053, or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

September 5, 1996 - 5:30 p.m. -- Open Meeting
October 3, 1996 - 5:30 p.m. -- Open Meeting
 6610 Public Safety Way, Chesterfield, Virginia.

Calendar of Events

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **September 4, 1996 - 3 p.m.** -- Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A regular meeting.

Contact: L. A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Group on Ammonia, Mercury, Lead and Copper with Respect to Water Quality Standards

† **October 17, 1996 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Conference Room 5B, Richmond, Virginia. ☎

The department has established a work group on four topics with respect to the water quality standards program: mercury, ammonia, lead, and copper. The work group will, upon completion, advise the Director of Environmental Quality. Other meetings of the work group have been tentatively scheduled for November 21 and December 19, 1996; January 16, February 20, March 20, April 17, May 15, and June 19, 1997. Persons interested in the meetings should confirm meeting date, time and location with the contact person below.

Contact: Alan J. Anthony, Chairman, Work Group on Ammonia, Mercury, Lead and Copper, 629 E. Main St., P.O. Box 10009, Room 205, Richmond, VA 23240-0009, telephone (804) 698-4114, FAX (804) 698-4522, or toll-free 1-800-592-5482.

Work Group on Detection/Quantitation Levels

† **September 11, 1996 - 1:30 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 1st Floor Training Room, Richmond, Virginia. ☎

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of Environmental Quality. Other meetings of the work group have been tentatively scheduled for September 25, October 9, October 23, November 6, November 20, December 4, and December 18, 1996; however, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

Contact: Alan J. Anthony, Chairman, Work Group on Detection/Quantitation, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4114, FAX (804) 698-4522, or toll-free 1-800-592-5482.

Virginia Ground Water Protection Steering Committee

† **September 17, 1996 - 9 a.m.** -- Open Meeting
State Corporation Commission, 1300 East Main Street, 8th Floor Conference Room, Richmond, Virginia. ☎

A meeting concerning ground water protection issues. All interested persons are welcome to attend. Meeting minutes and agenda are available from Mary Ann Massie.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

Technical Advisory Committee for Solid Waste Management Regulations

September 13, 1996 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia. ☎

The Board of Waste Management and the Department of Environmental Quality are considering the amendment of the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., and have formed a technical committee to advise them on the contents of the proposed amendment. This committee will reconvene to continue their work on this project.

Contact: Wladimir Gulevich, Director of the Office of Technical Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4218, FAX (804) 698-4327, (804) 698-4021/TDD ☎, or e-mail at wgulevich@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

August 22, 1996 - 7 p.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A planning session of the board and a meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

August 23, 1996 - 9 a.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

August 22, 1996 - 10:30 a.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

August 22, 1996 - 8:30 a.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

August 22, 1996 - 2 p.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Residential Sprinkler Committee

August 21, 1996 - 1 p.m. -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **September 11, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ♿

A general board meeting to discuss board business. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Elizabeth Young Kirksey, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943, or (804) 662-7197/TDD ♿

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

August 22, 1996 - 9 a.m. -- Open Meeting
August 23, 1996 - 8 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 to adopt regulations governing the 1996-1997 migratory waterfowl seasons, based on the framework provided by the U.S. Fish and Wildlife Service. The board also intends to propose changes in fish, nongame wildlife, and watercraft regulations, and to select meeting dates for 1997 board meetings. The board will solicit comments from the public during the public hearing portion of the meeting at which time any interested citizen present shall be heard.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session beginning at 9 a.m. on August 22, 1996. If the board completes its entire agenda on August 22, it may not convene on August 23, the second of the scheduled two days of the meeting.

Contact: Phil Smith, Policy Analyst Senior, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

† **August 28, 1996 - 7:30 p.m.** -- Open Meeting
Farmville Bus Station, 112 South Street, Second Floor Meeting Room, Farmville, Virginia.

† **September 4, 1996 - 7:30 p.m.** -- Open Meeting
Deep Creek High School, 2900 Margaret Booker Drive, Chesapeake, Virginia.

† **September 4, 1996 - 7:30 p.m.** -- Open Meeting
Blacksburg Community Center, 725 Patrick Henry Drive, Blacksburg, Virginia.

† **September 4, 1996 - 7:30 p.m.** -- Open Meeting
Dabney Lancaster Community College, Route 60 West, Dabney Lane, Clifton Forge, Virginia.

† **September 4, 1996 - 7:30 p.m.** -- Open Meeting
Henrico County Government Center, 4301 East Parham Road, Henrico Administration Building, Board Room, Richmond, Virginia.

† **September 5, 1996 - 7:30 p.m.** -- Open Meeting
Toano Middle School, 7817 Richmond Road (Route 60), Auditorium, Toano, Virginia.

† **September 5, 1996 - 7:30 p.m.** -- Open Meeting
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Meeting Room, Roanoke, Virginia.

Calendar of Events

† **September 5, 1996 - 7:30 p.m.** -- Open Meeting
Virginia Highlands Community College, 140 Jonesboro Road,
Abingdon, Virginia.

† **September 5, 1996 - 7:30 p.m.** -- Open Meeting
Lord Fairfax Community College, Route 11 North, 173
Skirmisher Lane, Middletown, Virginia.

† **September 5, 1996 - 7:30 p.m.** -- Open Meeting
National Rifle Association, 11250 Waples Mill Road,
Auditorium, Fairfax, Virginia.

The department is holding a series of 10 open meetings for the purpose of receiving the public's comments regarding proposed changes to game fish and nongame regulations and a boating regulation. The Board of Game and Inland Fisheries is scheduled to propose regulatory amendments for advertisement at its August 22-23, 1996, meeting. The public input meeting series will be held subsequent to the August 22-23, 1996, board meeting. Comments regarding the proposed amendments which are received during the 10 public input meetings will be summarized and reported to the board for their consideration at their next scheduled meeting in October 1996.

The Department of Game and Inland Fisheries is exempted from the Administrative Process Act and Executive Order Number Thirteen (94) in promulgating regulations regarding the management of wildlife pursuant to § 9-6.14:4.1 A 3 of the Code of Virginia. However, the department is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final wildlife management regulations including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Contact: Phil Smith, Policy Analyst Senior, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

CHARITABLE GAMING COMMISSION

† **August 22, 1996 - 10:30 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate
Room B, Richmond, Virginia.

A regular meeting.

Contact: Kari Walker, Policy Analyst, Charitable Gaming Commission, 200 N. 9th St., Richmond, VA 23219, telephone (804) 786-4920 or FAX (804) 786-1079.

DEPARTMENT OF HEALTH (STATE BOARD OF)

August 21, 1996 - 10 a.m. -- Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference
Room, Richmond, Virginia.

September 20, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health

intends to repeal regulations entitled: **12 VAC 5-370-10 et seq., Rules and Regulations for the Licensure of Nursing Homes**, and adopt regulations entitled: **12 VAC 5-371-10 et seq., Regulations for the Licensure of Nursing Homes**. The proposed regulations constitute a comprehensive revision of the Commonwealth's existing regulations addressing nursing homes, which were adopted in 1980. This area of the health care field has changed dramatically since then and the proposed regulations are intended to address current conditions, while assuring safe, adequate, and efficient nursing home operations and promoting health safety and adequate care of nursing home residents.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Contact: Nancy R. Hofheimer, Director, Office of Health Facilities Regulations, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

† **August 22, 1996 - 10 a.m.** -- Open Meeting
Crater Health District, 301 Halifax Street, Petersburg,
Virginia. (Interpreter for the deaf provided upon request)

A work session of the board. An informal dinner will be held at 6:30 p.m. at Steak and Ale Restaurant, 500 East Wythe Street, Petersburg.

Contact: Paul W. Matthias, Interim Staff to the Board of Health, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564 or FAX (804) 786-4616.

† **August 23, 1996 - 9 a.m.** -- Open Meeting
Crater Health District, 301 Halifax Street, Petersburg,
Virginia. (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Paul W. Matthias, Interim Staff to the Board of Health, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564 or FAX (804) 786-4616.

BOARD OF HEALTH PROFESSIONS

August 23, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health Professions intends to adopt regulations entitled: **Regulations Governing Standards for Dietitians and Nutritionists**. The regulation establishes minimal standards for the use of the titles of dietitian or nutritionist in accordance with provisions of § 54.1-2731 of the Code of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2731 of the Code of Virginia.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9918.

Practitioner Self-Referral Committee

† **August 29, 1996 - 11 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to consider a request for an advisory opinion on referrals. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

September 9, 1996 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 2, Richmond,
Virginia. ☎

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **August 28, 1996 - 1 p.m.** -- Open Meeting
Jefferson Laboratory, Jefferson Avenue, Newport News,
Virginia.

† **August 29, 1996 - 9 a.m.** -- Open Meeting
Christopher Newport University, 50 Shoe Lane, Newport
News, Virginia.

The council's annual retreat. On August 28, there will be discussion of the council's responsibilities and authority from 1 p.m. until late afternoon. August 29 will be a regular business meeting from 9 a.m. to noon. For more information on either meeting, contact the council.

Contact: Michael McDowell, Public Information Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

August 22, 1996 - 1 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Richmond, Virginia. ☎

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 746-3634.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 3, 1996 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road,
Hopewell, Virginia. ☎ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

August 20, 1996 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere
Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

September 9, 1996 - 1 p.m. -- Open Meeting
Riverfront Plaza, West Tower, 901 East Byrd Street, Suite
900, Richmond, Virginia.

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999, or (804) 786-1860/TDD ☎

Calendar of Events

DEPARTMENT OF LABOR AND INDUSTRY

Advisory Committee on Farm Safety Training Materials

† **September 6, 1996 - 1 p.m.** -- Open Meeting
Virginia Farm Bureau Federation, 12580 West Creek
Parkway, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

The Virginia Tech Biological Systems Engineering
Department has prepared an Agricultural Tractor and
Machinery Safety Program and is requesting approval
from the Commissioner of Labor and Industry for this
training program to be recognized as an approved
training program under 16 VAC 15-50-10 et seq.,
Regulations Governing the Employment of Minors on
Farms, in Gardens and in Orchards. The purpose of this
meeting is to review this safety training program, to
accept public comment, and in accordance with
subsection F of 16 VAC 15-50-30, to decide whether to
recommend to the commissioner that this program be
approved for use in Virginia to train minors in safe tractor
and machinery operation.

Contact: Dennis G. Merrill, Director, Labor Law
Administration, Department of Labor and Industry, Powers-
Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone
(804) 786-3224, FAX (804) 371-2324, or (804) 786-2376/TDD

STATE LAND USE EVALUATION ADVISORY COUNCIL

† **September 17, 1996 - 10 a.m.** -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond,
Virginia.

A meeting to adopt suggested ranges of values for
agricultural, horticultural, forest and open-space land use
and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Office of
Customer Services, Property Tax Unit, Department of
Taxation, 2220 W. Broad St., Richmond, VA 23219,
telephone (804) 367-8020.

COMMISSION ON LOCAL GOVERNMENT

September 16, 1996 - 10 a.m. -- Open Meeting
Richmond area; site to be determined.

A regular meeting of the commission to consider such
matters as may be presented. Persons desiring to
participate in the meeting and requiring special
accommodations or interpreter services should contact
the commission.

Contact: Barbara Bingham, Administrative Assistant,
Commission on Local Government, 702 Eighth Street Office
Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508,
FAX (804) 371-7999 or (804) 786-1860/TDD

BOARD OF MEDICAL ASSISTANCE SERVICES

August 20, 1996 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad
Street, Suite 1300, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss medical assistance service and to
take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of
Medical Assistance Services, 600 E. Broad St., Suite 1300,
Richmond, VA 23219, telephone (804) 786-8099, FAX (804)
371-4981, or toll-free 1-800-343-0634/TDD

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 23, 1996 -- Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of
the Code of Virginia that the Department of Medical
Assistance Services intends to amend regulations
entitled: **12 VAC 30-10-10 et seq. State Plan for
Medical Assistance Services: General Provisions**
and adopt regulations entitled: **12 VAC 30-120-360 et
seq. Part VI, Medallion II.** The proposed regulations
govern mandatory HMO enrollment in accordance with
the 1995 Appropriations Act. Several technical changes
are also being made.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 23, 1996, to
Susan Prince, Program Delivery Systems, Department of
Medical Assistance Services, 600 East Broad Street, Suite
1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas,
Regulatory Coordinator, Department of Medical Assistance
Services, 600 E. Broad St., Suite 1300, Richmond, VA
23219, telephone (804) 371-8850.

August 19, 1996 - 9:30 a.m. -- Open Meeting

August 19, 1996 - 3 p.m. -- Public Hearing

August 29, 1996 - 9:30 a.m. -- Open Meeting

Fairfax Government Center, 12000 Government Center
Parkway, Fairfax, Virginia. (Interpreter for the deaf provided
upon request)

A meeting of the workgroup to develop alternative patient
focused models for the inclusion of the mentally disabled
population in a mandatory managed care environment
for residents of Northern Virginia on Virginia Medicaid.

Contact: Nell Skinner, Executive Secretary, Department of
Medical Assistance Services, 600 E. Broad St., Suite 1300,
Richmond, VA 23219, telephone (804) 225-4218, FAX (804)
225-4512, or toll-free 1-800-343-0634/TDD

Drug Utilization Review Board

August 22, 1996 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Pharmacist Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

BOARD OF MEDICINE

Informal Conference Committee

August 23, 1996 - 9 a.m. -- Open Meeting
Fort Magruder Inn, Route 60, Conference Center, Williamsburg, Virginia.

August 27, 1996 - 9 a.m. -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

September 4, 1996 - 9 a.m. -- Open Meeting
Roanoke Marriott Hotel, 2801 Hershberger Road, Roanoke, Virginia.

September 13, 1996 - 9 a.m. -- Open Meeting
Fort Magruder Inn and Conference Center, Route 60, Williamsburg, Virginia.

September 17, 1996 - 9 a.m. -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Legislative Committee

† **September 20, 1996 - 1 p.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)

The committee will meet to (i) discuss legislative issues related to board activities and regulation, (ii) review any pending regulations pursuant to regulatory review or legislative action, and (iii) consider any other information that shall come before the committee. There will be a

public comment period during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Advisory Board on Occupational Therapy

† **September 12, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-80-10 et seq., Regulations for Certification of Occupational Therapy, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

† **September 13, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-30-10 et seq., Regulations Governing the Practice of Physical Therapy, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Advisory Board on Physicians Assistants

† **September 13, 1996 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-50-10 et seq., Regulations Governing the Practice of Physician's Assistants, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

Calendar of Events

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

August 23, 1996 - 9 a.m. -- Public Hearing
Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing to receive public comments on the Virginia Substance Abuse Prevention and Treatment and Community Mental Health Services Block Grant Applications for Federal Fiscal Year 1997. Copies of this application are available for review at the Office of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 12th Floor, and each community services board office. Comments may be made at the hearing or in writing by no later than August 23, 1996, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing may call Sterling Deal, Ph.D., Office of Mental Health, Mental Retardation and Substance Abuse Services, at (804) 371-2148 or (804) 371-8977/Voice and TDD. Copies of oral statements should be filed at the time of the hearing. Translators for the deaf are available on request.

Contact: Sterling Deal, Ph.D., Resource Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 371-0091, or (804) 371-8977/Voice and TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

September 21, 1996 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A regular meeting. There will be an opportunity for public comment at approximately 9 a.m. immediately after the Superintendent's comments.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206.

VIRGINIA MUSEUM OF FINE ARTS

† **September 3, 1996 - 8 a.m. -- Open Meeting**
Virginia Museum of Fine Arts, 2800 Grove Avenue, Director's Office, Richmond, Virginia. ☎

A meeting of the museum officers for an overview of current and upcoming museum activities. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Collections Committee

† **September 10, 1996 - 10 a.m. -- Open Meeting**
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ☎

A meeting to consider purchases and gifts of art work and loans to and from the collection. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

† **September 19, 1996 - 11 a.m. -- Open Meeting**
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ☎

A meeting to review budgets for 1996-1997. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† **September 19, 1996 - Noon -- Open Meeting**
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ☎

A regularly scheduled meeting of the board to review the budget and receive committee and staff reports. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

BOARD OF NURSING

August 19, 1996 - 9 a.m. -- Open Meeting
August 21, 1996 - 9 a.m. -- Open Meeting
August 27, 1996 - 9 a.m. -- Open Meeting
August 28, 1996 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Fifth Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **August 28, 1996 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

Informal conferences. No public comment will be received.

Contact: Elizabeth Young Kirksey, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

September 13, 1996 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, discussion of examination, election of officers, monthly budget statements enforcement cases and apprenticeship program will be discussed. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF OPTOMETRY

† **August 21, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal conferences will be held. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

September 6, 1996 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing on proposed amendments to 18 VAC 105-30-10 et seq., Regulations on Certification of Optometrists to use therapeutic pharmaceutical agents. Amendments to the regulations on diseases and conditions which may be treated and the listing of therapeutic pharmaceutical agents are being promulgated as provided for in §§ 54.1-3223 and 9-6.14:4.1 A 18. The board may consider other items of business as may be necessary.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

September 18, 1996 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A board meeting to adopt amendments to 18 VAC 105-30-10 et seq., Regulations on Certification of Optometrists to use therapeutic pharmaceutical agents. Amendments to the regulations on diseases and conditions which may be treated and the listing of therapeutic pharmaceutical agents are being promulgated as provided for in §§ 54.1-3223 and 9-6.14:4.1 A 18. The board may consider other items of business as may be necessary.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

August 20, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A board meeting and formal hearing. This is a public meeting and there will be a 15-minute public comment period beginning at 9:15 a.m.

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

August 21, 1996 - 11 a.m. -- Public Hearing
Northern Virginia Community College, 8333 Little River Turnpike, Seminar Rooms B, C, and D, Annandale, Virginia.

Calendar of Events

August 27, 1996 - 1 p.m. -- Public Hearing
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,
Salon D, Roanoke, Virginia.

A public hearing to receive information concerning the impact of workload and workplace conditions on a pharmacist's ability to provide safe and effective pharmacy services to the public.

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

POLYGRAPH EXAMINERS ADVISORY BOARD

† **September 24, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

August 23, 1996 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed amendments is to reduce fees for application processing, registration of supervision, and renewal of license.

Statutory Authority: §§ 54.1-113, 54.1-2400, and 54.1-3503 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

August 23, 1996 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed amendments is to reduce fees for application processing, registration of supervision, and renewal of certificate.

Statutory Authority: §§ 54.1-2400 and 54.1-3503 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

August 22, 1996 - 11 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

NOTE: CHANGE IN MEETING TIME AND MEETING DESCRIPTION

August 23, 1996 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎

An Executive Committee meeting to review credentials, beginning at 8 a.m. Public comment will not be heard. At 8:30 a.m. there will be an informal conference held pursuant to § 9-6.14:11 of the Code of Virginia to consider credentials. Public comment will not be heard. At 10 a.m. there will be regular meeting to conduct general board business; consider committee reports, correspondence, and any other matters under the jurisdiction of the board; conduct regulatory review; consider proposed regulations for marriage and family therapists; and consider amendments for proposed regulation for certified rehabilitation providers. There will be a 30-minute general public comment period, beginning at 10:15 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

REAL ESTATE APPRAISER BOARD

August 27, 1996 - 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 the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

August 22, 1996 - 9 a.m. -- Open Meeting
† **September 19, 1996** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

August 22, 1996 - 9 a.m. -- Open Meeting
Alcoholic Beverage Control Board, 501 Montgomery Street,
Alexandria, Virginia. ☎

A meeting to conduct a formal hearing pursuant to the Administrative Process Act in regard to the Real Estate Board v. Paulette Heins, File Number 93-01863.

Contact: Stacie Camden, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Continuing Education Committee

† **August 22, 1996 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

Goals Subcommittee

August 19, 1996 - 2:30 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 4th Floor,
West Conference Room, Richmond, Virginia.

A meeting of the Goals Subcommittee to decide whether to change or maintain the state goal of 25% recycling. Please contact Richard Lerner at (804) 237-6666 for details.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

August 22, 1996 - 5 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor,
Classroom, Richmond, Virginia. ☎

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

August 21, 1996 - 10 a.m. -- Open Meeting
Henrico County Government Center, Administrative Board Room, Parham and Hungary Springs Roads, Richmond, Virginia. ☎

September 25, 1996 - 10 a.m. -- Open Meeting
Ramada Inn, 1130 Motel Drive, Allegheny Room, Woodstock, Virginia. ☎

The board will 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 12 VAC 5-610-10, Sewage Handling and Disposal Regulations.

Contact: Robert Hicks, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main

Calendar of Events


St., Suite 11, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY


Loan Committee

August 27, 1996 - 10 a.m. -- Open Meeting

September 24, 1996 - 10 a.m. -- Open Meeting


Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to review applications for loans submitted to the authority for approval.


Contact: Cathleen Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8256, FAX (804) 225-3384, or (804) 371-0327/TDD 

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **September 5, 1996 - 10 a.m.** -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4, Richmond, Virginia. 

The board and other subject matter experts will meet to write and review items for the soil scientists examination.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD 

COMMONWEALTH TRANSPORTATION BOARD


† **September 18, 1996 - 2 p.m.** -- Open Meeting

Department of Transportation, 1401 East Broad Street, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **September 19, 1996 - 10 a.m.** -- Open Meeting

Department of Transportation, 1401 East Broad Street, Richmond, 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. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TREASURY BOARD

August 21, 1996 - 9 a.m. -- Open Meeting


James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. 

A regular meeting.


Contact: Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

August 21, 1996 - 9:30 a.m. -- Open Meeting


Tyler Building, 1300 East Main Street, Richmond, Virginia. 

A regular meeting to include a report from Colonial Downs.


Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363, FAX (804) 371-6127 or (804) 371-6169/TDD 

BOARD FOR THE VISUALLY HANDICAPPED

† **October 23, 1996 - 1:30 p.m.** -- Open Meeting

Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD 

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Advisory Council

September 21, 1996 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD

VIRGINIA VOLUNTARY FORMULARY BOARD

September 11, 1996 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on September 11, 1996, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4325.

October 24, 1996 - 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 drug products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

August 23, 1996 -- Public comments may be submitted until 5 p.m. on 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 **repeal** regulations entitled: **9 VAC 20-100-10 et seq., Yard Waste Composting Facility Regulations** and **adopt** regulations entitled: **9 VAC 20-101-10 et seq., Vegetative Waste Management and Yard Waste Composting Regulations.** 9 VAC 20-100-10 et seq. is being simultaneously incorporated into the Vegetative Waste Management and Yard Waste Composting Regulations and are therefore redundant and unnecessary. 9 VAC 20-101-10 et seq. compiles, establishes, and provides requirements for certain facilities that may be exempted from some or all of the Solid Waste Management Regulations or subject to simplified procedures.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4213.

GOVERNOR'S ADVISORY COMMISSION ON WELFARE REFORM

† **August 27, 1996 - 1 p.m.** -- Open Meeting
Hampton Inn, Warrenton, Virginia. (Interpreter for the deaf provided upon request)

The routine monthly meeting of the commission to hear reports from its three subcommittees dealing with issues related to the implementation of welfare reform.

Contact: Fay Lohr, Director, Office of Community Services, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1895, FAX (804) 692-1869 or toll-free 1-800-828-1120/TDD

INDEPENDENT

STATE CORPORATION COMMISSION

Special Advisory Commission on Mandated Health Benefits

† **August 20, 1996 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

The advisory commission is scheduled to review House Bill 1233 (1996 Session), that would require individual and group health care contracts that include coverage for

Calendar of Events

prescription drugs on an outpatient basis to cover drugs that are approved by the Food and Drug Administration for use as a contraceptive. The advisory commission will also review House Bill 1360 (1996 Session) that mandates reimbursement to certified nurse midwives.

Contact: Rebecca Shelton, Insurance Analyst, State Corporation Commission, Bureau of Insurance, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9537, FAX (804) 371-9944, toll-free 1-800-552-7945, or (804) 371-9206/TDD ☎

STATE LOTTERY BOARD

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-20-10 et seq. Administration Regulations.** The purpose of the proposed amendments is to clarify procurement exemptions and restrictions, clarify board meeting requirements, remove sections that are duplicative of Code of Virginia provisions when practical, and incorporate housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-30-10 et seq. Instant Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, delete sections that are unnecessary or duplicative, and make housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-40-10 et seq. On-Line Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, revise subscription plan, and make housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

LEGISLATIVE

ADMINISTRATIVE LAW ADVISORY COMMITTEE

† **September 11, 1996 - 11 a.m.** -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the on-going studies of the committee and other business.

Contact: Lyn Hammond, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 371-0169.

† **October 9, 1996 - 11 a.m.** -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the on-going studies of the committee, adopt recommendations to present to the Virginia Code Commission, and conduct any other business.

Contact: Lyn Hammond, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 371-0169.

VIRGINIA CODE COMMISSION

† **September 18, 1996 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Richmond, Virginia.

A regular meeting.

Contact: E. M. Miller, Jr., Director, or Jane D. Chaffin, Deputy Registrar, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **September 9, 1996 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A tentative staff briefing on Virginia Liaison Office, ADAPT progress report, and RFP Information Technology report.

Contact: Phillip A. Leone, Director, Joint Legislative and Audit Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

COMMISSION ON YOUTH

September 24, 1996 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss status offenders.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol Square, Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 19

Medical Assistance Services, Department of Nursing, Board of
Recycling Markets Development Council, Virginia

August 20

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Corporation Commission, State
- Special Advisory Commission on Mandated Health Benefits
Housing Development Authority, Virginia
Medical Assistance Services, Board of
Pharmacy, Board of

August 21

† Asbestos Licensing and Lead Certification, Virginia Board for
Aviation Board, Virginia
Fire Services Board, Virginia
Nursing, Board of
† Optometry, Board of
Sewage Handling and Disposal Appeals Review Board
Treasury Board
Virginia Racing Commission

August 22

† Audiology and Speech-Language Pathology, Board of
Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Game and Inland Fisheries, Board of
† Gaming Commission, Charitable
† Health, State Board of
Higher Education Tuition Trust Fund, Virginia
Medical Assistance Services, Department of
- Drug Utilization Review Board
Professional Counselors and Marriage and Family Therapists, Department of
† Real Estate Board
- Continuing Education Committee
Richmond Hospital Authority
- Board of Commissioners

August 23

Aviation Board, Virginia
† Conservation and Recreation, Board of
- Study of Alternative Funding Sources for Soil and Water Conservation Districts
Fire Services Board, Virginia
Game and Inland Fisheries, Board of
† Health, State Board of
Medicine, Board of
Professional Counselors and Marriage and Family Therapists, Department of
Veterinary Medicine, Board of

August 26

Agricultural Council, Virginia
Alcoholic Beverage Control Board
Conservation and Recreation, Department of
- Board on Conservation and Development of Public Beaches

August 27

Agricultural Council, Virginia
Agriculture and Consumer Services, Department of
- Virginia State Apple Board
Dentistry, Board of
Medicine, Board of
Nursing, Board of
Real Estate Appraiser Board
Small Business Financing Authority, Virginia
- Loan Committee
† Welfare Reform, Governor's Advisory Commission on

August 28

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Landscape Architects
† Game and Inland Fisheries, Department of
† Higher Education for Virginia, State Council of
Nursing, Board of
† Nursing Home Administrators, Board of

August 29

Compensation Board
† Health Professions, Board of
- Practitioner Self-Referral Committee

Calendar of Events

† Higher Education for Virginia, State Council of
Medical Assistance Services, Department of

August 30

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Architects

September 3

Hopewell Industrial Safety Council
† Museum of Fine Arts, Virginia

September 4

† Emergency Planning Committee, Local - Winchester
† Game and Inland Fisheries, Department of
Medicine, Board of

September 5

Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Emergency Planning Committee - Local, Chesterfield
County
† Game and Inland Fisheries, Department of
† Soil Scientists, Board for

September 6

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Labor and Industry, Department of
- Advisory Committee on Farm Safety Training
Materials

September 9

† Alcoholic Beverage Control Board
Hearing Aid Specialists, Board for
Intergovernmental Relations, Advisory Committee on
† Legislative Audit and Review Commission, Joint

September 10

Contractors, Board for
† Museum of Fine Arts, Virginia
- Collections Committee

September 11

† Administrative Law Advisory Committee
† Community Colleges, State Board for
† Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels
† Funeral Directors and Embalmers, Board of

September 12

† Community Colleges, State Board for
† Medicine, Board of
- Advisory Board on Occupational Therapy

September 13

Environmental Quality, Department of
- Technical Advisory Committee for Solid Waste
Management Regulations
Medicine, Board of
- Advisory Board of Physical Therapy
- Advisory Committee on Physician's Assistant
Opticians, Board for

September 16

Local Government, Commission on

September 17

† Environmental Quality, Department of
- Virginia Ground Water Protection Steering
Committee
† Land Evaluation Advisory Council, State
Medicine, Board of

September 18

Optometry, Board of
† Transportation Board, Commonwealth

September 19

† Museum of Fine Arts, Virginia
- Finance Committee
- Board of Trustees
† Real Estate Board
† Transportation Board, Commonwealth

September 20

† Medicine, Board of
- Legislative Committee

September 21

† Accountancy, Board for
Military Institute, Virginia
- Board of Visitors
Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

September 23

† Alcoholic Beverage Control Board

September 24

† Polygraph Examiners Advisory Board
Small Business Financing Authority, Virginia
- Loan Committee
Youth, Commission on

September 25

Sewage Handling and Disposal Appeals Review Board

September 26

† Compensation Board

September 30

† Accountancy, Board for
- Privatization Task Force

October 3

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Emergency Planning Committee - Local, Chesterfield
County

October 7

† Alcoholic Beverage Control Board
† Cosmetology, Board for

October 9

† Administrative Law Advisory Committee

October 17

† Environmental Quality, Department of
- Work Group on Ammonia, Mercury, Lead and
Copper

October 21

† Alcoholic Beverage Control Board

October 23

† Visually Handicapped, Board for the

October 24

Voluntary Formulary Board, Virginia

October 31

† Compensation Board

November 4

† Alcoholic Beverage Control Board

November 18

† Alcoholic Beverage Control Board

PUBLIC HEARINGS

August 19

Education, Board of
Medical Assistance Services, Department of

August 20

Education, Board of

August 21

Education, Board of
Health, Department of
Pharmacy, Board of

August 23

Mental Health, Mental Retardation and Substance Abuse
Services, Department of

August 27

Pharmacy, Board of

August 28

Lottery Board, State

September 6

Optometry, Board of

September 11

Voluntary Formulary Board, Virginia

September 18

Optometry, Board of

