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THE VIRGIN REGISTER

COD
5/R 26/

OF REGULATIONS

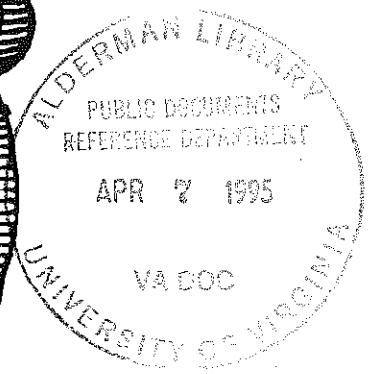
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April 3, 1995
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THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

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

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-01. Regulation for General Administration.** The purpose of the proposed action is to develop a regulation to govern general (not program-specific) administration for the entire regulatory programs of the State Air Pollution Control Board.

Public meeting: A public meeting will be held at the State Capitol, House Room 1, Richmond, Virginia, at 9 a.m. on Thursday, May 4, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than April 20, 1995.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group using a standard advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. Any comments relative to this issue must be submitted in accordance with the procedures described under the "Request for Comments" section above.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: Currently, general administration is addressed within the board's two major categories of regulations, with some of the administrative provisions in the stationary source regulations reiterated in the mobile source regulations. The regulatory language is thus unnecessarily repetitive. Furthermore, the repeated provisions are not consistent with each other, thus creating the potential for problems in legal and procedural interpretation. The anticipated promulgation of several more mobile source regulations in the near future will exacerbate the problem. To solve the problem, the board wishes to develop a regulation on general administration to serve its entire regulatory program. Matters addressed by this regulation will include but not be limited to:

1. Applicability, establishment, and enforcement of regulations (including variances thereto) and orders;
2. Administration of associated hearings and proceedings;
3. Approval of local ordinances;
4. Appeal of board decisions;
5. Right of entry upon public and private property;
6. Approval of items with conditions;¹
7. Availability of procedural information and guidance;
8. Approval of certain items requiring specific considerations;² and
9. Availability of information to the public.

Alternatives:

1. Devote one regulation specifically to general administration. This course of action would ensure legal and procedural consistency between the stationary source regulations and the mobile source regulations. It would furthermore eliminate the need to repeat language.
2. Take no action. The continuation of the current system will perpetuate the need to repeat language in both the stationary source and mobile source regulations. Because the repeated provisions are not consistent with each other, potential legal and procedural problems will continue to exist and will be exacerbated as new regulations are promulgated.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

¹ Such items may include but are not limited to variances, control programs, and permits.

² Such items are the same as those listed in footnote 1. Specific considerations may include but are not limited to (i) the character and degree of injury to or interference with safety, health or the reasonable use of property which is caused or threatened to be caused; (ii) the social and economic value of the activity involved; (iii) the suitability of the activity to the area in which it is located; and (iv) the scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Thursday, May 4, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

Contact: Dr. Kathleen Sands, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4413.

V.A.R. Doc. No. R95-359; Filed March 15, 1995, 11:05 a.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: VR 155-01-2:1. **Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed action is to reduce fees in compliance with the law and the required functions of a board within the Department of Health Professions. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until May 3, 1995.

Contact: Lisa Russell Hahn, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

V.A.R. Doc. No. R95-323; Filed March 6, 1995, 10 a.m.

BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider amending regulations entitled: VR 255-01-1. **Board of Dentistry Regulations.** The purpose of the proposed action is to consider a modest increase in fees in order to comply with § 54.1-113 of the Code of Virginia, which requires the agency to adjust fees after any biennium in which there is more than a 10% differential between revenue and expenses. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public comments may be submitted until April 21, 1995.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

V.A.R. Doc. No. R95-317; Filed March 1, 1995, 10:56 a.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: VR 355-18-014. **Waterworks Operation Fee.** The purpose of the proposed action is to (i) reduce the present fee from \$2.05 per connection per year for a community waterworks to \$1.60 per connection per year in FY '95-96 and \$1.98 in FY '96-97; and (ii) reduce the present flat fee of \$90 per year for a nontransient waterworks to \$70 (FY '95-96) and \$87 (FY '96-97). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-170 and 32.1-171.1 of the Code of Virginia.

Public comments may be submitted until April 6, 1995.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Department of Health, Office of Water Programs, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-5566 or FAX (804) 786-5567.

V.A.R. Doc. No. R95-299; Filed February 17, 1995, 4:07 p.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: VR 530-01-1. **Regulations of the Board of Pharmacy.** The purpose of the proposed action is to address the following issues:

1. Relaxing criteria for approved CE to allow courses approved by some other approval method, but which relate to pharmacy, pharmacology, or other drug or pharmacy related topic (e.g. Category I CME's which relate to drug therapy),
2. Amending fax regulation to include schedule II-V consistent with new federal regulations -- have received petition for rulemaking (current regulation is particularly burdensome to pharmacies serving nursing homes and home infusion pharmacies),
3. Reducing the 30-day notice to the board for pharmacies which wish to close to a 15-day notice to be consistent with the 1994 statute change reducing the time for notice to the public,
4. Better regulation of the use of automated dispensing machines which are being used in current practice, but probably not in compliance with current regulations and law,
5. Considering amendments to address on-line transmission of prescriptions by practitioners to pharmacy and from one pharmacy to another pharmacy for copies,

Notices of Intended Regulatory Action

6. Better regulation of satellite pharmacies in hospitals by possibly requiring a separate pharmacist in charge,
7. Changing definitions of storage temperatures consistent with new USP definitions,
8. Adding a specific requirement for the biennial inventory to be signed, dated, and designation made as to opening or closing of business,
9. Considering regulations setting standards for compounding sterile products,
10. Minor "housekeeping" amendments to correct errors from previous revisions, remove or amend provisions which are obsolete or inconsistent with some other prevailing law, regulation, contract, or procedure, as follows:
 - a. Replace the term "nursing homes," still in some paragraphs, with "LTCF" and review whether the "LTCF" should have replaced "nursing homes" in § 11.2(9)
 - b. The number of destruction forms required for DEA is not consistent with federal requirements
 - c. DEA no longer accepts drugs for destruction
 - d. Change "employee" in § 12.1 D to "person" to cover college infirmaries and other situations other than industrial first aid rooms
 - e. Remove the "examination" portion of the current combination fee for "application and examination" since candidates for examination will directly pay the examination contractor the amount specified in contract
 - f. Make other nonsubstantive corrections or changes noted during process.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3307, 54.1-3314.1, 54.1-3410 and 54.1-3434.

Public comments may be submitted until May 26, 1995.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

V.A.R. Doc. No. R95-322; Filed March 1, 1995, 10:57 a.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: VR 385-01-8, Subdivision Street Requirements. The purpose of the proposed action is to determine the necessity for revision of the current regulation

in the (i) promotion of public welfare and safety; (ii) accommodation of changing conditions throughout the Commonwealth; (iii) fostering of Virginia's economic development; and (iv) response to SJR #61 as enacted by the 1994 Session of the General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 33.1-12, 33.1-69, and 33.1-229 of the Code of Virginia.

Public comments may be submitted until April 5, 1995.

Contact: James S. Givens, State Secondary Roads Engineer, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2746 or FAX (804) 786-2603.

V.A.R. Doc. No. R-95; Filed February 15, 1995, 10:15 a.m.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Veterinary Medicine intends to consider amending regulations entitled: VR 645-01-

1. **Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to reduce fees in accordance with § 54.1-113 of the Code of Virginia. A public hearing will be scheduled if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.

Statutory Authority: §§ 54.1-113 and 54.1-2505 of the Code of Virginia.

Public comments may be submitted until April 20, 1995.

Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

V.A.R. Doc. No. R95-311; Filed February 27, 1995, 4:35 p.m.

PROPOSED REGULATIONS

For Information concerning Proposed Regulations, see information page.

Symbol Key

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



DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to the length of VR 355-18-000, Waterworks Regulation, the full text of the regulation is not being published. Pursuant to § 9.6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The amendments to the regulation are available from Allen R. Hammer, Director, DWSE, Office of Water Programs, Department of Health, 1500 East Main Street, P. O. Box 2448, Richmond, Virginia 23218, telephone (804) 786-5566, or may be viewed at the Office of the Registrar of Regulations, Virginia Code Commission, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

Title of Regulation: VR 355-18-000. Waterworks Regulations (amendments to VR 355-18-001.02, VR 355-18-002.04, VR 355-18-004.01, VR 355-18-004.04, VR 355-18-004.08, VR 355-18-004.09, VR 355-18-005.09, VR 355-18-005.10, VR 355-18-005.11, and Appendices B, F and M relating to lead and copper).

Public Hearing Dates: April 26, 1995 - 10 a.m. (Roanoke)
April 27, 1995 - 10 a.m. (Richmond)

Public comments may be submitted until June 3, 1995.
(See Calendar of Events section
for additional information)

Basis: Sections 32.1-12 and 32.1-170 of the Code of Virginia authorize the State Board of Health to adopt these regulations. Section 32.1-12 generally authorizes the State Board of Health to adopt regulations necessary to carry out the provisions of Title 32.1. (Section 32.1-2 states that the purpose of Title 32.1 is to promote the protection, improvement, and preservation of public health and of the environment of the Commonwealth.) Section 32.1-170 specifically establishes that the purpose for the board's regulations governing drinking water is to protect public health and to promote public welfare. This section authorizes the board to adopt minimum health standards for pure water, and any other provisions necessary to guarantee a supply of pure water for the Commonwealth's citizens.

Purpose: The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency (USEPA) mandates to retain this authority. The purpose of these regulations is to retain primacy and protect the public health by adopting regulations as stringent as the federal regulations for the Lead and Copper Rule (40 CFR § 141.80 et seq.) of

the National Primary Drinking Water Regulations. These amendments to the existing Waterworks Regulations, which incorporate the federal Lead and Copper Rules, will conform the state regulations to federal regulations and should avoid duplicative enforcement action by the USEPA in Virginia under federal law.

Substance: These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Lead and Copper Rule. These amendments consist of maximum contaminants levels, reporting, public notification, treatment technique and monitoring requirements for lead and copper. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Issues: The primary advantage of the regulation to the 2,250 regulated entities (waterworks owners including most localities) is that the entities will be able to reduce their monitoring cost. The advantage to the Commonwealth is to maintain primacy enforcement authority (primacy) for the federal regulations under the Federal Safe Drinking Water Act. This allows the Commonwealth to use all available discretion in carrying out the requirements of the regulations. The primary advantage to the public is the lower cost of safe drinking water due to monitoring cost savings to the owners. There are no disadvantages to the public, the regulated community, or to the Commonwealth due to the adoption of these regulations.

The disadvantages of the failure to adopt these regulations to the regulated entities, which may result in the loss of primacy, include: (i) undue monitoring cost; (ii) dealing with the federal government on monitoring issues; and (iii) reduced technical assistance by the state.

Estimated Impact: The major impact of these regulations is to allow Virginia to retain its status as a primacy state, thus retaining certain discretion in carrying out its enforcement authority. This discretion is not readily available to the USEPA should Virginia lose primacy. The proposed amendments simply incorporate federal regulations into the state Waterworks Regulations.

Regulated Community Cost

All community or nontransient noncommunity waterworks permitted by the Department of Health would be required to follow the regulations. These waterworks include 2,250 community and nontransient noncommunity permitted waterworks and must comply with the existing federal regulations regardless of the status of Virginia regulations or primacy. Due to the discretionary decision making available to primacy states (especially with respect to requiring waterworks to conduct optimum corrosion control studies), the overall effect of these regulations will be a savings to the

Proposed Regulations

regulated community. No particular locality is affected more than another, except as determined by future monitoring. For example, the federally mandated Lead and Copper Rule allows the primacy state to decide if medium and small size waterworks that exceed an action level must conduct optimum corrosion control studies. Under Virginia's proposed implementation plan, this requirement to conduct optimum corrosion control studies will be waived. Statewide, approximately 500 small and medium size waterworks will exceed an action level. Using the USEPA cost estimate of \$2,500 for an optimum corrosion control study, the cost savings to Virginia waterworks is estimated to be \$1,250,000.

The cost to the regulated community in Virginia of implementing the Lead and Copper Rule is limited to the cost of sample collection and mailing costs associated with the lead and copper tap samples mandated of those waterworks owners. Sample analysis is being provided by the Division of Consolidated Laboratory Services. In addition, those waterworks exceeding an action level must incur the cost of initiating the federally mandated treatment techniques. The number of lead and copper samples required during the first year of implementation is estimated to be 40,000 statewide. Using a mailing cost of \$3.00 per sample, total statewide cost to the regulated community would be \$120,000. Treatment techniques are mandated for the estimated 500 waterworks exceeding an action level. Using USEPA cost estimates the Department of Health has estimated the impact on these waterworks from the Lead and Copper Rule's treatment technique mandate to be \$10.5 million (from Table 7, House Document 30, 1990 General Assembly, The Impact of the Safe Drinking Water Act Amendments of 1986 on the Commonwealth of Virginia, a report of the Department of Health to the Governor and the General Assembly of Virginia). The costs to individual waterworks will vary widely due to the variation in water quality (with respect to corrosive tendencies) found throughout Virginia. State primacy will allow the Department of Health to minimize these costs by the use of discretionary powers to the extent possible; however, many small size waterworks could be significantly impacted by the mandate to install treatment facilities.

Agency Impact

The Virginia General Assembly in 1992 passed a waterworks operation fee bill to maintain state primacy. Of the authorized moneys, 58% was associated with the Lead and Copper Rule and the Phase II Rule. This provides funding for the central office and field office staff and their support needed to carry out mandated new tasks under the Lead and Copper Rule. These tasks include:

- Regulation development and implementation
- Technical assistance to all waterworks
- Internal and external training
- Evaluating tap sample results and determining compliance

Funding Source

The funds to meet the above agency costs of \$1.74 million will come from the fees collected under the Waterworks Operation Fee Regulation (VR 355-18-014) adopted by the Board of Health as authorized under §§ 32.1-170 and 32.1-171.1.

Small Business Impact

Costs to small businesses would be limited to those of being a consumer connected to a waterworks, or those of being a waterworks owner. Opportunities for small businesses would include commercial laboratories, contract operation and maintenance or waterworks, data management, record keeping and billing for waterworks, and water treatment equipment sales and service.

Summary:

The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Lead and Copper Rule. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for lead and copper. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

V.A.R. Doc. No. R95-361A; Filed March 15, 1995, 11:51 a.m.

REGISTRAR'S NOTICE: Due to the length of VR 355-18-000, Waterworks Regulation, the full text of the regulation is not being published. Pursuant to § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The amendments to the regulation are available from Monte J. Waugh, Technical Services Assistant, Division of Water Supply Engineering, Department of Health, 1500 East Main Street, Room 109, P. O. Box 2448, Richmond, Virginia 23218, telephone (804) 371-2885 or FAX (804) 786-5567, or may be viewed at the Office of the Registrar of Regulations, Virginia Code Commission, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

Title of Regulation: VR 355-18-000. Waterworks Regulations (amendments to VR 355-18-001.02, VR 355-18-004.04, VR 355-18-004.06, VR 355-18-004.07, VR 355-18-004.08, VR 355-18-004.09, VR 355-18-004.11, VR 355-18-009.13, and Appendices B, F and N relating to Phases II, IIB, and V).

Public Hearing Dates: April 26, 1995 - 10 a.m. (Roanoke)
April 27, 1995 - 10 a.m. (Richmond)

Public comments may be submitted until June 3, 1995.
(See Calendar of Events section
for additional information)

Proposed Regulations

Basis: Sections 32.1-12 and 32.1-170 of the Code of Virginia authorize the State Board of Health to adopt these regulations. Section 32.1-12 generally authorizes the State Board of Health to adopt regulations necessary to carry out the provisions of Title 32.1. (Section 32.1-2 states that the purpose of Title 32.1 is to promote the protection, improvement, and preservation of public health and of the environment of the Commonwealth.) Section 32.1-170 specifically establishes that the purpose for the board's regulations governing drinking water is to protect public health and to promote public welfare. This section authorizes the board to adopt minimum health standards for pure water, and any other provisions necessary to guarantee a supply of pure water for the Commonwealth's citizens.

Purpose: The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the Federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency (USEPA) mandates to retain this authority. The purpose of these regulations is to retain primacy and protect the public health by adopting regulations as stringent as the federal regulations for the Phase II, Phase IIB, and Phase V Rules of the National Drinking Water Regulations. These regulations, which are amendments to the existing Waterworks Regulations and which incorporate the federal Phase II, Phase IIB, and Phase V Rules, will conform the state regulations to federal regulations and should avoid duplicative enforcement action by the USEPA in Virginia under federal law.

Substance: These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for 13 new volatile organic chemicals, four revised and 24 new synthetic organic chemicals, three revised and nine new inorganic chemicals, and 11 new unregulated chemicals. These regulations follow the United States Environmental Protection Agency's standardized monitoring requirements with a nine-year compliance cycle broken into three three-year compliance periods. The monitoring requirements also define the locations and frequency with which the waterworks owners must comply. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Issues: The primary advantages of adopting and implementing these regulations to the 2,250 regulated entities (waterworks owners) are that the entities will be able to (i) reduce their monitoring cost, and (ii) utilize the state's personnel in implementing the requirements defined in the rules. The advantages of adopting these regulations to the agency are to maintain the authority to enforce (primacy) and implement state discretion defined in the rules. The primary advantage to the public is the lower cost of safe drinking water due to monitoring cost savings to the owners. There are no disadvantages to the public, the regulated community, or to the Commonwealth due to the adoption of these regulations.

The disadvantages of the failure to adopt these regulations, which may result in the loss of primacy, to the regulated entities include (i) undue monitoring cost; (ii) dealing with the

federal government on monitoring issues; and (iii) reduced technical assistance by the state.

Estimated Impact: The major impact of these regulations is to allow Virginia to retain its status as a primacy state, thus retaining certain discretion for enforcement actions. This discretion allows Virginia to make more sensible decisions for the waterworks in the state through saving certain costs. This discretion is not readily available to the USEPA should Virginia lose primacy. The proposed amendments simply incorporate existing federal regulations into the Waterworks Regulations.

Regulated Community Cost

All community or nontransient noncommunity waterworks permitted by the Department of Health would be required to follow the regulations. These waterworks include 2,250 community and nontransient noncommunity permitted waterworks and must comply with the existing federal regulations regardless of the status of Virginia regulations or primacy. No particular locality is affected more than another, except as determined by future monitoring. Due to the discretionary decision making available to primacy states (especially waivers to contaminant monitoring applicable to Phase II, Phase IIB, and Phase V contaminants), the overall effect of these amendments will be a savings to the regulated community. For example, the mandated asbestos monitoring would have cost Virginia waterworks an estimated \$4,800,000; whereas, the cost will be less than \$250,000 under Virginia's proposed waiver plan.

The costs to the regulated community in Virginia of implementing the Phase II, Phase IIB, and Phase V Rules are limited to the mailing costs associated with the volatile organic samples and the inorganic samples mandated of those waterworks owners. In addition, waterworks owners will be responsible for the costs of sample analysis for synthetic organic contaminants. Statewide there are approximately 4,000 samples per quarter required for analysis of 32 synthetic organic contaminants, 21 volatile organic contaminants, and 17 inorganic contaminants. The cost of the analyses for synthetic organic chemicals being performed by a Virginia certified private laboratory is approximately \$1,187.50 per sample, totaling \$19,000,000 for 1995. This cost is attributed to the lack of funding for the Division of Consolidated Laboratory Services in appropriating the personnel and equipment to perform the analysis. With primacy granted to the Commonwealth and the proposed waiver procedures and criteria being implemented the total number of samples would be reduced. The waiver procedures and criteria would result in an approximate 80% sample reduction. With this reduction of samples the Division of Consolidated Laboratory Services would be able to handle the reduced volume of synthetic organic chemical samples with existing equipment and personnel. The cost of synthetic organic chemical analysis would be approximately \$486 per sample and a liability totaling \$388,800 for 1995 to the waterworks of Virginia. The costs to waterworks owners for volatile organic contaminants and inorganic contaminants will continue to be the cost of shipping the sample to the Division of Consolidated Laboratory Services. Using a mailing cost of

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\$3.00 per sample, total statewide cost to the regulated community would be approximately \$60,000.

Agency Impact

The Virginia General Assembly in 1992 passed a waterworks operation fee bill to maintain state primacy. Of the authorized moneys, 58% was associated with the Lead and Copper Rule and the Phase II Rule. This provides funding for staff and their support needed to carry out mandated new tasks under the Phase II, Phase IIB, and Phase V Rule. These tasks include:

- Regulation development and implementation
- Technical assistance to all waterworks
- Internal and external training
- Determining performance evaluations

Funding Source

The funds to meet the above agency costs will come from the fees collected under the Waterworks Operations Fee Regulation (VR 355-18-014) adopted by the Board of Health as authorized under §§ 32.1-170 and 32.1-171.1.

Small Business Impact

Costs to small businesses would be limited to those of being a consumer connected to a waterworks, or those of being a waterworks owner. Opportunities for small businesses would include commercial laboratories, contract operation and maintenance or waterworks, data management, record keeping and billing for waterworks and water treatment equipment sales and service.

Summary:

The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Phase II, Phase IIB, and Phase V Rules. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for 13 new volatile organic chemicals, four revised and 24 new synthetic organic chemicals, three revised and nine new inorganic chemicals, and 11 new unregulated chemicals. These regulations follow the United States Environmental Protection Agency's standardized monitoring requirements with a nine-year compliance cycle broken into three three-year compliance periods. The monitoring requirements also define the locations and frequency with which the waterworks owners must comply. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

V.A.R. Doc. No. R95-360A; Filed March 15, 1995, 11:49 a.m.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

Public Hearing Date: April 17, 1995 - 10 a.m.

Written comments may be submitted through June 2, 1995.

(See Calendar of Events section
for additional information)

Basis: Pursuant to § 15.1-491.03 of the Code of Virginia, any local governing body may enforce building regulations relating to the installation of acoustical treatment measures in residential buildings and structures in areas near airports. The Board of Housing and Community Development is mandated in § 36-99.10:1 of the Code of Virginia to promulgate the building regulations relating to those acoustical treatment measures.

Purpose: The board has concluded that the contemplated regulation is essential and must be promulgated in order to comply with the General Assembly's mandate. The regulation under consideration will allow the construction of residential buildings in close proximity to airports, to provide a reasonable degree of comfort for occupants and will also permit development and growth of residential areas in harmony among developers and airport authorities. The regulation will also enhance Virginia's efforts to protect the operational capability of Virginia's military and civilian airfields.

Substance: This proposed regulation is identical to the regulation adopted by the board in October of 1994 as an emergency. The regulation will allow construction of residential buildings adjacent to airports that will provide a degree of noise abatement and will permit development in harmony with airport operations. It also specifies standards (e.g., minimum sound transmission and acoustical isolation requirements) for reducing noise levels in new residential buildings and structures located in zones near civil and military airports.

Under the enabling legislation, a local governing body may enforce the airport noise abatement regulations for construction of new residential buildings and structures within its jurisdiction, located in close proximity to airports.

Issues: The primary advantage of this regulatory action is the regulations will establish minimum performance standards of maximum interior noise level allowed in construction of new residential buildings located in areas identified by local governments that are adjacent to airports, thus providing a degree of occupant comfort from aircraft noise in such buildings. The primary disadvantage of this regulatory action is the associated increase of the costs of construction for buildings in higher noise level zones. The proposed regulation will benefit the public and localities, with adjacent airports, by improving their relationships with the airports.

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Estimated Impact: The agency has no way of estimating the impact of this regulation because it has no way to determine the number of localities that will opt to enforce this regulation and the numbers generated from such assumptions would be meaningless in light of the General Assembly's mandate.

Summary:

This amendment provides, in the Uniform Statewide Building Code, building regulations for installation of acoustical treatment measures for construction of residential buildings and structures, or portions thereof, in areas affected by above average noise levels, from aircraft, due to their proximity to flight operations at nearby airports. The enforcement of these amendments is on a local option basis.

VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

CHAPTER 1.

ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.

GENERAL.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume II - Building Maintenance Code for maintenance regulations applying to existing buildings.

100.2. Authority. The USBC is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia.

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The 1993 edition of the USBC was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to requirements of the Administrative

Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.5. Effective date. The 1993 edition of the USBC shall become effective on April 1, 1994.

100.6. Application. The USBC shall apply to all buildings, structures and associated equipment which are constructed, altered, repaired or converted in use after April 1, 1994. Buildings and structures that were designed within one year prior to April 1, 1994, shall be subject to the previous edition of the code provided that the permit application is submitted by April 1, 1995. This provision shall also apply to subsequent amendments to this edition of the code based on the effective date of the amendments.

100.6.1. Industrialized buildings and manufactured homes. Industrialized buildings registered under the Virginia Industrialized Building Safety Law and manufactured homes labeled under the Federal Manufactured Housing Construction and Safety Standards shall be exempt from the USBC; however, the building official shall be responsible for issuing permits, inspecting the site work and installation of industrialized buildings and manufactured homes, and issuing certificates of occupancy for such buildings when all work is completed satisfactorily.

100.7. Exemptions. The following buildings, structures and equipment are exempted from the requirements of the USBC:

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.

2. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.

3. Manufacturing and processing machines and the following service equipment:

a. All electrical equipment connected after the last disconnecting means.

b. All plumbing appurtenance connected after the last shutoff valve or backflow protection device.

c. All plumbing appurtenance connected before the equipment drain trap.

d. All gas piping and equipment connected after the outlet shutoff valve.

4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by the Americans With Disabilities Act Accessibility Guidelines shall comply with the requirements of Chapter 11.

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5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations.

SECTION 101.0. REFERENCE STANDARDS AND AMENDMENTS.

101.1. Adoption of model codes and standards. The following model building codes and all portions of other model codes and standards that are referenced in this Code are hereby adopted and incorporated in the USBC. Where differences occur between provisions of the USBC and the referenced model codes or standards, the provisions of the USBC shall apply. Where differences occur between the technical provisions of the model codes and their referenced standards, the provisions of the model code shall apply.

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1993 EDITION

(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators International, Inc.

4051 West Flossmoor Road

Country Club Hills, Illinois 60478-5795

Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/1993 Edition:

BOCA National Plumbing Code/1993 Edition

BOCA National Mechanical Code/1993 Edition

NFPA National Electrical Code/1993 Edition

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION and 1993 Amendments (also referred to herein as One and Two Family Dwelling Code) Jointly published by:

Building Officials and Code Administrators International, Inc.

Southern Building Code Congress International, Inc. and International Conference of Building Officials.

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing

structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the USBC.

Note: The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the USBC.

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified chapters and sections of the BOCA National Building Code/1993 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

SECTION 102.0. LOCAL BUILDING DEPARTMENTS.

102.1. Responsibility of local governments. Enforcement of the USBC Volume I shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Whenever a local government does not have such a building department, it shall enter into an agreement with another local government or with some other agency, or a state agency approved by the Virginia Department of Housing and Community Development for such enforcement. The local building department and its employees may be designated by such names or titles as the local government considers appropriate.

102.2. Building official. Each local building department shall have an executive official in charge, hereinafter referred to as the building official.

102.2.1. Appointment. The building official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, he shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. The local government shall notify the Training and Certification Office within 30 days of the appointment or release of the building official. A Virginia certified building official shall complete an orientation course approved by the Department of Housing and Community Development within 90 days after appointment. A building official not certified by Virginia shall attend the core program of the Virginia Building Code Academy, or an approved regional academy, within 90 days after appointment.

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in

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respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards (VR 394-01-2) within three years after the date of employment.

Exception: An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in his trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards (VR 394-01-2).

Exception: An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

102.4. Relief from personal responsibility. The local building department personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The building official or subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

102.5. Control of conflict of interests. The minimum standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION 103.0.

DUTIES AND POWERS OF THE BUILDING OFFICIAL.

103.1. General. The building official shall enforce the provisions of the USBC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

103.2. Modifications. The building official may grant modifications to any of the provisions of the USBC upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the Uniform Statewide Building Code. Future amendments do not automatically become part of the USBC; however, the building official should give consideration to such amendments in deciding whether a requested modification should be granted. See State Building Code Technical Review Board Interpretation Number 64/81 issued November 16, 1984.

103.2.1. Supporting data. The building official may require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The building official may also require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

103.2.2. Records. The application for modification and the final decision of the building official shall be in writing and shall be officially recorded with the copy of the certificate of use and occupancy in the permanent records of the local building department.

103.3. Delegation of duties and powers. The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the USBC.

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia), (i) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, or (ii) after three years in the case of all other buildings.

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SECTION 104.0. FEES.

104.1. Fees. Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

104.2. When payable. A permit shall not be issued until the fees prescribed by the local government have been paid to the authorized agency of the jurisdiction, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local government may authorize delayed payment of fees.

104.3. Fee schedule. The local government shall establish a fee schedule. The schedule shall incorporate unit rates which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

104.4. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local government shall provide fee refunds for the portion of the work which was not completed.

104.5. Fee levy. Local governing bodies shall charge each permit applicant an additional 1.0% of the total fee for each building permit. This additional 1.0% levy shall be transmitted quarterly to the Department of Housing and Community Development and shall be used to support the training programs of the Virginia Building Code Academy.

Exception: Localities which maintain training academies that are accredited by the Department of Housing and Community Development may retain such levy.

104.5.1. Levy adjustment. The Board of Housing and Community Development shall annually review the percentage of this levy and may adjust the percentage not to exceed 1.0%. The annual review shall include a study of the operating costs for the previous year's Building Code Academy, the current balance of the levy collected, and the operational budget projected for the next year of the Building Code Academy.

104.5.2. Levy cap. Annual collections of this levy which exceed \$500,000, or any unobligated fund balance greater than one-third of that fiscal year's collections shall be credited against the levy to be collected in the next fiscal year.

SECTION 105.0. APPLICATION FOR CONSTRUCTION PERMIT.

105.1. When permit is required. Written application shall be made to the building official when a construction permit is required. A permit shall be issued by the building official before any of the following actions subject to the USBC may be commenced:

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.
2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.

3. Installing or altering any equipment which is regulated by this code.

4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

- a. Painting.
 - b. Roofing when not exceeding 100 square feet of roof area.
 - c. Glass when not located within specific hazardous locations as defined in Section 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
 - d. Doors, except those in fire-rated wall assemblies or exitways.
 - e. Floor coverings and porch flooring.
 - f. Repairs to plaster, interior tile work, and other wall coverings.
 - g. Cabinets installed in residential occupancies.
 - h. Wiring and equipment operating at less than 50 volts.
2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fireresistance rated assembly.
3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group building except Use Groups H and F.

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

105.2. Who may apply for a permit. Application for a permit shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the

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application is made by a professional engineer, architect, contractor or subcontractor (or any of their respective agents), the building official shall verify that the applicant is either licensed to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The building official shall accept and process permit applications through the mail. The building official shall not require the permit applicant to appear in person.

105.3. Form of application. The application for a permit shall be submitted on forms supplied by the building official.

105.4. Description of work. The application shall contain a general description of the proposed work, its location, the use of all parts of the building, and of all portions of the site not covered by the building, and such additional information as may be required by the building official.

105.5. Plans and specifications. The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and dimensional detail to show the nature and character of the work to be performed. Such plans and specifications shall include the seal and signature of the architect or engineer under whose supervision they were prepared, or if exempt under the provisions of state law, shall include the name, address, and occupation of the individual who prepared them. When quality of materials is essential for conformity to the USBC, specific information shall be given to establish such quality. In cases where such plans and specifications are exempt under state law, the building official may require that they include the signature and seal of a professional engineer or architect.

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.
2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in Addendum 9.

105.5.1. Site plan. The application shall also contain a site plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations,

repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection. Any plan review comments requiring additional information, engineering details, or stating reasons for rejection of plans and specifications, shall be made in writing either by letter or a plans review form from the building official's office, in addition to notations or markings on the plans.

105.7. Approved plans. The building official shall stamp "Approved" or provide an endorsement in writing on both sets of approved plans and specifications. One set of such approved plans shall be retained by the building official. The other set shall be kept at the building site, open to inspection by the building official at all reasonable times.

105.8. Approval of partial plans. The building official may issue a permit for the construction of foundations or any other part of a building before the plans and specifications for the entire building have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a building shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire building will be granted.

105.9. Engineering details. The building official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. For buildings more than two stories in height, the building official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems. The plans shall show the material and methods for protecting such openings so as to maintain the required structural integrity, firerescistance ratings, and firestopping affected by such penetrations.

105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives a certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational

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agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.

Exceptions: The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.

105.10.1. Replacement of roofing, floorcovering, or siding materials. To meet the inspection requirements of Section 105.10 except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or
2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

105.10.2. Reoccupancy. An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

105.11. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.

105.12. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0.

PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES.

106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section 1705.0.

106.2. Attendant fees and costs. All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

SECTION 107.0.

APPROVAL OF MATERIALS AND EQUIPMENT.

107.1. Approval of materials; basis of approval. The building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the building official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the building official shall approve items listed by nationally recognized independent testing laboratories or may consider the recommendations of engineers and architects licensed in this state.

107.2. Used materials and equipment. Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the building official.

107.3. Approved materials and equipment. All materials, equipment, devices and assemblies approved for use by the building official shall be constructed and installed in accordance with the conditions of such approval.

SECTION 108.0.

INTERAGENCY COORDINATION - FUNCTIONAL DESIGN.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. State agencies with functional design approval are listed in Addendum 4. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0.

CONSTRUCTION PERMITS.

109.1. Issuance of permits. If the building official is satisfied that the proposed work conforms to the requirements of the USBC and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The building official may

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authorize work to commence prior to the issuance of the permit.

109.2. Signature on permit. The signature of the building official or authorized representative shall be attached to every permit.

109.3. Separate or combined permits. Permits for two or more buildings on the same lot may be combined. Permits for the installation of equipment such as plumbing, electrical or mechanical systems may be combined with the structural permit or separate permits may be required for the installation of each system. Separate permits may also be required for special construction considered appropriate by the local government.

109.4. Annual permit. The building official may issue an annual permit for alterations to an already approved equipment installation.

109.4.1. Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of all alterations to an approved equipment installation made under such annual permit. Such records shall be accessible to the building official at all times or shall be filed with the building official when so requested.

109.5. Posting of permit. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

109.6. Previous permits. No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended in accordance with Section 109.7 or 109.8.

109.7. Revocation of permits. The building official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

109.8. Suspension of permit. Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that work has not been suspended or abandoned. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

109.9. Compliance with code. The permit shall be a license to proceed with the work in accordance with the application and plans for which the permit has been issued and any approved amendments thereto and shall not be construed as authority to omit or amend any of the provisions of the USBC, except by modification pursuant to Section 103.2.

SECTION 110.0. INSPECTIONS.

110.1. Right of entry. The building official may inspect buildings for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The building official and assistants shall carry proper credentials of office when inspecting buildings and premises in the performance of duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, pursuant to enforcement of the USBC, that any building may be inspected at any time before completion. It also permits local governments to provide for the reinspection of buildings.

110.2. Preliminary inspection. Before issuing a permit, the building official may examine all buildings and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof.

110.3. Minimum inspections. Inspections shall include but are not limited to the following:

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.
2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.
3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.
4. Structural framing and fastenings prior to covering with concealing materials.
5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.
6. Required insulating materials before covering with any materials.
7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section 1705.0.

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and to confirm continuation of work per Section 109.8 or for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

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110.5. Inspections to be prompt. The building official shall respond to inspection requests without unreasonable delay. The building official shall approve the work in writing or give written notice of defective work to the permit holder or the agent in charge of the work. Such defects shall be corrected and reinspected before any work proceeds that would conceal them.

Note: A reasonable response time should normally not exceed two working days.

110.6. Approved inspection agencies. The building official may accept reports from individuals or inspection agencies which satisfy qualifications and reliability requirements, and shall accept such reports under circumstances where the building official is unable to make the inspection by the end of the following working day. Inspection reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. An identifying label or stamp permanently affixed to the product indicating that factory inspection has been made shall be accepted instead of the written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

110.7. In-plant inspections. When required by the provisions of this code, materials or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of each prefabricated assembly, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the building official to determine conformance with this code.

110.8. Coordination with other agencies. The building official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections for new construction with the local fire official whenever the inspection involves provisions of the BOCA National Fire Prevention Code.

SECTION 111.0. WORKMANSHIP.

111.1. General. All construction work shall be performed and completed so as to secure the results intended by the USBC.

SECTION 112.0. VIOLATIONS.

112.1. Code violations prohibited. No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

112.2. Notice of violation. The building official shall serve a notice of violation on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved hereunder, or in violation of a permit or certificate issued

under the provisions of the USBC. Such order shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. Such notice of violation shall be in writing and be served by either delivering a copy of the notice to such person by mail to the last known address, delivering the notice in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

112.3. Prosecution of violation. If the notice of violation is not complied with, the building official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of the building in violation of the provisions of the USBC. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

112.4. Violation penalties. Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than \$2,500.

112.5. Abatement of violation. Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the USBC relating to construction and use of the building or premises.

SECTION 113.0. STOP WORK ORDER.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

113.2. Application of order limited. The stop work order shall apply only to the work that was being executed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

SECTION 114.0. POSTING BUILDINGS.

114.1. Use group and form of sign. Prior to its use, every building designed for Use Groups B, F, H, M or S shall be posted by the owner with a sign approved by the building official. It shall be securely fastened to the building in a readily visible place. It shall state the use group, the live load, the occupancy load, and the date of posting.

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114.2. Occupant load in places of assembly. Every room constituting a place of assembly or education shall have the approved occupant load of the room posted on an approved sign in a conspicuous place, near the main exit from the room. Signs shall be durable, legible, and maintained by the owner or the owner's agent. Rooms or spaces which have multiple-use capabilities shall be posted for all such uses.

114.3. Street numbers. Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public right of way.

SECTION 115.0.

CERTIFICATE OF USE AND OCCUPANCY.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official. Final inspection approval(s) shall serve as the certificate of use or occupancy for any addition or alteration to a building or structure which already has a valid certificate of use or occupancy.

115.2. Temporary use and occupancy. The holder of a permit may request the building official to issue a temporary certificate of use and occupancy for a building, or part thereof, before the entire work covered by the permit has been completed. The temporary certificate of use and occupancy may be issued provided the building official determines that such portion or portions may be occupied safely prior to full completion of the building.

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has heretofore been issued, shall not be used until a certificate for the changed use group has been issued.

115.5. Existing buildings. A building constructed prior to the USBC shall not be prevented from continued use. The building official shall issue a certificate of use and occupancy upon written request from the owner or the owner's agent, provided there are no violations of Volume II of the USBC and the use of the building has not been changed.

115.6. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0. APPEALS.

116.1. Local Board of Building Code Appeals (BBCA). Each jurisdiction shall have a BBCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency approved by the Department of Housing and Community Development, to act on appeals. The BBCA shall also hear appeals under Volume II of the USBC, the Building Maintenance Code, if the jurisdiction has elected to enforce that code. The jurisdiction may have separate BBCAs provided that each BBCA complies with this section. An appeal case decided by a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

116.2. Membership of BBCA. The BBCA shall consist of at least five members appointed by the jurisdiction and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and, as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary, shall be maintained in the office of the jurisdiction. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

116.2.1. Chairman. The BBCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

116.2.2. Secretary. The jurisdiction shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

116.3. Qualifications of BBCA members. BBCA members shall be selected by the jurisdiction on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall, to the extent possible, represent different occupational or professional fields relating to the construction industry. Employees or officials of the jurisdiction shall not serve as members of the BBCA. At least one member should be an experienced builder and one member a licensed professional engineer or architect.

116.4. Disqualification of member. A member shall not hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639 et seq.) of Title 2.1 of the Code of Virginia.

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official concerning the application of the USBC or his refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall

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submit a written request for appeal to the BBCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the building official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the building official's decision.

116.6. Notice of meeting. The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

116.7. Hearing procedures. All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. 116.7.1. Postponement. When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

116.8. Decision. The BBCA shall have the power to reverse or modify the decision of the building official by a concurring vote of a majority of those present.

116.8.1. Resolution. The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to the State Building Code Technical Review Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

Copies of the resolution shall be furnished to all parties.

116.9. Appeal to the TRB. After final determination by the BBCA, any person who was a party to the local appeal may appeal to the TRB. Appeals by an involved state agency from the decision of the building official for state-owned buildings shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or building official's decision.

116.9.1. Information to be submitted. Copies of the decision of the building official and the resolution of the BBCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the jurisdiction shall submit a copy of all pertinent information from the record of the BBCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the building official's decision and other relevant information.

116.9.2. Decision of TRB. Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 (§ 36-107.1 et seq.) of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the building official shall take action accordingly.

SECTION 117.0. EXISTING BUILDINGS AND STRUCTURES.

117.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fireresistance rating shall be made with materials required for a new structure.

Exception: Existing materials and equipment may be replaced with materials and equipment of a similar kind or replaced with greater capacity equipment in the same location when not considered a hazard.

Note 1: Alterations after construction may not be used by the building official as justification for requiring any part of the old building to be brought into compliance with the current edition of the USBC. For example, replacement of worn exit stair treads that are somewhat deficient in length under current standards does not, of itself, mean that the stair must be widened. It is the intent of the USBC that alterations be made in such a way as not to lower existing levels of health and safety.

Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.

117.1.1. Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.

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Exceptions:

1. Improvements required under Volume II of the USBC necessary to assure safe living conditions.
2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.

117.1.2. Requirements for accessibility. Buildings and structures which are altered or to which additions are added shall comply with applicable requirements of Chapter 11.

117.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.

117.3. Alternative method of compliance. Compliance with the provisions of Chapter 34 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of complying with this code.

SECTION 118.0. MOVED BUILDINGS.

118.1. General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.
2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The building has not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

118.2. Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION 119.0. UNSAFE BUILDINGS.

119.1. Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe building. Any such unsafe building shall be made safe through compliance with the

USBC or shall be taken down and removed, as the building official may deem necessary.

119.1.1. Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

119.1.2. Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

119.1.3. Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

119.1.4. Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

119.1.5. Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections authorized by the building official.

119.1.6. Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

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119.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

119.3. Abatement or removal. Whenever the owner of a building that has been deemed to be a public nuisance or unsafe, pursuant to Section 119.1 or Section 119.2, fails to comply with the requirements of the notice to abate, the building official may cause the building to be razed or removed.

Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

SECTION 120.0. DEMOLITION OF BUILDINGS.

120.1. General. Demolition permits shall not be issued until the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. Any certificate required by Section 105.10 has been received by the building official.
3. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

120.2. Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of the BOCA Code.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1993 EDITION.

As provided in Section 101.3 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building Code/1993 Edition for use as part of the USBC.

CHAPTER 1. ADMINISTRATION AND ENFORCEMENT.

Entire chapter is deleted and replaced by Chapter 1, Adoption, Administration and Enforcement, of the Virginia Uniform Statewide Building Code.

CHAPTER 2. DEFINITIONS.

(A) Change the following definitions in Section 202.0, General Definitions, to read:

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the USBC, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable. The word building shall be construed as though followed by the words "or part or parts and fixed equipment thereof" unless the context clearly requires a different meaning. The word "building" includes the word "structure."

Dwellings:

"Boarding house" means a building arranged or used for lodging, with or without meals, for compensation and not occupied as a single family unit.

"Dormitory" means a space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

"Hotel" means any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

"Multi-family apartment house" means a building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

"One-family dwelling" means a building containing one dwelling unit.

"Two-family dwelling" means a building containing two dwelling units.

"Jurisdiction" means the local governmental unit which is responsible for enforcing the USBC under state law.

"Mobile unit" means a structure of vehicular, portable design, built on a chassis and designed to be moved from one site to another, subject to the Industrialized Building and Manufactured Home Safety Regulations, and designed to be used without a permanent foundation.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building.

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"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

(B) Add these new definitions to Section 202.0, General Definitions:

"Family" means an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than eight unrelated persons, living together as a single housekeeping unit in a dwelling unit.

"Farm building" means a structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for the maintenance, storage or use of animals or equipment related thereto.

"Historic building" means any building that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Virginia Department of Historic Resources' inventory of historic places; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Virginia Department of Historic Resources.

"Local government" means any city, county or town in this state, or the governing body thereof.

"Manufactured home" means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

"Night club" means a place of assembly that provides exhibition, performance or other forms of entertainment;

serves food or alcoholic beverages or both; and provides music and space for dancing.

"Plans" means all drawings that together with the specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

"Public nuisance" means, for the purposes of this code, any public or private building, wall or structure deemed to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy or use, or the condition of which constitutes a menace to the health and safety of the occupants thereof or to the public.

"Skirting" means a weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

"Specifications" means all written descriptions, computations, exhibits, test data and other documents that together with the plans, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

CHAPTER 3. USE OR OCCUPANCY.

(A) Add an exception to Section 308.2 to read as follows:
Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors, shall be classified as Use Group R-3.

(B) Reserved.

CHAPTER 4. SPECIAL USE AND OCCUPANCY.

(A) Add an exception to Section 417.6 to read as follows:

Exception: The storage, dispensing and utilization of flammable and combustible liquids, in excess of the exempt amounts, at automotive service stations shall be in accordance with the fire prevention code listed in Chapter 35.

(B) Change Section 420.0 to read as follows:

SECTION 420.0. MOBILE UNITS AND MANUFACTURED HOMES.

420.1. General. Mobile units, as defined in Section 202.0, shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

420.2. Support and anchorage of mobile units. The manufacturer of each mobile unit shall provide with each unit

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specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Chapter 16 for buildings and structures, based upon the size and weight of the mobile unit.

420.3. Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tie-downs, piers, blocking, footings, etc.) based upon the design of the manufactured home. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

420.3.1. Hurricane zone. Manufactured homes installed or relocated in the hurricane zone shall be of Hurricane and Windstorm Resistive design in accordance with the Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone. The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof. Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George.

420.3.2. Flood hazard zones. Manufactured homes and mobile units which are located in a flood hazard zone shall comply with the requirements of Section 3107.1.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

420.4. Used mobile/manufactured homes. When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Chapter 35 shall be accepted as meeting the USBC.

420.5. Skirting. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the

manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

(C) Add new Section 422.0 to read as follows:

SECTION 422.0. MAGAZINES.

422.1. Magazines. Magazines for the storage of explosives, ammunition and blasting agents shall be constructed in accordance with the Statewide Fire Prevention Code as adopted by the Board of Housing and Community Development.

(D) Add new Section 423.0 to read as follows:

SECTION 423.0. STORAGE TANKS.

423.1. General. The installation, upgrade, or closure of any storage tanks containing an accumulation of regulated substances, shall be in accordance with the Storage Tank Regulations adopted by the State Water Control Board. Storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Sections 417.0 and 418.0.

CHAPTER 9. FIRE PROTECTION SYSTEMS.

(A) Change Section 904.9 Exceptions to read as follows:

The following exceptions may be applied only when adequate water supply is not available at the proposed building site.

For the purposes of this section "adequate" means the necessary water pressure and volume provided by a water purveyor.

Exceptions.

- Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 12 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.
- Buildings where all dwelling units or bedrooms are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedrooms of a dormitory or boarding house and every two dwelling units or bedrooms of a dormitory or boarding

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house are separated from other dwelling units or bedrooms of a dormitory or boarding house in the building by fire separation assemblies (see Sections 709.0 and 713.0) having a fireresistance rating of not less than two hours.

(B) Add new Section 904.12 to read as follows:

904.12. Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.
2. Adequate public water supply is available to meet the needs of the suppression system.
3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 503.3, 504.2, 506.3, 705.2.3, 705.3.1, 720.7.1, 720.7.2, 803.4.3, and any others not specifically listed shall be granted.
4. The requirements of Section 403.0 for high-rise buildings, such as, but not limited to voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(C) Change Section 917.4.6 to read as follows:

917.4.6. Use Group R-2. A fire protective signaling system shall be installed and maintained in all buildings of Use Group R-2 where any dwelling unit or bedroom is located three or more stories above the lowest level of exit discharge or more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedroom.

(D) Add new Section 917.8.3 to read as follows:

917.8.3. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

CHAPTER 10. MEANS OF EGRESS.

(A) Reserved.

(B) Change Section 1017.4.1 Exception 6 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

- a. The building is occupied by employees only and all employees have ready access to the unlocking device.

b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.

c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(C) Add new Section 1017.4.4.1.

1017.4.4.1. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

(D) Add new Section 1017.4.4.2.

1017.4.4.2. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

CHAPTER 11. ACCESSIBILITY.

Entire Chapter 11 is deleted and replaced with the following new Chapter 11.

1101.1. General. This chapter establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

1101.2. Where required. The provisions of this chapter shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.
2. Buildings and structures classified as Use Group U.
3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.
4. Those buildings or structures or portions thereof which are used exclusively for either private club or religious worship activities.

1101.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no

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lower than four feet nor higher than seven feet above the parking surface.

1101.3. Referenced standards. The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).
2. Title 24 28 Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35593-35594 and 35599-35602 (July 26, 1991).

CHAPTER 12. INTERIOR ENVIRONMENT.

(A) Add the following definitions to Section 1202.1:

"Day-night average sound level (*Ldn*)" means a 24-hour energy average sound level expressed in dBA, with a ten decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

"Sound transmission class (STC) rating" means a single number rating characterizing the sound reduction performance of a material tested in accordance with ASTM E 90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

(A) (B) Add new Section 1208.5 as follows:

1208.5. Insect screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(C) Add new Section 1214.4 as follows:

1214.4. Aircraft noise attenuation. Pursuant to the provisions of § 15.1-491.03 of the Code of Virginia a local governing body may implement Section 1214.4.1.

1214.4.1. Acoustical isolation requirement. All residential use group buildings or portions thereof constructed or placed within an airport noise zone shall be constructed in accordance with the requirements of Section 1214.4.1.1 or Section 1214.4.1.2.

1214.4.1.1. Minimum sound transmission. Buildings located within airport noise zones shall be provided with minimum sound transmission class (STC) rated assemblies as follows:

1. 65-69 Day-Night average sound level (*Ldn*) zone; roof/ceiling and exterior walls 39 STC, doors and windows 25 STC.
2. 70-74 *Ldn* zone; roof/ceiling and exterior walls 44 STC, doors and windows 33 STC.

3. 75 or greater *Ldn* zone; roof/ceiling and exterior walls 49 STC, doors and windows 38 STC.

Note: For the purpose of this section STC ratings for doors and windows shall be determined by addition of the STC value of components used.

1214.4.1.2. Sound isolation design. Buildings located within airport noise zones shall be designed and constructed to limit the interior noise level to 45 *Ldn* maximum. Sound isolation design shall be permitted to include exterior structures, terrain and permanent plantings. The sound isolation design shall be certified by a licensed architect or engineer.

(B) (D) Add new Section 1216.0 as follows:

SECTION 1216.0. HEATING FACILITIES.

1216.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

1216.2. Other structures. Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof, and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 13. ENERGY CONSERVATION.

Entire Chapter 13 is deleted and replaced with the following new Chapter 13.

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1301.1. General. This chapter establishes the requirements for energy conservation to be applied during the design, construction and alteration of buildings and structures.

1301.2. Scope. The provisions of this chapter shall apply to all buildings and structures.

1301.3. Referenced standard. The following standard is hereby incorporated by reference for use in determining compliance with this section:

CABO Model Energy Code (MEC) 1993 Edition

CHAPTER 16. STRUCTURAL LOADS.

(A) Revise Section 1612.1 by adding Exception 5 to read:

5. Buildings assigned to seismic performance Category B, according to Section 1612.1.7 and seismic hazard exposure group I according to Section 1612.1.5, which comply with all of the following, need only comply with Section 1612.3.6.1.

- a. The height of the building does not exceed four stories.
- b. The height of the building does not exceed 40 feet.
- c. A_{vS} is less than 0.10 and the soil profile type has been verified.
- d. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(B) Revise Section 1612.3.5.2 by adding an exception to read:

Exception: Regular or irregular buildings assigned to Category B which are seismic hazard exposure group I are not required to be analyzed for seismic forces for the building as a whole, providing all of the following apply:

1. The height of the building does not exceed four stories.
2. The height of the building does not exceed 40 feet.
3. A_{vS} is less than 0.10 and the soil profile type has been verified.
4. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(C) Revise Section 1612.3.6.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for the building as a whole by Section 1612.3.5.2 need only comply with Section 1612.3.6.1.

CHAPTER 17. STRUCTURAL TESTS AND INSPECTIONS.

(A) Add new Section 1701.4 to read as follows:

1701.4. Lead based paint. Lead based paint with a lead content of more than .06% by weight shall not be applied to

any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1705.1 to read as follows:

1705.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section 1705.12, Special cases.

CHAPTER 21. MASONRY.

Revise Section 2104.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for a building as a whole by Section 1612.3.5.2 are permitted to be designed in accordance with the requirements of either Section 2101.1.1 or 2101.1.2.

CHAPTER 23. WOOD.

Add new Section 2310.2.3 to read as follows:

2310.2.3. Acceptance. Fire retardant-treated plywood shall not be used as roof sheathing without providing the building official with nationally recognized test results, satisfactory past product performance, or equivalent indicators of future product performance that address longevity of service under typical conditions of proposed installation as well as the degree to which it retards fire, structural strength, and other characteristics.

CHAPTER 27. ELECTRIC WIRING, EQUIPMENT AND SYSTEMS.

(A) Change Section 2701.1 to read as follows:

2701.1. Scope. The provisions of this chapter shall control the design and construction of all new installations of electrical conductors, equipment and systems in buildings or structures, and all alterations to existing wiring systems therein to ensure safety. All such installations shall conform to the provisions of NFPA 70 listed in Chapter 35 as amended below:

Change Section 550-23(a) Exception 2 by deleting item (a).

(B) Add Section 2701.5 to read as follows:

2701.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall

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terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 28. MECHANICAL SYSTEMS.

(A) Change Section 2801.2 to read as follows:

2801.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Chapter 35, as amended below:

1. Delete Chapter 17, Air Quality.

2. Add note to M-601.1 to read as follows:

Note: Boilers and pressure vessels constructed under this chapter shall also be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

3. Change Section M-813.3 to read as follows:

M-813.3. Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel dispensing systems for CNG vehicles shall be designed and installed in accordance with NFPA 52 listed in Chapter 21. The referenced standard within NFPA 52 Section 2-11.5 and 6-1.2.6, shall be AGA/CGA NGV 1, Compressed Natural Gas Vehicles (NGV) Fueling Connection Devices.

CHAPTER 29. PLUMBING SYSTEMS.

(A) Change Section 2901.1 to read as follows:

2901.1. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35 (BOCA National Plumbing Code/1993) as amended below:

1. Change Section P-304.1 to read as follows:

P-304.1. General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section P-304.3 to read as follows:

P-304.3. Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section P-309.4 to read as follows:

P-309.4. Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section P-312.0, Toilet Facilities for Workers.

5. Add new Section P-606.2.3 to read as follows:

P-606.2.3. Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Delete Section P-1205.0, Accessible Plumbing Facilities.

7. Add new Section P-1503.3:

P-1503.3. Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

8. Add Note to P-1508.4 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

9. Delete Chapter 16, Individual Water Supply.

(B) Change Section 2905.3 to read as follows:

2905.3. Private water supply. When public water mains are not used or available, a private source of water supply may be used. The State Department of Health shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2906.1 to read as follows:

2906.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal

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satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

CHAPTER 31. SPECIAL CONSTRUCTION.

- (A) Delete Section 3102.4.1, New signs.
- (B) Delete Section 3102.4.4, Construction Documents and Owner's Consent.
- (C) Delete Section 3107.10, Alterations and Repairs.

CHAPTER 33. SITWORK, DEMOLITION AND CONSTRUCTION.

- (A) (B) Change Section 3301.1 to read as follows:

3301.1. Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

CHAPTER 35. REFERENCED STANDARDS.

Add the following standard:

NCSBCS/ANSI A225.1-87 Manufactured Home Installations
(referenced in Section 420.4).

ADDENDUM 2.

AMENDMENTS TO THE CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION AND 1993 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

Chapter 1. Administrative.

Any requirements of Sections R-101 through R-117 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Chapter 1, Adoption, Administration and Enforcement of the USBC.

Chapter 2. Building Planning.

- (A) Change Section R-203.5 to read as follows:

R-203.5. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

- (B) Add Section R-203.6, Insect Screens:

R-203.6. Insect Screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

- (C) Change Section R-206 to read as follows:

SECTION R-206. SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of the building.

- (D) Add to Section R-211:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

- (E) Change Section R-214.2 to read as follows:

R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.

Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails o.

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ornamental closures which will not allow passage of an object six inches or more in diameter.

(F) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(G) Add new Section R-218.4 as follows:

Section R-218.4. Aircraft Noise Attenuation. All use group R-4 buildings shall comply with USBC Volume I - 1993, Section 1214.4, where applicable.

(G) (H) Add new Section R-223:

SECTION R-223. TELEPHONE OUTLETS

Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

(H) (I) Add new Section R-224:

SECTION R-224. LEAD BASED PAINT

Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

Chapter 3. Foundations.

Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 3107.0 of the 1993 BOCA National Building Code.

PART VII. ENERGY CONSERVATION.

Revise Part VII as follows:

The energy conservation requirements shall conform to Chapter 13 of the USBC, Volume I.

VA.R. Doc. No. R95-362A; Filed March 15, 1995, 12:01 p.m.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-02-0006. Rules and Regulations for Section 8 Existing Certificate and Voucher Housing Assistance Payment Payments Program.

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

Summary:

The proposed amendments (i) incorporate provisions concerning the Section 8 existing voucher program; (ii) eliminate regulatory provisions which are no longer necessary or required in administering the programs; (iii) simplify various provisions; and (iv) make minor clarifications and corrections.

VR 400-02-0006. Rules and Regulations for Section 8 Existing Certificate and Voucher Housing Assistance Payment Program.

§ 1. General program description.

The following rules and regulations will be applicable to the assistance of existing certificate and voucher rental housing units subsidized under Section 8 of the U.S. Housing Act of 1937 (42 USC § 1437 et seq.), as amended ("section 8") and the applicable rules and regulations ("section 8 rules and regulations"), 24 CFR 882 and 887, promulgated pursuant thereto. These rules and regulations are intended to provide a general description of the authority's processing requirements and are not intended to include all actions which may be involved or required. Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause. These rules and regulations are subject to change at any time by the board of the authority.

The section 8 existing certificate and voucher housing assistance payments program (the "program") provides rental assistance from the U.S. Department of Housing and Urban Development ("HUD") to eligible families and elderly, handicapped or disabled individuals persons whose incomes do not exceed the limitations established by HUD pursuant to the section 8 rules and regulations. Once certified as income eligible under the program, such families or individuals must locate and select a rental housing unit in the private market. If such unit meets the housing quality standards established by HUD for decent, safe and sanitary housing, a lease may be executed by the owner of the unit and the family or individual, and the owner and the authority simultaneously therewith

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enter into a housing assistance payments contract (the "HAP contract"). The rent under the lease, plus an allowance for utilities (other than telephone) not furnished by the owner, must normally not exceed the fair market rent established by HUD for the area. Any such allowance for utilities shall be established by the authority from time to time in accordance with the section 8 rules and regulations. ~~The tenant pays no more than 30% of his adjusted income (as determined in accordance with the section 8 rules and regulations) for rent and utilities to the extent of the allowance therefor. The amount that the tenant pays for rent and utilities is determined in accordance with the applicable section 8 rules and regulations.~~ The difference between the rent (plus any utility allowance) and the tenant's contribution is paid as housing assistance payments ("housing assistance payments") to the owner by the authority with section 8 subsidy funds received from HUD. The housing assistance payments are applied by the owner toward the payment of the rent on the rental housing unit. The tenant pays directly to the owner the portion of the rent not paid by the authority. In certain instances, the amount of the housing assistance payments may exceed the contract rent, and the balance is paid by the authority to the tenant as a utility allowance.

The authority acts as the statewide administrator of the program by allocating its set-aside of section 8 subsidy funds received from HUD to those local governmental agencies or entities participating or wishing to participate in the program as administrative agents ("administrative agents") of the authority. The authority receives an administrative fee from HUD for its services as administrator of the program, and the authority shares this fee with the administrative agents.

Upon the completion of the moderate rehabilitation of rental housing unit(s) pursuant to the authority's rules and regulations for section 8 moderate rehabilitation program, these rules and regulations shall govern the administration of the section 8 subsidy and the HAP contract for such rental housing unit(s). The term "section 8 rules and regulations" shall, when used with respect to moderate rehabilitation units, be deemed to refer to the rules and regulations applicable to the section 8 moderate rehabilitation program.

Housing assistance payments may be made available to eligible persons and families pursuant to these rules and regulations only if and to the extent that the authority has received from HUD section 8 subsidy funds therefor.

The program shall in all respects be governed by, and administered in accordance with, the section 8 rules and regulations and all other applicable procedures and requirements imposed by HUD with respect to the program. The section 8 rules and regulations and such other procedures and requirements imposed by HUD shall control over any inconsistent provision herein.

The executive director or any authorized officer of the authority acting under his supervision is authorized to act on behalf of the authority with respect to all matters hereunder. The executive director or such authorized officer may delegate all or part of his authority to any employee who is acting under his control and supervision.

§ 2. Implementation of the program.

The authority shall contact local governments throughout the Commonwealth to determine their interest in participating in the program. If a local government desires to participate in the program, the governing body shall adopt a resolution accepting the program and designating a local governmental agency or entity to act as the administrative agent. ~~The authority and the governing body shall then execute a memorandum of understanding which shall reserve an allocation of funds for the locality if funding is made available from HUD.~~ In the event that funds are not provided by HUD in an amount sufficient to fund all of the reservations by the localities, the authority shall allocate the available funds among the localities in such manner and amounts as the authority shall deem to best serve the purposes of the program. Upon notification from HUD of the availability of funds for the authority, an application for the participation by the locality in the program shall be submitted to HUD for review and approval. If HUD approves the application, the authority and HUD enter into an annual contributions contract ("ACC") which shall set forth the terms and conditions relating to the funding and administration of the program. The authority and the administrative agent shall thereupon sign an administrative services agreement ("ASA") for a term of one year. The ASA shall be renewable annually during the term of the ACC, provided that the administrative agent has complied with the ASA and has otherwise performed to the satisfaction of the authority. After execution of the ASA, the administrative agent shall initiate the administration of the program.

§ 3. Administration of the program.

The administrative agent shall conduct an outreach program satisfactory to the authority and in compliance with the HUD approved equal opportunity housing plan for the purpose of attracting the participation in the program of owners of rental housing units and eligible families and individuals. The administrative agent shall then receive applications from families and individuals who desire to qualify for assistance under the program. The application shall be on such form(s) and shall include such documentation as may be required by the authority and HUD. Based upon such application, the administrative agent shall verify income, family composition, medical and unusual other expenses, and other relevant factors and shall determine whether the family or individual is eligible for assistance under the program. If such family or individual is determined to be eligible, the administrative agent shall calculate such family's or individual's contribution ("gross family contribution" "total tenant payment") to be made for rent and utilities and shall issue such family or individual a certificate of family participation or housing voucher which shall be valid for 60 days. The administrative agent shall also advise and brief the family or individual on the procedures and requirements under the program in such manner as the authority shall require.

The family or individual shall locate and select the rental housing unit and shall submit to the administrative agent such forms and documents as may be required by the authority or HUD. The administrative agent shall thereafter meet with the

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owner of the rental housing unit and complete an inspection of each unit. The administrative agent shall determine if the rental housing unit meets the housing quality standards established by HUD, shall review the terms of the proposed lease for compliance with the requirements of the program and shall determine rent reasonableness. If the rental housing unit and proposed lease are approved by the administrative agent and if the rent is determined by the administrative agent to be reasonable, the owner and the family or individual may execute the approved lease, and the owner shall sign the HAP contract with VHDA. Within such time period as the authority shall require, the administrative agent shall submit to the authority all forms and documents required by the authority for its final approval.

Upon final approval, the authority shall make monthly payments to the owner (and, where required, the tenant) of the rental housing unit in accordance with the terms of the HAP contract. The balance, if any, of the rent shall be paid by the tenant in accordance with the terms of the lease. The owner of the rental housing unit shall comply with all of the terms and conditions of the HAP contract and in the event of a breach thereof, shall be subject to the exercise by the authority of the rights and remedies provided therein. The tenant shall comply with all requirements imposed on him under the section 8 rules and regulations and with all other applicable procedures and requirements established by HUD and the authority with respect to the program.

Persons holding the following offices and positions may not participate as owners in the program during their tenure and for one year thereafter because their relationship with the authority or the program would constitute a prohibited interest under the ACC and HAP contracts: (i) present or former members or officers of the authority or the administrative agent, (ii) employees of the authority or the administrative agent who formulate policy or influence decisions with respect to the program, and (iii) public officials or members of a governing body or state or local legislators who exercise functions or responsibilities with respect to the program. In addition, current members of or delegates to the Congress of the United States of America or resident commissioners are not eligible to participate in the programs as owners.

§ 4. Program funding.

Under the ACC, funding shall be made available for (i) housing assistance payments and (ii) administrative expenses incurred for operation of the program. The ASA shall provide two types of funds which may be used by the administrative agent to pay for expenses incurred for operation of the program:

1. Preliminary expense reimbursement. An administrative agent shall be allowed preliminary expense reimbursement during the first 12 months (24 months if the housing assistance payments are being made in connection with the moderate rehabilitation of the rental housing unit) and any extensions of the operation of the program or until each rental housing unit is leased, whichever comes first. To be eligible for reimbursement, the expense must be directly related to the first year of the operation of the program, e.g., the purchase of

nonexpendable equipment, salaries, employee benefits, office supplies, rent, telephone charges, copying costs, etc. Prior to implementation of the program, the local government ~~administrative agency~~ shall prepare a proposed budget setting forth the allocation of funds among the various categories. This proposed budget is reviewed by the authority and is submitted to HUD for approval as part of the local government's application. Preliminary expenses shall be reimbursable only if, and to the extent that, actual expenses are incurred. Payments shall be made in arrears by the authority on a monthly basis upon submission by the administrative agent of such forms and documents as the authority shall deem necessary or appropriate for the review and approval thereof based on the leasing of the units as documented by the administrative agent.

2. Administrative fee income. Administrative fee income is a set fee paid by the authority to the administrative agent for each rental housing unit under lease each month. Payment of this fee normally commences at the beginning of the administrative agent's second year of operation under the program, unless otherwise agreed by the authority and the administrative agent. Adequate records shall be maintained by the administrative agent evidencing costs incurred in the administration of the program. Adjustments to the administrative fee will be made if a surplus of income over expenses occurs. Annually, on July 1 or such other date as shall be agreed to by the authority and the administrative agent, redetermination shall be made regarding the amount of fee income which will be required to fund expenses expected to be incurred in the operation of the program. Such redetermination shall be made based upon a budget which may be submitted by the administrative agent and approved by the authority.

§ 5. Responsibilities of the authority and the administrative agent.

Under the terms of the ASA, the authority will provide the following services:

1. Train and supervise the administrative agent and provide the administrative agent with current forms, policies, and procedures.
2. Process proposals for the moderate rehabilitation of rental housing units, as applicable.
3. Provide information to administrative agents to use in their outreach program to owners and income-eligible individuals and families, and pay for the costs of media advertising within the budgeted amount as approved.
4. Provide final review of and action on requests for lease approval submitted by the administrative agent.
5. Make housing assistance payments to owners and, where required, utility payments to individuals and families.

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6. 5. Review eviction proceedings; review and approve claims by owners as submitted by the administrative agent; *conduct informal hearings.*
7. 6. Administer and enforce HAP contracts with owners.
8. 7. Monitor and enforce compliance with equal opportunity requirements, including the administrative agent's efforts to provide opportunities for individuals and families seeking housing outside areas of economic and racial concentration.
9. 8. Monitor and enforce compliance with HUD's procedures and policies for program administration and fiscal reporting.
10. 9. Process and approve for payment requisitions for reimbursement of preliminary expenses of the program as submitted by the administrative agent; make administrative fee payments to administrative agents.

11. 10. Review the administrative agent's administration of the program, including unit inspections, at regularly scheduled intervals.

Under the terms of the ASA, the administrative agent shall be responsible for implementing and administering the program with its jurisdiction by performing the responsibilities set forth in the ASA, including but not limited to the following:

1. Provide outreach to owners of rental housing units and income-eligible individuals and families to encourage participation by them in the program, including media advertising.
2. Encourage owners to make their rental housing units available by direct contact with landlords or associations.
3. Complete the certifications and recertifications for tenant eligibility, on such form(s) as the authority may require, to determine tenant eligibility.
4. Verify each applicant's income, assets, family composition, medical and unusual other expenses.
5. Calculate the gross family contribution total tenant payment of each eligible individual or family.
6. Maintain a waiting list of eligible individuals and families.
7. Refer individuals and families from the waiting list to vacant moderate rehabilitation units as applicable.
8. Issue certificates of family participation or housing vouchers to eligible individuals and families, as needed, and conduct a briefing for each participant as to the procedures and requirements under the program.
9. Review the leases proposed by owners; determine rent reasonableness; and inspect the rental housing units.
10. Determine the amount of the housing assistance payments and the portion of the rent payable by the tenants.

11. Explain program procedures to owners, including those who have been approached by holders c certificates of family participation or housing vouchers.
12. Complete the necessary paperwork for submission of requests for lease approval to the authority by the required deadline.
13. Reexamine tenant income and redetermine amount of rent at least annually beginning 90 120 days prior to the anniversary date of each lease HAP contract.
14. Perform inspections of rental housing units at least annually and as requested by the tenants, owners, or the authority.
15. Inform owners of proper eviction proceedings; coordinate eviction proceedings through the authority; and complete and submit to the authority the necessary paperwork for processing claims by the owners.
16. Notify tenants and owners of any changes made in the HAP contract pursuant to the terms thereof.
17. Maintain family folders and other documents and records required by the authority to ensure program efficiency and accuracy.
18. Requisition the authority monthly for reimbursement of preliminary expenses, if applicable; review fee income payments received from the authority for any discrepancies; maintain adequate documentation for all program related costs; and maintain a record of advertising expenses.
19. Inventory at least annually all nonexpendable equipment purchased with section 8 subsidy preliminary funds.
20. Endeavor to ensure compliance with equal opportunity requirements, including efforts to provide opportunities for individuals and families seeking housing outside areas of economic and racial concentration.
21. Maintain a folder of all outreach efforts including copies of ads run, copies of mass mailings, etc.
22. Advise participating individuals and families of other support services available in the community.
23. Maintain all forms and reports according to the requirements of the Virginia Privacy Protection Act (§ 2.1-377 et seq. of the Code of Virginia).

V.A.R. Doc. No. R95-324; Filed March 3, 1995, 1:44 p.m.

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Title of Regulation: VR 400-02-0007. Rules and Regulations for Section 8 Moderate Rehabilitation Program and Project-Based Certificate Assistance Programs.

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

Summary:

Proposed Regulations

The proposed amendments (i) incorporate provisions concerning the project-based certificate assistance program; (ii) eliminate regulatory provisions which are no longer necessary or required in administering the programs; (iii) simplify various provisions; and (iv) make minor clarifications and corrections.

VR 400-02-0007. Rules and Regulations for Section 8 Moderate Rehabilitation and Project-Based Certificate Assistance Programs.

§ 1. General program description of programs.

The following rules and regulations will be applicable to the moderate rehabilitation and project-based certificate assistance of rental housing units subsidized under Section 8 of the U.S. Housing Act of 1937 (42 USC § 1437 et seq.), as amended ("section 8") and the applicable rules and regulations promulgated pursuant thereto ("section 8 rules and regulations"), 24 CFR 882. These rules and regulations are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing of applications. Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any application to waive or modify any provision herein where deemed appropriate by him for good cause. These rules and regulations are subject to change at any time by the authority. *Unless stated otherwise, the rules and regulations shall apply to both the moderate rehabilitation and project-based certificate programs.*

The section 8 moderate rehabilitation program and project-based certificate assistance programs (the "program")—is "programs") are designed to:

1. Rehabilitate rental units which are now substandard or have major building components which will within two years need repair or replacement and, *in the case of the project-based certificate program, construct new rental units;*
2. Provide a rental income to an owner that will repay rehabilitation or construction costs, meet monthly operating expenses, and allow a reasonable profit (not to exceed 8.0% *in the case of moderate rehabilitation*) on the owner's equity investment in the property; and
3. Provide rental subsidies under section 8 to low and very low income families and elderly, handicapped, or disabled persons single individuals living in the rehabilitated or newly constructed units.

Section 8 funding is received from time to time by the authority from the U.S. Department of Housing and Urban Development ("HUD"). The authority then solicits and receives requests from local governmental entities for allocations of such section 8 funds to their localities. After approval of such requests, owners of rental housing persons in such localities may submit applications for section 8 funds under the program programs. The executive director may take such action as he deems necessary or appropriate in order to solicit such requests from local governmental entities and

applications from owners of rental housing persons in the applicable localities.

Owners of rental housing Persons interested in participating in this program the programs must first submit applications to the authority meeting program requirements described herein. The application shall be in such form and shall contain such relevant information as the executive director may require. Applications will be reviewed and, if appropriate, approved on a first-come, first-serve basis or, *in the case of the project-based certificate assistance program, on the basis of such selection criteria as may be determined by the authority to best serve the needs of the locality in which the project is to be located.* After receiving an approved application, the authority will inspect the owner's rental unit(s), determine the work items necessary to bring the unit(s) up to the authority's moderate rehabilitation standards, and estimate the cost of these improvements. To be eligible for the program, a unit must require improvements costing a minimum of \$1,000.

Feasibility of an owner's application will be determined, taking into account current rents or operating expenses, the estimated cost of required improvements, and the terms of available financing. Owner applications will be selected based upon the authority's evaluation of feasible proposals.

In the case of rehabilitation, selection of an owner's application is contingent upon the authority's determination that the tenant then occupying the unit to be rehabilitated is eligible to receive section 8 rental assistance under the applicable program. The authority will not permit ineligible families to be displaced by rehabilitation. Therefore, the authority will not provide subsidy under the program for the rehabilitation of units occupied by ineligible families at the time of submission of the application. However, the owner may rehabilitate these units as part of a general upgrading of the property.

In the moderate rehabilitation program, the authority will assist the owner in preparing rehabilitation work write-ups (detailed description of the proposed rehabilitation and estimates of the costs thereof), selecting a contractor, and obtaining financing for the work to be completed. No such assistance is provided under the project-based certificate assistance program.

When Prior to the beginning of rehabilitation or new construction is ready to begin and financing has been arranged, the authority will execute an agreement to enter into housing assistance payments contract (the "agreement") which provides that, upon satisfactory completion of all specified improvements in accordance therewith, the unit(s) will be subject to a housing assistance payments contract (the "HAP contract") at a specified rent.

Upon completion of all required improvements to the unit(s), the authority and the owner will execute a 15-year HAP contract which establishes the rent ("contract rent") for the unit(s) and describes the rights and responsibilities of the owner and the authority throughout the 15-year term. *In the case of the moderate rehabilitation program, the term of the HAP contract shall be 15 years. In the case of the project-based certificate assistance program, the HAP contract term*

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may not be less than two years and no longer than 15 years or the period of funding for its funding source.

Subsequent to completion of the required improvements, the authority and its administrative agent ("administrative agent") shall perform their respective administrative functions and responsibilities with respect to the section 8 subsidy and HAP contract as set forth in the authority's rules and regulations for section 8 *certificate and voucher* existing housing assistance payments program (VR 400-02-0006).

The initial occupant of a rehabilitated unit may be either the owner's current tenant or a family selected by the owner from the waiting list maintained by the administrative agent. *The initial occupant of a newly constructed project-based certificate assistance unit shall be a family selected by the owner from such waiting list.* Vacancies occurring after initial occupancy are to be filled by the owner first from among families on such waiting list. If this waiting list is not sufficient, the owner may solicit his own tenants.

Tenants occupy the units and receive assistance by signing a lease in the form required by the authority and other documentation required by HUD. The tenants must comply with all applicable requirements imposed by HUD under the section 8 rules and regulations and the *applicable* program. The tenant pays no more than 30% of his adjusted income (as determined in accordance with the section 8 rules and regulations) for rent and utilities, to the extent of the allowance therefor. The difference between the rent (plus any utility allowance) and the tenant's contribution is paid as housing assistance payments to the owner by the authority with section 8 subsidy funds received from HUD. The housing assistance payments are applied by the owner toward the rent on the rental housing unit. The tenant pays directly to the owner the portion of the rent not paid by the authority. In certain instances, the amount of the housing assistance payments may exceed the rent, and the balance is paid by the authority to the tenant as a utility allowance *reimbursement*.

Housing assistance payments may be made available to eligible persons and families pursuant to these rules and regulations only if and to the extent that the authority has received from HUD section 8 subsidy funds therefor.

The *program programs* shall in all respects be governed by, and administered in accordance with, the section 8 rules and regulations and all other applicable procedures and requirements imposed by HUD with respect to the *program programs*. The section 8 rules and regulations and such other procedures and requirements imposed by HUD shall control over any inconsistent provision herein.

The executive director or any authorized officer of the authority acting under his supervision is authorized to act on behalf of the authority with respect to all matters hereunder. The executive director or such authorized officer may delegate all or part of his authority to any employee who is acting under his control and supervision.

§ 2. Eligible rental housing.

The housing to be assisted must be eligible under the applicable section 8 rules and regulations. In addition, housing

assisted under the *program programs* must be located within an area for which the authority has received funding from HUD. The authority must have also been requested by the local governmental entity to make section 8 funding available.

~~In general, any type of single family or multi-family rental housing within this area which requires rehabilitation costing at least \$1,000 per unit in order to meet the authority's moderate rehabilitation standards is eligible. However, the following special categories of housing are not eligible under the program:~~

- ~~1. Subject to certain exceptions permitted by HUD, any units subsidized under any federal housing program within the past year.~~
- ~~2. Housing on which the mortgage loan is owned or held by HUD (does not include FHA-insured mortgage loans).~~
- ~~3. Nursing homes or housing located on the grounds of any remedial institution. In general, any housing which provides continual medical and psychiatric services is ineligible.~~
- ~~4. Housing owned by a state or general purpose unit of local government unless HUD has approved the site and ownership is transferred to another owner before an agreement is executed.~~
- ~~5. Units for families with children located in a high-rise elevator building, unless approved by HUD.~~
- ~~6. Mobile homes.~~
- ~~7. Owner-occupied housing (cooperative housing is considered rental housing, however, and is eligible for the program).~~

~~All housing assisted under the program must meet certain site and neighborhood performance requirements established by HUD. Sites must be of adequate size, must be served by adequate streets and private facilities and services, and must be located within a reasonable commuting distance of employment opportunities.~~

§ 3. Eligible owners.

All owners of eligible property may participate in the *program programs* with the exception of the following (who are excluded during their tenure and for one year thereafter from participation because their relationship with the authority or the program would constitute a prohibited interest under federal regulations): (i) present or former members or officers of the authority or the administrative agent, (ii) employees of the authority or the administrative agent who formulate policy or influence decisions with respect to the program, and (iii) public officials or members of a governing body or state or local legislators who exercise functions or responsibilities with respect to the program. In addition, current members of or delegates to the Congress of the United States of America or resident commissioners are not eligible property owners.

§ 4. Eligible *Eligibility of initial tenants of units to be rehabilitated.*

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In the case of a unit to be rehabilitated, any tenant occupying a such unit at the time of submission of the application must be eligible to participate in the program satisfy the eligibility criteria in the section 8 rules and regulations in order for that unit to be assisted (subject to certain exceptions established by HUD in the section 8 rules and regulations). Initial tenant eligibility is based on the following criteria:

1. *The tenant must be a single person or must qualify as a family (as defined by HUD) of two or more persons.*
2. *The tenant must have a family income which does not exceed the applicable income limits established by HUD.*
3. *The tenant must at the time of submission of the application be occupying a suitably sized unit or a suitably sized unit must be available to him in the same building or complex after rehabilitation. Generally, this requires that there be a living room, kitchen area and bathroom, and at least one sleeping or living/sleeping room for each two persons in the household. Except for husband and wife and very young children, however, persons of the opposite sex should not be required or permitted to occupy the same bedroom.*

Owners may not combine two or more units, if that rehabilitation activity will result in fewer units than tenants currently in residence and therefore require displacement.

§ 5. Rehabilitation and construction standards.

Housing units rehabilitated under the program programs must meet the following standards:

1. *The authority's moderate rehabilitation standards. Subject to HUD approval, the executive director is authorized to establish and from time to time modify moderate rehabilitation standards which shall specify the standards for work and materials to be incorporated into the rehabilitation of housing units under the program. Housing units proposed for rehabilitation under the program will be inspected by the authority for compliance with the authority's moderate rehabilitation standards. All state and local building codes are incorporated by reference in the moderate rehabilitation standards, and in the event of any conflict or inconsistency between such codes and the standards expressly set forth therein, the more restrictive standards shall control over the less restrictive standards. A copy of these standards shall be available upon request. All deficiencies found in the inspection must be corrected by the owner as part of the owner's rehabilitation activity.*
2. *Standards for repair/replacement of major building systems or components in danger of failure. Eligible rehabilitation activities under this program include work to major building systems or components which can be expected to fail within two years. Such work is basically limited to complete wiring, new plumbing pipes, new boiler or furnace or heating distribution pipes, new roof, and exterior structural elements.*

3. *Cosmetic, optional, or routine maintenance items. Rehabilitation items not required by the authority are not considered eligible work items under the program. Routine maintenance activities, such as repainting, are also not eligible items. If the owner elects to undertake cosmetic, optional, or routine maintenance work while also doing eligible work, only the cost of the eligible work will be taken into account in calculating the contract rent.*

4. *Required energy-conserving improvements. Caulking and weatherstripping are required in all units rehabilitated under the program. The authority will require other energy-conserving improvements such as insulating windows and floor, wall and ceiling insulation if economically feasible.*

5. *Accessibility for the handicapped. Property improvements to make a housing unit accessible to the physically handicapped are eligible under the program. If an owner anticipates making such improvements, the authority will assist in evaluating the work required.*

6. *Rehabilitation work standards. All rehabilitation work under the program must be completed in a cost efficient and workmanlike manner. Extravagant or luxury quality improvements are not allowable. All work should be of sufficient quality to serve for the duration of the 15-year HAP contract, and any improvements for which building permits are required must meet local building code quality standards.*

7. *\$1,000 minimum. Housing units rehabilitated under the program must require improvements costing at least \$1,000 per unit in order to meet the above standards.*

Housing units to be constructed under the project-based certificate assistance program must meet the housing quality standards established by HUD.

§ 6. Determination of contract rents for rehabilitated units.

The contract rent for a unit under the project-based certificate assistance program plus the allowance to be paid by the tenant may not exceed the section 8 existing fair market rent.

The contract rent for a rehabilitated unit under the moderate rehabilitation program is calculated using a two-step process. The authority first computes a "base rent" for the owner's unit and then adds to it the monthly cost of amortizing the owner's rehabilitation expenditure in the following manner.

A. Base rent.

1. The base rent shall be calculated in accordance with whichever of the following methods produces the higher rent:

4. a. The average rent collected for the unit during the 18 months preceding the owner's proposal, plus an adjustment factor for inflation and trending; or
2. b. A rent based on the anticipated costs of owning, managing and maintaining the rehabilitated unit. The formula used to calculate this base rent

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takes into account all operating expenses and allows a return (not to exceed 8.0%) on owner equity.

B. Monthly debt service. 2. To the base rent is added the actual or imputed monthly per unit debt service cost for eligible rehabilitation costs, including the cost of any required temporary relocation of current tenants during the rehabilitation period.

C. Maximum contract rent for rehabilitated units. *Under the moderate rehabilitation program, the contract rent for a rehabilitated unit plus the allowance for any utilities to be paid by the tenant may not exceed the moderate rehabilitation fair market rent established by HUD for a unit of that size. The allowances for any utilities to be paid by tenant will be established by the authority and will be made available to the owner upon request.*

D. When contract rents are determined. *In the moderate rehabilitation program, contract rents are tentatively calculated and the feasibility of the owner's proposal evaluated at several times during the processing period, as information concerning base rents, anticipated rehabilitation costs, and the terms of financing is received by the authority. The final calculation of the contract rent is made after the rehabilitation work has been completed and the owner's construction costs, temporary relocation costs, and financing terms are established, subject to the approval of the authority. In the project-based certificate assistance program, the initial contract rents shall be as set forth in the agreement unless adjusted in accordance with the section 8 rules and regulations.*

§ 7. Fair market rents for rehabilitated units.

The moderate rehabilitation fair market rents (*in the case of the moderate rehabilitation program*) and section 8 existing fair market rents (*in the case of the project-based certificate assistance program*), including the cost of utilities, for units assisted under the program are established from time to time by HUD.

§ 8. Sources of financing for rehabilitation and new construction.

Property owners participating in the program may obtain financing for rehabilitation or construction expenses from a number of sources, including the following:

1. **Owner financing.** Owners may pay for property improvements using personal savings, personal credit cards or store accounts.
2. **Banks, savings and loan associations, and other lending institutions.** Owners may obtain financing from any commercial lending institution, including commercial banks, savings and loan associations, and credit unions.
3. **Publicly funded or assisted rehabilitation grant and loan program.** Owners participating in the program may also qualify for rehabilitation or construction financing made available through the redevelopment and housing authority, housing agency and/or industrial development authority.

4. The authority. The authority may from time to time make financing available for the rehabilitation or construction. In the case of such financing, the application for such financing shall be processed, the improvements shall be completed, and the rehabilitated or constructed unit shall be owned, operated and managed, all in accordance with the authority's rules and regulations for multi-family housing developments, to the extent required by the authority consistent with the section 8 rules and regulations.

§ 9. Federal requirements which the owner must meet during rehabilitation or construction and management.

An owner shall comply with the section 8 rules and regulations and all other applicable federal requirements under the program. In addition, the authority may take into account applicable environmental laws and requirements in evaluating and selecting owner proposals.

§ 10. Processing of owner proposals.

In the moderate rehabilitation program, owner proposals submitted to the authority will be processed as follows:

Step 1 - Preparation and submission by owner of a proposal.

Step 2 - Preliminary screening of proposal by the authority and disqualification of incomplete or clearly ineligible proposals.

Step 3 - Inspection by the authority of owner's property to determine the work items necessary to bring the unit(s) up to program standards.

Step 4 - Preparation by the authority of list of deficiencies to be corrected, estimate by the authority of rehabilitation costs, and preliminary determination by the authority of project feasibility, *taking into account current rents or operating expenses, the estimated cost of required improvements, and the terms of available financing.* Notification by the authority to the owner of results.

Step 5 - Selection for processing by the authority of owner's proposal.

Step 6 - Determination by the authority of eligibility of tenants currently occupying unit(s) to be rehabilitated. Notification by the authority to the owner of results.

Step 7 - Preparation by the owner and/or the authority of work write-ups, bidding of work, selection of contractor, preparation of lease, obtaining of financing, and final determination of project feasibility.

Step 8 - Execution of an agreement providing that upon owner's satisfactory completion of all required work, the authority will provide section 8 housing assistance payments on behalf of eligible tenants occupying the rehabilitated unit(s). Initial calculation of contract rent(s).

Step 9 - Execution by the owner and contractor of a construction contract and completion of required work. Inspection by the authority of work upon completion.

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Step 10 - Recalculation by the authority of contract rent. Execution of a HAP contract by the owner and the authority.

Step 11 - Occupancy of the unit(s) by the assisted tenant(s), who may be the current eligible tenant(s) or tenant(s) selected by the owner from the locality's waiting list. Execution of an approved lease.

Step 12 - Commencement of section 8 housing assistance payments on behalf of the tenant. Performance by the owner, the authority and its administrative agent of all activities required following rehabilitation.

In the project-based certificate assistance program, units will be selected as follows:

Step 1 - The authority will submit information to HUD concerning the number of units currently under the authority's annual contributions contract with HUD for the authority's section 8 certificate program, the total number of units for which the authority is requesting approval to attach assistance, the number of units by unit size to be assisted from each funding source and the estimated termination dates for the HAP contracts.

Step 2 - HUD shall review the information and notify the authority of approval or disapproval.

Step 3 - The authority will advertise in a newspaper of general circulation that the authority will accept applications for project-based certificate assistance.

Step 4 - The owner will submit an application containing a description of the housing to be constructed or rehabilitated, evidence of site control, evidence of proper zoning, the proposed contract rent per unit, information concerning temporary relocation of site occupants, identity of the owner and development team, a management plan, information concerning the financing, the proposed term of the HAP contract and such other information that the authority believes to be necessary.

Step 5 - The owner's proposals will be ranked and selected by the authority, in accordance with selection criteria determined by the authority pursuant to § 1.

Step 6 - The authority will enter into the agreement with the owner.

Step 7 - Execution by the owner and contractor or a construction contract and completion of the required work. Inspection by the authority of work upon completion.

Step 8 - Execution of a HAP contract by the owner and the authority.

Step 9 - Occupancy of the unit(s) by the assisted tenant(s), who may be the current eligible tenant(s) or tenant(s) selected by the owner from the locality's waiting list. Execution of an approved lease.

Step 10 - Commencement of section 8 housing assistance payments on behalf of the tenant.

Performance by the owner, the authority and its administrative agent of all activities required following rehabilitation.

§ 11. Requirements following rehabilitation and construction.

Subsequent to completion of the required improvements or new construction (as applicable) for any rental housing unit, the authority and its administrative agent shall perform their respective administrative functions and responsibilities with respect to the section 8 subsidy and HAP contract for such unit as set forth in the authority's rules and regulations for section 8 existing certificate and voucher housing assistance payments program. Following initial leasing of the assisted unit and during the entire period of the HAP contract, the owner must fill all vacancies with section 8 eligible families referred by the authority or its administrative agent, and where required by the authority, the owner shall develop and utilize tenant selection procedures and standards acceptable to the authority. The owner also must maintain the unit in its rehabilitated or newly constructed condition, as applicable, less normal wear and tear, and such maintenance of the unit will be monitored through annual inspections. The owner may not terminate a tenant lease except for tenant failure to comply with the lease or obligations under state law.

Annually, the authority will process requests by the owner for annual rent adjustments in accordance with the HAP contract. Special rent adjustments may also be approved by the authority and HUD in certain circumstances authorized by the HAP contract. The owner is also eligible to receive payments for vacancy losses, tenant damages and unpaid rent.

In the case of the moderate rehabilitation program, the maximum annual return or profit which the owner may receive from the rental of the assisted unit(s) shall not exceed 8.0% of the owner's equity as determined in accordance with HUD's requirements.

The owner must comply with all terms and conditions of the HAP contract and with the section 8 rules and regulations. The HAP contract between the authority and the owner shall have a term of 15 years, and Any successive owner shall be subject to the terms and conditions of the HAP contract. The authority shall have the right to terminate the HAP contract in accordance with its terms in the event of noncompliance by the owner with its provisions.

VA.R. Doc. No. R95-325; Filed March 3, 1995, 1:45 p.m.

LONGWOOD COLLEGE

REGISTRAR'S NOTICE: Longwood College is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulations: VR 446-01-01. Motor Vehicle Parking and Traffic Rules and Regulations.

Statutory Authority: § 23-188 of the Code of Virginia.

Proposed Regulations

Summary:

The proposed regulation is designed to outline the college's parking policies, procedures and parking citation appeals process for faculty, staff, students, and visitors.

VR 446-01-01. Motor Vehicle Parking and Traffic Rules and Regulations.

§ 1. General provisions.

A. Faculty, staff, commuter students, and residential students with sophomore, junior, or senior status are permitted to have vehicles on campus. The College reserves the right to restrict parking on campus for appropriate special events, activities, and conditions. The College, however, cannot guarantee a parking space.

B. The College is not liable for damages or losses resulting from vandalism or larceny from any vehicle parked on the campus.

C. Decals and hanging tags shall be displayed at all times. Faculty and staff will be issued hanging tags that must be displayed on the rear view mirror; students will be issued decals that must be displayed on the vehicle's left rear window. No parking decal may be taped inside the vehicle.

1. Only the current decal may be displayed. Invalid decals must be removed.

2. Decals must be secured with their own adhesive. Scotch tape, etc. may not be used.

3. Student decals are nontransferable to other vehicles. Additional vehicles must have their own decals.

4. Hanging tags must be displayed per instructions.

5. All changes concerning the vehicle must be reported to the Parking Coordinator immediately (e.g., tag number change, residence change, new car).

D. The costs of decals vary to accommodate various categories of staff and students. Motorcycles have the same status as automobiles. Charges per academic year are as follows:

1. All students	\$20.00
2. Student teachers	\$10.00
3. Summer session students	\$ 5.00
4. Faculty/staff (full time)	\$25.00
5. Faculty/staff (part time)	\$12.50
6. Noncollege affiliated	\$25.00
7. Temporary (one month)	\$ 3.00

A replacement decal/tag will be provided free of charge when the remains of the old decal are taken to the Campus Police or with presentation of parking registration fee receipt.

E. Temporary permits for up to one month may be obtained for \$3.00 from the Campus Police Office. Car registration is

required at the time of class registration or whenever the vehicle is brought on campus.

F. Temporary permits are not intended to enable individuals to delay registering their vehicles. If vehicles are brought to campus after Cashiering and Student Accounts has closed, the driver must call Campus Police at 804-395-2612 or 804-395-2091 for permission to park without registration until 10 a.m. the next working day.

G. If a vehicle is disabled, the driver must call Campus Police for 48-hour authorization. This 48 hours allows sufficient time for vehicles to be repaired, moved, or towed.

H. Faculty and staff decals are transferable to other family vehicles registered for faculty/staff use. Only one registered vehicle per decal may be present on campus at any time.

I. If a student uses another family member's vehicle during the year, additional decals must be purchased. If a student uses a faculty/staff member's vehicle on campus, a student decal may be issued for the vehicle. Student drivers are restricted from using faculty/staff parking areas. Only one registered vehicle per student may be present on campus at any time, except during peak check-in or check-out periods.

J. Hampden-Sydney students taking classes at Longwood may park in authorized commuter student areas with a valid Hampden-Sydney decal displayed.

K. A limited number of visitor parking spaces are available on campus. Students, faculty, and staff of the College may not use these spaces as they are not considered visitors to the campus.

L. Visitor parking spaces are designated at the Craft House for use by prospective students. Admissions will call the Campus Police to register vehicles in these spaces.

M. If a guest is to be on campus anytime during the day, Monday to Friday, the host must call the Campus Police by 8 a.m. to register the vehicle license number of the visitor's car. Guests should park their vehicles in the area provided for the host (e.g., guests of resident students should park in areas designated for resident student parking). Failure to register a guest's vehicle is not grounds for citation appeal.

N. Loading/unloading locations have been designated throughout the campus. Parking in these areas is limited to 10 minutes with the use of hazard lights. During peak times of check-in and check-out, Campus Police will be available to provide assistance. Drivers are duly warned that the Town of Farmville may still issue citations for violations during these peak times.

O. Persons requiring use of handicapped spaces on campus or Town of Farmville streets or both must receive a permit from the Town Manager's Office or the Department of Motor Vehicles. Temporary (five day) handicapped permits may be obtained from Campus Police and are valid only on college property. Written requests from attending physicians indicating type and duration of disability must accompany temporary handicap permit requests.

Proposed Regulations

P. The Campus Police Office is charged with the enforcement of all parking regulations. Student Services is charged with the enforcement of all traffic and parking appeals.

Q. Parking citations for unregistered or improperly parked vehicles will be issued whenever the College is open.

R. Automobiles parked illegally in areas listed below will be issued a parking citation, be towed at the owner's expense, have a wheel lock installed, or a combination of the three:

1. Fire lanes;
2. Handicapped spaces, without appropriate decal/tag;
3. Loading zones, without hazard lights on;
4. Commuting student lots by resident students;
5. Students in faculty/staff parking areas, during prohibited hours;
6. Any parking area designated as "towing zone";
7. Visitor spaces;
8. Blocking traffic;
9. Blocking building entrances;
10. On grass/lawn; or
11. Yellow curbs.

S. During weekday business hours (7 a.m. - 8 p.m.), certain parking areas are restricted for faculty/staff, resident student, or commuter student use only. These areas are denoted by signs, paint on curbing, or areas denoted on the parking map.

T. Town, county, and state laws must be observed when parking on the Longwood College campus.

U. Parking in fire zones, loading zones, and areas where the curbs are painted yellow is strictly prohibited.

V. Student parking on Race Street is restricted to the College side of the street only.

W. Parking on the Town of Farmville streets is at the driver's risk. College parking decals do not authorize parking in the Town of Farmville "Resident Only" parking areas. The Farmville police patrol these areas and will issue citations of their own if violations are observed.

X. Parking citations must be paid in full or appealed within five full working days (Monday-Friday). A late fee or fine may be assessed beginning on the sixth working day after the citation, or on the sixth working day after the due date on the appeal form, at a rate of \$1.00 per working day for 15 consecutive days. Following 15 consecutive working days, no additional late fees will accrue.

Y. Parking citations paid by 3 p.m. of the following business day will be reduced to half of the fine assessed.

Z. Drivers are expected to pay fines in a timely fashion. A stop code may be placed against a student when he is a repeat offender. At the discretion of the Director of Student Services, repeat offenses may also result in loss of parking privileges, the vehicle may be towed, a wheel lock may be installed, a \$50 fine may be assessed, or disciplinary action may be taken. A repeat offender is a student who accumulates three or more unpaid parking citations within the academic year. A stop code places a "freeze" on all academic records.

AA. Seniors will be stop coded prior to graduation unless all fines have been paid.

BB. If a student accumulates three or more unpaid parking citations, a wheel lock may be installed on the student's vehicle and a fine of \$40 will be assessed. Following this, the student's vehicle may be towed at the owner's expense (\$25) and the wheel lock reinstalled. If a vehicle is towed and impounded, the Campus Police reserve the right to inventory the contents of the vehicle to maintain the integrity of its contents. The wheel lock will not be removed until all fines and late fees are paid.

§ 2. Registration of motor vehicles.

A. All vehicles utilizing campus parking facilities including motorcycles and motorbikes, must be registered with the Longwood College Campus Police. All outstanding parking citations must be paid prior to vehicle registration.

B. The operator of each vehicle will be issued an appropriate decal/tag. The purchase of a decal entitles individuals to park only in those areas designated for the respective decal/tag. The purchase of a decal does not guarantee a parking space. It is a violation to purchase additional decals for distribution to other individuals.

C. Acceptance of a decal/tag by an individual attests to that person's complete understanding of this regulation.

D. Since parking regulations will be enforced starting the first day of the semester, vehicles should be registered prior to the start of the semester. (For presemester vehicle registration, contact the Parking Coordinator at 804-395-2612.) Following the opening of school, vehicles may be registered in the following manner: (i) pay the fee at the Cashiering and Student Accounts Office; (ii) take the payment receipt, the state vehicle registration card, and complete the registration form and receive a decal. Registered vehicles must be owned by the student or a member of the student's immediate family. A map highlighting the major lots by type of decal is made a part of these regulations.

§ 3. Categories of decals and tags.

The categories of decals/tags issued by the Campus Police are listed below:

1. Faculty/staff (blue hanging tags). All faculty, administrative personnel, classified and hourly employees of the college, are eligible to register motor vehicles and will be issued a blue hanging tag, and can park in any area where the curbs are painted blue.

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2. Resident sophomore (yellow decal). All individuals classified as sophomore residential students by the Registrar of the College who reside in college administered housing, qualify as a resident and will be issued a yellow decal and can park in the Vernon Street Lot and the Cole Store Lot.

3. Resident junior/senior (purple decal). All individuals classified as a junior or senior by the Registrar can park in any area where the curb is painted white.

4. Commuter students (red decal). Those individuals classified as students by the Registrar of the College who do not reside in college administered housing will receive a red decal and can park in any area where the curb is painted red.

5. Noncollege affiliated (green decal). Noncollege affiliated green decals are issued to ARA Dining Services employees and allow these individuals to park in areas where curbs are painted green.

§ 4. Parking Citation Appeals Committee.

A. The purpose of the Parking Citation Appeals Committee is to review all appealed parking citations and make recommendations to the Director of Student Services.

B. An appeal for each citation issued must be submitted in writing on an "appeals form" within five working days of the date on the citation. If appeal is denied, then a date for citation payment will be established.

C. Appeals forms are available in the Campus Police Office and the Student Services Office. A completed form must be returned to the Student Services Office or to the Campus Police within five working days of the date on the citation.

D. The following are generally not considered acceptable arguments when appealing traffic citations: inability to pay fines assessed, using flashers in an illegal area, and forgetting to pay citations when due.

E. Appeals are decided in one of the following ways:

1. Appeal denied;
2. Appeal accepted;
3. Appeal denied, fee waived; or
4. Appeal denied, fee reduced.

§ 5. Campus Police assistance.

A. Requested emergency service will be denied if the requesting party refuses to release the Campus Police and the college from liability should damage to the vehicle result from the service.

B. Owners of inoperative vehicles should contact a service station or garage for assistance and should advise Campus Police if parked in an illegal area. (See § 1 G.)

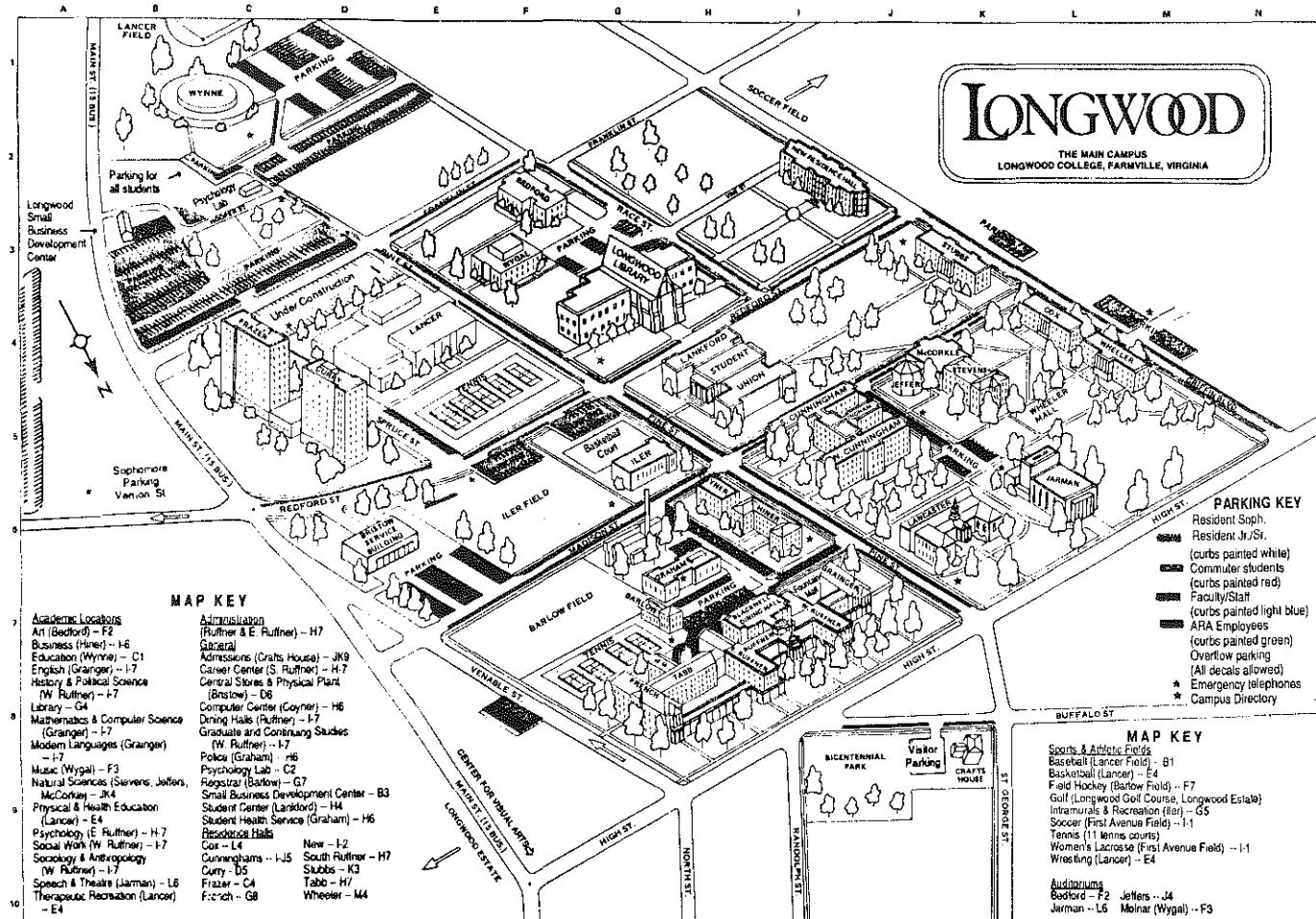
V.A.R. Doc. No. R95-353; Filed March 8, 1995, 11:28 a.m.

Proposed Regulations

VISITOR PARKING is available next to the Longwood Library and on streets adjacent to campus controlled by the Town of Farmville. Prospective students may park in the lot beside the Crafts House also. If parking is a problem, please go to the Campus Police for assistance (Graham Building - H6).

PARKING FOR PERSONS WITH DISABILITIES is available next to the Campus Directory sign and throughout campus. For more information, contact the Campus Police.

NOTE: COLOR CODING FOR GENERAL REFERENCE ONLY.



Proposed Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.7. Client Appeals Regulations.

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

Public Hearing Date: N/A - Written comments may be submitted through June 2, 1995.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code also provides, in the Administrative Process Act (APA) §§ 9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review.

The agency is initiating the public notice and comment process as contained in Article 2 of the APA. The Notice of Intended Regulatory Action for this regulation was published in the Virginia Register on November 14, 1994.

Purpose: The purpose of this proposal is to abolish the Medical Assistance Appeals Panel (MAAP) as is necessary for the efficient and economical operation of a government function and to comply with the order of the court.

Substance: The regulations affected by this regulatory action are VR 460-04-8.7.

42 CFR Part 431, Subpart E concerns fair hearings for applicants and recipients. This subpart implements § 1902(a)(3) of the Social Security Act (the Act), which requires that a State Plan for Medical Assistance provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services. This subpart also implements §§ 1919(f)(93), 1919(f)(93), and 1919(e)(7)(F) of the Act by providing an appeals process for individuals proposed to be transferred or discharged from skilled nursing facilities and nursing facilities and those adversely affected by the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Act.

This section of the federal regulations establishes the requirements for a hearing system, recipient notice requirements which must be met by the agency, recipients' rights to hearings, procedures, hearing decisions, due process standards, and corrective actions. DMAS' current MAAP is not required by either federal or state law.

Prior to 1989, the Medicaid appeals system provided two levels of administrative review. The first level was a hearing officer decision and the second (final) review by the Medical Assistance Appeal Board, a part-time board of volunteer professionals. Due to the rapid growth in the Medicaid program during the 1980's and turnover among board

members, the Appeal Board was not providing consistent, timely decisions.

In 1989, the General Assembly amended the Administrative Process Act (APA) to allow judicial review of public assistance case decisions. Prior to this, no judicial review of agency case decisions had been permitted. While granting recipients the right to judicial review, the General Assembly limited the scope of the review to the application of the law to an individual case. Such restriction did not permit the court's review of the validity of the underlying law. In order to address concerns expressed at that time by legal advocates and some legislators that there should be an opportunity for review of legal issues as well as the department's own concerns that its overburdened volunteer Appeal Board could not keep up with the ever-increasingly-complex caseload, review legal issues, and produce a record which would adequately withstand judicial review, DMAS replaced the part-time Medicaid Appeals Board with a panel of three administrative law judges staffed by attorneys.

In the 1989 Mowbray v. Kozlowski suit, the federal judge required DMAS to revise the scope of review at the hearing officer level to ensure review of legal issues. DMAS added, at this time, this specific responsibility to the scope of the hearing officer review and has continuously increased the officers' training to give them guidance on this added responsibility.

The present DMAS administrative appeals process involves two levels. If the client is dissatisfied with the local social services agency's decision denying or reducing eligibility or services, the decision may be appealed to DMAS. A DMAS hearing officer conducts a fair and impartial hearing and issues a decision. That decision may be appealed to a circuit court or, at the option of the appellant, to the Medical Assistance Appeal Panel. If MAAP review is sought, the MAAP decision can also be appealed to a circuit court.

On January 28, 1994, an order was entered by Judge James H. Michael, Jr., in the U.S. District Court for the Western District of Virginia in the case of Shifflett v. Kozlowski (Civil Action No. 92-00072). Judge Michael ordered DMAS to comply with federal law by issuing final agency decisions to appellants within 90 days of the appeals. The court concluded that both hearing officer decisions and MAAP decisions must comply with the 90-day rule. The department has concluded that it is impossible, with present staff, to complete both levels of appeals within 90 days.

Retaining the MAAP while complying with the court order to complete both the hearing officer and MAAP levels of appeals within the federally required 90 days would require the doubling of the current staff (both hearing officers and members of the MAAP). Such a doubling of the present staff level would result in an additional minimal cost of approximately \$1.5 million per year in order to provide such hearing services to 156 (average number who have applied over the last three years for MAAP reviews) appellants. The more feasible alternative, short of doubling staff, which does not violate applicants/recipients federal or other due process rights is to eliminate the MAAP.

Proposed Regulations

Issues: Eliminating the MAAP saves the Commonwealth approximately \$250,000 (MAAP salaries and fringe benefits) without harming recipients' rights under the law. Improvements in the hearing officers' training and skills since the MAAP was first created has resulted in a reduced need for it. Applicants for and recipients of medical assistance who are not satisfied with the hearing officers' decisions may still continue to appeal their cases through the court system.

One comment was received during the comment period for the Notice of Intended Regulatory Action. The commenter stated that the sole reason for the proposed elimination of the MAAP was the favorable decision in Shifflett v. Kozlowski, 843 F. Supp 133 (W.D. Va. 1994) which imposed a 90-day time limit on MAAP decisions. The commenter further stated that pursuant to the consent order entered in Shifflett v. Kozlowski on September 13, 1994, the 90 days started as of the date the MAAP review was requested, and not as of the date a DMAS hearing was requested. The commenter stated that the MAAP had always served a useful function and that its only shortcoming had been unacceptable delays in issuing decisions. Since this commenter believed such unacceptable delays had been corrected by the lawsuit there remained no reason to eliminate a useful agency.

The agency's response is that this commenter is inaccurate on several points. The order that was entered in Shifflett v. Kozlowski (January 14, 1994) did not impose a 90-day time limit on MAAP decisions but a 90-day time limit on the entire hearing process, which includes the hearing officer level of appeal as well as the MAAP. Furthermore, the consent order which allowed the MAAP 90 days as of the date its review is requested is, in fact, a Stay of Litigation. This stay stated that the litigation was stayed pending adoption of regulations to eliminate the Medical Assistance Appeals Panel. The 90-day time frame to process MAAP cases only applied during the period of time reasonably necessary to adopt the regulatory changes to eliminate the MAAP. These regulations take the necessary actions to comply with that order.

Fiscal/Budget Impact: In FY '93, 235 requests for review were filed with the MAAP; 162 requests were filed in FY '94; and from July 1994 through the end of December 1994 72 requests for review were filed. Approximately 11% of hearing officer decisions are appealed to the MAAP and, of that number, approximately 15% have been reversed by the MAAP. This proposal will save approximately \$250,000 (salaries and fringe benefits). These funds have already been re-directed to the Office of the Attorney General for further legal support for the agency. There are no localities which are uniquely affected by these regulations as they apply statewide. There are no costs to affected entities to comply.

Summary:

The purpose of this proposal is to abolish the Medical Assistance Appeals Panel (MAAP) as is necessary for the efficient and economical operation of a government function and to comply with the order of the court.

42 CFR Part 431, Subpart E concerns fair hearings for applicants and recipients. This subpart implements § 1902(a)(3) of the Social Security Act (the Act), which

requires that a State Plan for Medical Assistance provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services. This subpart also implements §§ 1819(f)(93), 1919(f)(93), and 1919(e)(7)(F) of the Act by providing an appeals process for individuals proposed to be transferred or discharged from skilled nursing facilities and nursing facilities and those adversely affected by the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Act.

This section of the federal regulations establishes the requirements for a hearing system, recipient notice requirements which must be met by the agency, recipients' rights to hearings, procedures, hearing decisions, due process standards, and corrective actions. DMAS' current MAAP is not required by either federal or state law.

Prior to 1989, the Medicaid appeals system provided two levels of administrative review. The first level was a hearing officer decision and the second (final) review by the Medical Assistance Appeal Board, a part-time board of volunteer professionals. Due to the rapid growth in the Medicaid program during the 1980's and turnover among board members, the Appeal Board was not providing consistent, timely decisions.

In 1989, the General Assembly amended the Administrative Process Act (APA) to allow judicial review of public assistance case decisions. Prior to this, no judicial review of agency case decisions had been permitted. While granting recipients the right to judicial review, the General Assembly limited the scope of the review to the application of the law to an individual case. Such restriction did not permit the court's review of the validity of the underlying law. In order to address concerns expressed at that time by legal advocates and some legislators that there should be an opportunity for review of legal issues as well as the department's own concerns that its overburdened volunteer Appeal Board could not keep up with the ever-increasingly-complex caseload, review legal issues, and produce a record which would adequately withstand judicial review, DMAS replaced the part-time Medicaid Appeals Board with a panel of three administrative law judges staffed by attorneys.

In the 1989 Mowbray v. Kozlowski suit, the federal judge required DMAS to revise the scope of review at the hearing officer level to ensure review of legal issues. DMAS added, at this time, this specific responsibility to the scope of the hearing officer review and has continuously increased the officers' training to give them guidance on this added responsibility.

The present DMAS administrative appeals process involves two levels. If the client is dissatisfied with the

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local social services agency's decision denying or reducing eligibility or services, the decision may be appealed to DMAS. A DMAS hearing officer conducts a fair and impartial hearing and issues a decision. That decision may be appealed to a circuit court or, at the option of the appellant, to the Medical Assistance Appeal Panel. If MAAP review is sought, the MAAP decision can also be appealed to a circuit court.

On January 28, 1994, an order was entered by Judge James H. Michael, Jr., in the U.S. District Court for the Western District of Virginia in the case of Shifflett v. Kozlowski (Civil Action No. 92-00072). Judge Michael ordered DMAS to comply with federal law by issuing final agency decisions to appellants within 90 days of the appeals. The court concluded that both hearing officer decisions and MAAP decisions must comply with the 90-day rule. The department has concluded that it is impossible, with present staff, to complete both levels of appeals within 90 days.

Retaining the MAAP while complying with the court order to complete both the hearing officer and MAAP levels of appeals within the federally required 90 days would require the doubling of the current staff (both hearing officers and members of the MAAP). Such a doubling of the present staff level would result in an additional minimal cost of approximately \$1.5 million per year in order to provide such hearing services to 156 (average number who have applied over the last three years for MAAP reviews) appellants.

The more feasible alternative, short of doubling staff, which does not violate applicants/recipients federal or other due process rights is to eliminate the MAAP. Eliminating the MAAP saves the Commonwealth approximately \$250,000 (MAAP salaries and fringe benefits) without harming recipients' rights under the law. Improvements in the hearing officers' training and skills since the MAAP was first created has resulted in a reduced need for it. Applicants for and recipients of medical assistance who are not satisfied with the hearing officers' decisions may still continue to appeal their cases through the court system.

VR 460-04-8.7. Client Appeals Regulations.

PART I. GENERAL.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Agency" means:

1. An agency which, on the department's behalf, makes determinations regarding applications for benefits provided by the department; and

2. The department itself.

"Appellant" means an applicant for or recipient of medical assistance benefits from the department who seeks to challenge an adverse action regarding his benefits or his eligibility for benefits.

"Department" means the Department of Medical Assistance Services.

"Division" means the department's Division of Client Appeals.

"Final decision" means a written determination by a hearing officer which is binding on the department, unless modified on appeal or review.

"Hearing" means the evidentiary hearing described in this regulation, conducted by a hearing officer employed by the department.

"Panel" means the Medical Assistance Appeals Panel.

"Representative" means an attorney or agent who has been authorized to represent an appellant pursuant to these regulations.

Article 2. The Appeal System.

§ 1.2. Division of Client Appeals.

The division maintains an appeals system for clients to challenge adverse actions regarding services and benefits provided by the department.

1. ~~Hearing officer review.~~ Appellants shall be entitled to a hearing before a hearing officer. See Part II of these regulations.

2. ~~Medical Assistance Appeals Panel Review.~~ An appellant who believes the hearing officer's decision is incorrect may, at his option, appeal to the Medical Assistance Appeals Panel for review. See Part III of these regulations.

§ 1.3. Time limitation for appeals.

Hearing officer appeals shall be scheduled and conducted to comply with the 90-day time limitation imposed by federal regulations, unless waived in writing by the appellant or the appellant's representative. Any further review by the panel shall not be considered subject to the 90-day limitation.

§ 1.4. Judicial review.

An appellant who believes a final decision as defined herein or a decision of the Medical Assistance Appeals Panel is incorrect may seek judicial review of either pursuant to § 9-6.14.1 et seq. of the Code of Virginia and Part 2A, Rules of the Virginia Supreme Court.

Article 3. Representation.

§ 1.5. Right to representation.

An appellant shall have the full right to representation by an attorney or agent at all stages of appeal.

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§ 1.6. Designation of representative.

A. Agents. An agent must be designated in a written statement which is signed by the appellant. If the appellant is physically or mentally unable to sign a written statement, the division may allow a family member or other person acting on appellant's behalf to represent the appellant.

B. Attorneys. If the agent is an attorney or a paralegal working under the supervision of an attorney, a signed statement by such attorney or paralegal that he is authorized to represent the appellant prepared on the attorney's letterhead, shall be accepted as a designation of representation.

C. Substitution. A member of the same law firm as a designated representative shall have the same rights as the designated representative.

D. Revocation. An appellant may revoke representation by another person at any time. The revocation is effective when the department receives written notice from the appellant.

Article 4.

Notice and Appeal Rights.

§ 1.7. Notification of adverse agency action.

The agency which makes an initial adverse determination shall inform the applicant or recipient in a written notice:

1. What action the agency intends to take;
2. The reasons for the intended action;
3. The specific regulations that support or the change in law that requires the action;
4. The right to request an evidentiary hearing, and the methods and time limits for doing so;
5. The circumstances under which benefits are continued if a hearing is requested (see § 1.10); and
6. The right to representation.

§ 1.8. Advance notice.

When the agency plans to terminate, suspend or reduce an individual's eligibility or covered services, the agency must mail the notice described in § 1.7 at least 10 days before the date of action, except as otherwise permitted by federal law.

§ 1.9. Right to appeal.

An individual has the right to file an appeal when:

1. His application for benefits administered by the department is denied. However, if an application for State Local Hospitalization coverage is denied because of a lack of funds which is confirmed by the hearing officer, there is no right to appeal.
2. The agency takes action or proposes to take action which will adversely affect, reduce, or terminate his receipt of benefits;
3. His request for a particular medical service is denied, in whole or in part;

4. The agency does not act with reasonable promptness on his application for benefits or request for a particular medical service; or

5. Federal regulations require that a fair hearing be granted.

§ 1.10. Maintaining services.

A. If the agency mails the 10-day notice described in § 1.8 and the appellant files his Request for Appeal before the date of action, his services shall not be terminated or reduced until the hearing officer issues a final decision unless it is determined at the hearing that the sole issue is one of federal or state law or policy and the appellant is promptly informed in writing that services are to be terminated or reduced pending the final decision.

B. If the agency's action is sustained on appeal, the agency may institute any available recovery procedures against the appellant to recoup the cost of any services furnished to the appellant, to the extent they were furnished solely by reason of § 1.10 A of these regulations subsection A of this section.

Article 5.

Miscellaneous Provisions.

§ 1.11. Division records.

A. Removal of records. No person shall take from the division's custody any original record, paper, document, or exhibit which has been certified to the division except as the Director of Client Appeals authorizes, or as may be necessary to furnish or transmit copies for other official purposes.

B. Confidentiality of records. Information in the appellant's record can be released only to a properly designated representative or other person(s) named in a release of information authorization signed by an appellant, his guardian or power of attorney.

C. Fees. The fees to be charged and collected for any copies will be in accordance with Virginia's Freedom of Information Act or other controlling law.

D. Waiver of fees. When copies are requested from records in the division's custody, the required fee shall be waived if the copies are requested in connection with an individual's own review or appeal.

§ 1.12. Computation of time limits.

A. Acceptance of postmark date. Documents postmarked on or before a time limit's expiration shall be accepted as timely.

B. Computation of time limit. In computing any time period under these regulations, the day of the act or event from which the designated period of time begins to run shall be excluded and the last day included. If a time limit would expire on a Saturday, Sunday, or state or federal holiday, it shall be extended until the next regular business day.

PART II. HEARING OFFICER REVIEW.

Proposed Regulations

Article 1.

Commencement of Appeals.

§ 2.1. Request for appeal.

Any written communication from an appellant or his representative which clearly expresses that he wants to present his case to a reviewing authority shall constitute an appeal request. This communication should explain the basis for the appeal.

§ 2.2. Place of filing a Request for Appeal.

A Request for Appeal shall be delivered or mailed to the Division of Client Appeals.

§ 2.3. Filing date.

The date of filing shall be the date the request is postmarked, if mailed, or the date the request is received by the department, if delivered other than by mail.

§ 2.4. Time limit for filing.

A Request for Appeal shall be filed within 30 days of the appellant's receipt of the notice of an adverse action described in § 1.7 of these regulations. It is presumed that appellants will receive the notice three days after the agency mails the notice. A Request for Appeal on the grounds that an agency has not acted with reasonable promptness may be filed at any time until the agency has acted.

§ 2.5. Extension of time for filing.

An extension of the 30-day period for filing a Request for Appeal may be granted for good cause shown. Examples of good cause include, but are not limited to, the following situations:

1. Appellant was seriously ill and was prevented from contacting the division;
2. Appellant did not receive notice of the agency's decision;
3. Appellant sent the Request for Appeal to another government agency in good faith within the time limit;
4. Unusual or unavoidable circumstances prevented a timely filing.

§ 2.6. Provision of information.

Upon receipt of a Request for Appeal, the division shall notify the appellant and his representative of general appeals procedures and shall provide further detailed information upon request.

Article 2.

Prehearing Review.

§ 2.7. Review.

A hearing officer shall initially review an assigned case for compliance with prehearing requirements and may communicate with the appellant or his representative and the agency to confirm the agency action and schedule the hearing.

§ 2.8. Medical Assessment.

A. A hearing officer may order an independent medical assessment when:

1. The hearing involves medical issues such as a diagnosis, an examining physician's report, or a medical review team's decision; and
2. The hearing officer determines it necessary to have an assessment by someone other than the person or team who made the original decision, for example, to obtain more detailed medical findings about the impairments, to obtain technical or specialized medical information, or to resolve conflicts or differences in medical findings or assessments in the existing evidence.

B. A medical assessment ordered pursuant to this regulation shall be at the department's expense and shall become part of the record.

§ 2.9. Prehearing action.

A. **Invalidation.** A Request for Appeal may be invalidated if it was not filed within the time limit imposed by § 2.4 or extended pursuant to § 2.5.

1. If the hearing officer determines that the appellant has failed to file a timely appeal, the hearing officer shall notify the appellant and the appellant's representative of the opportunity to show good cause for the late appeal.
2. If a factual dispute exists about the timeliness of the Request for Appeal, the hearing officer shall receive evidence or testimony on those matters before taking final action.
3. If the individual filing the appeal is not the appellant or an authorized representative of the appellant under the provisions of § 1.6 A, the appeal shall be determined invalid.
4. If a Request for Appeal is invalidated, the hearing officer shall issue a decision pursuant to § 2.24.

B. **Administrative dismissal.** A Request for Appeal may be administratively dismissed without a hearing if the appellant has no right to appeal under § 1.9 of these regulations.

1. If the hearing officer determines that the appellant does not have the right to an appeal, the hearing officer shall issue a final decision dismissing the appeal and notify the appellant and appellant's representative of the opportunity to appeal to the Medical Assistance Appeals Panel or seek judicial review.
2. If a Request for Appeal is administratively dismissed, the hearing officer shall issue a decision pursuant to § 2.24.

C. **Judgment on the record.** If the hearing officer determines from the record that the agency's determination was clearly in error and that the case should be resolved in the appellant's favor, he shall issue a decision pursuant to § 2.24.

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D. Remand to agency. If the hearing officer determines from the record that the case might be resolved in the appellant's favor if the agency obtains and develops additional information, documentation, or verification, he may remand the case to the agency for action consistent with the hearing officer's written instructions. The remand order shall be sent to the appellant and any representative.

E. Removal to the Medical Assistance Appeals Panel.

In cases where the sole issue is one of state or federal law or policy, the case may, with the appellant's approval, be removed to the Medical Assistance Appeals Panel. The panel shall render a decision on the merits of the appeal solely upon the facts as stipulated to by the appellant and the hearing officer. Otherwise, said cases shall proceed according to the provisions of Part III of these regulations.

1. Before such removal, the hearing officer will send the appellant a statement of undisputed facts and identify the legal questions involved.
2. If the appellant accepts the hearing officer's statement of facts and legal questions involved, he may agree to removal to the panel.
3. If appellant disputes any facts, wants to present additional evidence, or desires a face-to-face hearing, removal is inappropriate, and a hearing must be held.

Article 3. Hearing.

§ 2.10. Evidentiary hearings.

A hearing officer shall review all agency determinations which are properly appealed; conduct informal, fact-gathering hearings; evaluate evidence presented; and issue a written final decision sustaining, reversing, or remanding each case to the agency for further proceedings.

§ 2.11. Scheduling and rescheduling.

A. To the extent possible, hearings will be scheduled at the appellant's convenience, with consideration of the travel distance required.

§ 2.11:1. Rescheduling.

B. A hearing shall be rescheduled at the claimant's request no more than twice unless compelling reasons exist.

§ 2.12. Notification.

When a hearing is scheduled, the appellant and his representative shall be notified in writing of its time and place.

§ 2.13. Postponement.

A hearing may be postponed for good cause shown. No postponement will be granted beyond 30 days after the date of the Request for Appeal was filed unless the appellant or his representative waives in writing the 90-day deadline for the final decision.

§ 2.14. Location.

The hearing location shall be determined by the division. If for medical reasons the appellant is unable to travel, the hearing may be conducted at his residence.

The agency may respond to a series of individual requests for hearings by conducting a single group hearing:

1. Only in cases in which the sole issue involved is one of federal or state law or policy; and
2. Each person must be permitted to present his own case or be represented by his authorized representative.

§ 2.15. Client access to records.

Upon the request of the appellant or his representative, at a reasonable time before the date of the hearing, as well as during the hearing, the appellant and his representative may examine the content of appellant's case file and all documents and records the agency will rely on at the hearing.

§ 2.16. Subpoenas.

Appellants who require the attendance of witnesses or the production of records, memoranda, papers, and other documents at the hearing may request issuance of a subpoena in writing. The request must be received by the division at least five business days before the hearing is scheduled. Such request must include the witness' name, home and work address, county or city of work and residence, and identify the sheriff's office which will serve the subpoena.

§ 2.17. Role of the hearing officer.

The hearing officer shall conduct the hearing, decide on questions of evidence, procedure and law, question witnesses, and assure that the hearing remains relevant to the issue or issues being appealed. The hearing officer shall control the conduct of the hearing and decide who may participate in or observe the hearing.

§ 2.18. Informality of hearings.

Hearings shall be conducted in an informal, nonadversarial manner. The appellant or his representative has the right to bring witnesses, establish all pertinent facts and circumstances; present an argument without undue interference, and question or refute the testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

§ 2.19. Evidence.

The rules of evidence shall not strictly apply. All relevant, nonrepetitive evidence may be admitted, but the probative weight of the evidence will be evaluated by the hearing officer.

§ 2.20. Record of hearing.

All hearings shall be recorded either by court reporter, tape recorders, or whatever other means the agency deems appropriate. All exhibits accepted or rejected shall become part of the hearing record.

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§ 2.21. Oath or affirmation.

All witnesses shall testify under oath which shall be administered by the court reporter or the hearing officer, as delegated by the department's director.

§ 2.22. Dismissal of Request for Appeal.

Request for Appeal may be dismissed if:

1. The appellant or his representative withdraws the request in writing; or
2. The appellant or his representative fails to appear at the scheduled hearing without good cause, and does not reply within 10 days after the hearing officer mails an inquiry as to whether the appellant wishes further action on the appeal.

§ 2.23. Post-hearing supplementation of the record.

A. Medical assessment. Following a hearing, a hearing officer may order an independent medical assessment as described in § 2.8.

B. Additional evidence. The hearing officer may leave the hearing record opened for a specified period of time in order to receive additional evidence or argument from the appellant. If the record indicates that evidence exists which was not presented by either party, with the appellant's permission, the hearing officer may attempt to secure such evidence.

C. Appellant's right to reconvene hearing or comment. If the hearing officer receives additional evidence from a person other than the appellant or his representative, the hearing officer shall send a copy of such evidence to the appellant and his representative and give the appellant the opportunity to comment on such evidence in writing or to reconvene the hearing to respond to such evidence.

D. Any additional evidence received will become a part of the hearing record, but the hearing officer must determine whether or not it will be used in making the decision.

§ 2.24. Final decision.

After conducting the hearing, reviewing the record and deciding questions of law, the hearing officer shall issue a written final decision which either sustains or reverses the agency action or remands the case to the agency for further action consistent with his written instructions. The hearing officer's final decision shall be considered as the agency's final administrative action pursuant to 42 CFR, 431.244(f). The final decision shall include:

1. A description of the procedural development of the case;
2. Findings of fact which identify supporting evidence;
3. Citations to Conclusions of law which identify supporting regulations and law;
4. Conclusions and reasoning;
5. The specific action to be taken by the agency to implement the decision; and

6. Notice of further appeal rights to the Medical Assistance Appeals Panel or state court. This notice shall include information about the right to representation, time limits for requesting review, the right to submit written argument and the right to present oral argument.

7. The notice shall state that a final decision may be appealed directly to circuit court as provided in § 9.6-14:16 B of the Code of Virginia and § 1.4 of these regulations. If an optional appeal is taken to the panel, judicial review shall not be available until the panel has acted under Part III.

§ 2.25. Transmission of the hearing record.

The hearing record shall be forwarded to the appellant and his representative with the final decision.

PART III. MEDICAL ASSISTANCE APPEALS PANEL

Article 1. General.

§ 3.1. Composition of the Medical Assistance Appeals Panel.

The panel shall consist of a senior administrative law judge and two administrative law judges who are appointed by the director of the department and shall serve at his pleasure.

§ 3.2. Function of the panel.

The panel shall review and decide appeals from hearing officers' decisions by evaluating the evidence in the record and any written and oral argument submitted, consistent with relevant federal and state law, regulations, and policy.

Article 2. Commencement of Panel Review.

§ 3.3. Commencing panel review.

An appeal is commenced when the appellant or his representative files a Request for Review, or another written statement indicating the appellant's belief that the hearing officer's decision is incorrect which includes a written acknowledgement that the 90-day requirement set forth in 42 C.F.R. § 431.244(f) does not apply.

§ 3.4. Place of filing Request for Review and Acknowledgement.

The Request for Review and Acknowledgement shall be filed with the Medical Assistance Appeals Panel, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219.

§ 3.5. Time limit for filing.

A Request for Review shall be filed within 12 days from the date the hearing officer's decision is mailed.

§ 3.6. Extension of time for filing.

An extension of the 12-day period for filing a Request for Review may be granted for good cause shown. A request for an extension shall be in writing and filed with the panel. The request shall include a complete explanation of the reasons

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that an extension is needed. Good cause includes unusual or unavoidable circumstances which prevented a timely appeal (see § 2.5).

§ 3.7. Dismissal.

A. A Request for Review shall be dismissed if an Acknowledgement is not executed or if the request was not filed within the time limit imposed by § 3.5 or extended pursuant to § 3.6. If a factual dispute exists about the timeliness of the Request for Review and Acknowledgment, the panel shall receive evidence or testimony on these matters before taking final action.

B. A dismissal shall constitute the panel's final disposition of the appeal.

C. Judgment on the record.

If the panel determines from the evidence in the record that the hearing officer's decision was clearly in error and that the case should be resolved in the appellant's favor, the panel may issue a final decision without receiving written or oral argument from appellant.

Article 3. Written Argument.

§ 3.8. Right to present written argument.

An appellant may file written argument to present reasons why the hearing officer's decision is incorrect.

§ 3.9. Time limitation.

Written argument by the appellant, if any, shall be filed with the panel within 10 days after the Request for Review is filed.

§ 3.10. Extension.

An extension of the time limit for filing written argument may be granted for good cause shown.

§ 3.11. Evidence.

No additional evidence shall be accepted with the written argument unless it is relevant, nonrepetitive and not reasonably available at the hearing level through the exercise of due diligence.

Article 4. Oral Argument.

§ 3.12. Requesting oral argument.

An appellant or his representative may ask for a hearing to present oral argument with the Request for Review.

§ 3.13. Place of hearing.

Hearings shall be held at the Department of Medical Assistance Services' central office in Richmond, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

§ 3.14. Notice of hearing.

A. Scheduling the hearing.

Unless judgment on the record is issued pursuant to § 3.7 C, a hearing will be set, and, to the extent possible, scheduled at the appellant's convenience.

B. Notification.

As soon as a hearing is scheduled, the person requesting it will be notified at least seven days in advance.

C. Postponement.

A hearing may be postponed by the appellant or his representative for good cause shown.

§ 3.15. Function of the senior administrative law judge.

The senior administrative law judge shall be the presiding member of the panel and shall issue all decisions on behalf of the panel. If the senior administrative law judge is absent, the director shall appoint one of the administrative law judges to assume the duties of the senior administrative law judge.

§ 3.16. Recorded hearing.

The hearing shall be tape recorded.

§ 3.17. Evidence.

No additional evidence will be accepted at the oral argument unless it meets the requirements of § 3.11 and is presented to the panel in advance of the hearing.

Article 5. Disposition.

§ 3.18. Disposition.

A. Vote.

The panel decision is made by majority vote, and the decision may be to sustain, reverse or remand the hearing officer's decision.

B. Summary affirmance.

By majority vote the panel may summarily affirm the hearing officer's decision by adopting the hearing officer's decision as its own.

C. Content of decisions.

Decisions shall be in writing and shall consist of an opinion stating facts with supporting evidence, reasons and conclusions, citations to supporting law and regulations, and an order describing the specific action to be taken to implement the decision. Information about further appeal rights will also be provided.

D. Remand to hearing officer.

A remand order shall clearly state the panel's instructions for further development of the evidence or the legal or policy interpretation to be applied to the facts on record.

E. The panel decision shall be sent to appellant and his representative and the agency. This shall constitute the panel's final disposition of the appeal.

Article 6. Reconsideration.

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§ 3.19. When reconsideration is accorded.

A decision unfavorable to the appellant may be reconsidered by the panel on its own motion or upon motion by the appellant or his representative alleging error of fact or application of law or policy.

§ 3.20. Filing and content.

Appellant's motion for reconsideration must be filed within 12 days after entry of the panel's decision. This motion shall set forth clearly and specifically the alleged error(s) in the panel's decision.

§ 3.21. Review.

The administrative law judge who wrote the majority opinion shall review the sufficiency of the allegations set forth in the motion and may request additional written argument from the appellant.

§ 3.22. Disposition.

The ruling on the motion for reconsideration shall be in writing and entered as the final order in the case. If the motion is granted, a new decision will be issued in accordance with § 3.18.

V.A.R. Doc. No. R95-357A; Filed March 15, 1995, 9:54 a.m.

BOARD OF NURSING AND BOARD OF MEDICINE

Title of Regulation: VR 495-02-1 and VR 465-07-1.
Regulations Governing the Licensure of Nurse Practitioners.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public Hearing Date: May 1, 1995 - 1 p.m.

Public comments may be submitted through June 2, 1995.

(See Calendar of Events section
for additional information)

Basis: Chapter 24 (§ 54.1-2400 et seq.) and Chapter 29 (§ 54.1-2900 et seq.) of the Code of Virginia provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 29 authorizes the Boards of Nursing and Medicine to jointly prescribe the regulations governing the licensure of nurse practitioners.

Purpose: The purpose of the proposed amendments is to (i) define the terms "collaboration" and "direction and appropriate supervision"; (ii) delete an overly restrictive definition of "supervision"; (iii) more clearly enumerate the categories of licensed nurse practitioners; and (iv) make editorial changes related to the above and to ensure compliance with the Administrative Process Act as it relates to administrative proceedings. These changes when adopted will continue to

protect the public health, safety and welfare by promoting safe and effective practice by licensed nurse practitioners.

Substance: In § 1.1, amendments are proposed to add definitions of "collaboration" and "direction and appropriate supervision," to delete the existing definition of supervision, and to amend the definition of protocol to reflect the changes above and provide a mechanism for the establishment of a protocol as a part of the granting of hospital privileges to the licensed nurse practitioner.

In § 1.4, amendments are proposed to delete redundant language and to clarify the titles for "certified nurse midwife" and "certified registered nurse anesthetist" since these are the preferred titles of those individuals who practice in these categories.

Section 2.2 lists the categories of licensed nurse practitioners and proposed amendments will clarify these categories by listing the three major categories with the specialties of nurse practitioners listed as subcategories. In § 2.2 B, the word "licensed" is added for consistency.

Proposed amendments to § 2.4 reflect changes in the names of certifying agencies since the regulations were last amended.

In § 3.1, the proposed amendment states the general practice requirements for all categories of licensed nurse practitioners, and reflects the addition of the term "direction and appropriate supervision."

Amendments to § 3.2 propose specific requirements for practice in the category "nurse practitioner" by adding reference to practice standards as required in existing regulations for the other two categories.

In § 3.3, the proposed amendment adds the term "direction and appropriate supervision."

Issues:

A. Changes in definitions. Three major studies since 1990 have recommended amendments to the definitions to include "collaboration" and to establish a less restrictive definition of "supervision." These studies are:

1. "Report of the Task Force in the Practice of Nurse Practitioners on Access and Barriers to the Services of Nurse Practitioners," Virginia Department of Health Professions, January 1991.
2. "The Potential for Expansion of the Practice of Nurse Midwives," House Document No. 12, Virginia Department of Health Professions and the Virginia Health Planning Board, 1992.
3. "Advanced Practice Nursing - Meeting the Primary Health Care Needs of Virginians," Report from the Nursing Task Force, Virginia Statewide AHEC, to the Joint Commission on Health Care, 1993.

In 1994, SB 381 was introduced in the General Assembly proposing to add a definition of "collaboration" to § 54.1-3000 of the Code of Virginia. The bill was carried over and SJR 164 was adopted which states, in part, "Pursuant to the

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Administrative Process Act (§ 9-6.14:1 et seq.), the Joint Boards of Medicine and Nursing be requested to promulgate proposed appropriate definitions of the term "collaboration" and other terms affecting interdependent health-care practices that describe and govern the relationship between physicians and nurse practitioners."

The language proposed as a definition for "collaboration" is substantively the same as the definition proposed in SB 381. The term "direction and appropriate supervision" is taken from the definition of "collaboration" and further defined to provide for a definition of supervision which assures monitoring of medical acts performed by licensed nurse practitioners, but allows the deletion of the existing definition of supervision which has been viewed as overly restrictive by licensed nurse practitioners in all categories as well as by the physicians with whom they collaborate.

Comments received during the period following publication of a Notice of Intended Regulatory Action from February 7, 1994, until April 15, 1994, reflect the view stated above. Letters are on file supporting a change from the Virginia Council of Nurse Practitioners, the Virginia Nurses Association and the Virginia Association of Nurse Anesthetists. The Virginia Chapter of the American College of Nurse Midwives wrote in support of a change in the definitions - to add a definition of "collaboration" and delete the definition of "supervision."

In a letter addressed to Thomas A. Wash, M.D., the Medical Society of Virginia supports the definition as proposed in SB 381.

Advantages for the licensed nurse practitioners:

1. The proposed changes in the definitions should allow for flexibility in the practice of nurse practitioners without unnecessary restriction. The definition of "collaboration" will be applicable to all settings where they may practice and the proposed change in the definition of "protocols" will facilitate their credentialing and practice in hospitals.
2. The existing definition of supervision has reportedly been a barrier to effective practice by certified nurse midwives who report that physicians have been reluctant to "supervise" them as the definition requires. By deleting the definition and providing the more flexible definition of "direction and appropriate supervision," there may be an expansion of the practice certified nurse midwives.

Advantages for the boards. There may be a cost benefit to the boards since the proposed changes in definitions should be clearer and reduce the time required to address questions of adequacy of supervision and protocols. Time savings reduce costs for meetings and these savings accrue to the licensees.

Disadvantages. It is difficult to identify disadvantages resulting from the proposed changes in definitions. Commentors have requested deletion of any reference to "supervision," but since the word appears in statute, it is determined to be appropriate to make reference to it in regulations.

B. Changes in categories of nurse practitioners. The proposed amendment to the listing of categories of licensed nurse practitioners is made in response to recommendations from the studies cited above and in response to comments received.

Advantages. The existing categories have been confusing since there are three categories: certified nurse midwife, certified registered nurse anesthetist and nurse practitioner, with the others listed as subcategories of nurse practitioners. The proposal will clarify, for all parties, the three categories and then list the subcategories where appropriate.

Disadvantages. There are no disadvantages anticipated.

C. Changes in names of certifying agencies. The names of several of the certifying agencies have changed since the last amendments to these regulations. The proposed changes reflect the changes and add one agency not previously included.

Advantages. The only identifiable advantage is that the change will reflect the correct titles of the organizations and facilitate recognition of those individuals certified by the American Academy of Nurse Practitioners.

Disadvantages. There are no disadvantages anticipated.

D. Changes in practice requirements. The proposed changes related to practice for the most part reflect the changes in definitions. The boards anticipate that there may be comment requesting inclusion of the term "collaboration" in § 3.1.

Advantages. The proposed changes clarify the requirements for practice for each of the three categories of licensed nurse practitioners. The change is expected to contribute to a reduction of any barriers to practice arising from more restrictive language in the existing regulations.

Disadvantages. There are no disadvantages anticipated.

Estimated Impact:

A. Projected number of entities affected and their cost of compliance:

Licensed Nurse Practitioners:

Certified Nurse Midwives	-	95
Certified Registered Nurse Anesthetists	-	1,094
Nurse Practitioners	-	1,151

Cost of Compliance: No additional cost to requested entities is anticipated. If practice is facilitated by changes, there may be a cost benefit to those regulated.

B. Cost to agency for implementation. No additional staff will be required to implement these regulations. There may be a savings in meeting expenses and staff time as the result of the clarification of categories and changes in definitions as proposed.

There will be some cost to the agency for the promulgation of regulations, such as mailing of notices to the Public Participation Guidelines list, providing a public hearing on

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proposed regulations, and copying and mailing final regulations. The costs will be minimal, since the boards will attempt to combine mailing notices and information on regulations with other required mailings and will hold the public hearing at the time of a regularly scheduled meeting of the Committee of the Joint Boards of Nursing and Medicine.

Cost is expected to be no more than \$2,500.

C. Cost to local governments. There will be no impact of these regulations in local government.

Summary:

The Boards of Nursing and Medicine propose amendments to these regulations as the result of a biennial review. The changes proposed will add a definition of collaboration, delete a restrictive definition of supervision and clarify the categories of licensed nurse practitioners. Clarification of compliance with the Administrative Process Act in administrative proceedings is also included.

Preamble:

Authority granted under these regulations may be expanded or restricted, or totally revoked, if the boards are of the opinion that the public health, safety or welfare is not being served or protected by the regulations. It should be clearly understood by each applicant and the recipient of licensure as a nurse practitioner that the conditions stated herein are a part of such licensure.

All provisions of these regulations are narrowly construed. Nothing herein is to be deemed to limit or prohibit a nurse from engaging in those activities which normally constitute the practice of nursing or those which may be performed by persons without the necessity of a license from the Board of Nursing.

VR 495-02-1 and VR 465-07-1. Regulations Governing the Licensure of Nurse Practitioners.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Accredited program" means a nurse practitioner education program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, American Nurses' Association or National League for Nursing.

"Approved program" means a nurse practitioner education program that meets the criteria set forth in these regulations.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Collaboration" means the process by which a nurse practitioner, in association with a physician, delivers health

care services within the scope of practice of the nurse practitioner's professional expertise and with medical direction and appropriate supervision, consistent with these regulations.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Controlling institution" means the college or university offering a nurse practitioner education program.

"Direction and appropriate supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for ongoing communications which provide for and define appropriate consultation between the collaborating parties; and periodic joint evaluation of services provided, e.g., chart review, case review, and review of patient care outcomes.

"Licensed nurse practitioner" means a registered nurse who has met the requirements for licensure as stated in Part II of these regulations and has been licensed by the boards who practices in the category of either a nurse practitioner, certified registered nurse anesthetist or certified nurse-midwife.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

"National certifying body" means a national organization that has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in these regulations as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a licensed nurse practitioner who supervises and evaluates the nurse practitioner student.

"Protocol" means a written statement, jointly developed by the collaborating physician(s) and the licensed nurse practitioner(s) participating in an arrangement for treatment of clients, that delineates and directs and describes the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner(s) in the care and management of clients. Protocol shall also mean a written statement developed by an institution granting hospital privileges and the licensed nurse practitioner.

"Supervision" means that the physician documents being readily available for medical consultation by the licensed nurse practitioner or the client, with the physician maintaining ultimate responsibility for the agreed upon course of medical treatment.

§ 1.2. Delegation of authority.

A. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

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B. All records and files related to the licensure of nurse practitioners shall be maintained in the office of the Virginia Board of Nursing.

§ 1.3. Committee of the Joint Boards of Nursing and Medicine.

The presidents of the Boards of Nursing and Medicine respectively shall each appoint three members from their boards to the Committee of the Joint Boards of Nursing and Medicine. The purpose of this committee shall be to administer the Regulations Governing the Licensure of Nurse Practitioners.

§ 1.4. Advisory Committee on the Licensure of Nurse Practitioners.

The committee of the Joint Boards of Nursing and Medicine, in its discretion, may appoint an advisory committee on the Licensure of Nurse Practitioners. Such an advisory committee shall be comprised of four licensed physicians and four licensed nurse practitioners, of whom one shall be a certified nurse midwife practitioner, one shall be a certified registered nurse anesthetist practitioner and two shall be nurse practitioners from other categories. Appointment to the advisory committee shall be for four years, with one physician and one licensed nurse practitioner appointed annually. Members may be appointed for one additional four-year period.

§ 1.5. Fees.

Fees required in connection with the licensure of nurse practitioners are:

1. Application	\$50
2. Biennial licensure renewal	\$30
3. Reinstatement of licensure	\$25
4. Verification of licensure to another jurisdiction	\$25
5. Duplicate license	\$10
6. Return check charge	\$15

PART II. LICENSURE.

§ 2.1. Licensure, general.

A. No person shall perform services as a nurse practitioner in the Commonwealth of Virginia except as prescribed in these regulations and when licensed by the Joint Boards of Nursing and Medicine.

B. The boards shall license applicants who meet the qualifications for licensure as set forth in § 2.3 of these regulations.

§ 2.2. Categories of licensed nurse practitioners.

A. The boards shall license nurse practitioners in the following categories:

1. Certified nurse midwife
2. Certified registered nurse anesthetist

3. Nurse practitioner

1. a. Adult nurse practitioner
2. b. Family nurse practitioner
3. c. Pediatric nurse practitioner
4. d. Family planning nurse practitioner
5. e. Obstetric/Gynecologic nurse practitioner
6. f. Emergency room nurse practitioner
7. g. Geriatric nurse practitioner

8. Certified registered nurse anesthetist practitioner

9. Certified nurse midwife practitioner

10. h. School nurse practitioner
11. i. Medical nurse practitioner
12. j. Maternal child health practitioner
13. k. Neonatology nurse practitioner
14. l. Women's health care practitioner.

B. Other categories of licensed nurse practitioners shall be licensed if the Committee of the Joint Boards of Nursing and Medicine determines that the category meets the requirements of these regulations.

§ 2.3. Qualifications for initial licensure.

A. An applicant for initial licensure as a nurse practitioner shall:

1. Be currently licensed as a registered nurse in Virginia; and
2. Submit evidence of completion of an educational program designed to prepare nurse anesthetists, nurse midwives or nurse practitioners that is either:
 - a. Approved by the boards as provided in §§ 4.1 through 4.4 of these regulations; or
 - b. Accredited by an agency identified in § 1.1 Definitions, "Accredited Program"; and
3. Submit evidence of professional certification by an agency identified in § 2.4 of these regulations as an agency accepted by the boards; and
4. File the required application; and
5. Pay the application fee prescribed in § 1.5 of these regulations.

B. **Provisional licensure.** Provisional licensure may be granted to an applicant who satisfies all requirements of § 2.3 of these regulations with the exception of § 2.3 A 3 only until the release of the results of the first national certifying examination for which he is eligible following his application.

§ 2.4. Certifying agencies.

A. The boards shall accept the professional certification by examination of the following:

Proposed Regulations

1. American College of Nurse Midwives for nurse-midwife practitioners *Certification Council*;
2. American Nurses' Association for nurse practitioners *Credentialing Center*;
3. Council on Certification of Nurse Anesthetists for nurse-anesthetist practitioners;
4. National Certification Board of Pediatric Nurse Practitioners and Associates for nurse-practitioners *Nurses*; and
5. Nurses' Association of the American College of Obstetricians and Gynecologists Certification Corporation for nurse practitioners. *National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties*; and
6. American Academy of Nurse Practitioners.

B. The boards may accept professional certification from other certifying agencies on recommendation of the Committee of the Joint Boards of Nursing and Medicine provided that the professional certification is awarded on the basis of:

1. Completion of an educational program that meets the criteria of Part IV of these regulations; and
2. Achievement of a passing score on an examination.

§ 2.5. Renewal of licensure.

A. Licensure of a nurse practitioner shall be renewed biennially at the same time the license to practice as a registered nurse in Virginia is renewed.

B. The application for renewal of the license shall be mailed by the committee to the last known address of each nurse practitioner.

C. The licensed nurse practitioner shall complete the application and return it with the license renewal fee prescribed in § 1.5 of these regulations.

§ 2.6. Reinstate of license.

A. ~~Reinstate of lapsed license.~~ 1. An applicant for reinstatement of lapsed license shall:

- a. 1. File the required application and fee;
- b. 2. Be currently licensed as a registered nurse in Virginia; and
- c. 3. Provide evidence of current professional certification or, if applicable, licensure or certification in another jurisdiction.

B. ~~Reinstate of license following suspension or revocation.~~ 1. An applicant for reinstatement of license following suspension or revocation shall:

- a. 1. Petition for a hearing pursuant to the Administrative Process Act, § 9-6.14:12 of the Code of Virginia, before a committee of the boards *reinstatement*;

- b. 2. Present evidence that he is currently licensed as a registered nurse in Virginia; and
- c. 3. Present evidence that he is competent to resume practice as a licensed nurse practitioner in Virginia.

The committee shall act on the petition pursuant to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

PART III. PRACTICE OF LICENSED NURSE PRACTITIONERS.

§ 3.1. Practice of licensed nurse practitioner.

A licensed nurse practitioner shall be authorized to engage in practices constituting the practice of medicine under the supervision and direction *and appropriate supervision* of a licensed physician in accordance with § 3.2 or a dentist as authorized in § 3.3 of these regulations.

§ 3.2. Nurse practitioner category.

The practice of licensed nurse practitioners *in the category of nurse practitioner* shall be based on specialty education preparation as outlined in Part IV of these regulations and, in accordance with written protocols as defined in § 1.1 of these regulations, *and in accordance with professional practice standards established by the American Nurses' Association (Standards of Practice for the Primary Health Care Nurse Practitioner, 1987)*.

§ 3.3. Certified registered nurse category.

A The licensed nurse practitioner in the category of certified registered nurse anesthetist practitioner shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists (Guidelines and Standards for Nurse Anesthesia Practice, Revised 1992) and under the direction and appropriate supervision of a dentist in accordance with rules and regulations promulgated by the Board of Dentistry, or a doctor of medicine or a doctor of osteopathy.

§ 3.4. Certified nurse midwife category.

A The licensed nurse practitioner in the category of certified nurse midwife practitioner shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised October 1989) defined by the American College of Nurse-Midwives.

§ 3.5. Prohibited practice.

Practice as a licensed nurse practitioner shall be prohibited if:

1. The license has lapsed; or
2. The license is revoked or suspended.

PART IV.

CRITERIA FOR APPROVAL OF NURSE PRACTITIONER EDUCATION PROGRAMS.

§ 4.1. Criteria for program approval.

Proposed Regulations

The committee may delegate to the staff of the committee the authority to approve nurse practitioner education programs that meet the following criteria.

A. Administration.

1. The nurse practitioner education program shall be offered either:
 - a. By a nationally accredited school of nursing that offers a master's degree in nursing; or
 - b. Jointly by a nationally accredited school of medicine and a nationally accredited school of nursing that offers a master's degree in nursing.
2. The authority and responsibility for the conduct of the program shall be vested in a nurse educator or coadministered by a physician and a nurse educator who hold faculty appointments at the controlling institution.
3. The controlling institution shall provide each student who successfully completes the program a certificate of completion or equivalent official document.

B. Philosophy and objectives. There shall be clearly written statements of philosophy and objectives of the program that shall include a description of the category of nurse practitioner being prepared.

C. Faculty.

1. Nurse faculty shall include nurse practitioners each currently certified in the area of specialization in which he is teaching.
2. Medical faculty shall include currently licensed physicians each having preparation in his specialty area.

D. Curriculum.

1. The program shall be at least one academic year in length including planned clinical practice under the direction of a preceptor.
2. Course descriptions and objectives shall be available in writing.
3. The curriculum shall provide:
 - a. Instruction in the biological, behavioral, medical and nursing sciences relevant to practice as a nurse practitioner in the specialized field;
 - b. Instruction in legal, ethical and professional responsibilities of a nurse practitioner; and
 - c. Supervised clinical practice of those skills essential for a nurse practitioner in the specialized field.
4. Major curriculum changes shall be approved by the boards.

§ 4.2. Denial of approval of programs.

Approval will be denied if the program does not meet the criteria set forth in § 4.1 of these regulations. The controlling institution may request a hearing before the committee, and

the provisions of the Administrative Process Act (*§ 9-6.14:1 et seq. of the Code of Virginia*) shall apply. (*§ 9-6.14:1 et seq.*)

§ 4.3. Continued approval of programs.

Each program shall be subject to periodic review by the boards to determine whether standards for approval are being maintained.

§ 4.4. Withdrawal of approval.

A. If the boards determine that an approved program is not maintaining the standards set forth in these regulations, the controlling institution shall be given a reasonable period of time to correct the identified deficiencies.

B. If the controlling institution fails to correct the identified program deficiencies within the time specified, the boards shall withdraw the approval following a *hearing proceedings* held pursuant to the provisions of the Administrative Process Act.

§ 4.5. Exemptions from program approval requirements.

Programs accredited by any agency listed in the definition of accredited program in § 1.1 of these regulations are exempt from the program approval requirements of these regulations.

PART V. DISCIPLINARY PROVISIONS.

§ 5.1. Grounds for disciplinary action against the license of a licensed nurse practitioner.

A. The boards may deny licensure or relicensure, revoke or suspend the license, or place on probation, censure or reprimand a nurse practitioner upon proof that the nurse practitioner:

1. Has had his license to practice nursing in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;
2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;
3. Has exceeded his authority as a licensed nurse practitioner;
4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing or nurse practitioners;
5. Has become unable to practice with reasonable skill and safety to patients as the result of a physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material; or
6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration or distribution of drugs.

Proposed Regulations

§ 5.2. Hearings.

A. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of § 5.1 of these regulations.

B. The Committee of the Joint Boards of Nursing and Medicine shall conduct all hearings proceedings prescribed herein and shall take action on behalf of the boards.

C. When a person's license to practice nursing has been suspended or revoked by the Board of Nursing, the nurse practitioner license shall be suspended pending a hearing simultaneously with the institution of proceedings for a hearing.

D. Sanctions or other terms and conditions imposed by consent orders entered by the Board of Nursing on the license

to practice nursing may apply to the nurse practitioner license provided the consent order has been accepted by the Committee of the Joint Boards of Nursing and Medicine.

V.A.R. Doc. No. R95-358A; Filed March 15, 1995, 9:46 a.m.

Documents Incorporated by Reference

Standards of Practice for the Primary Health Care Nurse Practitioner, 1987, American Nurses' Association.

Guidelines and Standards for Nurse Anesthesia Practice, 1992, American Association of Nurse Anesthetists.

Standards for the Practice of Nurse-Midwifery, 1992, American College of Nurse-Midwives.

COMMONWEALTH OF VIRGINIA Board of Nursing Department of Health Professions 6505 West Broad Street, 4th Floor Richmond, Virginia 23236-1717 (804) 562 9909	
APPLICATION FOR LICENSURE AS A NURSE PRACTITIONER	
I hereby make application for licensure as a Nursing Practitioner in the category of _____ [See categories in regulations]	
\$50 Make check payable to Treasurer of Virginia Fee is not refundable	
Name: _____ Last _____ First _____ Middle _____	Zip Code: _____
Address: _____ Street _____ City _____ State _____	Social Security Number _____ Area Code & Telephone Number _____
Birthdate _____	Expiration Date _____
Virginia RN License Number _____	Nurse Practitioner, Nurse Anesthetist or Nurse Midwife Program Name: _____
Program Address: _____ City _____ State _____	Length of Program: _____
Program accredited/approved by: (Accrediting Authority)	
Professional certification held from: (Name of organization)	
I (am) (am not) certified or registered with an equivalent title in another state. Title: _____ State: _____	
Date Certified or Registered: _____	
Current [] Lapsed [] Prospective employer: _____ (Name) _____ (Location) _____	
Date you expect to begin employment as a Licensed Nurse Practitioner in Virginia: _____	

Proposed Regulations



COMMONWEALTH of VIRGINIA

Department of Health Professions
Board of Nursing

Corinne F. Dorsey, R.N.
Executive Director of the Board

5506 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717
(804) 662-9909
Nurse Aide Registry (804) 662-7310
FAX (804) 662-9943
TDD (804) 662-7197

DATE: _____

TO: _____

FROM: VICKIE ANGELINI, REGISTRAR

YOUR APPLICATION FOR LICENSURE AS A NURSE PRACTITIONER IN VIRGINIA WAS RECEIVED ON 1995. IN ORDER TO COMPLETE THE APPLICATION, THE FOLLOWING MUST BE RECEIVED.

() TRANSCRIPT FROM YOUR PROGRAM SENT DIRECTLY TO THIS OFFICE FROM YOUR SCHOOL.

() REQUEST THAT VERIFICATION OF PROFESSIONAL CERTIFICATION FROM THE COUNCIL ON CERTIFICATION OF NURSE ANESTHETISTS, ONE OF THE AGENCIES LISTED IN SECTION 2.4.A OF THE REGULATIONS, OR AMERICAN COLLEGE OF NURSE MIDWIVES OR EVIDENCE THAT YOU ARE SCHEDULED TO TAKE THE NEXT AVAILABLE EXAMINATION, BE SENT FROM THE COUNCIL, ACNM, OR THE PROFESSIONAL CERTIFICATION ORGANIZATION. (COPY OF CARD OR CERTIFICATE WILL NOT BE ACCEPTED).

() OTHER:

PLEASE NOTIFY THIS OFFICE IMMEDIATELY OF ANY CHANGE OF ADDRESS.

AFFIDAVIT
(To be completed by a Notary Public)

Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application; that the statements contained herein are true; that he/she has complied with all requirements of the law, and that he/she has read and understands the affidavit.

Signature of Applicant

Sworn to and subscribed to before me this _____ day of _____ 19_____.
My commission expires _____

Signature of Notary Public

S E A L

For Office Use Only	
Computer File Pending # _____	
Practitioner Type Code # _____	
Practitioner _____	
Date Issued _____	
Approved by: _____ Board of Nursing	

Proposed Regulations

THE COLLEGE OF WILLIAM AND MARY

REGISTRAR'S NOTICE: The College of William and Mary is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: VR 187-01-03. Regulations Pertaining to Nonstudent Solicitation on the Campus of the College of William and Mary.

Statutory Authority: § 23-44 of the Code of Virginia.

Summary:

In order to provide all vendors with an equitable opportunity to solicit sales on the William and Mary campus, while limiting the number of vendors so as not to overwhelm the facilities and the students, the college is establishing procedures whereby vendors can solicit students. The purpose of these regulations is to control the time, place, and manner of commercial solicitation on campus.

Agency Contact: Questions and comments concerning these regulations should be directed to: Associate Vice President for Student Affairs, Campus Center 203B, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795.

VR 187-01-03. Regulations Pertaining to Nonstudent Solicitation on the Campus of the College of William and Mary.

§ 1. Applicability.

These regulations are applicable to all property owned, leased, or controlled by the College of William and Mary.

§ 2. Approval of outside vendors.

All solicitations, distribution or sale of goods must be approved, in advance and in writing, by the Associate Vice President for Student Affairs. Approval must be sought using the "Campus Center Vending Policy Form," and submitted to the Office of the Associate Vice President for Student Affairs at least 10 working days in advance of the event.

All vendor products and actions must be legal and within the bounds of good taste. The determination of what is legal or within the bounds of good taste will rest with the Campus Center Director or his designate.

§ 3. Vendor location.

A. *Sales will be permitted in the Campus Center, the University Center lobby, the front of the Commons and any other reasonable public areas as approved by the Associate Vice President for Student Affairs.*

B. *No more than two sales of similar merchandise in the Campus Center, or four sales of similar merchandise in the University Center, will be allowed in any one location within any four-week period. Each sale may run no more than five consecutive business days.*

C. *There will be no more than one nonstudent vendor in any one location at any time. Nonstudent vendors may conduct a sale on campus no more than once each semester.*

V.A.R. Doc. No. R95-307A; Filed March 8, 1995, 12:37 p.m.

Proposed Regulations

date

Ms.

Re:

Dear
Enclosed please find two copies of your rental agreement with the College of William & Mary for your table reservations on Monday thru Friday, February 13th thru 17th, 1995 at both our Campus Center & University Center.

One copy is to be signed on the back and returned in the enclosed envelope and the other is for your files. Please review it to insure it is correct. The contract must be signed and returned prior to your use of the facility. If not signed and returned you will not be allowed to sell on campus.

You must also contact Parking Services at 221-4764 to secure a temporary parking permit for you stay here.

If you have any questions, please free to call me at 221-3272.

Sincerely,

Jo Ann Darling
Campus Facilities Coordinator
The College of William & Mary

CAMPUS CENTER VENDING POLICY

Non-Student Vendors

1. No more than two vendors selling the same type of merchandise will be given space during any four-week period (two jewelers, two poster sales, etc.).
2. No more than one non-student vendor at a time.
3. No more than five consecutive business days per visit.
4. No more than one visit per semester.
5. Payment to the Campus Center will either be 20% of gross sales or \$50.00 per day, whichever is higher.
6. The vendor's products and actions must be legal and within the bounds of good taste. This determination will rest with the Campus Center Director or his designate.
7. A vendor must have returned contract, signed below, agreeing to the above stipulations before beginning to sell.

Student Vendors

1. A fund-raiser with students selling for a recognized organization will incur no charge.
2. A fund-raiser with a non-student vendor selling will fall under the non-student regulations.
3. A student/vendor will fall under the non-student vendor regulations.

Name of Company _____

Date _____

Time: _____

No. of Tables _____ 1 Table/ 2 Chairs _____

Proposed Regulations

I/We _____ of _____
Name _____ Company or Organization Name

do agree to abide by the stated regulations and to pay the Campus Center the designated amount for the use of its space.

I/We expressly understand and agree to indemnify and save the College of William and Mary and the Commonwealth of Virginia harmless from and against any and all claims, liabilities, costs, expenses, fires, injuries and/or deaths, which arise from or are caused by, in whole or in part, directly or indirectly, the use of servants, agents, invitees, or independent contractees. I/We further understand that use of College facilities is made at the sole risk of the applicant, and that neither The College of William and Mary nor The commonwealth of Virginia, make any representations, expressed or implied, as to the suitability or fitness of such facilities except as shall be set forth in writing.

X _____
Signature _____ Date _____

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.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Board of Funeral Directors and Embalmers will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 320-01-2. **Regulations of the Board of Funeral Directors and Embalmers.**

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Effective Date: May 3, 1995.

Summary:

The Board of Funeral Directors and Embalmers is amending its regulations to comply with the Funeral Industry Practices Regulations of the Federal Trade Commission as amended on January 11, 1994. Amendments to regulations are made in sections on definitions, pricing standards, and retention of documents.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9907.

VR 320-01-2. **Regulations of the Board of Funeral Directors and Embalmers.**

PART I. GENERAL PROVISIONS.

Article 1.

Definitions, Legal Base, Purpose, Applicability.

§ 1.1. Definitions.

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

"Advertisement" means any information disseminated or placed before the public.

"Alternate care" means the preparation of a dead human body, exclusive of embalming, to include bathing and surface disinfection.

"Alternative container" means a nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and

which is made of eardboard—*fiberboard*, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other like materials.

"Applicant" means a person applying for examination licensure traineeship, or registration, by the board.

"At need" means when death has occurred.

"Board" means the Board of Funeral Directors and Embalmers.

"Burial garment" means clothing designed specifically for use on dead human remains.

"Cash advance item" means any item of service or merchandise described to a purchaser as a cash advance, accommodation, cash disbursement, or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, *fiberglass*, plastic or like material, and ornamented and lined with fabric.

"Conduct" means to carry out and perform.

"Courtesy card" means the card issued by the board which grants limited and restricted funeral service privileges in the Commonwealth to out-of-state funeral service licensees, funeral directors, and embalmers.

"Cremation" means a heating process which incinerates human remains.

"Cremation urn" means a wood, metal, stone, plastic, or composition container or a container of other material, which is designed for encasing cremated ashes.

"Cremation vault" or "cremation outer burial container" means any container which is designed for encasement of an inner container or urn containing cremated ashes. Also known as a cremation box.

"Crematory" means any person, partnership, or corporation that performs cremation.

"Department" means the Department of Health Professions.

"Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

"Embalmer" means any person engaged in the practice of embalming.

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"*Embalming*" means the preservation and disinfection of the human dead by external or internal application of chemicals.

"*Establishment manager*" means a funeral service licensee or funeral director licensed by the board, responsible for the direct supervision and management of a funeral service establishment or branch facility.

"*Executive director*" means the board administrator for the Board of Funeral Directors and Embalmers.

"*Full-time employment*" means employment at the establishment for 40 hours per week.

"*Funeral ceremony*" means a service commemorating the deceased with the body present.

"*Funeral directing*" means the for-profit profession of directing or supervising funerals, or preparing human dead for burial by means other than embalming.

"*Funeral director*" means any person engaged in the practice of funeral service.

"*Funeral goods*" means the goods which are sold or offered for sale directly to the public for use in connection with funeral services. Also known as funeral merchandise.

"*Funeral provider*" means any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

"*Funeral service*" means any service which may be used to (i) care for and prepare the deceased human bodies for burial, cremation or other final disposition; and (ii) arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

"*Funeral service establishment*" means any main establishment, branch, or chapel where any part of the profession of funeral directing or the act of embalming is performed.

"*Funeral service licensee*" means a person who is licensed in the practice of funeral service.

"*Immediate burial*" means a disposition of human remains by burial, without formal viewing, visitation or ceremony with the body present, except for a graveside service.

"*Outer burial container*" means any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

"*Person*" means any individual, partnership, corporation, association, government, or governmental subdivision or agency or other entity.

"*Practice of funeral services*" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial, or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"*Preneed*" means any time other than at-need.

"*Preneed funeral financing*" means the arranging of funding for funeral services prior to death.

"*Preneed funeral planning*" means the making of funeral arrangements or selecting of funeral merchandise prior to death.

"*Registration*" means the process of applying to the board to seek approval to serve as a trainee, trainer, or to operate a surface transportation and removal service.

"*Resident trainee*" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the board.

"*Services of funeral director and staff*" means those services which may be furnished by a funeral provider in arranging and supervising a funeral, the basic services that are furnished by a funeral provider in arranging any funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

"*Solicitation*" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or a funeral service provider.

"*Surface transportation and removal service*" means any person, private business, or funeral service establishment, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, engaged in the business of surface transportation or removal of dead human bodies in the Commonwealth.

"*Unfinished wood box*" means a container made of wood which does not have a fixed interior interlining.

§ 1.2. Legal base.

The following legal base describes the responsibility of the Board of Funeral Directors and Embalmers regulations governing funeral service in the Commonwealth of Virginia:

Title 54.1, Chapter 1 (§ 54.1-100 et seq.);

Title 54.1, Chapter 24 (§ 54.1-2400 et seq.);

Title 54.1, Chapter 25 (§ 54.1-2500 et seq.);

Title 54.1, Chapter 28 (§ 54.1-2800 et seq.);

~~Title 32.1, Chapter 8 (§ 32.1-305 et seq.);~~

Title 32.1, Chapter 6 7, Article 4 (§ 32.1-263 et seq.);

Title 32.1, Chapter 7 (, § 32.1-274 et seq.);

Title 32.1, Chapter 8 (§ 32.1-277 et seq.) ; and

Title 11, Chapter 5 (§§ 11-24 et seq.) of the Code of Virginia; and

§ 453.1 (b)-(d), (f), (g)-(j), (k), (m)-(p) through § 453.9 of the Federal Trade Commission's Funeral Industry Rule.

§ 1.3. Purpose.

These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as

funeral service licensees; funeral directors; embalmers; funeral establishments; funeral service trainees; and surface transportation and removal services operating in the Commonwealth of Virginia.

§ 1.4. Applicability.

Individuals and establishments subject to these regulations are (i) funeral directors, (ii) embalmers, (iii) funeral service licensees, (iv) funeral establishments, (v) transportation and removal services, and (vi) resident trainees.

EXEMPTIONS: The provisions of these regulations shall not apply to any officer of local or state institutions or to the burial of the bodies of inmates of state institutions when buried at the expense of the Commonwealth or any of its political subdivisions.

Any person holding a license as a funeral director or embalmer or an equivalent in another state, having substantially similar requirements as the board, may apply to the board for courtesy card privileges to remove bodies from and to arrange funerals or embalm bodies in this Commonwealth. However, these privileges shall not include the right to establish or engage generally in the business of funeral directing and embalming in Virginia.

Article 2.

Public Participation Guidelines.

§ 1.5. Mailing list.

The executive director of the board shall maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. Notice of intent to promulgate regulations;
2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and
3. Final regulations adopted.

§ 1.6. Additions and deletions to mailing list.

A. Any person wishing to be placed on the mailing list shall have his name added by writing to the board.

B. The board, in its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations.

C. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list.

D. When mail is returned as undeliverable, persons will be deleted from the list.

§ 1.7. Notice of intent.

A. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14.7.1 of the Code of Virginia, the board shall publish a notice of intent.

B. The notice shall contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter.

C. The notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.8. Informational proceedings or public hearings for existing regulations.

A. At least once each biennium, the board shall conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Notice of such proceeding shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. The proceeding may be held separately or in conjunction with other informational proceedings.

§ 1.9. Petition for rulemaking.

A. Any person may petition the board to adopt, amend, or delete any regulation.

B. Any petition received within 10 days prior to a board meeting shall appear on the agenda of that meeting of the board.

C. The board shall have sole authority to dispose of the petition.

§ 1.10. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.11. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for citizen and professional participation in the formation, promulgation, adoption, and review of regulations.

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License.

§ 2.1. Posting of license.

A. Each licensee shall post his original license, photocopy of his original license, or a duplicate license obtained from the board in a main entrance or place conspicuous to the public in each establishment or branch where he is employed.

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B. The establishment license shall be posted in a main entrance of the establishment or place conspicuous to the public.

C. Each licensee shall be able to produce his wallet license upon request.

Article 2. Records.

§ 2.2. Accuracy of information.

A. All changes of mailing address; name; place of employment; or change in establishment ownership, manager, or name shall be furnished to the board within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, establishment, or firm of obligation to comply.

PART III. FEES.

§ 3.1. Initial fees.

The following fees shall be paid as applicable for initial licensure or registration. For resident trainee fees see the board's regulations entitled Resident Trainee Program for Funeral Service (VR 320-01-04).

1. Examination	\$100
2. License to practice funeral service	\$100
3. Funeral service establishment license	\$150
4. Surface transportation and removal service registration	\$200
5. Courtesy card	\$50
6. Change of ownership, manager, or establishment name	\$15
7. Verification of license when applying for licensure in another state	\$50
8. Verification of license when applying for courtesy card in another state	\$5
9. Resumption of traineeship after interruption	\$10

§ 3.2. Renewal fees.

The following annual fees shall be paid as applicable for license renewal. For resident trainee renewal fees see the board's regulations entitled Resident Trainee Program for Funeral Service (VR 320-01-04).

1. Funeral service license payable by March 31	\$100
2. Funeral director license payable by March 31	\$100
3. Embalmer license payable by March 31	\$100

4. Funeral service establishment license payable by January 31	\$150
5. Surface transportation and removal service registration payable by January 31	\$200
6. Courtesy cards payable by December 31	\$50

§ 3.3. Reinstatement fees.

The following reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or registration up to three years following expiration. For resident trainee reinstatement fees see the board's regulations entitled Resident Trainee Program for Funeral Service.

1. Funeral service, director, or embalmer reinstatement	\$25
2. Establishment reinstatement	\$25
3. Transportation and removal service reinstatement	\$25

§ 3.4. Other fees.

Duplicates.

Duplicate trainee registrations, surface transportation and removal registrations, licenses, establishment licenses, or courtesy cards shall be issued by the board at the individual's request.

1. Duplicate license, registration, courtesy card	\$25
2. Duplicate wall certificates	\$50

§ 3.5. Additional fee information.

- A. There shall be a fee of \$25 for returned checks.
- B. Fees shall not be refunded once submitted.

PART IV. RENEWALS.

§ 4.1. Expiration dates.

A. For resident trainee expiration dates see regulations entitled Resident Trainee Program for Funeral Service.

A. B. The following shall expire on January 31 of each calendar year:

1. Funeral service establishment license; and
2. Surface transportation and removal service registration.

B. C. The following shall expire on March 31 of each calendar year:

1. Funeral service license;
2. Funeral director license; and
3. Embalmer license.

C. D. Courtesy cards expire on December 31 of each calendar year.

D. E. A person who or establishment which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in this section shall be deemed to have an invalid license, registration, or courtesy card.

§ 4.2. Renewal of license; registration.

A person, establishment, or surface transportation and removal service who desires to renew his license or registration for the next year, not later than the expiration date shall:

1. Return the renewal notice;
2. Submit the applicable fee prescribed in § 3.2; and
3. Notify the board of any changes in name, address, employment, managers or ownership.

§ 4.3. Reinstatement of expired license or registration.

The board may consider reinstatement of an expired license or registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable delinquent renewal fees prescribed in § 3.2 plus the additional reinstatement fee prescribed in § 3.3.

§ 4.4. Reapplication of license.

When a license is not reinstated within three years of its expiration date, an applicant for licensure shall:

1. Reapply for licensure; and
2. Reapply for state examination.

PART V. REQUIREMENTS FOR LICENSURE.

Article 1.

Establishments: General Qualifications.

§ 5.1. General qualifications of establishments.

All places of business in the Commonwealth, including main establishments, branches or chapels, where any part of the profession or business of funeral directing or any act of embalming, or either or both, is carried on, conducted, or performed, or is permitted to be carried on, conducted, or performed, and where preneed funeral arrangements are conducted, shall be:

1. Subject to regulation and inspection by the board;
2. Operated in accordance with law; and
3. Maintained in compliance with these requirements.

§ 5.2. Establishment license required.

No person shall maintain, manage, or operate a funeral service establishment in the Commonwealth, unless such establishment holds a license issued by the board.

§ 5.3. Current license requirements.

The license shall be:

1. For the current calendar year; and

2. In the name of the funeral service licensee or licensed funeral director designated by the ownership to be manager of the establishment.

§ 5.4. Manager-of-record required.

Every funeral service establishment and every branch or chapel of such establishment in the Commonwealth, regardless of how owned, shall have a separate funeral service licensee or funeral director licensed by the board who is employed full time at the establishment and is designated as manager of the establishment.

§ 5.5. Expiration of establishment licenses.

Establishment licenses shall expire January 31 of each calendar year (see subsections A B and D E of § 4.1 and §§ 4.2 through 4.4 for renewal information).

Article 2.

Funeral Service, Funeral Directors and Embalmers: General Qualifications.

§ 5.6. License required; exception.

No person shall engage in the practice of funeral service, or practice as a funeral director or embalmer in the Commonwealth without having the required license issued by the board.

EXCEPTION: A registered trainee may perform such acts only in strict conformity with the provisions of these regulations and the regulations entitled Resident Trainee Program for Funeral Service (VR 320-01-04).

§ 5.7. Expiration of licenses.

With the exception of trainees, licenses shall expire on March 31 of each calendar year (see subsections B C and D E of § 4.1 and §§ 4.2 through 4.4 for renewal information). (See regulations entitled Resident Trainee Program for Funeral Service , VR 320-01-04.)

§ 5.8. Requirement for license.

To be licensed for the practice of funeral service, a person shall:

1. Be at least 18 years of age;
2. Be a graduate of a high school or the equivalent;
3. Have completed traineeship and be a graduate from a school of mortuary science or funeral service approved by the board;
4. Pass the required state and national examinations; and
5. Not have been convicted of a felony. The board, in its discretion, may license an individual convicted of a felony if he has been pardoned or has had his civil rights restored.

Article 3. Application Process.

§ 5.9. Funeral service applicants.

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An individual seeking licensure for funeral service or seeking examination/reexamination shall submit simultaneously:

1. Completed and signed application;
2. Additional documentation as may be required by the board to determine eligibility of the applicant; and
3. The applicable fees(s) prescribed in subdivision 1 of § 3.1.

§ 5.10. Application package; exception.

All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the licensee.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board. National examination scores will also be accepted from the examining authority.

§ 5.11. Date of submission of application package.

An individual applying for examination shall submit the application package within six months and not less than 45 days prior to an examination date.

§ 5.12. Establishment applicants.

Not less than 45 days prior to opening of an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously:

1. Completed and signed application;
2. Additional documentation as may be required by the board to determine eligibility for licensure; and
3. The applicable fee prescribed in subdivision 3 of § 3.1.

§ 5.13. Incomplete application package.

All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the licensee.

§ 5.14. Waiver of time limits.

The board may for good cause, waive the time requirement in §§ 5.11 and 5.12 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

Article 4. General Examination Requirements.

§ 5.15. National Board examination required.

Prior to applying for state examination for licensure, every applicant for initial licensure by the board shall pass the National Board Examination of the Conference of Funeral Service Examining Boards of the United States, Inc., administered in accredited schools of embalming or mortuary science.

§ 5.16. Virginia State Board Examination.

All applicants shall pass the Virginia State Board Examination.

§ 5.17. Failure to appear.

The applicant shall forfeit the Virginia State Board Examination fee if he is unable to sit for the examination for any reason.

§ 5.18. Reexamination.

Any person failing the Virginia State Board Examination shall reapply for a subsequent examination, and shall pay the examination fee prescribed in subdivision 1 of § 3.1 for each application filed.

§ 5.19. Scheduling examinations.

A. An applicant may request to take the scheduled Virginia State Board Examination most closely preceding the expected completion of the mortuary school, if traineeship has also been completed, or traineeship, if mortuary school has been completed. Successful completion of all requirements shall mean that the applicant can provide documentation of completion of the qualifications within the month following the examination date. Examination scores shall not be released until documentation of successful completion is received in the board office. Failure to submit documentation of successful completion within the month following the examination date for any reason shall require that the applicant retake the examination and resubmit the examination fee. The previous examination shall be considered void.

B. All such requests to take the scheduled Virginia State Board Examination early shall be in writing and the written request shall be accompanied by the complete application package (§§ 5.9 through 5.10) and shall comply with the deadline requirement in § 5.11.

Article 5. Licensure of Out-of-State Applicants.

§ 5.20. Out-of-state applicants.

Licenses for the practice of funeral service or its equivalent issued by other states, territories, or the District of Columbia may be recognized by the board and the holder of such license(s) may be granted a license to practice funeral service within the Commonwealth, as follows:

1. Reciprocity. Licenses may be granted by reciprocity provided that the same privileges are granted by the other jurisdiction to Virginia funeral service licensees by the establishment of substantially similar licensure requirements and reciprocity agreements between the two jurisdictions; or

2. Endorsement. Licenses may be granted to applicants by the board on a case-by-case basis, if the applicant holds a valid license for the practice of funeral service or its equivalent in another state, territory, or the District of Columbia and possesses credentials which are substantially similar to, or more stringent than required by the Commonwealth for initial licensure and the

examinations and passing grades received by the applicant are equivalent to those required by the board.

§ 5.21. State examination required.

An out-of-state applicant for board licensure shall pass the Virginia State Board Examination (See § 5.16).

PART VI.

TRAINEE PROGRAM REQUIREMENTS.

§ 6.1. Resident trainee requirements and application.

To be approved for registration as a resident trainee, a person shall comply with the board's regulations entitled Resident Trainee Program for Funeral Service (VR 320-01-04).

§ 6.2. Apprenticeship training, training sites, and supervision.

Applicants, training sites, and training supervisors shall comply with the board's regulations entitled Resident Trainee Program for Funeral Service (VR 320-01-04).

§ 6.3. Curriculum compliance.

An approved supervisor and resident trainee shall comply with the training program developed by the board for the traineeship and shall provide supervision and training as prescribed by the regulations of the board entitled Resident Trainee Program for Funeral Services (VR 320-01-04).

PART VII. REGISTRATION.

Article 1.

Surface Transportation and Removal Services.

§ 7.1. Registration of surface transportation and removal services.

A. Every surface transportation and removal service not licensed under an establishment license issued by the board shall be registered with the board.

B. All persons proposing to operate and each owner of a service shall submit an application package for registration which shall include:

1. Completed and signed application;
2. Fee prescribed in subdivision 4 of § 3.1; and
3. Additional documentation as may be required by the board to determine eligibility of the applicant.

§ 7.2. Exclusion from jurisdiction.

The following shall not be within the jurisdiction of surface transportation and removal services:

1. Arranging or conducting funerals;
2. Offering to or providing for the care or preparation, including embalming, of dead human bodies; and
3. Selling or providing funeral related goods and services.

§ 7.3. Misrepresentation.

A person employed or operating a surface transportation and removal service shall not in any manner misrepresent himself to the public as being an official of any local jurisdiction, the Commonwealth, federal, or any other governmental body unless granted such authority. This shall include the name and title of the company or service, uniforms, equipment, vehicles, and any other instruments used or proffered by the services or its agents. The board shall be the sole determinant of the appropriateness of the pertinent qualities of the service and staff in enforcing this regulation.

§ 7.4. Expiration of registration.

The registration shall expire on January 31 of each calendar year (see subsections A B and D E of § 4.1 and §§ 4.2 through 4.4 for renewal information).

PART VIII. ISSUANCE OF COURTESY CARDS.

§ 8.1. Courtesy cards.

A. An out-of-state person applying for a courtesy card shall hold a valid license for funeral service, funeral directing, or embalming in another state, territory, or the District of Columbia.

B. The other state shall have requirements for licensure substantially similar to those existing in the Commonwealth of Virginia.

§ 8.2. Application for courtesy card.

An application to this board for a courtesy card shall be:

1. Submitted for approval to the licensing authority having jurisdiction at the applicant's place of employment; and
2. Forwarded by the designated official of such authority, to the board. The certificate of approval and the fee prescribed in subdivision 6 of § 3.1 shall be included.

§ 8.3. Courtesy card privileges.

A courtesy card permits the holder to:

1. Remove bodies from Virginia;
2. Arrange funerals in Virginia; and
3. Embalm bodies in Virginia.

§ 8.4. Exceptions to privileges.

The privileges of a courtesy card do not include:

1. The right to establish or engage generally in the business of funeral directing and embalming in the Commonwealth; and
2. The right of the recipient to be continuously employed professionally by a funeral establishment in the Commonwealth.

§ 8.5. Expiration of courtesy card.

A courtesy card shall expire on December 31 of the year of issuance.

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PART IX.

SCHOOLS OF EMBALMING AND MORTUARY SCIENCE.

§ 9.1. Approval.

The board hereby adopts as its approved school list those mortuary science or funeral service schools which are accredited by the American Board of Funeral Service Education, Incorporated. All applicants for licensure are required to have graduated from a funeral service program offered by an approved school of mortuary science or funeral service.

PART X.

REFUSAL, SUSPENSION, REVOCATION AND DISCIPLINARY ACTION.

§ 10.1. Disciplinary action.

The board may refuse to admit a candidate to any exam; refuse to issue or renew a license, registration, or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Breach of confidence. Licensees and registrants are necessarily brought within the privacy of those in which they serve and are often placed in positions where they receive confidences and learn intimate details of domestic life and family secrets. The unnecessary or unwarranted disclosure of such confidences by the funeral licensee in the course of practice shall be determined to be an act of unprofessional conduct.

2. Unfair competition.

a. A funeral service licensee, funeral director, or registered surface transportation and removal service shall not interfere when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.

b. A funeral service licensee or funeral director shall not consent to take charge of a body unless authorized by the person or his agent having the legal right to disposition.

3. False advertising.

a. No licensee or registrant shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise; assertion; representation; or statement of fact which is untrue, deceptive, or misleading.

b. The following practices both written and verbal shall constitute false, deceptive, or misleading advertisement within the meaning of § 54.1-2806.4 of the Code of Virginia:

(1) Advertising containing inaccurate statements;

(2) Aired or published advertisements which do not disclose the name of the establishment manager or licensed owner when the owner is a licensee; and

(3) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.

c. The following practices are among those which shall constitute an untrue, deceptive, and misleading representation or statement of fact:

(1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long-term or indefinite time; and

(2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.

4. Inappropriate handling of dead human bodies.

a. At all times human bodies are to be handled with proper dignity and respect in conformity with the customs of the community being served.

b. During the removal of a dead human body, proper care shall be given to prevent the spread of infectious and contagious diseases.

c. All dead human bodies shall be properly wrapped and placed on a cot or stretcher which is self-contained and covered so that no part of the human body is visible to the public.

d. Transportation and removal vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation.

e. During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.

5. Obtaining a license or registration by fraud, either in the application for the license or in passing the examination.

6. Conviction of a felony.

7. Failure to comply with any regulations of the board.

8. Failure to comply with federal, state, or local laws and regulations governing the operation of a funeral establishment.

9. Conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public.

10. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

11. Unprofessional conduct.

PART XI.

STANDARDS FOR EMBALMING.

Article 1. General.

§ 11.1. Embalming report.

Every funeral establishment shall record and maintain a separate, identifiable report for each embalming procedure conducted (see § 13.1 and Appendix IV).

§ 11.2. Contents of embalming report.

The report shall contain the following (see example in Appendix IV):

1. Name of deceased;
2. Date of death;
3. Date of embalming;
4. Name of embalmer and license number;
5. Autopsy information where applicable;
6. Preembalming condition of body;
7. Description of preembalming preparation;
8. Description of fluids used;
9. Type and point of injection;
10. Quality of fluid distribution;
11. Type and amount of cavity fluid;
12. Body cavity treatment;
13. Restoration techniques; and
14. Other conditions and treatments.

§ 11.3. Documentation of embalming.

A licensee who proceeds with an embalming without prior approval from a family member or other person shall:

1. Document the reasons for proceeding in writing;
2. Document the efforts made to contact the family or authorized person;
3. Document the licensee authorizing the embalming; and
4. Obtain subsequent approval from a family member or other authorized person.

Article 2. Preparation Room.

§ 11.4. Preparation room required.

Every funeral service establishment at which embalming of dead human bodies is performed shall have at least one room used exclusively for embalming or preparation of the body.

§ 11.5. Size of preparation room.

The preparation room shall be of a size to accommodate the average number of embalmings being performed simultaneously at the facility.

§ 11.6. Preparation room requirements.

The following are required of the preparation room(s):

1. The walls shall extend floor to ceiling;
2. The floor and wall surfaces shall be of a material or covered by a material impervious to water;
3. The material shall extend from wall to wall with all joints tight and sanitary; and
4. No other room shall be used for the performance of any function connected with embalming.

§ 11.7. Condition of preparation room.

A. The preparation room(s) shall be kept in a clean and sanitary condition at all times, subject to inspection.

B. Inventories of embalming and preparation materials shall not be stored on the floor in the preparation room.

C. Any items or supplies not directly used in an embalming procedure shall not be stored in the preparation room.

Article 3. Equipment.

§ 11.8. Preparation room equipment.

The preparation room(s) shall be equipped with:

1. A ventilation system which operates and is appropriate to the size and function of the room;
2. Running hot and cold water;
3. Flush or slop sink connected with public sewer or with septic tank where no public sewer is available;
4. Metal or porcelain morgue table;
5. Covered waste container;
6. Instruments and apparatus for the embalming process;
7. A means or method for the sterilization of reusable instruments by:
 - a. Chemical bath or soak; or
 - b. Autoclave (steam); or
 - c. Ultraviolet light;
8. Disinfectants and antiseptic solutions;
9. Clean gowns or aprons, preferably impervious to water;
10. Rubber gloves for each embalmer or trainee using the room;
11. A hydroaspirator(s) equipped with a vacuum breaker; and
12. An eye wash station.

Final Regulations

Article 4.

Prevention of Spread of Disease.

§ 11.9. Disposal of waste materials.

At the completion of each embalming operation all used cotton, bandages, and other waste materials shall be disposed of properly to avoid contagion and the possible spread of disease.

§ 11.10. Separate restroom facility required.

Every funeral service establishment or branch facility shall be equipped with a sanitary restroom facility which operates and is separate from the preparation room.

§ 11.11. First aid kit required.

A standard first aid kit shall be immediately accessible outside the door to the preparation room.

PART XII. PRICING STANDARDS.

Article 1.

General.

§ 12.1. Disclosure of price of funeral goods and services.

In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.

§ 12.2. Disclosures.

Funeral providers must make all required disclosures in a clear and conspicuous manner as follows:

1. Telephone price disclosures. a. Persons who ask by telephone about the funeral provider's offerings and prices, shall be given accurate information over the telephone from the price list lists (described in Article Articles 2 and 3 of this part) which reasonably answers the question questions and which is readily available.

b. ~~The licensee shall inform the telephone inquiries of all disclosures included on the various price lists.~~

c. ~~The licensee shall inform the telephone inquirer that complete written information is available at the establishment.~~

2. In person price disclosures.

a. General price list.

(1) Persons who inquire in person about funeral arrangements or the prices of funeral goods or funeral services shall be given a printed or typewritten general price list to retain if they choose.

b. (2) The funeral provider shall offer the a typewritten or printed general price list upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services—goods and services, the overall type of

funeral goods and services, or specific funeral goods and services .

§ 12.3. b. Itemized statement.

(1) Licensees shall furnish to each person who arranges a funeral or other disposition of human remains, a copy of an— a typewritten or printed itemized written statement of the funeral goods and services selected by that person and the prices to be paid for each item.

(2) *The itemized statement of funeral goods and services shall be given no later than the conclusion of the arrangement discussion.*

c. Casket price list and outer burial container price lists.

(1) *A typewritten or printed casket price list and an outer burial container price list shall be shown to consumers who inquire in person about the offerings or prices of caskets and outer burial containers.*

EXCEPTION: If the complete casket price list and outer burial container price list are a part of the general price list, a separate casket price list and outer burial container price list do not have to be available.

(2) *The casket price list and outer burial container price list shall be offered or shown upon beginning the discussion of caskets and outer burial containers and before showing the containers to the consumer.*

Article 2.

General Price List.

(See example in Appendix I)

§ 12.4. § 12.3. Identifying information.

The general price list shall contain at least the following:

1. The name, address, and telephone number of the funeral provider's place of business;
2. A caption describing the list as a "general price list"; and
3. The effective date for the price list.

§ 12.5. § 12.4. Prices.

A. Funeral service establishments shall include on the general price list, in any order, the retail prices, expressed either as the flat fee, or as the price per hour, mile, or other unit of computation, for all services and supplies offered for sale.

B. *A funeral service establishment shall charge fees only for services of funeral director and staff, other funeral goods and services selected by the purchaser and other funeral goods and services required to be purchased by law or by a cemetery or crematory.*

C. The following 16 items are required to be on the general price list with a charge if the funeral home offers these particular funeral goods and services;

1. Basic professional services of funeral director and staff;
2. Use of facilities and staff for viewing and visitation;
3. Use of facilities and staff for funeral ceremony;
4. Staff and facilities for memorial service;
5. Equipment and staff for graveside services;
6. Embalming;
7. Transfer of remains to funeral home;
8. Forwarding of remains to another funeral home;
9. Receiving of remains from another funeral home;
10. Direct cremation;
11. Immediate burial;
12. Hearse;
13. Limousine;
14. Other automotive equipment;
15. Casket price range; and
16. Outer burial container price range.

D. If a funeral service establishment offers funeral goods and services in addition to the 16 required items, each shall be listed with a charge on the general price list.

E. Casket, outer burial container, cremation urn and cremation vault handling fees shall not be charged to the consumer who provides a container.

F. A funeral service establishment shall not condition the furnishing of any funeral merchandise or service to a person arranging a funeral upon the purchase of any other item of service or merchandise.

B. § 12.5. Disclosures.

The following general disclosures shall be included placed on the first page of the general price list. Note: subdivision 2 of this section is optional:

1. "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. (However, any funeral arrangements you select will include a charge for our basic services and overhead.) If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected prior to the signing of the contract."

2. OPTIONAL: "This list does not include prices for certain items that you may ask us to buy for you such as cemetery or crematory services, flowers, and newspaper notices. The prices for these items will be shown on your

bill or the statement describing the funeral goods and services you selected."

§ 12.6. Professional services of funeral director and staff. Required items.

The required items in subsection C of § 12.4 shall be itemized with appropriate disclosures as follows if the funeral service establishment offers these items to the public:

A. A list of the following professional services and a description of what charge includes, shall be provided on the general price list:

1. Minimum services of funeral director and staff; and
2. Optional services of funeral director and staff.

1. Basic professional services of funeral director and staff.

a. Basic services of funeral director and staff is the only item on the general price list which may be a nondeclinable charge to the consumer. This fee shall be listed as a separate fee or may be included in the cost of caskets or disbursed throughout the other items on the general price list.

b. Basic services of funeral director and staff shall include, but not be limited to, basic overhead, administrative fees and use of basic facilities.

c. A complete description of the funeral goods and services included under basic services of funeral director and staff shall be listed.

B. d. Disclosures. If the charges above are mandatory and cannot be declined by the purchaser, one of the following statement statements shall be included on the price list:

(1) "This fee for our basic services and overhead will be added to the total cost of the funeral arrangements you select. This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains;" or

(2) "Please note that a fee of \$ for the use of our basic services and overhead is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include:...."

§ 12.7. 2. Funeral home facilities.

A list of the following uses of the facility and a description of what charge includes shall be provided on the general price list:

1. Basic facilities:

2. a. Facilities and staff for visitation and viewing; and
3. b. Facilities and staff for funeral ceremony.
3. c. Facilities and staff for memorial service.

Final Regulations

d. If the funeral service establishment has a separate charge for manhours for viewing/visitation at a church or home, the charge shall be added as a separate line item.

e. If the funeral service establishment has a fee for extra staff over and above the usual number for a viewing/visitation or service, the charge shall be added as a separate line item.

§ 12.8. 3. Embalming services.

A. a. Separate prices shall be listed for embalming normal remains versus autopsied remains if the charges are different.

B. b. Disclosures. The following disclosures shall be placed under *in immediate conjunction with* the embalming section on the general price list:

1. "Except in certain special cases, embalming" *Embalming* is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing." 2. "If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial."

§ 12.9. Other preparation services.

Other preparations of the body shall be listed.

§ 12.10. 4. Immediate burials.

a. A price range shall be listed for immediate burial.

b. A complete description of the funeral goods and services offered under this category shall be listed.

A. c. A list of the following immediate burial services and a description of what the base prices of an immediate burial service includes shall be placed on the general price list.

1. (1) Immediate burial where the purchaser provides the casket; with container provided by the purchaser.

2. (2) Immediate burial where the licensee provides the minimum casket or with alternative container; and .

3. Immediate burial base price plus a casket (other than the minimum) chosen by the purchaser.

B. A price range shall be listed for immediate burials.

§ 12.11. 5. Direct cremations.

a. A price range shall be listed for direct cremation.

b. A complete description of the funeral goods and services offered under this category shall be listed.

A. c. A list of the following direct cremation services and a description of what the prices of a direct

cremation include shall be placed on the general price list:

1. (1) Direct cremation where the purchaser provides the with container; provided by purchaser.

2. (2) Direct cremation where the licensee provides an with alternative container; and .

3. Direct cremation where the licensee provides an unfinished wood box.

B. A price range shall be listed for direct cremations.

C. d. Disclosures. The following disclosure has to shall be placed on the general price list if the licensee arranges direct cremations, *in immediate conjunction with the direct cremation category*:

"State and local laws do not require a casket for direct cremation. If you want to arrange a direct cremation, you can use an unfinished wood box or an alternative container. Alternative containers encase the body and can be made of materials like heavy cardboard fiberboard or composition materials (with or without an outside covering), or pouches of canvas. The containers we provide are (blank) containers."

Note: The funeral services establishment shall fill in the blank with the specific types of alternative containers offered.

§ 12.12. 6. Transfer services of remains to funeral home. A complete description of the funeral goods and services offered under this category shall be listed.

A list of the following transfer services and a description of what the prices of the services include shall be placed on the general price list:

1. Transfer of remains to funeral establishment;

2. 7. Forwarding remains to another funeral establishment; and . A complete description of the funeral goods and services offered under this category shall be listed.

3. 8. Receiving remains from another funeral home. A complete description of the funeral goods and services offered under this category shall be listed.

§ 12.13. 9. Automotive services.

A. a. A list of the following automotive services shall be placed on the general price list if owned by the facility:

4. (1) Hearse;

2. (2) Limousine; and

3. (3) Other automotive equipment.

B. b. Any of these items that are obtained through a third party shall be shown under cash advance items on the itemized statement of goods and services.

Final Regulations

§ 12.14. 10. Funeral merchandise.

A. The following funeral merchandise shall be placed on the general price list if offered for sale. A price range shall be given for each:

1. a. Casket; with a price range.
2. b. Outer burial containers; with a price range.
3. Cremation urns;
4. Cremation vaults.

B. The following funeral merchandise shall also be placed on the general price list if offered for sale:

1. Acknowledgment cards;
2. Register books(s);
3. Folders;
4. Other.

G. c. *Disclosures.* The following disclosure shall be placed on the general price list under each item listed in subsection A of this section: *caskets and outer burial containers:*

"A complete price list will be provided at the funeral home."

Article 3.

Outer Burial Container and Casket Price List. (See Appendix II)

§ 12.15. § 12.7. Containers; exceptions.

A. Funeral providers who sell or offer to sell caskets, alternative containers, or outer burial containers must prepare have available an "outer burial container and casket price list."

EXCEPTION: If the complete outer burial container and casket price list(s) are a part of the general price list, separate outer burial container and casket prices list(s) do not have to be available.

B. The outer burial container and casket price lists shall accompany or be a part of the general price list.

C. A typewritten or printed outer burial container and casket price list shall be shown to people who inquire in person about the offerings or prices of containers.

EXCEPTION: If the complete outer burial container and casket price list(s) are a part of the general price list, separate outer burial container and casket price list(s) do not have to be shown to the public.

D. B. The container casket and outer burial container price list/lists shall disclose at least the following information:

1. The name, address and telephone number of the funeral provider's place of business;
2. A caption describing the list(s) as a casket, alternative container, or outer burial container price list; or

3. The retail prices of all caskets, alternative containers, and outer burial containers which do not require special ordering;

4. The effective date(s) of the price list(s); and

5. —Enough Sufficient information to identify the manufacturers, models, types, and interiors of all units available for sale, including inventory.

E. C. When other formats, such as notebooks, brochures, or charts, are used they shall contain the same information as prescribed in subsection D of this section and shall be displayed in a clear and conspicuous manner.

F. D. A funeral establishment which has a casket selection room shall have available a means for indicating the price of each casket within the room.

G. E. If a licensee arranges direct cremations, he shall make an unfinished wood box or alternative container available and shall list the alternative container on the casket price list.

H. The following disclosure shall be placed at the applicable locations on both the outer burial container and the casket price list(s):

"The only warranty on the casket or outer burial container, or both, sold in connection with this service is the express written warranty, if any, granted by the manufacturer. This funeral home makes no warranty, express or implied, with respect to the casket or outer burial container, or both."

I. F. The following disclosure shall be placed on the outer burial container price list:

"In most areas of the country, no state or local law requires does not require that you buy a container to surround the casket in the grave. However, many cemeteries ask require that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner grave liner or a burial vault will satisfy cemeteries that have these requirements."

Article 4.

Itemized Statement of Funeral Expenses Goods and Services. (See Appendix III)

§ 12.16. § 12.8. Itemized statements of funeral goods and services.

A. Itemized statements shall be executed completed:

1. At the time such arrangements are made if the party is present; or
2. If the party is not present, not later than the time of the final disposition of the body.

B. The itemized statement shall be signed by the funeral service licensee or funeral director and the party contracting for the funeral arrangements.

C. The itemized statement shall contain a statement that the contracting party acknowledges the receipt of a copy of the itemized statement, the general price list, and the container price list.

Final Regulations

D. C. The itemized statement shall include all items and charges which are made available to the contracting party such as the following categories:

1. A list of all funeral goods and services that are offered on the general price list;
2. Space to describe the casket and outer burial container purchased;
3. Space to describe any legal, cemetery or crematory requirements that may be necessary;
4. If package pricing is offered, the package shall be listed on the itemized statement of funeral goods and services and shall list each individual item included in the package. The individual items do not have to be priced separately. One price shall be listed for the total package;
5. A space to explain why the funeral service establishment proceeded with embalming without authorization or approval;
1. Professional services of funeral licensees and staff; a. Minimum services of funeral director and staff; b. Optional services of funeral director and staff.
2. Funeral home facilities (types of services shall be listed individually);
3. Embalming:
 - a. Disclosures shall be as follows:
 - (1) "If you selected a funeral which requires embalming, such as a funeral with viewing, you may have to pay for embalming."
 - (2) "You do not have to pay for embalming if you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming we will explain why below."
4. Other preparation services (types of services shall be listed individually);
5. Immediate burial (types of services included in the price shall be described);
6. Direct cremation (types of services shall be described);
7. Transfer of remains to funeral establishment;
8. Forwarding of remains to another funeral establishment;
9. Receiving remains from another funeral establishment;
10. Automotive equipment (types of services shall be listed individually);
11. Funeral merchandise (types of services shall be listed individually);
12. Container selected (types shall be listed and described individually);

13. 6. Any and all anticipated or actual cash advances and expenditures requested by the party contracting for the funeral arrangements shall be listed individually;

14. Virginia sales tax paid on all items to which such tax is applicable; and

15. 7. The total costs of the funeral goods and funeral services selected; and

E. 8. Disclosures. The following disclosures shall be on the itemized statement of goods and services:

1. a. "Charges are only for those items that are used you selected or that are required. If we are required by law, or by a cemetery or crematory to purchase use any items, we will explain the reasons in writing below."

2. b. "The only warranty on the casket or outer burial container, or both, sold in connection with this service is the express written warranty, if any, granted by the manufacturer. This funeral home makes no warranty, express or implied, with respect to the casket or outer burial container, or both."

c. "If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming that you did not approve if you selected arrangements, such as a direct cremation, or immediate burial. If we charged for embalming we will explain why below."

d. If the funeral home charges for its services in arranging cash advance items, the following disclosure shall be placed on the itemized statement of goods and services: "We charge you for our services in obtaining _____." The funeral home shall specify in the blank space which cash advance items the funeral home makes a charge upon or receives and retains a rebate, commission or trade or volume discount.

§ 12.17. Cemetery and crematorium.

The licensee shall identify and describe in writing at the applicable location on the itemized statement any funeral goods or services representing policies of particular cemeteries or crematoriums.

PART XIII. RETENTION OF DOCUMENTS.

§ 13.1. Retention of documents.

The following shall apply to retention of embalming reports, price lists, and itemized statements:

1. Price lists shall be retained for three years after the effective date.

2. Itemized statements shall be retained for three years from the date on which the statement was signed arrangements were made.

3. Embalming reports shall be retained for three years after the date of the embalming.
4. Documents shall be maintained on the premises of the funeral establishment and made available for inspection.
5. In instances where the funeral establishment is sold, documents shall be transferred to the new owner, unless the existing firm is relocating to a new facility.

VA.R. Doc. No. R95-349; Filed March 8, 1995, 11:44 a.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

March 10, 1995

Mr. John W. Hasty, Director
Department of Health Professions
Board of Funeral Directors and Embalmers
6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230

Attn: Robert A. Nebiker, Agency Regulatory Coordinator

Re: VR 320-01-2 *Regulations of the Board of
Funeral Directors and Embalmers*

Dear Mr. Hasty:

This will acknowledge receipt of the above-referenced regulations from the Board of Funeral Directors and Embalmers.

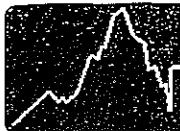
As required by § 9.6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in black ink, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS/jbc



COMMONWEALTH OF VIRGINIA
Board of Funeral Directors and Embalmers
 Department of Health Professions
 5606 West Broad Street, 4th Floor
 Richmond, Virginia 23230-1717 (804) 662 - 9907

**APPLICATION
FOR
LICENSURE**

- [] Application for funeral service licensure
 (\$100.00)
 [] Application for funeral service examination
 (\$100.00)

Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE

I. IDENTIFYING INFORMATION

Name in Full (Please print or type)

Last	Suffix	First	Middle/Maiden
Home Address		City	State ZIP Code
Date of Birth	Social Security Number		Area Code & Telephone Number

II. PROFESSIONAL LICENSURE

If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete a licensure verification form for each and forward to the jurisdictions you have indicated. Use additional sheet(s) as necessary to list all licenses.

Jurisdiction	Date of Initial Licensure	License #	Professional Area
Jurisdiction	Date of Initial Licensure	License #	Professional Area

SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO, MAY CONSTITUTE GROUNDS FOR REVOCATION OF THE SAME.

- 1 -

AFFIDAVIT
 (To be completed by a Notary Public)

State of _____ County/City Of _____

I _____ am applying to be licensed to practice Funeral Service in the Commonwealth of Virginia. I will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I understand that should I violate any of these laws or regulations, that action may be taken against my license.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

 Signature of Applicant

Subscribed to and sworn to before me this _____ day of _____ 19_____.
 My Commission expires _____

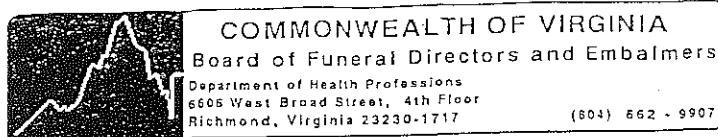
[SEAL]

 NOTARY PUBLIC

VI. REQUIRED DOCUMENTATION

The following shall be submitted with this application. All applications which are not complete when received will be returned in accordance with Board regulations

1. Certified high school transcript
2. Certified birth certificate
3. Certified mortuary school transcript
4. Certified National Board Examination scores



Licensure Verification Form

APPLICANT: Please complete the top portion only and send form to the Funeral Directors and Embalmers regulatory board in every jurisdiction from which you are or have been licensed. Photocopy this form if extra copies are needed.

Name _____ Social Security Number _____
Address _____
City, State, Zip Code: _____

I hereby authorize the release of the following information to the Virginia Board of Funeral Directors and Embalmers and authorize the Board to secure additional information concerning me or any statement in this application, from any person or source the Board may require. I further agree to submit to questioning by the Board or any member or agent thereof, and to substantiate any statement to the Board or its agent as it deems necessary.

Signature of Applicant _____ Date _____
Name of Jurisdiction: _____
Licensure Number in Jurisdiction: _____

BOARD: Please provide information below and return to the Virginia Board of Funeral Directors and Embalmers at the above shown address.

1. Funeral Director License number _____ was granted on _____
2. Embalmer License number _____ was granted on _____
3. Funeral Service License Number _____ was granted on _____
4. How was this license issued: reciprocity _____, endorsement _____ or as a primary (original) license _____.
5. Status of Current License: Current _____ Inactive _____ Military Abeyance _____ Other _____
6. Has this license ever been suspended, revoked, or otherwise disciplined? Yes _____ No _____ If yes, please explain: _____



APPLICATION FOR ESTABLISHMENT LICENSURE/CHANGE OF LICENSURE

IDENTIFYING INFORMATION

Establishment Name	Area Code & Telephone Number		
Street Address	City	State	Zip Code
Mailing Address	City	State	Zip Code
Trade Name (if other than establishment name)			

II ADMINISTRATOR INFORMATION

Owner	Social Security Number	Area Code & Telephone Number
Co-Owner	Social Security Number	Area Code & Telephone Number
Mailing Address	City	State
Manager	Social Security Number	Area Code & Telephone Number
Manager License Number	Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to Treasurer of Virginia. All fees are non-refundable.	

III APPLICATION INFORMATION (Check all that apply)

<input type="checkbox"/> New Establishment (\$150.00) Opening Date _____ Change of Ownership (\$15.00) <input type="checkbox"/> Effective Date _____ Establishment License # _____	<input type="checkbox"/> Change of Manager (\$15.00) Effective Date _____ Establishment License # _____
<input type="checkbox"/> Change of Location (\$150.00) Effective Date _____ Establishment License # _____	<input type="checkbox"/> Change of Trade Name (\$15.00) Effective Date _____ Establishment License # _____

*Inspection is required. Please notify the Board office 60 days prior to scheduled opening date.

1. Does this establishment replace a facility presently licensed by this Board. Yes No . If yes, please list the name and license number of that facility and the date it will be officially closed below:
- NAME LICENSE NUMBER
- CLOSURE DATE
2. Has the above mentioned establishment ever had a license lapse , voluntarily surrendered , placed on probation , revoked , or otherwise been found in violation of the laws of any Board that regulates funeral service ? If yes, please explain in detail:
-

AFFIDAVIT
(To be completed by a Notary Public)

State of County/City of

I (we) am applying to have my (our) business licensed as a funeral establishment or to have changes made as indicated in Part III. I (we) will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I (we) understand that should I (we) violate any of these laws or regulations, that action may be taken against my(our) establishment permit by due process.

I (we) hereby certify that all statements contained in this application, and all representations and documents presented by me/us in connection with this application are true and correct.

Signature of Applicant

Signature of Co-Applicant

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

My Commission expires _____

Notary Public

S E A L



COMMONWEALTH OF VIRGINIA
Board of Funeral Directors and Embalmers

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717

(804) 652-9907

FEE \$200 - Check or money order must accompany application. An application received without the appropriate fee will be returned to applicant. Make check or money order payable to Treasurer of Virginia. All fees are non-refundable.

**APPLICATION FOR
SURFACE TRANSPORTATION
AND REMOVAL SERVICE
REGISTRATION**

I. IDENTIFYING INFORMATION
Name in full (please print or type)

Business Name	Area Code & Telephone Number		
	-		
Trade Name (if other than business name)			
Street Address	City	State	Zip Code
Mailing Address	City	State	Zip Code

II. ADMINISTRATOR INFORMATION

Owner	Social Security Number	Area Code & Telephone Number	
Mailing Address	City	State	Zip Code
Co-Owner	Social Security Number	Area Code & Telephone Number	
Mailing Address	City	State	Zip Code
Manager	Social Security Number	Area Code & Telephone Number	
Mailing Address	City	State	Zip Code

III. BUSINESS INFORMATION *1. Is this business licensed as a funeral establishment? Yes No Give name and license number of funeral establishment:

2. Will this business arrange and/or conduct funerals? Yes No 3. Will this business offer to or provide for the care or preparation including embalming, of dead human bodies? Yes No 4. Will this business sell or provide funeral related goods and services? Yes No 5. Will this business have personnel licensed by the Board of Funeral Directors and Embalmers as staff members? Yes No . If yes, what are the duties:

AFFIDAVIT

(To be completed by a Notary Public)

State of _____ County/City of _____

I/we _____ am(are) applying to have this business registered as a surface transportation and removal service in the Commonwealth of Virginia. I/we will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I/we understand that should I/we violate any of these laws or regulations, that action may be taken against my(our) license by due process.

I/we hereby certify that all statements contained in this application, and all representations and documents presented by me/us in connection with this application are true and correct.

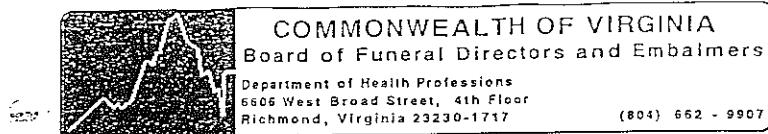
Signature of Applicant_____
Signature of Co-Applicant_____
Signature of Manager

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

My Commission expires _____.

SEAL

Notary Public


**APPLICATION
FOR
COURTESY CARD**

FEE: \$50 Check or money order must accompany this application. Applications received without the appropriate fees will be returned. Make check or money order payable to the Treasurer of Virginia.
ALL FEES ARE NON-REFUNDABLE

I. IDENTIFYING INFORMATION
 Name in Full (Please print or type)

LAST	SUFFIX	FIRST	MAIDEN/MIDDLE
HOME ADDRESS	CITY	STATE	ZIP CODE
SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER		
FIRM NAME	AREA CODE & TELEPHONE NUMBER		
STREET ADDRESS	CITY	STATE	ZIP CODE

II. AFFIDAVIT

Please answer yes or no to the following:

1. Have you ever been convicted of any criminal offense other than a minor traffic violation? Yes No

If yes, explain: _____

2. Have you ever had a license to practice funeral service lapse , voluntarily surrendered , placed on probation , suspended , revoked , or have you been otherwise found in violation of laws of any Board that regulates funeral services? Yes No . If yes, explain: _____

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III. Professional Licensure

If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete a licensure verification form for each and forward to the jurisdictions you have listed. Use additional sheet(s) as necessary to list all licenses.

Jurisdiction	Date of Initial Licensure	License Number	Professional Area
Jurisdiction	Date of Initial Licensure	License Number	Professional Area

SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO, MAY CONSTITUTE GROUNDS FOR REVOCATION OF THE SAME.

AFFIDAVIT (To be completed by a Notary Public)	
<p>State of _____ County or City of _____</p> <p>I, _____ am applying to be issued a Courtesy Card which only allows me to remove bodies, embalm bodies, and arrange funerals in the Commonwealth of Virginia. I understand that being issued a Courtesy Card does not extend to the right to establish or engage generally in the business of funeral directing and embalming nor the right to be continuously employed professionally by a funeral establishment in the Commonwealth of Virginia. I will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.</p> <p>I understand that should I violate any of these laws or regulations, that action may be taken against my Courtesy Card.</p> <p>I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.</p> <p style="text-align: center;">_____ Signature of Applicant</p> <p>Subscribed and sworn to before me this _____ day of _____ 19_____</p> <p>My Commission expires _____</p> <p style="text-align: center;">S.e.a.l. _____ Notary Public</p>	

TO THE LICENSURE BOARD

This is to certify that the above application is correct and true and the above named funeral director is eligible and in good standing to receive a Funeral Director's Courtesy Card issued by the Virginia Board of Funeral Directors and Embalmers.

APPROVED BY:

(SEAL)

(Name of State Board or Licensing Authority)

(Date)

(Name and title of person completing this form)

Title of Regulation: VR 320-01-3. Regulations for Preneed Funeral Planning.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Effective Date: May 3, 1995.

Summary:

The amendments to these regulations (i) require funeral establishments to keep on file and make available for inspection a written verification from the company providing preneed contracts that they are in compliance with state law; (ii) bring regulations into compliance with changes to federal law made by the Federal Trade Commission in 1994 concerning requirements for disclosure; and (iii) clarify disclosure requirements for more effective consumer understanding and protection.

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 Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, Virginia 23230, telephone (804) 662-9907.

VR 320-01-3. Regulations for Preneed Funeral Planning.

PART I.
GENERAL INFORMATION.

§ 1.1. Definitions.

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

"At need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Capper" means a person who serves as a lure or decoy to entice another to purchase a product. A shill.

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration" means money, property, or any other thing of value provided to be compensation to a contract seller or

contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties, and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

"Contract seller" means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

"Contract price" means the same as consideration.

"Department" means the Department of Health Professions.

"Designee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

"Executive director" means the administrator of the Board of Funeral Directors and Embalmers.

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

"Funds" means the same as "consideration."

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers which will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery which complies with § 57-35.11 et seq. of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment which are sold by a cemetery operating in accordance with § 57-35.11 et seq. of the Code of Virginia.

"Funeral service establishment" means any main establishment, branch, or chapel where any part of the

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profession of funeral directing or the act of Embalmer is performed.

"General advertising" means advertisement directed to a mass market including, but not limited to, direct mailings; advertisements in magazines, flyers, trade journals, newspapers; advertisements on television and radio; bulk mailings; and direct mailing to a mass population.

"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

"In-person communication" means face-to-face communication and telephonic communication.

"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the contract buyer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or a funeral service provider.

"Steerer" means an individual used to direct the course of action and choice of the buyer in a preneed funeral contract sale.

§ 1.2. Legal base.

The following legal base describes the responsibility of the Board of Funeral Directors and Embalmers to promulgate regulations governing preneed funeral planning and plans in the Commonwealth of Virginia:

Title 54.1, Chapter 28, Article 1, § 54.1-2803 and Article 5 (§ 54.1-2820 et seq.) of the Code of Virginia.

§ 1.3. 1.2. Purpose.

These regulations establish the standards to regulate preneed funeral contracts and preneed funeral trust accounts

as prescribed in Chapter 28 (§ 54.1-2800 et seq.) of Title 54, of the Code of Virginia.

§ 1.4. 1.3. Applicability.

Subject to these regulations are (i) funeral service licensees, (ii) funeral establishments, and (iii) resident trainees assisting the licensee in the preneed arrangement. All of the above shall be operating in the Commonwealth of Virginia in order to qualify to sell preneed.

Exemptions: These regulations do not apply to the preneed sale of cemetery services or supplies regulated under Article 3.2; (§ 57-35.11 et seq.) of Chapter 3, of Title 57 (§ 57-35.11 et seq.) of the Code of Virginia.

PART II. SALE OF PRENEED PLANS.

§ 2.1. Qualifications of seller.

A. A person shall not engage in or hold himself out as engaging in the business of preneed funeral planning unless he is licensed for funeral service by the Board of Funeral Directors and Embalmers.

B. All individuals selling preneed funeral plans shall comply also with the Rules and Regulations for Funeral Directors and Embalmers [(VR 320-01-2)] promulgated by the board.

§ 2.2. Solicitation.

A. A licensee shall not initiate any preneed solicitation using in-person communication by the licensee, his agents assistants, or employees.

Exception: General advertising and solicitation other than in-person communication is acceptable.

B. After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee.

C. A licensee shall not employ persons known as "cappers" or "steerers," or "solicitors," or other such persons to participate in preneed sales.

D. A licensee shall not employ directly or indirectly any agent, employee, or other person, part or full time, or on a commission, for the purpose of calling upon individuals to influence, secure, or otherwise promote preneed sales.

E. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing preneed sales is prohibited.

F. No licensee engaged in the business of preneed funeral planning or any of his agents shall accept, advertise, or offer enticements, bonuses, rebates, discounts, restrictions to, or otherwise interfere with the freedom of choice of the general public in making preneed funeral plans.

PART III. OPERATIONAL RESPONSIBILITIES.

§ 3.1. Records: general.

- A. A licensee shall keep accurate accounts, books, and records of all transactions required by these regulations.
- B. Preneed contracts shall be retained on the premises of the establishment for three years after the death of the contract beneficiary.
- C. Required preneed reporting documents shall be retained on the premises of the establishment for three years. (See §§ 3.2A and 6.1D subsection A of § 3.2 and subsection D of § 7.1.)
- D. When insurance or annuity contracts are used to fund preneed arrangements, a licensee shall keep on file a written verification from the insurance company that the insurance or annuity contract complies with § 54.1-2820 B of the Code of Virginia. (See subdivisions 6-a and 6-b of § 6.9 of these regulations.) A funeral home shall keep on file a written verification from the insurance company that the insurance or annuity contract complies with § 54.1-2820 B of the Code of Virginia. (See subdivision 6 of § 6.9 of these regulations.)
- E. All preneed records shall be available for inspection by the department.

§ 3.2. Record reporting.

A. A contract provider shall keep a chronological listing of all preneed contracts. The listing shall include the following:

1. Name of contract buyer;
2. Date of contract;
3. How contract was funded;
4. Whether up to 10% of funds are retained by the contract provider for contracts funded through trust; and
5. Whether funeral goods and supplies are stored for the contract buyer.

B. A contract provider who discontinues its business operations shall notify the board and each existing contract buyer in writing.

PART IV. CONTRACT.

§ 4.1. Content and format.

A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the contract:

1. Is made on forms prescribed by the board (see Appendix I); or
2. Is made on forms approved by the board prior to use (see subsection B of this section).

B. Prior to use, contracts or disclosures which are not identical in format, wording, and content to that prescribed in Appendices I and II shall be approved by the board.

C. Contracts and disclosure forms prescribed in Appendices I and II shall be received in the board office no later than 10 days prior to a regularly scheduled meeting of

the board to be considered for approval by the board at that meeting.

- D. All preneed contracts shall be in writing.
- E. All information on a preneed contract and disclosure statement shall be printed in a clear and easy-to-read type, style, and in a type size not smaller than 10 points.
- F. Preneed contracts and disclosure statements shall be written in clear, understandable language.

G. The contract shall identify the following:

1. The contract seller;
2. Funeral license number of the contract seller;
3. The contract buyer;
4. The contract beneficiary;
5. The date of the contract;
6. The contract number;
7. A complete description of the supplies or services purchased;
8. Whether the price of the supplies and services purchased is guaranteed;
9. Whether the price of the supplies and services purchased is not guaranteed;
10. Any penalties or restrictions:
 - a. Geographic restrictions including maximum number of miles traveled without charging an extra fee;
 - b. Geographic restrictions including maximum number of miles the establishment is willing to travel;
 - c. The inability of the provider to perform the request of the buyer on merchandise, services, or prearrangement guarantees;
11. All disclosure requirements imposed by the board (see Appendix II); and
12. The designee agreement when applicable.

H. The contract or the disclosure statement as a part of the contract shall contain the name, address, and telephone number of the board and list the board as the regulatory agency which handles consumer complaints.

I. All preneed contracts shall be signed by the contract seller and the contract buyer.

PART V. DISCLOSURES.

§ 5.1. Disclosures.

- A. Licensees shall furnish to each person inquiring about preneed arrangements a copy of the:
 1. General price list; and
 2. Preneed disclosure questions and answers.

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The licensee shall furnish such information at the time of the inquiry.

B. Licensees shall furnish to each person who makes a preneed arrangement a copy of the:

1. Preneed contract; and
2. Funding contract.

The licensee shall furnish such documents immediately upon concluding the arrangement conference.

C. An itemized statement of funeral goods and services shall be given at the time of need even if the arrangements were made through a preneed contract.

PART V. VI. FUNDING.

Article 1. General.

§ 5.1. 6.1. Finance charges prohibited.

A licensee shall not charge finance charges on a preneed arrangement.

§ 5.2. 6.2. Cancellation of contract.

A. Any person who makes payment under this contract may terminate the agreement at any time prior to the time for which the services or supplies are furnished.

A. Cancellation within 30 days of contract date.

B. If the contract buyer terminates the contract within 30 days of the execution of the contract, the contract buyer shall be refunded:

1. All consideration paid or delivered; and
2. Any interest or income accrued thereon.

B. Cancellation after 30 days of contract date.

C. If the purchaser uses a funding source other than an insurance or annuity policy and terminates the contract after 30 days of the execution of the contract, the contract buyer shall be refunded:

1. All consideration paid or delivered on nonguaranteed items;
2. At least 90% of all consideration paid for guaranteed items; and
3. All interest or income accrued thereon.

§ 5.3. 6.3. Escrow account.

Within two banking days after the day of receipt of any money from the contract buyer and until the time the money is invested in a trust, life insurance, or annuity policy, the contract seller or the contract provider shall deposit the money into an escrow account in a bank or savings institution approved to do business in the Commonwealth.

§ 5.4. 6.4. Real estate.

When the consideration consists in whole or in part of any real estate, the following shall occur:

1. The preneed contract shall be recorded as an attachment to the deed whereby the real estate is conveyed; and
2. The deed shall be recorded in the clerk's office in the circuit court of the city or county in which the real estate being conveyed is located.

§ 5.5. 6.5. Personal property.

When the consideration consists in whole or in part of any personal property, the following shall occur:

1. Personal property shall be transferred by:
 - a. Actual delivery of the personal property; or
 - b. Transfer of the title to the personal property.
2. Within 30 days of receiving the personal property or the title to the personal property, the licensee or person delivering the property shall:
 - a. Execute a written declaration of trust setting forth the terms, conditions, and considerations upon which the personal property is delivered; and
 - b. Record the trust agreement in the clerk's office of the circuit court of the locality in which the person delivering the property is living; or
 - c. Record the preneed contract in the clerk's office of the circuit court of the locality in which the person delivering the property or trust agreement is living provided that the terms, conditions, and considerations in § 5.4.2-a subdivision 2 of § 6.4 are included in the preneed contract.

§ 5.6. 6.6. Right to change contract provider.

The contract buyer shall have the right to change the contract provider and the trustee at any time prior to the furnishing of the services or supplies contracted for under the preneed contract.

§ 5.7. 6.7. Exemption from levy, garnishment or distress.

Any money, personal property, or real estate paid, delivered, or conveyed subject to §§ 54.1-2822 through 54.1-2823 shall be exempt from levy, garnishment, or distress.

Article 2. Trust Accounts.

§ 5.8. 6.8. Trust accounts.

A. If funds are to be trusted, the following information shall be disclosed in writing to the contract buyer:

1. The amount to be trusted;
2. The name of the trustee;
3. The disposition of the interest;
4. The fees, expenses, and taxes which may be deducted from the interest;

5. Whether up to 10% is retained by the contract provider; and
 6. A statement of the contract buyer's responsibility for taxes owed on the interest.
- B. If the contract buyer chooses a trust account as the funding source, within 30 days following the date of the receipt of any money paid for a trust-funded preneed contract or interest or income accrued (see § 5.3 § 6.3), the licensee shall transfer the money from the escrow account and deposit the following amount in a trust account in a bank or saving institution doing business in Virginia:
1. Nonguaranteed prices. All consideration shall be deposited for a preneed funeral contract in which prices of supplies and services are not guaranteed.
 2. Guaranteed prices. At least 90% of all consideration shall be deposited for a preneed contract in which the prices of goods and services are guaranteed.
- C. The trust funds shall be deposited in separate, identifiable accounts setting forth:
1. Name of depositor;
 2. Contract beneficiary;
 3. Trustee for contract beneficiary; and
 4. Name of establishment which will provide the goods and services.

Article 3. Life Insurance or Annuity.

§ 6.9. 6.9. Life insurance or annuity.

If a life insurance or annuity policy is used to fund the preneed funeral contract, the following shall be disclosed in writing:

1. The fact that a life insurance policy or annuity contract is involved or is being used to fund the preneed contract;
2. The following information:
 - a. Name of the contract provider;
 - b. Name of contract seller;
 - c. Funeral license number of contract seller;
 - d. Place of employment of contract seller;
 - e. Name of insurance agent;
 - f. Identification as to whether the insurance agent is a funeral service licensee, and if so, license number;
 - g. Insurance agent's insurance license number;
 - h. Insurance agent's employer;
 - i. Insurance company represented by insurance agent.
3. The relationship of the life insurance policy or annuity contract to the funding of the preneed contract;

4. The nature and existence of any guarantees relating to the preneed contract from the policy or annuity;
5. The impact on the preneed contract of:
 - a. Any changes in the life insurance policy or annuity contract including changes in the assignment, contract provider, or use of the proceeds;
 - b. Any penalties to be incurred by the policy holder as a result of failure to make premium payments;
 - c. Any penalties to be incurred or moneys to be received as a result of cancellation or surrender of the life insurance policy or annuity contract; and
 - d. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy or annuity contract and the amount actually needed to fund the preneed contract.
6. The fact that the life insurance or annuity contract complies with § 54.1-2820 B of the Code of Virginia which states that the life insurance or annuity contract shall provide that either:
 - a. The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or
 - b. A benefit payable at death under such contract that will equal or exceed the sum of all premiums paid for such contract plus interest thereon at the annual rate of at least 5.0% compounded annually.

PART VI. VII. BONDING.

§ 6.1. 7.1. Bonding.

- A. A performance bond shall be required on the following:
 1. The contract provider which retains up to 10% of the consideration invested in a trust account; or
 2. The retail price of funeral goods and supplies which are stored by the contract provider for the contract beneficiary prior to the death of the contract beneficiary.
- B. The establishments described in subsection A of this section shall arrange for their own bonding.
- C. The amount of bond required shall be based upon the risk of loss determined by the bonding company.
- D. The following information concerning the bond shall be maintained at the funeral establishment: (See § 3.1 A, C and D subsections A, C, and D of § 3.1.)
 1. Amount of the bond;
 2. Company holding the bond;
 3. Documentation that company holding the bond is duly authorized to issue such bond in the Commonwealth; and
 4. Renewal requirements of the bond.

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PART VII. VIII. SUPPLIES AND SERVICES.

§ 7.1. General.

§ 8.1. Supplies and services.

A. If the contract seller will not be responsible for furnishing the supplies and services to the contract buyer, the contract seller shall attach to the preneed funeral contract a copy of the contract seller's agreement with the contract provider.

B. If any funeral supplies are sold and delivered prior to the death of the contract beneficiary, and the contract seller, contract provider, or any legal entity in which the contract provider or a member of his family has an interest thereafter stores these supplies, the risk of loss or damage shall be upon the contract seller or contract provider during such period of storage.

C. If the particular supplies and services specified in the contract are unavailable at the time of delivery, the contract provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship.

D. The representative of the deceased shall have the right to choose the supplies or services to be substituted in subsection C of this section.

PART VIII. IX. DESIGNEE AGREEMENT.

§ 8.1. 9.1. Designee.

A. A designee agreement shall be used only when the contract beneficiary is mentally alert and capable of appointing his own designee.

B. Any person may designate through the use of the designee agreement a designee who shall make arrangements for the contract beneficiary's burial or the disposition of his body for burial.

C. The designee agreement shall be:

1. In writing;
2. Accepted in writing by designee and the designee's signature notarized; and
3. Attached to the preneed contract as a valid part of the contract.

APPENDIX I.

PRENEED FUNERAL CONTRACT PRESCRIBED BY THE BOARD.

Date: _____
Contract #: _____

PRENEED FUNERAL CONTRACT
for
(Name of Recipient of Services)

(Zip) _____

I. SUPPLIES AND SERVICES PURCHASED

The prices of goods and services below MAY BE GUARANTEED provided the total is paid in full and all interest earned is allowed to accumulate in your account. If any of the prices are guaranteed, no additional cost will incur for your family or estate even though the actual prices of goods and services may increase between the date of this contract and the time of need. (Please see the disclosure document).

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use an item, we will explain the reasons in writing below. If you selected a funeral that may require embalming, such as a funeral with a viewing, you may have to pay for embalming. You do not have to pay for embalming if you did not select it if you select arrangements such as a direct cremation or immediate burial.

Guaranteed Services Purchased

Minimum services of staff	\$ _____
Optional services	\$ _____
Basic facilities	\$ _____
Facilities for viewing	\$ _____
Facilities for ceremony	\$ _____
Other facilities/equipment	\$ _____
Embalmer	\$ _____
Other preparation of body	\$ _____
Alternate care	\$ _____
Transfer of remains	\$ _____
Funeral coach	\$ _____
Flower car	\$ _____
Lead/service car	\$ _____
Mileage @ \$ _____ (Outside service area)	
Other	\$ _____

(Direct Cremation)

(Immediate Burial)

(Forwarding to Another Funeral Home)

(Receiving from Another Funeral Home)

Sub-Total Cost of (Guaranteed) Services Purchased:
\$ _____

I. BASIC SERVICES OF FUNERAL DIRECTOR AND STAFF
\$ _____

II. FUNERAL HOME FACILITIES

A. Facilities and Staff for visitation/viewing	\$ _____
B. Facilities and Staff for funeral ceremony	\$ _____

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C. Facilities and Staff for memorial service \$ _____
 D. Equipment and Staff for graveside service \$ _____

(NOTE TO FUNERAL HOME: If you have additional charges such as facilities and staff for home/church viewing, or a charge for additional staff per person or through calculation of manhours, etc., add here as extra items. If you have a charge for equipment for interment, add here.)

III. EMBALMING

A. Normal remains \$ _____
 B. Autopsy remains \$ _____

IV. OTHER PREPARATION OF THE BODY

(NOTE: List all items that you placed under Other Preparation on your General Price List.)

V. IMMEDIATE BURIAL \$ _____
 VI. DIRECT CREMATION \$ _____
 VII. TRANSFER OF REMAINS TO FUNERAL ESTABLISHMENT \$ _____

VIII. FORWARDING REMAINS TO ANOTHER FUNERAL HOME \$ _____

IX. RECEIVING REMAINS FROM ANOTHER FUNERAL HOME \$ _____

X. AUTOMOTIVE EQUIPMENT
 A. Hearse \$ _____
 B. Limousine \$ _____

NOTE: List all others that you placed on General Price List.)

XI. FUNERAL MERCHANDISE

A. Casket (*describe)

 \$ _____

B. Outer Burial Container (*describe)

 \$ _____

C. List any others

 \$ _____

Supplies Purchased

Gasket (Describe) \$ _____
 Outer burial container \$ _____

(Describe)
 Alternative container \$ _____
 Cremation urn \$ _____
 Shipping container \$ _____
 Clothing \$ _____
 Temporary marker \$ _____
 Acknowledgment cards \$ _____
 @ _____
 Register/attendance books \$ _____
 @ _____
 Memorial folders \$ _____
 @ _____
 Other \$ _____

SUB-TOTAL COST COSTS OF (GUARANTEED) SUPPLIES PURCHASED:

\$ _____

XII. PACKAGE PRICES

(Note: List all package prices by name)

SUBTOTAL COST OF (GUARANTEED) SUPPLIES PURCHASED

\$ _____

Nonguaranteed Goods and Services Purchased

The actual prices of goods and services below are NOT GUARANTEED. These items may include, but not be limited to, obituary notices; death certificates; cemetery fees; flowers; sales tax; etc. The prices are estimated and the estimates will be included in the Grand Total Contract Price. The differences between the estimated prices below and the actual cost will be settled with your family or estate at the time of need:

\$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____

SUBTOTAL ESTIMATED COST OF NONGUARANTEED ITEMS

\$ _____

GRAND TOTAL FOR PRENEED ARRANGEMENTS

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1. Total cost of (Guaranteed) Services Purchased (Total taken from p-1)	\$ _____
2. Total cost of (Guaranteed) Supplies Purchased (Total taken from p-3)	\$ _____
3. Total Estimated cost of nonguaranteed Items (Total taken from p-2)	\$ _____
GRAND TOTAL	\$ _____

The only warranties, express or implied, granted in connection with the goods sold in this preneed funeral contract, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE are extended by the (funeral home) _____

II. GENERAL INFORMATION

In order that the Buyer may understand the relationship of all parties involved in this preneed arrangement and contract, the following is provided:

A. Buyer:

B. Funeral Home Providing Services:

C. Preneed Arranger:

Employed by: (Funeral Home)

Licensed Funeral Director in Virginia: yes no

Funeral Director License Number:

Method of Funding

A. Insurance

B. Trust

1. Amount to be trusted:

2. Name of trustee:

3. Disposition of Interest:

4. Fees, expenses, taxes deducted from earned interest:

5. Buyer's responsibility for taxes owned on interest:

The following information will be given if an insurance policy or annuity contract is used to fund this agreement:

A. Buyer:

B. Insurance Company:

C. Insurance Agent:

Employed by: (Insurance Company)

Licensed Funeral Director in Virginia: yes no

Funeral Director License Number
(If Applicable):

Employed by (If Applicable):

(Funeral Home) _____

D. The life insurance or annuity contract provides either that:

The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or

A benefit payable at death under such contract that will be equal or exceed the sum of all premiums paid for such contract plus thereon at the annual rate of at least 5.0%, compounded annually.

Method of Funding

A. Insurance

B. Trust

1. Amount to be trusted:

2. Name of trustee:

3. Disposition of Interest:

4. Fees, expenses, taxes deducted from earned interest:

5. Buyer's responsibility for taxes owned on interest:

III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by § 54.1-2800 et seq. of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to:

The Board of Funeral Directors and Embalmers
1601 Rolling Hills Drive 6606 West Broad Street, 4th
Floor
Suite 200
Richmond, Virginia 23229-5005 23230-1717
Telephone Number 804-662-9907
Toll Free Number 1-800-533-1560

IV. DISCLOSURES

The disclosure statements will be available for your review. The General Price List shall be furnished to you by the preneed arranger. These contain information that you must receive by law and/or the authority of the Board of Funeral Directors and Embalmers. You are entitled to receive all information in clear and simple language including the language of the funding agreement for this preneed arrangement.

If any law, cemetery, or crematory requires the purchase of any of those items listed in Part I, the requirements will be explained in writing.

By signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents.

V. TERMINATION OF CONTRACT

This person who funds this contract through a trust agreement may terminate this preneed contract at any time prior to the furnishing of the services or supplies contracted for:

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Within 30 days

If you terminate this preneed contract within 30 days of the date of this contract, you will be refunded all payments of whatever type you have made, plus any interest or income you may have earned.

More than 30 days

If you terminate this preneed contract more than 30 days after the date on this contract, you will be refunded whatever amount was required to be placed in a revocable trust fund, plus any interest or income it has earned.

Any person who funds this contract through a trust fund which is irrevocable or through an insurance/annuity policy or through the transfer of real estate/personal property may not be eligible for a refund.

VI. STATEMENT OF GUARANTEE

By signing this contract, (Funeral Home) _____ agrees to the statement checked below (check one):

Prefinancing guarantees that no additional payment will be required from the family or estate for guaranteed services and supplies provided the Grand Total of these arrangements is paid in full and the interest is allowed to accumulate in your account (see page 4 for Grand Total amount). Payment of the difference will be required for the nonguaranteed estimated items if they increase in price.

The prices for items under supplies and services are not guaranteed.

VII. AGREEMENT

In witness whereof, the Buyer and the Funeral Home have executed this contract, intending its terms to be in accordance with the Code of Virginia and any regulations implementing the Code. By signing this contract you acknowledge that you have been provided access to and the opportunity to read the Disclosure Statements.

(Designee of Funeral Home)

(Buyer)

(Funeral Home)

(Contract Date)

VIII. PENALTIES OR RESTRICTIONS

The (funeral home) _____, has the following penalties or restrictions on the provisions of this contract.

1. (Insert geographic restrictions);
2. (Insert an explanation of the Funeral Home's inability to perform the request(s) of the Buyer);
3. (Insert a description of any other circumstances which apply);
4. (Insert information that if particular goods and services specified in the contract are unavailable at the time of need);

A. The funeral home shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship; and

B. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Addendum to Preneed Contract

DESIGNEE AGREEMENT

I designate _____ of (address) _____ to assist with the preneed arrangements in my behalf. This individual is also authorized to work with the funeral home after my death to ensure that these arrangements are fulfilled. The relationship of my designee to me is _____

Buyer: _____ Date: _____

I accept the request of (buyer) _____ to assist with his/her preneed arrangements and to work with the funeral home after his/her death to ensure that these arrangements are fulfilled.

Designee: _____ Date: _____

The foregoing was acknowledged before me this _____ day of _____, 19____

Notary: _____

Date Commission Expires: _____

APPENDIX II.

DISCLOSURE STATEMENTS PRESCRIBED BY THE BOARD

DISCLOSURES

We are required by law and/or the Virginia Board of Funeral Directors and Embalmers to provide access to and the opportunity for you to read the following information to assist you in preplanning. A question and answer format is used for clarity and includes the most commonly asked questions.

PREENED CONTRACTS

-- Is there more than one type of preneed agreement?

Yes.

Guaranteed contracts mean that the costs of certain individual items or the cost of the total package will never be more to your family or estate. Nonguaranteed means just the opposite. (See the section entitled "General Funding Information" for more information on guaranteed and nonguaranteed costs.)

Contracts may be funded by insurance/annuity policies, trusts, or transfer of real estate/personal property.

-- What are my protections?

You should take your completed preneed contract home before you sign it and review it with your family or your legal advisor. You have a right to this review before you sign the contract or pay any money.

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You should also read carefully the information in this disclosure statement. If you have any questions, contact the seller for more information or contact your legal advisor.

CANCELLATION

-- Can I cancel my preneed agreement if I change my mind? Will I get my money back?

You may cancel payment for supplies or services within 30 days after signing the agreement. If you funded your preneed arrangement through a trust, the preneed arranger will refund all the money you have paid plus any interest or income you have earned.

If you funded your preneed arrangement through a revocable trust and you cancel the preneed contract AFTER the 30 day deadline, you will be refunded all of your money on the items that are not guaranteed and 90% of all your money on the items that are guaranteed. You will also receive any interest or income on that amount. A revocable trust is a trust that you can cancel.

There may be a penalty to withdraw money from a revocable trust account which has already been established in your name. If there is, your contract will give you this information. (See the first question under the section entitled "Payment" below.)

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

If you funded your preneed arrangement through an insurance policy/annuity contract which will be used at the time of your death to purchase the supplies and services you have selected, you will need to pay careful attention to the cancellation terms and conditions of the policy. You may not be eligible for a refund.

PAYMENT

-- What happens to my money after the contract is signed?

Your money will be handled in one of several ways. It may be deposited in a separate trust account in your name. The trust account will list a trustee who will be responsible for handling your account. The funeral home you have selected as your beneficiary will also be listed. You have the right to change the funeral home and the trustee of your account prior to receiving the supplies and services under the preneed contract.

Your money may be used to purchase a preneed life insurance policy which may be used to pay for your arrangements upon your death. The proceeds of the policy will be assigned to the funeral home of your choice. You may change the funeral home assignment at any time prior to receiving the supplies and services under the preneed contract.

You may decide to choose a life insurance policy or a trust account that requires regular premium payments and not have to make an up-front, lump sum payment.

-- May I pay for goods and services with real estate or personal property?

Yes. When you pay for these supplies and services in whole or in part with any real estate you may own, the preneed contract that you sign will be attached to the deed on the real estate and the deed will be recorded in the clerk's office of the circuit court in the city or county where the real estate is located.

If you pay for goods and services with personal property other than cash or real estate, the preneed arranger, will declare in writing that the property will be placed in a trust until the time of your death and will give you written information on all the terms, conditions, and considerations surrounding the trust. The preneed arranger will confirm in writing that he has received property.

You may decide not to transfer the title of the personal property to the preneed arranger of your preneed contract. In this situation, you will have to submit information to the preneed arranger in writing that you are giving him the property without a title, and describe the property and where it will be kept until the time of your death.

In either case, the written statements will be recorded in the clerk's office of the circuit court of the city or county in which you live. The written statement does not have to be separate document.

GENERAL FUNDING INFORMATION

-- If the prices of the goods and services are affected by inflation between now and my death, will the funding I choose be adjusted accordingly?

There is a possibility that the funding may fail to keep up with inflation. This could mean that the funding you choose could have insufficient value to cover all expenses.

-- What happens if my funding is not enough to cover the full cost of these arrangements?

If the entire funeral or specific items in the agreement are guaranteed by the preneed arranger, your family or estate will not have to pay any more for those items provided that you have paid the Grand Total in full and all interest earned is allowed to accumulate in your account. However, if you have not paid the account in full and have not allowed the interest to accumulate in the account, and any items increase in price, your family or estate would be responsible for the extra amount if the funds are not sufficient. In some situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

-- What happens to the extra money if my funding is more than what is needed to pay for these arrangements?

Sometimes, as explained in the answer above, your funding account may not have had the time to grow sufficiently before your death to cover items which are guaranteed in price to you, yet have increased in price for the funeral home.

Sometimes After funeral expenses are paid, there may be money left over. Because of the on-going risk that a funeral

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home takes in guaranteeing prices for you, the funeral home may not be required to return this excess money.

Some funding agreements and funeral homes, however, require that extra money be returned to the estate or family. Others do not. You should obtain information concerning this in writing before signing the preneed contract.

The answers to the following questions will depend upon the terms and conditions of the individual's funding and preneed agreements. Please review your preneed contract and/or funding agreement for answers to these questions.

-- What happens to my preneed contract if I change my assignment from one funeral home to another?

(*Funeral home shall place answer here*)

-- What happens to my preneed contract if I change the beneficiary of my funding or the use of my proceeds from the funding.

If you make such changes, it could void your contract. You should request specific information from the preneed arranger and the funding arrangement.

-- What will happen to my preneed contract if I fail to make agreed to premium payments to my funding source?

(*Funeral home shall place answer here*)

-- Do I get any money back if I surrender or cancel my funding arrangements?

(*Funeral home shall place answer here*)

TRUST ACCOUNT

-- If my money goes into a trust account, what information will I receive about that account?

If you want your money to go into a trust fund, the trust agreement must furnish you with information about the amount to be deposited into the account; the name of the trustee; information about what happens to the interest your trust account will earn; and information about your responsibility to file and pay taxes on that interest.

If there are filing expenses connected with your trust account, you will be notified as-to what the expenses are and whether you or the preneed arranger is the responsible party for paying those.

-- What happens to the interest earned by the trust?

You should be aware that the interest earned by the trust may be handled in different ways by different trust arrangements. The interest may have to go back into your account if items on your contract are guaranteed. You may be responsible for reporting that interest to the Internal Revenue Service and paying taxes on it. You will be responsible to pay any taxes on the interest earned even if you cancel your trust account. Some trust accounts cannot be cancelled.

There may be special fees deducted from your interest. However, you may still be responsible for paying taxes on the entire amount of interest earned before the fees were deducted. Please ask your preneed arranger for a written list

of any fees so you will have a clear understanding about them before you sign the contract.

-- If I pay my trust in premium payments, what happens if I die before the Grand Total of the funeral has been placed in trust?

(*Funeral home shall place answer here*)

LIFE INSURANCE POLICY OR ANNUITY CONTRACT

The following question applicable to your policy will be answered in writing. The answer will depend upon the terms and conditions of the individual's policy and/or preneed contract.

If I die during the period of time when my insurance policy only guarantees to pay back my premiums plus the interest, will that amount be considered payment in full for my preneed contract?

(*Place answer here*)

CLAIMS AGAINST THIS CONTRACT

-- Can someone to whom I owe money make a claim against the money, personal property, or real estate that I have used to pay for this contract?

No. This money or property cannot be used to settle a debt, a bankruptcy, or resolve a claim. These funds cannot be garnished.

-- Can the money or property be taxed?

No. Currently, interest earned on the money you deposit in a trust, savings account, or the value of the property you used for payment can be taxed but not the original amount which you invested. Interest earned on annuities is generally deferred until withdrawal.

GENERAL GOODS AND SERVICES

-- If I choose goods and services that might not be available at the time of my death, what is the provider required to do?

The funeral home which you selected select is required to furnish supplies and services that are similar in style and equal in value and quality if what you choose is no longer made or is not available at the time of your death. Your representative or next-of-kin will have the right to choose the supplies or services to be substituted. However, if the substitute is more expensive than the item originally selected by you, your designee or next-of-kin would be responsible for paying the difference. Under no circumstances will the funeral establishment be allowed to substitute lesser goods and services than the ones you chose.

If, before your death, the funeral home were-to-go goes out of business or were is otherwise unable to fulfill their obligation to you under the preneed contract, you have the right to use the proceeds at the funeral home of your choice.

If the inability to provide services does not become apparent until the time of your death, the individual that you named as your designee could use the funds for services at another funeral home.

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-- May I choose the exact item I want now and have the funeral home store it until my death?

If the funeral home or supplier has a storage policy you may ask for this service. If the funeral home or preneed arranger agrees to store these items, the risk of loss or damage shall be upon the funeral home during the storage period.

For example, what would happen if you select a casket which is in-stock at the time you make these arrangements and the funeral home or supplier agrees to store it for you in their warehouse and: (1) damage occurs, (2) the funeral home or supplier goes out of business (3) the funeral home or supplier is sold, etc.? You need to be assured in writing of protection in these types of situations.

-- What happens if I choose to have a unique service that is not customary or routine in my community? Must the funeral home comply with my wishes?

The funeral home which you have chosen to conduct your service may be able to only provide certain types of services. They may not be able to fulfill your request. If there is a restriction on what they can provide, you will be notified in writing before you sign the preneed contract.

If the funeral home agrees in writing before you sign the contract to perform such services, the funeral home shall provide you a written, itemized statement of penalties (fees) fees which you will be charged.

-- Will the funeral home agree to transport my body to another area for burial?

Again, the funeral home may have restrictions on the distance they are willing to travel to conduct a burial. If restrictions apply, you will be notified in writing.

If the funeral home agrees in writing before you sign the contract to honor your wishes, the funeral home shall provide you a written, itemized statement of any penalties (fees) which you will be charged.

-- I may die and be buried in a city other than one where the funeral home that I select for my goods and services is located. Will the funeral home that I select under this contract deliver my merchandise to the city where I die and am to be buried?

This is entirely up to the funeral home to decide. If the funeral home has restrictions on this, they will notify you in writing. If they agree to ship merchandise to another area for your funeral, you will be notified before signing this contract of the penalties (fees) fees involved if they can be determined and guaranteed at this time.

However, the preneed contract arrangements and funding may be considered portable. This means that they are usually available for transfer from one locality to another. It is unusual for actual goods and merchandise to be transferred.

PRICING

-- How will I know that the prices of items which I select are the same for everyone?

The funeral home maintains a general price list and a casket and outer burial container price list. Your preneed arranger will give this to you before you begin talking about arrangements. After your discussion is finished, you will be given a copy of your preneed contract on which charges will be listed. Charges will only be made for the items you select. If there are any legal or other requirements that mandate that you must buy any items you did not specifically ask for, the preneed arranger will explain the reason for the charges to you in writing.

You may ask a funeral home to purchase certain items or make special arrangements for you. If the funeral home charges you for these services, you will receive an explanation in writing. The charges to you for these services may be higher than if you or your family purchased them directly.

At the time of your death, you family or estate will be given an itemized statement which will list all of the specific charges. This is a requirement of the Federal Trade Commission. Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.

-- What is meant by guaranteed and nonguaranteed prices?

Some preneed arrangers may agree that certain prices are guaranteed. Some may guarantee the price of the total package. Other funeral homes may not guarantee any prices.

Guaranteed prices are those that will not increase for your family or estate at the time of your death. Basically, this means that your funeral arrangement for those items will be covered by and will not exceed your funding and the interest it earns. Nonguaranteed prices are those which might increase or decrease. The nonguaranteed prices may be written in at the time of this contract with you understanding that the price is an estimate only and may increase or decrease. A settlement to that effect may have to be made with your family or representative after your death.

-- Can the preneed arranger and I negotiate a projected charge for the nonguaranteed items based on the rate of inflation?

It is entirely up to the preneed arranger to inform you of the funeral home policy in that regard.

CASKETS AND CONTAINERS

-- Do I have to buy a vault or a container to surround the casket in the grave?

In most areas of the country, state and local laws do not require that you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container to support the earth above the grave. Either a burial vault or a grave liner will satisfy if such requirements exist.

-- Is a casket required?

A casket is not required for direct cremation. If you want to arrange a direct cremation, you may use an unfinished wood box or an alternative container made of heavy cardboard or composition materials. You may choose a canvas pouch.

-- Do certain cemeteries and crematoriums have special requirements?

Particular cemeteries and crematoriums may have policies requiring that certain goods and services be purchased. If you decide not to purchase goods and services required by a particular cemetery or crematorium, you have the right to select another location that has no such policy.

Embalmer EMBALMING

-- Is Embalmer embalming always required?

Except in certain special cases, Embalmer embalming is not required by law. Embalmer Embalming may be necessary, however, if you select certain funeral arrangements such as viewing or visitation with an open casket. You do not have to pay for Embalmer embalming you did not approve if you selected select arrangements such as a direct cremation or immediate burial. If the funeral home must charge to conduct an Embalmer embalming, your designee will be notified of the reasons in writing.

ASSISTANCE

-- This is all very confusing to me. May I pick someone close to me to help with all of this? May this person also work with the funeral home to ensure that my wishes as written in the preneed contract are carried out?

You may designate in writing a person of your choice to work with the funeral home and preneed arranger either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing. Under the laws governing preneed contracts, the individual whom you designate has final authority at the time of your death.

-- Where can I complain if I have a problem concerning my preneed contract, the preneed arranger, or the funeral home?

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers
Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717
Telephone Number (804) 662-9941 662-9907
Toll Free Number 1-800-533-1560
Fax: (804) 662-9943

VA.R. Doc. No. R95-355; Filed March 13, 1995, 10:05 a.m.

* * * * *

Title of Regulations: VR 320-01-04. Resident Trainee Program for Funeral Service.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2817 of the Code of Virginia.

Effective Date: May 3, 1995.

Summary:

The amendments to these regulations provide new definitions for clarification and ease of compliance, set the maximum length of time an individual may be registered as a trainee, provide supervision of a registrant who has completed the formal trainee program but has not yet become licensed, and establish a requirement for a final report from the supervisor.

Summary of Public Comment and Agency Responses: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, Virginia 23230, telephone (804) 662-9907.

VR 320-01-04. Resident Trainee Program for Funeral Service.

PART I. GENERAL PROVISIONS.

Article 1. Definitions, Legal Base, Purpose, Applicability.

§ 1.1. Definitions.

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

"Applicant" means a person applying for registration by the board.

"Board" means the Board of Funeral Directors and Embalmers.

"Conduct" means to carry out and perform.

"Direct supervision" means that a licensed funeral service professional is present and on the premises of the facility with the trainee.

"Full-time school attendance" means that the individual attending mortuary science school is enrolled in 12 or more semester hours of coursework per semester.

"Full-time work schedule" means that the resident trainee works at least 40 hours per week.

"Part-time school attendance" means that the individual attending mortuary science school is enrolled in 11 or fewer semester hours of coursework per semester.

"Registration" means the process of applying to the board to seek approval to serve as a trainee or supervisor.

"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the board.

"Supervisor" means a licensed employee of the establishment which is the training site. The employee is licensed as an embalmer, funeral director, or funeral service licensee and has agreed to supervise the training program of the resident trainee and has been approved by the board to provide supervision.

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"Training site" means the licensed funeral establishment which has agreed to serve as the location for resident training and has been approved by the board for the training.

§ 1.2. Legal base.

~~Section 54.1-2817 of the Code of Virginia describes the responsibility of the Board of Funeral Directors and Embalmers to regulate the resident trainee program for funeral service in the Commonwealth of Virginia.~~

§ 1.3. 1.2. Purpose.

These regulations establish the standards for qualifications, training and practice of persons as resident trainees; sites of training; and supervisors of training in the Commonwealth of Virginia.

§ 1.4. 1.3. Applicability.

Individuals and establishments subject to these regulations are (i) funeral service resident trainees; (ii) licensed funeral homes serving as training sites; and (iii) funeral service licensees, funeral directors, and embalmers serving as training supervisors.

Article 2. Fees.

§ 1.5. 1.4. Initial fees.

The following fees shall be paid as applicable for registration:

1. Funeral service resident trainee registration	\$25
2. Resumption of traineeship after interruption	\$10

§ 1.6. 1.5. Renewal fee.

The following annual fee shall be paid for registration renewal:

Resident trainee registration renewal	\$25
---------------------------------------	------

§ 1.7. 1.6. Reinstatement fee.

The following reinstatement fee shall be paid in addition to annual renewal fees for reinstatement of an expired registration up to three years following expiration:

Resident trainee registration reinstatement	\$10
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Article 3. Other Fees.

§ 1.8. Other fees. 1.7. Duplicates.

A. Duplicates.

Duplicate trainee registration	\$25
--------------------------------	------

B. Other.

§ 1.8. Additional fee information.

1. A. There shall be a fee of \$25 for returned checks.
2. B. Fees shall not be refunded once submitted.

Article 3- 4.

Renewals.

§ 1.9. Expiration date.

A. The resident trainee registration shall expire on January 31 of each calendar year.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration.

C. No credit will be allowed for a traineeship period served under an expired registration.

§ 1.10. Renewal of registration.

A person who desires to renew his registration for the next year shall not later than the expiration date:

1. Return the renewal notice;

2. Submit the applicable fee; and

3. Notify the board of any changes in name, address, employment, or supervisor.

§ 1.11. Reinstatement of expired registration.

The board may consider reinstatement of an expired registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable delinquent renewal fees prescribed in § 1.6 1.5 plus the additional reinstatement fee prescribed in § 1.7 1.6.

§ 1.12. Reapplication for registration.

When a registration is not reinstated within three years of its expiration date, an applicant for registration shall restart the training program and reapply for traineeship.

PART II. TRAINEE PROGRAM REQUIREMENTS.

Article 1. Training Program: General.

§ 2.1. Resident training.

For applicants applying for initial traineeships after November 1, 1990, the A. The trainee program shall consist of at least 18 months of resident training.

B. An individual may hold an active traineeship registration for a maximum of 48 months from the date of initial registration for the traineeship program. The board, in its discretion, may grant an extension of the traineeship registration.

§ 2.2. C. A resident trainee shall not attend school full time while serving his traineeship (see § 1.1).

§ 2.3. 2.2. Number of trainees limited.

When more than two trainees are requested by a licensed funeral establishment, not more than two trainees will be registered per licensed supervisor at any time.

§ 2.4. 2.3. Approval of funeral training.

The approval shall apply to and be valid only to:

1. The resident trainee;
2. The licensed person(s) under whom the training is to be given; and
3. The funeral service establishment(s) named in the approval statement.

§ 2.5. 2.4. Trainee work schedule.

Every resident trainee shall be assigned a work schedule of at least 40 hours each week in order to obtain credit for such training. The trainee shall be required to serve weekday, evening, and weekend shifts to receive training in all areas of funeral service. *Additional and further hours may be at the discretion of the supervisor or may be a requirement of the facility.*

Article 2.

Resident Trainees: Requirements and Application Process for Registration.

§ 2.6. 2.5. Resident trainee requirements.

To be approved for registration as a resident trainee, a person shall:

1. Be a graduate of an accredited high school or the equivalent;
2. Obtain a supervisor approved by the board to provide training;
3. Have not been convicted of a felony. The board, in its discretion, may approve an individual convicted of a felony if he has been pardoned or has had his civil rights restored.

§ 2.7. 2.6. Trainee application package.

Every qualified person seeking registration with the board as a trainee under the Program for Training of Resident Trainees shall submit an application package which shall include:

1. Completed and signed application;
2. Fee prescribed in § 1.5 1.4 ;
3. Additional documentation as may be required by the board to determine eligibility of the applicant.

§ 2.8. 2.7. Submission of incomplete application package; exception.

All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the applicant.

Exception: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board. National examination scores where applicable will also be accepted from the examining authority.

§ 2.9. 2.8. Resumption-of-traineeship application.

When a traineeship is interrupted by the trainee, the trainee shall submit a resumption-of-traineeship application to the board prior to resuming his traineeship.

Article 3.

Establishment Application Requirements.

§ 2.10. 2.9. Training sites.

Funeral training shall be given at the main office of the licensed funeral service establishment approved for training or at any branch of such establishment that complies with the provisions of these regulations and is approved by the board as a training site.

§ 2.11. 2.10. Qualifications of training site.

The board shall approve only an establishment or two combined establishments to serve as the training site(s) which:

1. Have a full and unrestricted Virginia license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Have 35 or more funerals and 35 or more bodies for embalming per calendar year for each person to be trained. This total must be maintained throughout the period of training.

§ 2.12. 2.11. Approval of training site.

An individual, firm, or corporation owning or operating any funeral service establishment shall apply to and be approved by the board prior to permitting funeral training to be given or conducted in the establishment.

§ 2.13. 2.12. Establishment application package.

Every qualified establishment or combined establishments seeking approval as a training site(s) shall submit an application package which shall include:

1. Completed and signed application; and
2. Additional documentation as may be required by the board to determine eligibility of the establishment.

Article 4.

Supervisor Application Requirements.

§ 2.14. 2.13. Training supervision.

Training shall be conducted under the direct supervision of a licensee(s) approved by the board.

§ 2.15. 2.14. Qualifications of supervisor.

The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who:

1. Have a full and unrestricted Virginia funeral license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Are employed full time in the establishment where training occurs.

§ 2.16. 2.15. Supervisor approval.

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An individual shall apply to and be approved by the board prior to serving as a supervisor.

§ 2.17. 2.16. Supervisor application package.

Every qualified person seeking approval of the board as a supervisor shall submit an application package which shall include:

1. Completed and signed application; and
2. Additional documentation as may be required by the board to determine eligibility of the applicant.

§ 2.18. 2.17. Curriculum compliance.

An approved supervisor shall comply with and shall provide supervision and training as prescribed by these regulations.

Article 5. Program Requirements.

§ 2.19. 2.18. Selection of new supervisor.

If the program is interrupted because the approved supervisor is unable to serve, the trainee shall obtain a new supervisor.

§ 2.20. 2.19. Resumption of training.

Credit for training shall resume when a new supervisor is obtained by the trainee and approved by the board.

Article 6. Reporting Requirements.

§ 2.21. 2.20. Report to the board: six-month report; partial report; final report.

A. The trainee, the supervisor(s), and the establishment shall submit a written report to the board at the end of every six months of training. The report shall:

1. Verify that the trainee has actually served in the required capacity during the preceding six months; and
2. Be received in the board office no later than 10 days following the end of the six-month period. A late report automatically will have credit deducted in two week increments from the completed training time.

B. If the training program is terminated or interrupted prior to completion of a six-month period, the trainee and the supervisor shall submit a partial report to the board. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given in increments of one month.

Written explanation of the causes of program termination or interruption shall be provided by the trainee and the supervisor.

Partial reports shall be received in the board office no later than 10 days after the interruption or termination of the trainee program. Credit may be deducted for late reports.

C. The trainee, the supervisor(s) and the establishment manager shall submit written final reports to the board at the end of the apprenticeship period as follows:

1. A Final Trainee Report, which certifies that the trainee has conducted 25 funerals and 25 embalmings, shall be submitted.

2. A trainee, his supervisor and the establishment manager shall submit a notarized affidavit to the board at the end of the trainee program that full compliance has been met with the trainee curriculum.

3. A trainee shall submit a completed checklist showing a chronological history of training to the board at the end of the trainee program.

All final reports shall be received in the board office no later than 10 days after the completion of the traineeship. Late reports may result in additional time being added to the traineeship.

§ 2.22. 2.21. Failure to submit training report.

If the trainee, supervisor, or establishment manager fails to submit the reports required in § 2.24 2.20, the trainee shall forfeit all credit for training since the last report made, or disciplinary action may be taken against the trainee, supervisor and establishment manager. The board may waive such forfeiture.

§ 2.23. Terminated or interrupted training.

If the training program is terminated or interrupted prior to completion of a six-month period, the trainee and the supervisor shall submit the following information to the board within five working days:

1. Trainee.
 - a. All partial progress reports to the date of termination for the six-month period; and
 - b. Written explanation of the causes of program termination/interruption.
2. Supervisor. The supervisor shall submit written explanation of the causes of program termination/interruption.

§ 2.24. Credit for partial reports.

Credit for partial reports shall only be given in increments of one month.

PART III. TRAINING PROGRAM: FUNERAL SUPERVISORS' RESPONSIBILITIES.

Article 1. Regulations and Forms.

§ 3.1. Regulations.

The supervisor shall provide the trainee with regulations or sections of regulations relating to the funeral industry as follows:

1. Regulations of the Board of Funeral Directors and Embalmers;

- 2. Preneed regulations of the Board of Funeral Directors and Embalmers;
- 3. Virginia Department of Health regulations governing:
 - a. Vital statistics reporting;
 - b. Responsibilities of the medical examiner;
 - c. Cremations and burial at sea;
 - d. Disinterments and reinterments;
 - e. Shipping bodies to another country;
 - f. Shipping bodies by public transport; and
 - g. Filing of death certificates;
- 4. Occupational Safety and Health Administration (OSHA) regulations;
- 5. Regulations governing the filing of Veteran's Administration and Social Security claims;
- 6. Federal Trade Commission's Funeral Rule on funeral industry practices.

§ 3.2. Forms.

The supervisor shall provide the trainee with copies of and explanations for the use of:

- 1. General price list;
- 2. Itemized statement of funeral goods and services;
- 3. Casket price list;
- 4. Outer burial container price list; and
- 5. Preneed contract.

§ 3.3. Forms completion.

The supervisor shall instruct the trainee in how to complete, and allow the trainee to complete, final forms for business as follows:

- 1. Itemized statements of funeral goods and services;
- 2. Preneed contracts;
- 3. Death certificates;
- 4. Veteran and Social Security Administration forms;
- 5. Cremation forms; and
- 6. Vital statistic reports.

§ 3.4. Preneed funding forms.

The supervisor shall instruct the trainee on the requirements and use of forms used by funding companies for the investment of preneed funds.

Article 2.

Knowledge of the Community and Others.

§ 3.5. Community resources.

The supervisor shall provide the trainee with a list of the following and a contact person whom the funeral home uses as a resource at each place: *with a contact at each of the following:*

- 1. Area hospitals;
- 2. Area nursing homes;
- 3. Regional medical examiner;
- 4. City or county morgue;
- 5. Police department;
- 6. Cemeteries and crematoriums; and
- 7. Churches, mosques, synagogues.

§ 3.6. Community funeral customs.

The supervisor shall instruct the trainee on the funeral customs of the following:

- 1. Nationalities served by the funeral home;
- 2. Religious rites;
- 3. Fraternal rites; and
- 4. Military rites.

Article 3. Merchandising.

§ 3.7. Merchandising.

The supervisor shall instruct the trainee on:

- 1. The features and prices of merchandise offered by the establishment, both special order and in-stock merchandise;
- 2. How to display merchandise and stock the selection room;
- 3. How to complete information cards to be displayed on caskets; and
- 4. How to order merchandise.

Article 4. Initial Arrangements and Meeting with the Family.

§ 3.8. Initial contact.

The supervisor shall allow the trainee to observe and then conduct the following:

- 1. Taking a death call;
- 2. Removing a body and transporting it to the funeral home;
- 3. Placing the body in the preparation or holding room;
- 4. Obtaining permission for embalming;
- 5. Documenting verbal permission for embalming; and
- 6. Documenting the reason for proceeding with an embalming when the next-of-kin cannot be contacted.

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§ 3.9. Confidentiality and dignity.

The supervisor shall instruct the trainee in the meaning of, and ensure that the trainee adheres to, the funeral home policy for:

1. Honoring the confidentiality of every family and family member; and
2. Honoring the dignity of the dead and the families of the dead at all times.

§ 3.10. Initial arrangements.

The supervisor shall allow the trainee to observe and then to practice with the supervisor the following:

1. Giving prices over the telephone;
2. The required time to offer the general price list, casket price list, outer burial container price list, and presenting the itemized statement of funeral goods and services to the family;
3. Meeting with the family and discussing prices and disclosures;
4. Taking vital statistics information;
5. Taking information for obituary notices and filing the notices with the newspaper;
6. Showing the family the merchandise in the selection room;
7. Making cash advance arrangements with a third party; and
8. Arranging with and completing the paperwork for cremations and cemetery burials.

§ 3.11. Meeting with the family.

With the supervisor present and in the same room, the supervisor shall allow the trainee to:

1. Meet with families to discuss prices, disclosures, and making arrangements for at need services;
2. Complete itemized statements of funeral goods and services for presentation to the families;
3. Complete preneed arrangements with families;
4. Explain the features and prices of merchandise to families; and
5. Assist families in choosing at need substitute merchandise when merchandise that is chosen during a preneed arrangement is not available at need.

Article 5. The Service.

§ 3.12. Disposition.

The supervisor shall allow the trainee to observe and then conduct the following arrangement for disposition of the body.

1. Making cemetery and crematory arrangements;

2. Taking a body to the crematorium; and
3. Disposing of cremains as requested by the family.

§ 3.13. Services.

The supervisor shall allow the trainee to observe and then conduct with the supervisor present, the following arrangements:

1. Visitation/viewing;
2. Chapel, church, and graveside services;
3. Services for disposition of cremains;
4. Funeral processions;
5. Multiple services taking place simultaneously;
6. Direct cremations;
7. Immediate burials;
8. Receiving bodies from another funeral home;
9. Shipping bodies to another funeral home; and
10. Preparing information sheet on services for receptionist to use in answering questions for the public.

PART IV. RESPONSIBILITIES OF EMBALMING SUPERVISOR.

Article 1. Preparation Room.

§ 4.1. Preparation room.

The supervisor shall instruct the trainee on the following:

1. Stocking the preparation room to meet compliance with regulations;
2. Purpose and use of protective clothing and gear during the preparation of a body;
3. Cleanliness, disinfection, and sanitation requirements for the preparation room;
4. Hazardous and infectious waste management; and
5. Cleaning and sterilizing reusable instruments.

Article 2. The Embalming.

§ 4.2. Embalming: general.

The supervisor shall instruct the trainee on the following:

1. Use and purpose of the embalming instruments;
2. Use and purpose of the embalming fluids; and
3. Use and purpose of the embalming report.

§ 4.3. Embalming.

The supervisor shall allow the trainee to observe, and then conduct with the supervisor present and in the same room, the following:

1. External disinfection of bodies;

2. Cleaning bodies after the embalming;
3. Using precautions in an embalming of bodies harboring an infectious disease;
4. Preparing bodies with tissue gas;
5. Setting the features on bodies;
6. Using restorative techniques on damaged bodies;
7. Using cosmetology on bodies;
8. Clothing bodies;
9. Casketing bodies; and
10. Embalming bodies.

§ 4.4. Embalming reports.

The supervisor shall have the trainee observe and then complete embalming reports.

PART V. THE TRAINEE'S RESPONSIBILITIES.

Article 1. Regulations and Forms.

§ 5.1. Regulatory agencies.

The trainee shall be able to list the state and federal agencies that regulate the funeral industry and be able to describe the roles and functions of each agency as it relates to the funeral industry.

§ 5.2. Regulations.

The trainee shall be knowledgeable of the contents of the regulations prescribed in § 3.1 and be able to explain to the supervisor and the board those regulations and how they apply to the funeral industry.

§ 5.3. Forms.

The trainee shall complete the forms prescribed in § 3.3 and be able to explain to the supervisor and the board the use and content requirements of the forms.

§ 5.4. Preneed.

The trainee shall be able to explain to the supervisor and the board preneed funding requirements.

Article 2. Knowledge of the Community and Others.

§ 5.5. Community resources.

The trainee shall contact at a time of need the funeral home's resource person at each of the facilities prescribed in § 3.5 and make arrangements as pertinent for transporting, removing, services, or disposition of the dead.

§ 5.6. Funeral customs.

The trainee shall be knowledgeable of and be able to explain to the supervisor and the board the funeral customs described in § 3.6.

Article 3. Merchandising.

§ 5.7. Merchandising.

The trainee shall:

1. Display merchandise and learn to stock the selection room;
2. Prepare pricing and information cards to be displayed on the caskets;
3. Be able to explain to the supervisor the features and prices of merchandise; and
4. Place an order for merchandise.

Article 4. Initial Arrangements and Meeting with the Family.

§ 5.8. Initial contact.

The trainee shall conduct the activities prescribed in § 3.8 under the supervision of the supervisor.

§ 5.9. Meeting with the family.

The trainee shall conduct arrangements with families in the presence of and in the same room with the supervisor as prescribed in §§ 3.10 and 3.11.

Article 5. The Service.

§ 5.10. Disposition and services.

The trainee shall plan and conduct 25 funerals during the traineeship as prescribed in §§ 3.12 and 3.13.

Article 6. Embalming.

§ 5.11. Embalming.

The trainee shall conduct 25 embalmings in the room with and under the supervision of the embalming supervisor. The trainee will conduct all procedures prescribed in § 4.3.

§ 5.12. Embalming preparation.

The trainee shall have a knowledge of and be able to explain to the supervisor and the board the purpose and procedures as prescribed in §§ 4.1 and 4.2.

§ 5.13. Embalming reports.

The trainee shall complete embalming reports on the 25 embalmings the trainee conducts.

PART VI. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

§ 6.1. Disciplinary action.

The board may refuse to issue or renew a license, registration, or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license, registration, or approval, or reprimand any person, or

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place his license or registration on probation with such terms and conditions and for such time as it may designate or impose a monetary penalty for failure to comply with the regulations of the training program or the Regulations of the Board of Funeral Directors and Embalmers.

NOTICE: The forms used in administering the Resident Trainee Program for Funeral Service regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Funeral Directors and Embalmers, 6606 West Broad Street, 4th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Street, 2nd Floor, Room 262, Richmond, Virginia.

Application for Apprenticeship

Application for Apprenticeship Supervisor

General Information for All Trainees, DHP (revised 11/93)

Resident Trainee Report, DHP-14-004 (revised 11/93)

Certification of Embalmings, DHP-14-005 (revised 11/93)

Certification of Funerals, DHP-14-006 (revised 11/93)

Training Program - Funeral Service Supervisor's
Responsibilities

Training Program - Trainee Responsibilities

V.A.R. Doc. No. R95-356; Filed March 13, 1995, 10:04 a.m.

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

March 9, 1995

ADMINISTRATIVE LETTER 1995-4

TO: All Surplus Lines Carriers Authorized to do Business in Virginia and All Surplus Lines Brokers Licensed to do Business in Virginia

RE: Rescission of Administrative Letter 1989-8

Virginia Code Section 46.2-475 of the Motor Vehicle Title provides that no policy of motor vehicle insurance required thereunder may be issued or delivered in the Commonwealth of Virginia *unless* such policy complies with Virginia Code Sections 38.2-2218 through 38.2-2225 of the Insurance Title. Virginia Code Sections 38.2-2218 through 38.2-2225 require (i) that the State Corporation Commission establish standard forms for motor vehicle insurance and (ii) further require insurers to use the standard forms adopted by the Commission. There is no exception contained in either the Insurance Title or the Motor Vehicle Title of the Code of Virginia to this requirement with respect to surplus lines carriers.

Accordingly, Administrative Letter 1989-8 is hereby rescinded and surplus lines carriers and surplus lines brokers

are hereby notified that such carriers and brokers shall be required to comply with Virginia automobile standard forms adopted by the State Corporation Commission.

Surplus lines carriers are not required to comply with Virginia's form filing requirements nor are surplus lines carriers required to comply with any statutory provisions pertaining to fire insurance or fire insurance in combination with other coverages. Any broadenings of motor vehicle insurance coverage forms will not be required to be filed with the Bureau of Insurance. However, please bear in mind that any motor vehicle insurance policy that deviates in language from the standard form adopted by the State Corporation Commission may, in no manner or respect, provide coverage which is less favorable to the insured or otherwise than that which the standard form provides.

If you need to obtain copies of standard automobile insurance forms approved for use in the Commonwealth of Virginia, please contact the Bureau of Insurance at (804) 371-9965. If you have any other questions regarding this administrative letter, please call Chris Brockwell at (804) 371-9399.

/s/ Steven T. Foster
Commissioner of Insurance

V.A.R. Doc. No. R95-354; Filed March 13, 1995, 3:26 p.m.

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION EMERGENCY REGULATIONS

Title of Regulation: VR 450-01-0004. Pertaining to the Licensing of Fixed Fishing Devices.

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes the procedures associated with licensing fixed fishing devices. This regulation also establishes the procedures used to determine priority rights of fixed fishing device licensees.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-210 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0004 that was adopted on December 21, 1993, and was effective on January 1, 1994. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0004. Pertaining to the Licensing of Fixed Fishing Devices.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. This regulation provisionally amends the previous regulation, VR 450-01-0004, Pertaining to the Licensing of Fixed Fishing Devices, which was promulgated by the Marine Resources Commission and made effective January 23, 1995. The provisional amendments to this regulation will exist as long as the moratorium on the American shad, specified by VR 450-01-0069, is in effect.

C. The effective date of this regulation is January 1, 1994.

§ 2. Purpose.

The purpose of this regulation is to set forth the procedures pertaining to the licensing of fixed fishing devices and the priority rights of holders of fixed fishing device licenses.

§ 3. § 2. Definitions.

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

"*Fixed fishing device*" means any fishing device used for the purpose of catching fish and requiring the use of more than two poles or stakes which have been pushed or pumped into the bottom.

"*Fyke net*" means a round stationary net distended by a series of hoops or frames, covered by web netting or wire mesh and having one or more internal funnel-shaped throats whose tapered ends are directed away from the mouth of the net. The net, leader or runner is held in place by stakes or poles which have been pushed or pumped into the bottom and has one or two wings and a leader or runner to help guide the fish into the net.

"*Officer*" means the marine patrol officer in charge of the district within which the fixed fishing device is located.

"*Pound net*" means a stationary fishing device supported by stakes or poles which have been pushed or pumped into the bottom consisting of an enclosure identified as the head or pocket with a netting floor, a heart, and a straight wall leader or runner to help guide the fish into the net.

"*Staked gill net*" means a fixed fishing device consisting of an upright fence of netting fastened to poles or stakes which have been pushed or pumped into the bottom.

§ 4. § 3. Location and measurements.

A. A fixed fishing device shall be perpendicular to the shoreline insofar as possible.

B. In determining compliance with the requirements prescribing minimum distances between fixed fishing devices, measurement shall be made from the center line of each device.

C. An applicant shall state the desired length of the fixed fishing device, which shall not exceed the maximum limit prescribed by law. Such length shall be stated on any license issued by the officer. A licensee may apply for a new license to include a greater length provided such additional length does not make the device exceed the maximum legal length or the legal requirement of a minimum distance between successive fishing structures in the same row. In the event a licensee fishes a length less than that stated on the license, the unfishable length shall be subject to the provisions of § 6.5 B of this regulation.

§ 5. § 4. Priority rights; general.

Except as may be otherwise provided herein, chronological order of receipt of applications shall be used to establish priority rights of any applicant to any fixed fishing device location. In those instances of simultaneous receipt, priority shall be determined by lottery.

§ 6. § 5. Priority rights; renewal by current licensee.

A. Applications for renewal of license for existing fixed fishing devices may be accepted by the officer beginning at 9 a.m. on December 1 of the current license year through noon on January 10 of the next license year providing the applicant has met all requirements of law and this regulation. Any location not relicensed during the above period of time shall be considered vacant and available to any qualified applicant after noon on January 10.

B. Except as provided in subsection C of this section, a currently licensed fixed fishing device must have been fished

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during the current license year in order for the licensee to maintain his priority right to such location. It shall be mandatory for the licensee to notify the officer, on forms provided by the commission, when the fixed fishing device is ready to be fished in the location applied for, by a complete system of nets and poles, for the purpose of visual inspection by the officer. Either the failure of the licensee to notify the officer when the fixed fishing device is ready to be fished or the failure by the licensee actually to fish the licensed device, by use of a complete system of nets and poles, shall terminate his right or privilege to renew the license during the period set forth in subsection A of this section, and he shall not become a qualified applicant for such location until 9 a.m. on February 1. Any application received from an unqualified applicant under this subsection shall be considered as received at 9 a.m. on February 1; provided, however, that in the event of the death of a current license holder, the priority right to renew the currently held locations of the deceased licensee shall not expire by reason of failure to fish said locations during the year for which they were licensed, but one additional year shall be and is hereby granted to the personal representative or lawful beneficiary of the deceased licensee to license the location in the name of the estate of the deceased licensee for purposes of fishing said location or making valid assignment thereof.

C. During the effective period of VR 450-01-0069, which establishes a moratorium on the taking and possession of American shad in the Chesapeake Bay and its tributaries, any person licensed during 1993 to set a staked gill net who chooses not to set that net during the period of the moratorium may maintain his priority right to the stake net's 1993 location by completing an application for a fixed fishing device and submitting it to the officer. No license fee shall be charged for the application.

§ 7. Priority rights; licensed location, request by other than current licensee.

Applications for license for currently licensed fixed fishing device locations by persons other than the current licensee shall not be accepted by the officer during the year any current license is valid.

§ 6. Priority rights; vacant location.

Application from any qualified applicant for any fixed fishing device at a vacant and unlicensed location may be accepted by the officer at any time during the year for which the license is intended, and only for the year during which the license is intended, except that any application received prior to noon on January 10 for any location believed to be vacant and unlicensed pursuant to § 6.5 B shall be considered as received at noon on January 10, and in chronological order of receipt.

§ 9. Transfer and vested rights.

A. A current fixed fishing device license, and the rights to renew same, may be transferred by the present licensee provided all parties comply with the existing statutes and regulations. Any transferee takes the license subject to all of the duties of the transferor.

B. Any rights a licensee may have, upon his death, shall be vested in his personal representative or lawful beneficiary.

§ 9. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-335; Filed March 6, 1995, 9:10 a.m.

* * * * *

Title of Regulation: VR 450-01-0035. Pertaining to the Culling of Oysters.

Statutory Authority: §§ 28.2-201, 28.2-210, 28.2-507, 28.2-511, and 28.2-513 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes clean cull and seed areas, a minimum size limit, culling requirements, and inspection procedures for oysters taken from public oyster beds, rocks and shoals in the Chesapeake Bay and its tributaries and on all oyster grounds on the Seaside of Eastern Shore.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-210, 28.2-507, 28.2-511, and 28.2-513 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0035 that was adopted on September 27, 1994, and was effective on September 28, 1994. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0035. Pertaining to the Culling of Oysters.

§ 1. Prior regulations.

~~This regulation rescinds orders 75-4, 82-8, VR 450-01-8801, VR 450-01-8807, and VR 450-01-8808.~~

§ 2. § 1. Purpose.

The purpose of this regulation is to establish clean cull and seed areas, culling requirements (minimum size limits) and inspection procedures which will provide protection for the public oyster beds, rocks, and shoals in Virginia's tidal waters.

§ 3. Definitions. § 2. Designation of seed areas and clean cull areas.

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A. Seed areas. All *The following* natural public oyster beds, rocks, or shoals are designated for the harvest of seed oysters, as follows:

1. Seaside of Eastern Shore. All of the public oyster grounds on the eastern side of Accomack and Northhampton Counties on Virginia's Eastern Shore.
2. James River. All of the public oyster grounds in the James River and its tributaries above a line drawn from Cooper's Creek in Isle of Wight County on the south side of the James River to a line in a northeasterly direction across the James River to the Newport News municipal water tank located on Warwick Boulevard between 59th and 60th Streets in the City of Newport News, excluding the Jail Island and Point of Shoals Clean Cull area and the Deep Water Shoal State Repletion Seed Area.
3. Deep Water Shoal State Repletion Seed Area in the James River (574.66 acres) - beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, North 302,280.00, East 2,542,360.00; thence North Azimuth 30°49'59", 4,506.99 feet to Corner 2, North 306,150.00, East 2,544,670.00; thence North Azimuth 135°08'57", 5,430.60 feet to Corner 3, North 302,300.00, East 2,548,500.00; thence North Azimuth 212°13'54", 3,487.42 feet to Corner 4, North 299,350.00, East 2,546,640.00; thence North Azimuth 269°10'16", 2,765.29 feet to Corner 5, North 299,310.00, East 2,543,875.00; thence North Azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning. (Map 1)

B. Clean cull areas. All natural public oyster beds, rocks, or shoals in the tidal waters of Virginia, except those designated by the Marine Resources Commission as seed areas, shall be considered clean cull areas.

Two areas within the James River Seed Area are set aside as clean cull areas and are described as follows:

1. Jail Island Clean Cull area (1,010 acres): Beginning at a point approximately 2,000 feet southwest of the shore of Mulberry Island at Point A as located by Virginia State Plane Coordinates, South Zone, NAD 1927 North 281,468.20, East 2,558,879.7; thence North Azimuth 131°26'56", 8,422.95 feet to Corner 1B, North 275,892.62, East 2,565,193.09, North Azimuth 210°28'11", 2,037.29 feet to Corner 20, North 274,136.69, East 2,564,160.02, thence North Azimuth 311°26'56", 8,949.8 feet to Point 22, North 280,061.03, East 2,557,451.72, continuing North Azimuth 311°26'22", 13,325.00 feet to Corner 3, North 288,879.88, East 2,547,462.55, thence North Azimuth 45°25'14", 2,004.82 feet to Corner 4, North 290,287.06, East 2,548,890.54, thence North Azimuth 131°26'22", 13,325.00 feet to Point A, being the point of beginning. (Map 2)

2. Point of Shoals Clean Cull Area (Baylor Acres - 820 acres): Beginning at Channel Light #7 and continuing along the south side of channel to Tylers Beach to Channel Light #1 at entrance to Tylers Beach Channel,

thence North Azimuth 101°08'43", 8,417 feet to an intersection corner near east end of Long Rock, Latitude 37°04'28.2", Longitude 76°37'37.5", thence North Azimuth 205°11'49", 9,604 feet to Day Marker #4, Latitude 37°03'03.1", Longitude 76°38'30", extending on same Azimuth line to other private ground. This area excludes any private leases within the outlined area. (Map 3)

§ 4. § 3. Minimum cull size.

In order to encourage a continued supply of marketable oysters minimum size limits are hereby established. Undersized oysters and/or shells shall be returned immediately to their natural beds, rocks, or shoals where taken. When small oysters are adhering so closely to the shell of the marketable oyster as to render removal impossible without destroying the young oyster, then it shall not be necessary to remove it. Allowances for undersized oysters and shells incidentally retained during culling are found in § 5 § 4 of this regulation.

1. Oysters taken from clean cull areas shall not have shells less than three inches in length.
2. In the James River seed area there shall be no size limit and oysters shall not be marketed for direct consumption.
3. On the Seaside of Eastern Shore seed area, the shells of oysters marketed for direct consumption shall not be less than three inches in length. (Oysters marketed as seed oysters shall have no size limit.)

§ 5. § 4. Culling tolerances or standards.

A. In the clean cull areas, if more than one four-quart measure of undersized oysters or shells is found per bushel inspected it shall constitute a violation of this regulation.

B. In the James River seed areas if more than one six-quart measure of shells is found per bushel of seed oysters inspected it shall constitute a violation of this regulation.

C. On the Seaside of Eastern Shore seed areas, if more than one four-quart measure of undersized (less than three inches) oysters and shell is found per bushel of oysters to be marketed for direct consumption, it shall constitute a violation of this regulation.

§ 6. § 5. Culling and inspection procedures.

A. All oysters taken from natural public beds, rocks, or shoals shall be placed on the culling board and culled by hand to the inside open part of the boat in a loose pile; however, when oysters are taken by hand and held in baskets or other containers they shall be culled as taken and transferred from the container to the inside open part of the boat in a loose pile and subject to inspection by any Marine Resources Commission law-enforcement officer.

B. If oysters from leased grounds and oysters from public grounds are mixed in the same cargo on a boat or motor vehicle, the entire cargo shall be subject to inspection under this regulation.

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C. It shall be unlawful for any harvester to store oysters taken from public grounds on any boat in any type of container. All oysters taken from said areas shall be sold or purchased only in the regular oyster one-half bushel or one bushel measure as described in § 28.2-526 of the Code of Virginia, except that on the Seaside of the Eastern Shore oysters may be sold without being measured if both the buyer and the seller agree to the number of bushels of oysters in the transaction.

D. In the inspection of oysters the law-enforcement officer shall, with a shovel, take at least one bushel of oysters at random, provided that the entire bushel shall be taken at one place in the open pile of oysters.

§ 7. § 6. Penalty.

A. As set forth in §§ 28.2-204 28.2-510 and 28.2-511 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation *except § 5 C* shall be guilty of a Class 3 misdemeanor.

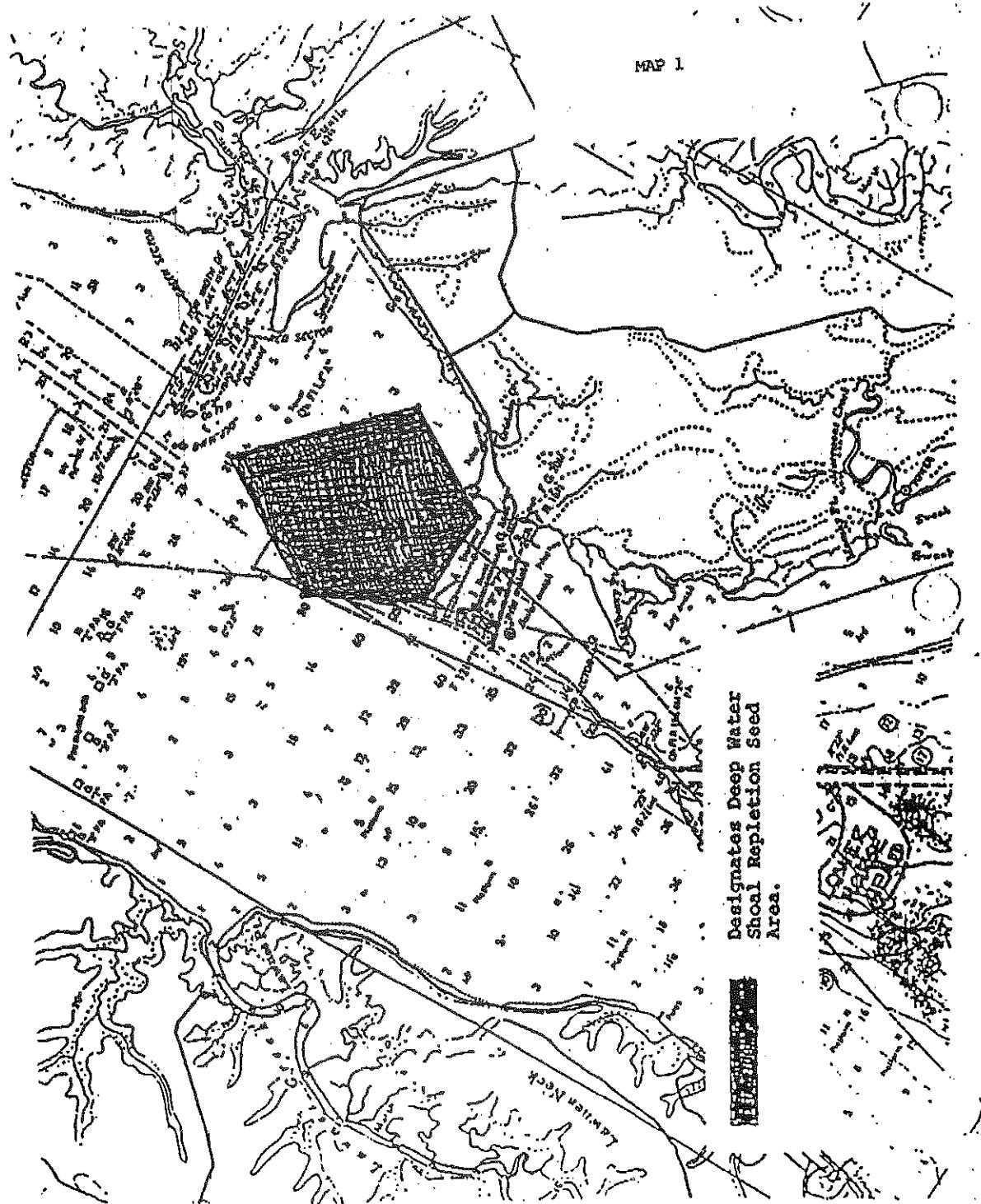
B. *As set forth in § 28.2-526 of the Code of Virginia, any person violating any provision of § 5 C of this regulation shall be guilty of a Class 1 misdemeanor.*

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-336; Filed March 6, 1995, 8:56 a.m.

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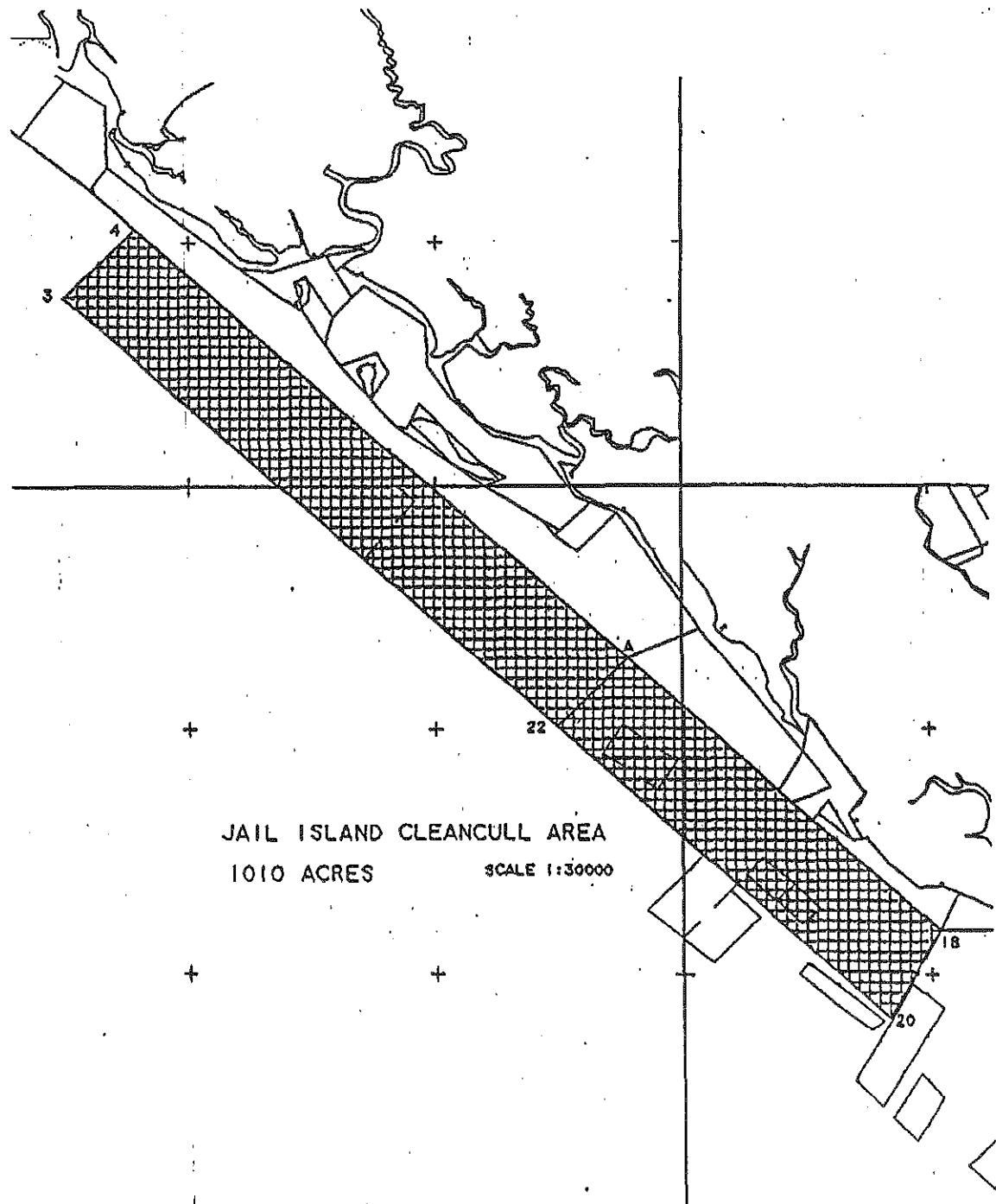
Map 1: Designates Deep Water Shoal Repletion Seed Area.



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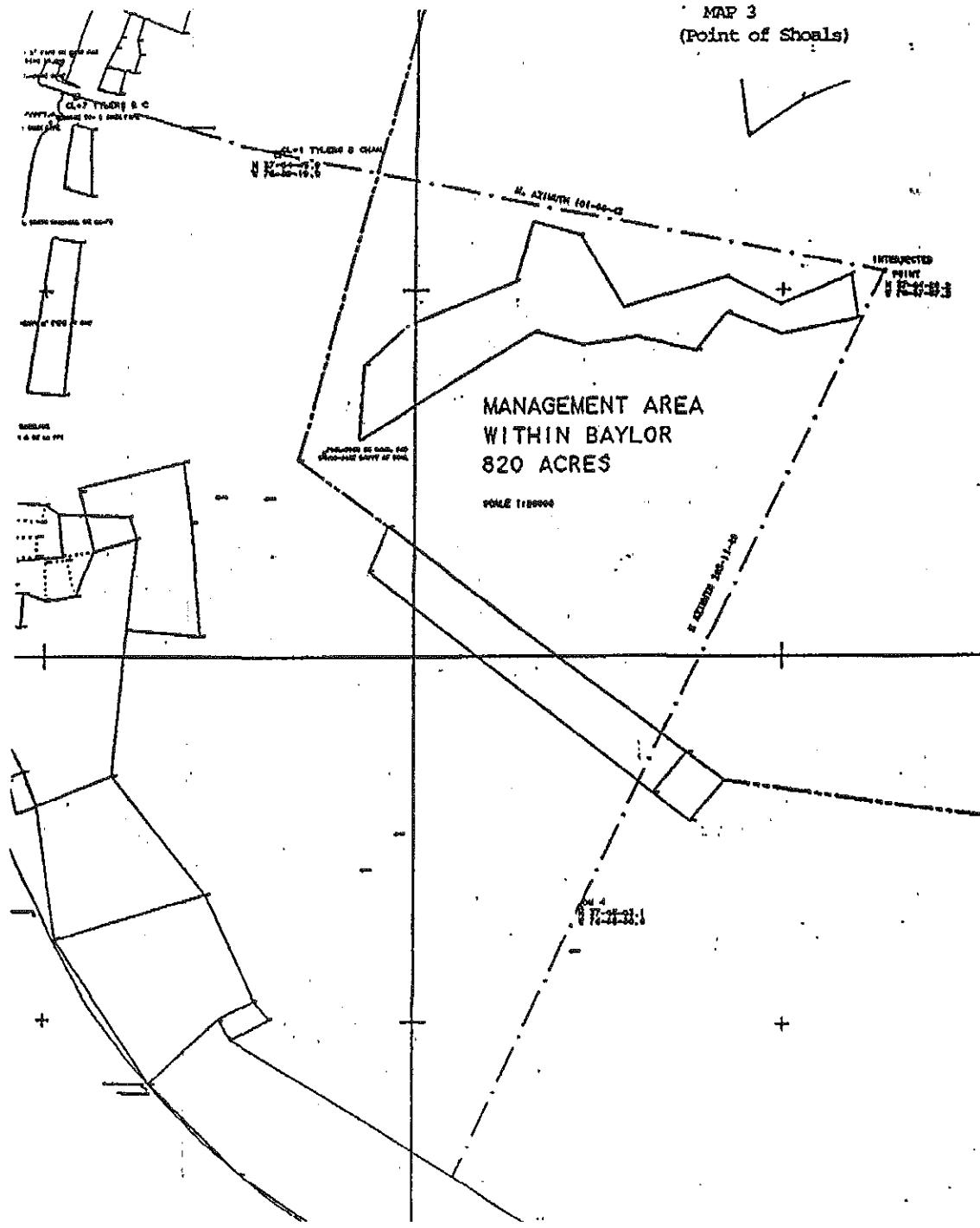
Map 2: Jail Island Clean Cull Area 1010 Acres.

MAP 2



Marine Resources Commission

Map 3: Management Area Within Baylor 820 Acres.



Marine Resources Commission

* * * * *

Title of Regulation: VR 450-01-0069. Pertaining to the Taking of Shad.

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes a total moratorium on the harvest of American Shad from the Chesapeake Bay and its tributaries.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-210 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0069 that was adopted on December 22, 1992, and was effective January 1, 1993. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0069. Pertaining to the Taking of Shad.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. This regulation amends previous VR 450-01-0069 promulgated and made effective on January 1, 1992.

C. The effective date of this regulation is January 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to reduce fishing mortality in order to rebuild the Virginia stocks of American Shad. The shortened fishing season in 1993 is established to minimize the immediate impact of a complete moratorium which will be effective on January 1, 1994.

§ 3. Mouth of Chesapeake Bay defined.

§ 2. Definitions.

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

For the purposes of this regulation, the mouth of the Chesapeake Bay is defined as "Chesapeake Bay" means the areas west of the Colregs Demarcation Line, as appearing on NOAA Chart No. 12221, which runs from the Cape Henry Lighthouse in Virginia Beach to the Cape Charles Lighthouse on Smith Island.

§ 4. Fishing season.

A. The lawful fishing season for the commercial and recreational harvest of American Shad from the Chesapeake

Bay and its tidal tributaries shall be March 15, 1993, through April 15, 1993, both dates inclusive.

B. It shall be unlawful for any person to catch and retain possession of any American Shad from the Chesapeake Bay or its tributaries outside of the lawful fishing season.

§ 5. Entry limitations.

A. It shall be unlawful for any person to harvest American Shad with commercial fishing gear from the Chesapeake Bay or its tidal tributaries without first having obtained a permit from the Marine Resources Commission. Permits shall be issued to persons meeting the following conditions:

1. The applicant shall be licensed as a registered commercial fisherman and shall apply for a "Commercial Shad Harvest Permit" by completing the form provided by the commission.
2. The applicant shall have fished commercially for American Shad during the 1991 or 1992 legal fishing season and shall submit proof of such activity to the commission with the completed application form.

§ 6. Gear restrictions.

A. It shall be unlawful for any person utilizing a vessel or boat to harvest fish by gill net to have on board, possess, or land American Shad in a vessel equipped with more than 3,000 yards of gill net.

B. It shall be unlawful for any person to use or to place overboard for the harvest of American Shad more than 3,000 yards of gill net per boat.

§ 7. § 3. Moratorium.

A. On and after January 1, 1994, it shall be unlawful for any person to catch and retain possession of American Shad from the Chesapeake Bay or its tidal tributaries.

B. On and after January 1, 1994, it shall be unlawful for any person to possess any American Shad taken from the Chesapeake Bay or its tidal tributaries.

§ 8. § 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-337; Filed March 6, 1995, 9:02 a.m.

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Title of Regulation: VR 450-01-0078. Pertaining to Pound Net License Sales.

Statutory Authority: §§ 28.2-201, 28.2-204.1, and 28.2-210 of the Code of Virginia.

Marine Resources Commission

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation limits the sale of pound net licenses to the number of pound nets licensed on or before August 5, 1994.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-204.1, and 28.2-210 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0078 that was adopted on July 29, 1994, and was effective on August 5, 1994. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0078. Pertaining to Pound Net License Sales.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

B. The effective date of this regulation is August 5, 1994.

§ 2. Purpose.

The purpose of this regulation is to limit the number of pound net licenses to the number of pound net licenses sold on or after January 1, 1994, but prior to and through August 5, 1994. This regulation is part of recent restrictions adopted by the Marine Resources Commission in order to reduce the weakfish fishing mortality rate and thereby establish compliance with mandatory requirements of the Atlantic Coastal Fisheries Cooperative Management Act (Public Law 103-206) to be consistent with federal and interstate management measures.

§ 3. Definition of pound net Definitions.

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

For the purposes of this regulation a pound net is "Pound net" means a stationary or fixed fishing device consisting of several stakes or poles which have been pushed or pumped into the bottom and attached to netting which forms a straight wall or leader which serves to guide fish through a funnel and heart-shaped enclosure into a terminal head or pocket with a netting floor.

§ 4. Limit on sale of licenses.

A. Except as provided in § 5 of this regulation, the total number of pound net licenses issued for 1995 shall be limited to the number of pound net licenses sold prior to on or before August 5, 1994, for calendar year 1994. No additional pound net licenses shall be sold for calendar year 1994.

B. All eligible license renewals by those licensees who meet the requirements of subsection A of this section, applications for vacant locations, if available, and requests for transfer of license shall be made in accordance with VR 450-01-0004.

§ 5. Exceptions to limit on pound net licenses.

Licenses issued for pound nets to be set in the following areas shall not be limited in number:

1. In the James River, upstream of a line connecting Scotland Wharf with Jamestown Wharf.
2. In the Mattaponi and Pamunkey Rivers, upstream of the Route 33 bridges at West Point.
3. In the Rappahannock River, upstream of the Route 360 bridge at Tappahannock.
4. In the Virginia Potomac River tributaries, upstream of the Route 301 bridge.

§ 6. Penalty.

As provided in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-338; Filed March 3, 1995, 4:37 p.m.

Title of Regulation: VR 450-01-0079. Pertaining to Commercial Fishing and Mandatory Harvest Reporting.

Statutory Authority: §§ 28.2-201, 28.2-204, 28.2-210, 28.2-242 and 28.2-243 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation describes the procedure and manner for application for registration as a commercial fisherman, the manner and form of mandatory harvest reports by commercial fishermen and others, and exceptions to the registration process and delay requirements as specified in § 28.2-241 of the Code of Virginia. A commercial hook-and-line license is also established.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-204, 28.2-210, 28.2-242, and 28.2-243 of the Code of Virginia. This emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The

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effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0079. Pertaining to Commercial Fishing and Mandatory Harvest Reporting.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-204, 28.2-242, and 28.2-243 of the Code of Virginia.

B. This regulation replaces previous regulation VR 450-01-0079 which was promulgated and made effective January 1, 1994.

C. The effective date of this regulation is July 1, 1994.

§ 2. § 1. Purpose.

The purpose of this regulation is to establish the procedures for the registration of commercial fishermen and the manner and form of mandatory harvest reports from fishermen and others. Further, the purpose is to license commercial fishermen using hook-and-line, rod-and-reel, or hand line.

§ 2. Definitions.

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

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of the Marine Resources Commission.

"Sale" means sale, trade, or barter.

"Sell" means sale, trade, or barter.

"Selling" means selling, trading, or bartering.

"Sold" means sold, traded, or bartered.

§ 3. Commercial fisherman registration license; exceptions.

A. In accordance with § 28.2-241 C of the Code of Virginia, only persons who hold a valid Commercial Fisherman Registration License may sell, trade, or barter their catch, or give their catch to another, in order that it may be sold, traded, or bartered (hereinafter generally referred to as "sell," "selling," "sale," or "sold" as the context requires). Only these licensees may sell their catches from Virginia tidal waters, regardless of the method or manner in which caught. Exceptions to the requirement to register as a commercial fisherman for selling catch are authorized for the following persons only:

1. Persons taking menhaden under the authority of licenses issued pursuant to § 28.2-402 of the Code of Virginia.
2. Persons taking diminutive quantities of minnows, used solely for bait for fishing.
3. One agent, who is not registered as a commercial fisherman, may be authorized to possess the registration license of a commercial fisherman in order to serve as a

substitute in his absence for fishing the license holder's gear and selling the catch. No more than one person shall be used as an agent at any time. An agent must possess the registration license of the owner when fishing or selling the catch in his behalf.

B. In accordance with § 28.2-241 H of the Code of Virginia, only persons with a valid Commercial Fisherman Registration License may purchase gear licenses. Beginning with licenses for the 1993 calendar year and for all years thereafter, gear licenses will be sold only upon presentation of evidence of a valid Commercial Fisherman Registration License.

Exceptions to the prerequisite requirement are authorized for the following gears only, and under the conditions described below:

1. Menhaden purse seine licenses issued pursuant to § 28.2-402 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.

2. Commercial gear licenses used for recreational purposes and issued pursuant to § 28.2-226.2 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.

C. Exceptions to the two-year delay may be granted by the commissioner, if he finds any of the following:

1. The applicant for an exception has demonstrated, to the satisfaction of the commissioner, that the applicant has fished a significant quantity of commercial gear in Virginia waters during at least two of the previous five years; and the applicant can demonstrate, to the satisfaction of the commissioner, that a significant hardship caused by unforeseen circumstances beyond the applicant's control has prevented the applicant from making timely application for registration. The commissioner may require the applicant to provide such documentation as he deems necessary to verify the existence of hardship.

2. The applicant is purchasing another commercial fisherman's gear, and the seller of the gear holds a Commercial Fisherman Registration License and the seller surrenders that license to the commission at the time the gear is sold.

3. An immediate member of the applicant's family, who holds a current registration, has died or is retiring from the commercial fishery and the applicant intends to continue in the fishery.

4. Any applicant denied an exception may appeal the decision to the commission. The applicant shall provide a request to appeal to the commission 30 days in advance of the meeting at which the commission will hear the request. The commission will hear requests at their March, June, September, and December meetings.

5. Under no circumstances will an exception be granted solely on the basis of economic hardship.

§ 4. Registration procedures.

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A. Applicants holding a valid Commercial Fisherman Registration License may register during the period December 1 through February 28 of each year as commercial fishermen as follows:

1. The applicant shall complete an application for a Commercial Fisherman Registration License.
2. The applicant shall mail the completed application and \$150, or \$75 if 70 years or older during the license year, to the Virginia Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756.
3. The Commercial Fisherman Registration License will be returned to the applicant by mail upon validation of his application.

B. Persons desiring to enter the commercial fishery and those fishermen failing to register as provided in § 4 A may apply only during December, January or February of each year. All such applications shall be for a delayed registration and shall be made as provided below.

1. The applicant shall complete an application for a Commercial Fisherman Registration License by providing his complete name, mailing address, social security number, birth date, weight, height, eye color, hair color, telephone number of residence, and signature.
2. The applicant shall mail the completed application and \$150, or \$75 if 70 years or older during the license year, to the Virginia Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756.
3. The Commercial Fisherman Registration License will be returned to the applicant by mail two years after the date of receipt of the application by the commission. Notification of any change in the address of the applicant shall be the responsibility of the applicant.

C. No part of the Commercial Fisherman Registration License fee shall be refundable.

D. The Commercial Fisherman Registration License may be renewed annually during the months of December, January or February. Any person failing to renew his license shall be subject to the delay provision of § 4 B.

§ 5. Commercial hook-and-line license.

A. On or after January 1, 1993, it shall be unlawful for any person desiring to take or catch fish in the tidal waters of Virginia with hook-and-line, rod-and-reel, or hand line and selling to sell such catch shall without first purchase having purchased a Commercial Hook-and-Line License from the commission or its agent.

B. The fee for the Commercial Hook-and-Line License shall be \$25.

C. A Commercial Fisherman Registration License, as described in § 28.2-241 H of the Code of Virginia, is required prior to the purchase of this license.

§ 6. Mandatory harvest reporting.

A. It shall be unlawful for any person holding a Commercial Fisherman Registration License to fail to fully report their catches and related information as set forth in this regulation.

B. It shall be unlawful for any recreational fisherman, charter boat captain, head boat captain, commercial fishing pier operator, or owner of a private boat licensed pursuant to §§ 28.2-302.7 through 28.2-302.9 of the Code of Virginia to fail to report recreational catches upon request to those authorized by the commission.

C. Registered commercial fishermen shall accurately and legibly complete a daily form describing that day's harvest from Virginia tidal waters. The forms used to record daily harvest shall be those provided by the commission or another approved by the commission. Registered commercial fishermen may use more than one form when selling to more than one buyer.

D. Registered commercial fishermen shall submit a monthly catch report to the commission no later than the fifth day of the following month. This report shall be accompanied by the daily catch records described in subsection C of this section. Completed forms shall be mailed or delivered to the commission or other designated locations.

E. The monthly catch report and daily catch records shall include the name and signature of the registered commercial fisherman and his license registration number, buyer or private sale information, date of sale, city or county of landing, water body fished, gear type and amount used, number of hours fished, species harvested, market category, and live weight or processed weight or species harvested. Any information on the price paid for the catch may be voluntarily provided.

F. Registered commercial fishermen not fishing during a calendar year shall so notify the commission no later than February 1 of the following year.

G. Any person licensed as a commercial seafood buyer pursuant to § 28.2-228 of the Code of Virginia shall maintain for a period of one year a copy of each fisherman's daily catch record form for each purchase made. Such records shall be made available upon request to those authorized by the commission.

H. Registered commercial fishermen shall maintain their daily catch records for one year and shall make them available upon request to those authorized by the commission.

I. Registered commercial fishermen and licensed seafood buyers shall allow those authorized by the commission to sample catch and seafood products to obtain biological information for scientific and management purposes only. Such sampling shall be conducted in a manner which does not hinder normal business operations.

J. The reporting of oyster harvest and transactions shall be made in accordance with VR 450-01-0026 and shall be exempted from the procedures described in this section.

§ 7. Penalty.

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A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalties described by law, any person violating any provision of this regulation may be subject to license suspension or revocation.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-339; Filed March 6, 1995, 5:08 p.m.

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Title of Regulation: VR 450-01-0085. Establishment of Oyster Management Areas.

Statutory Authority: §§ 28.2-201, 28.2-210 and 28.2-507 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes as Oyster Management Areas that area in the James River from Wreck Shoals to the James River Bridge and that area in the Piankatank River known as Palace's Oyster Bar Reef. Further, it establishes as Oyster Management Areas those shell and seed oyster planting locations made during 1993 and in subsequent years by the Oyster Replenishment Program.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-210 and 28.2-507 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0085 that was adopted on February 23, 1993, and was effective on March 1, 1993. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0085. Establishment of Oyster Management Areas.

§ 1. Authority and effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia.

B. The effective date of this regulation is March 1, 1995.

§ 2. § 1. Purpose.

The purpose of this regulation is to protect and promote the oyster resources within the designated areas of the James

and Piankatank Rivers and to protect oyster replenishment efforts on all public oyster grounds.

§ 3. § 2. Oyster replenishment management areas defined.

The following Oyster Management Areas are established:

A. 1. The Wreck Shoals - James River Bridge Oyster Management Area shall consist of all public oyster grounds located from Wreck Shoals downriver to the James River Bridge in the James River. The upriver boundary for the Oyster Management Area shall be from Jail Point southwest to the southernmost corner of the Jail Island clean cull area then westerly to Channel Buoy 16 then southeasterly to the Channel Buoy 12, then southerly to Mogarts Beach. The downriver boundary shall be the James River Bridge.

B. 2. The Palace's Bar Oyster Reef - Piankatank River Oyster Management Area shall consist of all public oyster grounds in Public Ground No. 5, Mathews County bounded by the following corners:

1) a. Northwest corner -

37° 31' 42.33536" N
76° 22' 25.60567" W

2) b. Southeast corner -

37° 31' 39.43913" N
76° 22' 26.40939" W

3) c. Southwest corner -

37° 31' 42.74142" N
76° 22' 40.71772" W

4) d. Northwest corner -

37° 31' 45.63757" N
76° 22' 39.91328" W

C. 3. All areas planted with oyster shell and seed by the commission's Oyster Replenishment Program in 1993 and in subsequent years shall be considered Oyster Management Areas.

§ 4. § 3. Closure of management areas.

Until further notice, all Oyster Management Areas are closed to the harvest of oysters except on the Seaside of the Eastern Shore where Oyster Management Areas are closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this regulation.

§ 5. § 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

Marine Resources Commission

V.A.R. Doc. No. R95-340; Filed March 3, 1995, 4:32 p.m.

Title of Regulation: VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

Statutory Authority: §§ 28.2-201, 28.2-210 and 28.2-507 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes standing stock criteria by which public oyster grounds may be closed and sets time of closure and other restrictions on the harvest of oysters from all public oyster grounds in the Chesapeake Bay and its tributaries and on all oyster grounds on the Seaside of Eastern Shore.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-210, and 28.2-507 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0095 that was adopted on December 20, 1994, and was effective on December 20, 1994, and rescinds previous VR 450-01-0086 that was adopted on February 23, 1993, and was effective on March 1, 1993, and reenacts only the provisions of § 3, Standing Stock Criteria, in this regulation. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

§ 1. Purpose.

The purpose of this regulation is to establish standing stock criteria for closure of public oyster grounds, promote preservation of broodstock, and protect and conserve Virginia's oyster resource, which has been depleted by disease, harvesting, and natural disasters.

§ 2. Rescission.

VR 450-01-0086 is rescinded and only the provisions of § 3 of that regulation are reenacted in § 3 of this regulation.

§ 3. Standing stock criteria.

Any public oyster ground, rock or shoal shall be closed to harvest when it is determined by the Oyster Replenishment Officer that 50% of the standing stock of market oysters has been harvested. The initial estimate of standing stock for each area shall be the volume of market oysters as of October 1 of each year as determined by the Oyster Replenishment Officer.

§ 2. § 4. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, beds and shoals are as follows:

1. James River Seed Area: October 1, 1994, through April 30, 1995.
2. Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through April 30, 1995.
3. Seaside of Eastern Shore: October 1, 1994, through December 31, 1994. Seed harvest shall require a permit from the commission as set forth in § 7 § 9 of this regulation.

§ 3. § 5. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through September 30, 1995.
2. James River Seed Area and Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995, through September 30, 1995.
3. All oyster grounds on the Seaside of Eastern Shore: January 1, 1995, through September 30, 1995. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the commission as set forth in § 7 § 9 of this regulation.

§ 4. § 6. Time limit.

Harvest on public grounds in the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February 1995.

§ 5. § 7. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds with shaft tongs longer than 18 feet in total overall length.

§ 6. § 8. Quotas.

In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

§ 7. § 9. Harvest permit required.

A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or for fee simple grounds on the Seaside of

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Eastern Shore during the open season (§ 2 § 4) without first obtaining a permit from the Marine Resources Commission.

B. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster grounds or fee simple ground during the closed season (§ 3 § 5) on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

D. No person shall hold more than two permits at any time.

§ 8. Seed oyster planting procedures.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

§ 9. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalties prescribed by law, any person violating the provisions of this regulation shall return all oysters harvested to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-341; Filed March 3, 1995, 4:44 p.m.

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Title of Regulation: VR 450-01-0096. Pertaining to Nonresident Harvesters License Fee.

Statutory Authority: §§ 28.2-210 and 28.2-227 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation establishes a nonresident harvesters license fee for any nonresident desiring to take or catch fish, crabs, or any other seafood, except oysters,

clams, or other mollusks, from the tidal waters of the Commonwealth, for which a license is required.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-210 and 28.2-227 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0096 that was adopted on October 26, 1993, and was effective on January 1, 1994. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0096. Pertaining to Nonresident Harvesters License Fee.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-227 of the Code of Virginia.

B. The effective date of this regulation is January 1, 1994.

§ 2. § 1. Purpose.

The purpose of this regulation is to establish the fee for the nonresident harvesters license.

§ 3. § 2. Fee established.

The fee for the nonresident harvesters license shall be \$350.

§ 4. § 3. Exceptions.

The nonresident harvesters license shall not be required for persons licensed to fish with saltwater recreational licenses required under §§ 28.2-302.1 through and 28.2-302.9 of the Code of Virginia.

§ 5. § 4. Penalty.

Penalties for violations of this regulation the nonresident license requirement are prescribed in §§ 28.2-225 and 28.2-227 E of the Code of Virginia.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-342; Filed March 3, 1995, 4:26 p.m.

* * * * *

Title of Regulation: VR 450-01-0097. Pertaining to the Snagging of Fish.

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation prohibits the snagging of fish for the purpose of reducing snag-and-release injuries and

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mortalities, and to preserve the public safety. This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-210 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0097 that was adopted on October 26, 1993, and was effective on November 1, 1993. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0097. Pertaining to the Snagging of Fish.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. The effective date of this regulation is November 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to reduce snagging injuries and mortalities to finfish in Virginia waters, and to preserve the public safety by prohibiting the practice of snagging.

§ 3. Snagging prohibited.

It shall be unlawful for any person to take or to attempt to take any finfish by means of snagging.

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-343; Filed March 3, 1995, 4:28 p.m.

Title of Regulation: VR 450-01-0098. Pertaining to Crab Dredge License Sales.

Statutory Authority: §§ 28.2-201, 28.2-204.1 and 28.2-210 of the Code of Virginia.

Effective Dates: March 1, 1995, to March 31, 1995.

Preamble:

This emergency regulation limits the sale of crab dredge licenses for the 1994/95 crab dredge season to those persons who held licenses and were actively engaged in the dredge fishery as of March 31, 1994. This regulation further limits the sale of crab dredge licenses for the 1995/96 crab dredge season and each season thereafter

to those persons who held a crab dredge license and were actively engaged in the crab dredge fishery during the previous crab dredge season. No crab dredge license will be issued to any new applicant after March 31, 1994, and no crab dredge license will be issued to any new applicant until the number of crab dredge licenses drops below 225 and that, thereafter, the number of crab dredge licensees allowed in the fishery will be set at 225.

This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-204.1, and 28.2-210 of the Code of Virginia. This emergency regulation amends and readopts previous VR 450-01-0098 that was adopted on November 23, 1993, and was effective on December 1, 1993. As set forth in § 28.2-210 of the Code of Virginia, this emergency regulation remains in force for only 30 days from its effective date unless subsequently adopted after public hearing and advertisement as set forth in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. The effective dates of this emergency regulation are March 1, 1995, to March 31, 1995.

VR 450-01-0098. Pertaining to Crab Dredge License Sales.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

B. Other restrictions on crab dredging can be found in Chapter 7 of Title 28.2 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0012, VR 450-01-0036, VR 450-01-0041 and VR 450-01-0049.

C. The effective date of this regulation is December 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to limit the number of crab dredge licenses issued for the 1994/95 season and each season thereafter, to the number of crab dredge licenses issued for the 1993/94 season. In addition, the number of crab dredge licenses will be reduced each season thereafter, progressively through attrition, until the number of dredge licenses is set and maintained at 225. This regulation is part of recent restrictions adopted by the Marine Resources Commission in response to recommendations concerning control of fishing effort contained in the Chesapeake Bay Blue Crab Management Plan of the Chesapeake Bay Program.

§ 3. Crab dredge permit required.

A. It shall be unlawful for any person to take or catch crabs using a crab dredge without first having obtained a crab dredge permit from the Marine Resources Commission or its agent, as of December 1, 1994. Permits will only be issued to commercial fishermen meeting the following conditions:

1. Applicants shall hold a valid commercial registration license.

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2. Applicants shall have held a crab dredge license during the previous season and shall have been actively engaged in the previous season's crab dredge fishery.
3. Applicants shall have fully reported their catches in accordance with VR 450-01-0079.
4. Completed permit applications may be hand delivered or mailed to the Marine Resources Commission, 2600 Washington Avenue, P.O. Box 756, Newport News, Virginia 23607.

§ 4. § 3. Limit on sale of licenses.

A. Except as provided in § 5 § 4 of this regulation, the total number of crab dredge licenses issued for the 1994/95 season and each season thereafter shall be limited to the number of crab dredge licenses issued for the 1993/94 season (December 1, 1993 - March 31, 1994).

B. Except as provided in § 5 § 4 of this regulation, any person who held a 1993 or 1994 crab dredge license and who did not harvest crabs during the 1993/94 crab dredge season shall not be eligible to participate in the 1994/95 crab dredge season or any season thereafter.

C. Except as provided in § 5 § 4 of this regulation, no crab dredge licenses will be issued to any new applicant after March 31, 1994, and no crab dredge licenses will be issued to any new applicant until the number of crab dredge licenses drops to 220 or below as of December 10 of any year.

§ 5. § 4. Exceptions to limit; transfers of crab dredge licenses.

A. The commission may grant exceptions to the limitation of the issuance of crab dredge licenses based on scientific, economic, biological, sociological and hardship factors.

B. A crab dredge licensee may transfer his license to a member of his immediate family, provided that the family member holds a current commercial registration license. A member of the immediate family shall mean a father, mother, daughter, son, brother, sister or spouse. A crab dredge licensee also may transfer his license to the buyer of his boat and crab dredge gear provided that the buyer holds a current commercial registration license. Any transfer of a crab dredge license shall be in writing and shall be validated by a marine patrol officer.

§ 6. § 5. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-344; Filed March 3, 1995, 4:15 p.m.

FINAL REGULATIONS

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

Statutory Authority: §§ 28.2-201, 28.2-707 and 28.2-713 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes a daily catch limit and maximum dredge size for the winter crab dredge fishery in Virginia tidal waters. This regulation is promulgated pursuant to the authority contained in §§ 28.2-707 and 28.2-713 of the Code of Virginia. This regulation amends VR 450-01-0007 that was promulgated by the Marine Resources Commission and made effective October 23, 1984. The effective date of this regulation is March 2, 1995.

Agency Contact: Jack Travelstead, Chief, Fisheries Management Division, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2247.

VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

§ 1. Authority, Prior Regulations, Effective Date:

1. This Regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-168 of the Code of Virginia.

2. This Regulation amends previous Regulation VII, Pertaining to Crab Catch Limits, which was promulgated by the Marine Resources Commission and made effective December 28, 1976.

3. The effective date of this Regulation is October 23, 1984.

§ 1. Purpose.

The purpose of this regulation is to provide for the long-term conservation of the blue crab resource.

§ 2. Catch limit:

During the lawful crab dredge season starting December 1, and ending March 31, no one boat shall take or catch more than twenty-five (25) 20 barrels of crabs in any one day. Each barrel shall be a regular crab barrel not more than level full.

§ 3. Records:

Any person, firm, or corporation licensed for the harvesting of crabs for commercial purposes and every licensed crab buyer not voluntarily providing crab catch and effort information satisfactory to the Commission may be required to report such information, on not greater than a monthly

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basis, to the Commission. Forms for such reports shall be furnished by the Commission.

§ 3. Dredge size.

For the 1994-1995 season, it shall be unlawful for any person to use any single crab dredge that exceeds eight feet in width across the inside mouth of the dredge.

§ 4. Penalty:

A. Possession of crabs in excess of the amounts provided by this regulation shall be prima facie evidence of violation provided, however, that the catch limit imposed by this regulation shall not apply to crab buy boats.

B. Section 28.1-23 As provided by § 28.2-713 of the Code of Virginia, provides that any person, firm, or corporation violating any the provisions of § 2 of this regulation of the Marine Resources Commission shall be guilty of a Class 1 misdemeanor.

C. As provided in § 28.2-707 of the Code of Virginia, any person violating the provisions of § 3 of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-326; Filed March 2, 1995, 5:29 p.m.

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Title of Regulation: VR 450-01-0012. Pertaining to Dredging for Crabs.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes areas of the Chesapeake Bay where crab dredging activities are prohibited. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends VR 450-01-0012 (Regulation XII) which was promulgated by the Marine Resources Commission and made effective July 22, 1975, and supersedes Virginia Marine Resources Commission Order Number 82-6 made effective November 23, 1982. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23606, telephone (804) 247-2248.

VR 450-01-0012. Pertaining to Dredging for Crabs.

§ 1. Prohibited area.

A. No dredging for crabs shall be permitted in the area inshore and up-rivers of a line beginning at buoy No. 13 on the Norfolk Harbor Reach of the Norfolk Channel thence S. 77° 20' W. 0.80 miles to black and white buoy N "H1" off the northeast corner of the levee around the Craney Island land fill thence parallel to the levee N 88° 30' W. 1.8 miles to black

and white buoy No. N "H5," thence N 26° 30' W. 2.35 miles to Newport News Point on the lower side of entrance to the Little Boat Harbor in line with the WGH tower, thence in northeast and easterly direction with the low water line and crossing the mouths of Hampton Creek and Mill Creek to Old Point Comfort and following the mean low water line to the ruins of Old Back River Light; thence, in a straight line 336° true 8.2 miles to buoy number 4 marking the Pequoson River, thence, 304° true 2.7 miles to Tue Point Light House; thence, 37° true 3 miles to the East tip of Guinea Marshes; thence, 26° true 3.15 miles to lighted buoy number 6 Southwest of Dutchman Point; thence, 121° true 2.4 miles to New Point Comfort abandoned light house; thence, 16° true 5 miles to the mean low water line, East of Winter Harbor; thence, along the mean low water line northerly to the South Point of Rigby Island; thence 61° true 2.2 miles to lighted buoy number 3 off Milford Haven Spit; thence, 22° true 3.2 miles to the black and white spar number C-59 located approximately 5 miles East of Gwynns Island; thence 333° true 3.8 miles to a black and white spar number R-1 marking the Southern side of the Piankatank River entrance channel; thence, 345° true 0.4 of a mile to the black and white spar marked R-3 marking the Northern side of the Piankatank channel and the Southern side of the Rappahannock River entrance channel; thence, 318°, 1.2 miles to the black and white spar R-2 which is located approximately 1 mile South of Windmill Point Light House; thence, 310° true 2.8 miles to Windmill Point; thence, 346° true 4.7 miles to Bluff Point; thence, 14° true 7 miles to the Great Wicomico River Light; thence, 24° true 2 miles to the low water mark on the point between Taskmakers Creek and Chesapeake Beach; thence, along the mean low water line to Smiths Point.

B. No dredging for crabs shall be permitted in the areas above a line beginning at mean low water at the south end of sand spit at Tangier Island, thence 164° true to Tangier light house, thence 230° true to can buoy number 3, thence 120° true to bell buoy number R-2A, thence 95° true to nun buoy number 2, thence 136° true to mean low water northwest end of Thicket Point.

C. No dredging for crabs shall be permitted in the area inshore of a line on the easterly side of Chesapeake Bay following the shore line from Cheseconessex Creek to Fisherman Island off Cape Charles, excluding all creeks and inlets; and the mouths of said creeks and inlets shall be designated by a line drawn from headland to headland of said creek or inlet.

§ 1. Purpose.

The purpose of this regulation is to establish distinct boundaries on crab dredge harvesting areas within the Chesapeake Bay.

§ 2. Prohibited areas.

A. Except for the provisions listed under subsection B of this section, no dredging for crabs shall be permitted in the areas inshore of a boundary line beginning at the mean low water line at the north end of the westbound span of the Hampton Roads Bridge Tunnel; continuing in an easterly direction along the mean low water line and crossing the

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mouth of Mill Creek; thence continuing to Old Point Comfort; thence, still following the mean low water line, continuing to Northend Point; thence to Plum Tree Point; thence to buoy "4" at Poquoson River Channel; thence continuing to Tue Marshes Light; thence extending to New Point Comfort Abandoned Light House; thence continuing NNE and crossing the mouth of Horn Harbor to the mean low water line at Beach Point; thence continuing along the mean low water line, crossing the mouth of Winter Harbor; thence continuing to the south point of Rigby Island; thence continuing in an easterly direction to buoy G"1MH"; thence continuing in a northerly direction to "41A"; thence continuing from "41A" to G"1R"; thence continuing to Windmill Point Light; thence to the SE tip of Bluff Point; thence to Great Wicomico Light; thence in a northeasterly direction to buoy "63A"; thence northerly to Smith Point Light; thence continuing to the Maryland/Virginia border on a heading of 337° true.

B. Within the area inshore of the boundary line beginning at Great Wicomico Light and extending in a northeasterly direction to buoy "63A," thence continuing north to Smith Point Light and terminating at the Maryland/Virginia border on a heading of 337° true, crab dredging shall be permitted where mean low water depth is 35 feet or greater.

C. No dredging for crabs shall be permitted in the areas above a line beginning at mean low water at the south end of sand spit at Tangier Island, thence 164° true to Tangier light house, thence 230° true to C"1," thence 120° true to bell buoy number R"2," thence 095° true to day marker "2," thence 136° true to the mean low water line Northwest end of Thicket Point.

D. No dredging for crabs shall be permitted in the area inshore of a line on the easterly side of Chesapeake Bay following the mean low water line from Chesconessex Creek to Fisherman Island off Cape Charles, excluding all creeks and inlets; and the mouths of said creeks and inlets shall be designated by a line drawn from headland to headland of said creek or inlet.

§ 3. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-327; Filed March 2, 1995, 5:43 p.m.

Title of Regulation: VR 450-01-0034. Pertaining to the Taking of Striped Bass.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 9, 1995.

Preamble:

This regulation establishes a limited commercial and recreational fishery for striped bass in Virginia. These limitations comply with the requirement of the Interstate Fishery Management Plan for Striped Bass. Section 11 of this regulation authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the terms and conditions required for their culture.

This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends previous VR 450-01-0034 which was promulgated on July 29, 1994, and made effective on August 1, 1994. The effective date of this regulation is March 9, 1995.

Agency Contact: Deborah McCalister, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0034. Pertaining to the Taking of Striped Bass.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. This regulation amends previous regulation VR 450-01-0034, Pertaining to the Taking of Striped Bass, which was promulgated and made effective on July 1, 1993.

C. The effective date of this regulation is August 1, 1994.

§ 2. Purpose.

The purpose of this regulation is to provide for the continued recovery of sustained yield from the recovered Virginia's striped bass stocks. The provisions pertaining to aquaculture serve to prevent escapement of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions in this regulation.

§ 3. Definitions.

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

A. Striped bass—any fish of the species *Morone saxatilis* including any hybrid striped bass.

B. Spawning rivers—the James, Pamunkey, Mattaponi and Rappahannock Rivers including all tributaries.

C. Spawning reaches—"Spawning reaches" means sections within the spawning rivers as follows:

1. James River: From a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point;

2. Pamunkey River: From the Route 33 bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore;

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3. Mattaponi River: From the Route 33 bridge at West Point upstream to the Route 360 bridge at Aylett;
4. Rappahannock River: From the Route 360 bridge at Tappahannock upstream to the Route 3 bridge at Fredericksburg.

"Spawning rivers" means the James, Pamunkey, Mattaponi and Rappahannock Rivers including all tributaries.

"Striped bass" means any fish of the species Morone saxatilis including any hybrid striped bass.

§ 4. § 3. Commercial fishing, recreational fishing, and marketing seasons.

A. Except as provided in § 7.6 of this regulation, the open-commercial fishing seasons for striped bass in Virginia tidal waters shall be as specified below:

1. For pound nets, gill nets and haul seines, from October 1, 1994, through December 31, 1994.

2. For fyke nets, from March 1, 1995, through March 31, 1995.

B. The open recreational fishing seasons, including fishing from charter boats and vessels, for striped bass in **Virginia tidal waters shall be Thursday, Friday, Saturday, and Sunday of each week during the period beginning October 27, 1994, and ending on December 18, 1994.** Additionally, only the **Territorial Sea shall be open to recreational striped bass fishing from December 19, 1994, through March 31, 1995.**

C. It shall be unlawful for any person to take or catch any striped bass from the tidal waters of Virginia other than during the applicable open fishing season as specified in paragraphs A and B above, or as modified by § 7.6 of this regulation.

D. It shall be lawful for any person to possess striped bass, including striped bass taken from waters other than Virginia tidal waters, at any time, under the following conditions.

1. The striped bass shall have been harvested legally in Virginia or another jurisdiction.

2. The striped bass shall meet or exceed the lawful minimum size limits as specified in § 5.4 of this regulation.

3. All striped bass in the possession of any person for the purpose of sale, must be identified with a tamper evident sealed tag made of plastic, nylon or metal that has been approved and issued by the appropriate authority in the jurisdiction of origin. Whole striped bass shall have tags attached directly to the fish. Processed or filleted striped bass must be accompanied by the tags removed from the fish when processed.

4. When the striped bass are in the possession of any person other than the original harvester, for the purpose of resale, the striped bass shall be accompanied by a bill of sale which shall include the name of the seller, the permit or license number of the seller if such permit or license is required in the jurisdiction of origin, the date of sale, the pounds of striped bass in possession, the

location of catch and the gear type used to harvest the striped bass. If the striped bass product for sale be fillets, the bill of sale shall also describe the number of fillets.

§ 5. § 4. Minimum size limits, alteration prohibited, total length determination.

A. It shall be unlawful for any person to possess any striped bass **measuring less than 18 inches, total length.**

B. It shall be unlawful for any person to possess any striped bass taken from the Territorial Sea measuring less than **28 inches, total length.**

C. It shall be unlawful for any person, while aboard any boat or vessel or while fishing from shore or pier, to alter any striped bass or to possess any altered striped bass such that its total length cannot be determined.

D. Total length shall be measured in a straight line from the tip of the nose of the striped bass to the tip of its tail.

§ 6. Gear restrictions.

A. During the period April 1 to May 31, of each year, both dates inclusive, a person may not set or fish any anchored or staked gill net within the spawning reaches. Drift (float) gill nets may be set or fished within the spawning reaches during this time period, but the fishermen must remain with such net while that net is in the fishing position and shall return all striped bass to the water immediately.

B. It shall be unlawful for any person to spear, to gaff or attempt to spear or gaff any striped bass, at any time.

C. It shall be unlawful to place, set, or fish any gill net within 300 feet, unless otherwise specified by other regulations, of any bridge, bridge-tunnel, jetty or pier during the **open recreational season of October 27, 1994, through December 18, 1994.**

D. It shall be unlawful to use any commercial hook and line within 300 feet of any bridge, bridge-tunnel, jetty or pier during the **open recreational season of October 27, 1994, through December 18, 1994.**

§ 7. § 6. Commercial harvest quotas.

A. During the open fishing seasons it shall be unlawful to harvest striped bass for commercial purposes by any method other than by gill net, pound net, haul seine, fyke net, or commercial hook-and-line. The harvest of striped bass by any person using a gill net, pound net, haul seine, fyke net, or commercial hook-and-line shall be presumed to be for commercial purposes and the amounts of such harvest shall be summed to the total allowable level of commercial harvest.

B. During the legal commercial harvest seasons of any calendar year, the total allowable sum of commercial harvest of striped bass by all legal harvest methods shall be 211,000 pounds of whole fish. At such time as the total harvest of striped bass is projected to reach 211,000 pounds it shall be unlawful for any person to take, catch or land any striped bass by any method for commercial purposes.

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C. The total allowable level of commercial striped bass harvest by gill net shall be 147,700 pounds of whole fish. At such time as harvest of striped bass by gill net is projected to total 147,700 pounds, it shall be unlawful for any person to take, catch or land any striped bass by gill net.

D. The total allowable level of commercial striped bass harvest by pound net shall be 52,750 pounds of whole fish. At such time as the harvest of striped bass by pound net is projected to total 52,750 pounds, it shall be unlawful for any person to take or land any striped bass by pound net.

E. The total allowable level of commercial striped bass harvest by haul seine shall be 6,330 pounds of whole fish. At such time as the harvest of striped bass by haul seine is projected to total 6,330 pounds, it shall be unlawful for any person to take or land any striped bass by haul seine.

F. The total allowable level of commercial striped bass harvest for fyke net during the 1995 spring season shall be 4,220 5,275 pounds of whole fish. At such time as the harvest of striped bass by fyke net is projected to total 4,220 5,275 pounds it shall be unlawful for any person to take, catch, or land any striped bass by fyke net.

G. In the event that the harvest of striped bass by any single or combination of commercial gear exceeds the harvest levels provided for in the preceding paragraphs such that the total allowable level of commercial harvest reaches or exceeds 211,000 pounds, during any calendar year, then all commercial harvest of striped bass shall cease. Such cessation of fishing shall apply to all gears even in the event other single gear quotas are not reached.

§ 8. Recreational gear limitation, bag limit, sale of recreational catch.

A. It shall be unlawful for any person to take or to catch striped bass for recreational purposes with any gear other than a hook-and-line, rod-and-reel or hand line.

B. During the open recreational fishing season of October 27, 1994, through December 18, 1994, it shall be unlawful for any person using recreational hook-and-line, rod-and-reel, or hand-line to possess more than two striped bass. Any striped bass taken after the bag limit of two fish has been reached shall be returned to the water immediately. When fishing from a boat or vessel, the daily bag limit shall be equal to the number of licensed persons on board the boat or vessel multiplied by two. Retention of the legal number of striped bass is the responsibility of the vessel captain or owner.

C. During the open recreational fishing season of December 19, 1994, through March 31, 1995, in the Territorial Sea, it shall be unlawful for any person using recreational hook-and-line, rod-and-reel or hand line to possess more than one striped bass. Any striped bass taken after the bag limit of one fish has been reached shall be returned to the water immediately. When fishing from any boat or vessel, the daily bag limit shall be equal to the number of licensed persons on board. Retention of the legal number of striped bass is the responsibility of the vessel captain or owner.

D. It shall be unlawful for any person to transfer any striped bass to another person while on the water or while fishing from a pier or shore.

E. It shall be unlawful for any person to sell, offer for sale, trade or barter any striped bass taken by recreational hook-and-line, rod-and-reel, or hand line. This no sale provision shall not apply to persons possessing a commercial hook-and-line license that meet the other requirements of this regulation.

§ 9. Individual commercial catch limits and mandatory tagging.

A. It shall be unlawful to land—or bring to shore, any commercially caught striped bass that has not been marked by the fishermen with a tamper evident, numbered tag provided by the Marine Resources Commission. As soon as possible after capture, tags shall be passed through the mouth of the fish and one gill opening; interlocking ends of the tag shall then be connected such that the tag may only be removed by breaking. It shall be unlawful to possess striped bass in quantities greater than the number of tags in possession.

B. For each of the commercial gear types, tags will be issued in equal amounts by the Marine Resources Commission to eligible fishermen, permitted as described in § 10.9 of this regulation, according to the available quotas described in § 7.6 of this regulation, and the estimated average weight of the striped bass caught.

C. If individual tag allocations exceed 30 tags per permittee, the tags will be distributed to permittees in two allotments. One-half of the tag allotment will be given to the fisherman prior to the start of the commercial season. The second half of the tag allotment, adjusted for average weight, if necessary, will be given to the fisherman after the fisherman has harvested at least 50% of the fish allowed to him by the initial tag allotment and has submitted to the Marine Resources Commission a catch report detailing the weight of that harvest, the location of the harvest, and the amount of hours or days fished. Distribution of the second allotment of tags will be made no earlier than one week after the beginning of the commercial season to allow for verification of average fish weight.

D. Striped bass tags are valid only for use by the fisherman to whom the tags were allotted and to whom the permit is issued. It shall be unlawful for any person to transfer a tag to another individual. It shall be unlawful for any person to transfer any striped bass to another person. The permitted fisherman shall be present on board the vessel when striped bass are harvested and tags are applied.

E. Any attempt to alter a tag for the purpose of reuse shall constitute a violation of this regulation.

§ 10. Permits and reports.

A. It shall be unlawful for any commercial harvester, to take or attempt to take, striped bass without first having obtained a permit from the Marine Resources Commission or

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its agent. Permits will only be issued to commercial fishermen meeting the following conditions:

1. Fishermen shall apply for permits by September 1, 1994, to be eligible to fish during the fall season and must apply for permits from January 4-31, 1995, to be eligible to fish during the spring 1995 fyke net fishery. Applications outside of these time periods will not be accepted. Completed permit applications and supporting documents may be hand delivered or mailed to the Marine Resources Commission, 2600 Washington Avenue, P.O. Box 756, Newport News, Virginia 23607. Complete applications must be received at the *Marine Resources Commission* no later than 5 p.m. on the last day of the respective application periods.
 2. Fishermen may apply only for a permit for a single type of commercial gear within a calendar year.
 3. A copy of a valid gear license as required by Title 28.2 of the Code of Virginia, corresponding to the type of gear being applied for, must be presented at the time of application for the permit.
 4. Applicants shall have held a valid striped bass commercial gear permit in 1990 or 1991.
 5. Applicants shall have reported striped bass fishing activity in accordance with 1990, 1991, 1992, and 1993 striped bass regulations.
 6. Applicants shall provide valid state or federal income tax forms (Form 1040 and Schedule C, if applicable) to demonstrate that greater than 50% of their earned income for the previous year was derived from commercial fishing. Additional documentation of income shall be provided by the applicant upon request by personnel from the Marine Resources Commission.
- B. The commission may grant exceptions to the limited entry criteria listed above based on hardship. Any person requesting an exception shall provide in writing an explanation of their hardship and all pertinent information relating to the criteria in subsection A of this section. All exception requests must be received at the *Marine Resources Commission* according to the application deadlines specified in subdivision A 1.
- C. It shall be unlawful to fish for striped bass from a charter boat or charter vessel taking hook and line fishermen for hire, unless the captain of the boat has obtained a permit from the Marine Resources Commission and is the holder of a Coast Guard charter license.
- D. It shall be unlawful for any person to purchase striped bass taken from Virginia tidal waters for the purpose of resale without first obtaining a permit from the Marine Resources Commission.
- E. Possession of a striped bass permit shall authorize Marine Resources Commission personnel or their designees to inspect, measure, weigh, and take biological samples of the striped bass catch.
- F. In addition to the reporting requirements described in § 8 8 C of this regulation, all commercial harvesters of striped bass shall report to the Marine Resources Commission in accordance with the provision of VR 450-01-0079. Any tags issued as described in § 8 8 of this regulation and not used by the fisherman shall be returned to the *Marine Resources Commission* with report form.
 - G. All buyers of striped bass taken from Virginia tidal waters shall provide written reports of daily purchases and sales for each commercial fishing season to the *Marine Resources Commission* no later than 15 days immediately following the last day of each open season.
 - H. Charter boat captains shall report to the Marine Resources Commission on forms provided by the *Marine Resources Commission* all daily quantities of striped bass caught and harvested and daily fishing hours by themselves or their customers, respectively, at the end of the open fishing season. Written reports shall be forwarded to the *Marine Resources Commission* no later than 15 days following the last day of the open season.
 - I. Failure of any person permitted to harvest, buy or sell striped bass, to submit the required written report for any fishing day shall constitute a violation of this regulation.
 - J. Permits must be in the possession of the permittee while harvesting, selling, or possessing striped bass. Failure to possess the appropriate permit shall constitute a violation of this regulation.
- § 11. § 10. Aquaculture of striped bass and hybrid striped bass.**
- A. Permit required. It shall be unlawful for any person, firm, or corporation to operate an aquaculture facility without first obtaining a permit from the Marine Resources Commission. Such permit shall authorize the purchase, possession, sale, and transportation of striped bass or hybrid striped bass in accordance with the other rules contained in this section.
 - B. Application for and term of permit. The application for a striped bass aquaculture facility shall state the name and address of the applicant, the type and location of the facility, type of water supply, location of nearest tidal waters or tributaries to tidal water, and an estimate of production capacity. All aquaculture permits shall expire on December 31 of the year of issue and are not transferable. Permits shall be automatically renewed by the Marine Resources Commission provided no structural changes in the facility have been made, the facility has been adequately maintained, and the permittee has complied with all of the provisions of this regulation.
 - C. Display of permit.
1. The original of each permit shall be maintained and prominently displayed at the aquaculture facility described therein.
 2. A copy of such permit may be used as evidence of authorization to transport striped bass or hybrid striped bass.

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bass to sell the fish away from the permitted facility under the conditions imposed in subsection G in this section.

D. Water supply; outfall; prevention of entry and escapement.

1. A striped bass or hybrid striped bass aquaculture facility may consist of one or more ponds, artificial impoundments, closed recirculating systems or a combination of the above.

2. No pond or impoundment used for striped bass or hybrid striped bass aquaculture may be constructed or situated on a natural water course that originates beyond the boundaries of private land upon which the pond or impoundment is located.

3. There shall be no direct and unscreened discharge from any facility to any natural watercourse. Except as provided in subdivision 4 below, outfall from any pond or impoundment shall be processed according to one of the following systems:

- a. The outfall shall pass over a dry ground percolation system in which ground absorption of the water is sufficient to prevent the formation of a watercourse which is capable of reaching any natural watercourse. The outfall shall pass through a screened filter box prior to entering the percolation area.

- b. The outfall shall pass through a chlorination process and retention pond for dechlorination. The outfall shall pass through a filter box prior to entering the chlorination system. Such facilities must also comply with regulations of the State Water Control Board.

4. If the outfall from an aquaculture facility may not conform to the systems described in subdivision 3 a or subdivision 3 b, above, then all of the following conditions shall be required:

- a. The aquaculture of striped bass or hybrid striped bass shall be restricted to the use of cage culture. Such cages shall be constructed of a vinyl coated wire or high density polyethylene mesh material sufficient in size to retain the fish and all cages must be securely anchored to prevent capsizing. Covers shall be required on all cages.

- b. The outfall from the pond or impoundment shall pass through a screened filter box. Such filter box shall be constructed of a mesh material sufficient in size to retain the fish and shall be maintained free of debris and in workable condition at all times.

- c. The outfall from the screened filter box shall pass into a containment basin lined and filled with quarry rock or other suitable material to prevent the escapement of the fish from the basin.

5. Those facilities utilizing embankment ponds shall maintain sufficient freeboard above the spillway to prevent overflow.

E. Acquisition of fish, fingerlings, fry, and eggs. Striped bass or hybrid striped bass fingerlings, fry, or eggs, may be obtained only from state permitted fish dealers and must be certified by the seller as striped bass or hybrid striped bass having a disease-free status. Each purchase or acquisition of striped bass or hybrid striped bass must be accompanied by a receipt or other written evidence showing the date, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee prior to transportation of such fish, fingerlings, fry, or eggs to the permitted facility. All such receipts shall be retained as part of the permittee's records. The harvesting of striped bass from the tidal waters of Virginia for the purpose of artificially spawning in a permitted aquaculture facility shall comply with all of the provisions of this regulation and state law including minimum size limits, maximum size limits, and closed harvesting seasons and areas.

F. Inspection of facilities.

1. Inspection. Agents of the Marine Resources Commission and the Department of Game and Inland Fisheries are authorized to make periodic inspection of the facilities and the stock of each operation permitted under this section. Every person engaged in the business of striped bass aquaculture shall permit such inspection at any reasonable time.

2. Diseased fish. No person permitted under this section shall maintain in the permitted facility any fish which shows evidence of any contagious disease listed in the then current list by the United States Fish and Wildlife Services as "certifiable diseases" except for the period required for application of standard treatment procedures or for approved disposition.

3. Disposition. No person permitted under this section shall sell or otherwise transfer possession of any striped bass or hybrid striped bass which shows evidence of a "certifiable disease" to any person, except that such transfer may be made to a fish pathologist for examination and diagnosis.

G. Sale of fish. All striped bass or hybrid striped bass except fingerlings, fry, and eggs, which are the product of an aquaculture facility permitted under this section shall be packaged with a printed label bearing the name, address, and permit number of the aquaculture facility. When so packaged and labelled such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Every such sale must be accompanied by a receipt showing the date of sale, the name, address and permit number of the aquaculture facility, the numbers and species of fish sold, and the name of the purchaser. Each subsequent resale must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, the permit number of the aquaculture facility and, if the sale is to other than the ultimate consumer, the name and address of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law-enforcement officer. A duplicate copy of each such

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receipt must be retained for one year by the seller as part of the records of each transaction.

H. Records. Each permitted aquaculture facility operator shall maintain a chronological file of the receipts or copies thereof showing the dates and sources of acquisitions of striped bass or hybrid striped bass and quantities thereof, and a chronological file of copies of the receipts of his sales required under subsection G of this section. Such records shall be segregated as to each permit year, shall be made available for inspection by any authorized agent of the Marine Resources Commission or Department of Game and Inland Fisheries, and shall be retained for at least one year following the close of the permit year to which they pertain.

I. Revocation and nonrenewal of permit. In addition to the penalties prescribed by law, any violation of § this section shall be grounds for revocation or suspension of the permit for the aquaculture facility for the balance of the permit year. No person whose permit has been revoked shall be eligible to apply for an aquaculture facility permit for a period of two years after the date of such revocation.

J. Importation of striped bass for the consumer market. Striped bass or hybrid striped bass which are the product of an approved and state permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labelled in accordance with the provisions contained in subsection G of this section. Any sale of such fish also shall be accompanied by receipts as described in subsection G of this section.

K. Release of live fish. Under no circumstance shall striped bass or hybrid striped bass which are the product of an aquaculture facility located within or outside the Commonwealth of Virginia be placed into the waters of the Commonwealth without first having notified the *Marine Resources Commission* and having received written permission from the Commissioner of *Marine Resources*.

§12. § 11. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. Any person failing to submit any catch report as specified in §§ 9.8 and 10.9 of this regulation shall be prohibited from taking striped bass in the following calendar year.

C. Any person violating any provision of this regulation may be subject to permit or license revocation upon review by the *Marine Resources Commission* as provided in § 28.2-232 of the Code of Virginia.

VA.R. Doc. No. R95-352; Filed March 9, 1995, 4:36 p.m.

Title of Regulation: VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes time, season and peeler pot limits for commercial crabbing in Virginia and is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia. This regulation amends VR 450-01-0036 which was adopted and made effective on July 1, 1989. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

§ 1. Authority, prior regulations, effective date.

~~A. This regulation is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia.~~

~~B. Sections 3 and 4 of this regulation were added and made effective by Commission action on May 23, 1988; the original regulation was promulgated on November 26, 1985. The effective date of this regulation as amended is July 1, 1989.~~

§ 1. Purpose.

The purpose of this regulation is to allow for the conservation of crabs and to improve the enforceability of other laws pertaining to crabbing.

§ 2. Sunday prohibition.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the harvest of peeler crabs by crab traps or peeler pots or to the working of floats, pens, or onshore facilities for soft crab shedding operations.

§ 3. Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise, provided; however, it shall be unlawful to take crabs by crab dredge, as defined in § 28.2-707 of the Code of Virginia, between sunset and sunrise.

§ 4. Season limits.

It shall be unlawful for any person to place, set or fish any hard crab pot or peeler crab pot from December 1 through March 31.

§ 5. Peeler crab pot limits.

A. From April 1 through June 30, it shall be unlawful for any person to place, set or fish more than 400 peeler crab pots per vessel.

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B. From July 1 through November 30, it shall be unlawful for any person to place, set or fish more than 400 peeler pots and it shall be unlawful for more than two peeler pot licensees to place, set or fish peeler pots from the same vessel.

§ 4. § 6. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-328; Filed March 2, 1995, 5:31 p.m.

Title of Regulation: VR 450-01-0041. Pertaining to Crab Catch Limits.

Statutory Authority: §§ 28.2-201 and 28.2-713 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes a daily catch limit for the spring crab pot fishery in Virginia tidal waters and is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-713 of the Code of Virginia. This regulation amends VR 450-01-0041 which was promulgated and made effective on March 15, 1987. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23606, telephone (804) 247-2248.

VR 450-01-0041. Pertaining to Crab Catch Limits.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-713 of the Code of Virginia.

B. VR 450-01-0007, which also pertains to crab catch limits, establishes a 20 barrel limit for crab dredge beats for the period December 1 to March 31, of each year.

§ 1. Purpose.

The provisions of this regulation are in response to increased fishing pressure on the crab resource and are in the interest of conservation and the crab industry.

§ 2. Catch limit and season.

A. During the period March 15 to April 1 through May 31, inclusive, no boat or vessel shall take or catch by crab pot, or have in possession more than 51 bushels or 17 barrels of crabs in any one day.

B. In examining a particular boat's catch, if the marine patrol officer finds crabs in excess of the 51 bushel or 17 barrel limit, the quantity of crabs in excess shall be immediately returned to the water by the person who possessed such crabs. The refusal to return the crabs to the water shall constitute a separate violation of this regulation.

§ 3. Penalty.

As set forth in § 28.2-713 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-329; Filed March 2, 1995, 5:33 p.m.

Title of Regulation: VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

Statutory Authority: §§ 28.2-201 and 28.2-701 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes requirements regarding proximity to other crab traps or pounds, removal of gear and poles, mesh size, and cull rings. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-701 of the Code of Virginia. Section 28.2-701 specifies that the Virginia Marine Resources Commission shall promulgate regulations governing the use, placement, and maintenance of crab traps and crab pounds. This regulation amends VR 450-01-0060, "Pertaining to the Use of Crab Traps and Pounds," which was promulgated by the Marine Resources Commission and made effective July 1, 1990. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-701 of the Code of Virginia.

B. The effective date of this regulation is July 1, 1990.

§ 1. Purpose.

The purpose of this regulation is to comply with the requirements of § 28.2-701 of the Code of Virginia by establishing regulations that govern the use, placement, and maintenance of crab traps and pounds; to promote

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conservation of the blue crab resource; and to maintain navigable waterways.

§ 2. Placement of crab traps and crab pounds.

It shall be unlawful to place, set, or use crab traps or crab pounds within 100 yards of any other crab trap or crab pound without respect to whether or not the other crab trap or pound is owned by the same or some other person, firm, corporation or association.

§ 3. Removal of traps, leads, poles, gear.

A. Every owner or user of a crab trap or crab pound shall completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year, except that they may leave two poles at each crab trap or crab pound site to facilitate relocation of the traps, lead and poles in the upcoming crab season, except as provided in subsection B below. If the trap site is not licensed and used in any subsequent year the trap owner shall be required to remove all poles from the site.

B. In the Tangier Island vicinity (from the southern tip of Tangier Island north to the Maryland line), it shall be lawful for every owner or user of a crab trap or crab pound to leave poles at crab trap or crab pound stands; provided such poles will be used at said location the following season and not be abandoned.

§ 4. Minimum mesh size.

It shall be unlawful to use a crab trap or crab pound with a head or retention box with a mesh size of less than one inch.

§ 5. Cull rings.

It shall be unlawful for any person to place, set or use any peeler crab trap or pound that does not contain at least four unobstructed cull rings or at least 1-1/2 inches inside diameter. Two such rings shall be located under water at all times in the lower portion of each side panel that is perpendicular to the shoreline and on opposite sides of the head or retention box.

§ 6. Penalty.

A. As set forth in § 28.2-701 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

B. No licenses for crab traps or crab pounds for a subsequent year shall be issued to any person, corporation or association failing to accomplish such removal as stipulated in § 3 above until the same has been accomplished.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-330; Filed March 2, 1995, 5:41 p.m.

Title of Regulation: VR 450-01-0073. Pertaining to the York River and, Poquoson River and Back River Shellfish Management Area and the James River Broodstock Management Area.

Statutory Authority: §§ 28.2-201 and 28.2-503 of the Code of Virginia.

Effective Date: March 9, 1995.

Preamble:

This regulation establishes the York, Poquoson, and Back River Shellfish Management Areas and the James River Broodstock Management Area with provisions to control the harvest of clams from those areas.

This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-503 of the Code of Virginia. This regulation amends VR 450-01-0073, which was promulgated and made effective January 1, 1994. The effective date of this regulation is March 9, 1995.

Agency Contact: Deborah McCalester, Marine Resources Commission, P. O. Box 756, Newport News, Virginia 23607, telephone (804) 247-2248.

VR 450-01-0073. Pertaining to the York River, Poquoson River and Back River Shellfish Management Area and the James River Broodstock Management Area.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-503 of the Code of Virginia.

B. This regulation amends VR 450-01-0073, Pertaining to the York and Pequeson River Shellfish Management Area Areas, which was promulgated and made effective on January 1, 1993.

C. The effective date of this regulation is January 1, 1994.

§ 2. § 1. Purpose.

The purpose of this regulation is to protect and promote the hard clam resource within the designated areas of the York and, Poquoson, Back and James Rivers.

§ 3. § 2. Shellfish Management Areas defined.

A. The York River Shellfish Management Area shall consist of all public grounds located inshore of a line beginning at the entrance to the Virginia Institute of Marine Science boat basin at Gloucester Point, running northwesterly to Buoy No. 30, thence northwesterly to Buoy No. 32, thence northwesterly to Buoy No. 34, then northwesterly to Pages Rock Buoy, thence northwesterly and ending at Clay Bank Wharf.

B. The Poquoson River Shellfish Management Area shall consist of all public grounds bounded by a line beginning at Hunts Point Survey Taylor and running northwesterly to Survey Station Spit, thence northeasterly to Survey Station Cabin North, thence east to Survey Station Cabin South, thence southeasterly following the general shoreline (not to include any creeks or canals) to the flag pole near Survey Station 80 at York Point, thence 175 degrees to Day Marker No. 14 and returning to Hunts Point Survey Taylor.

C. The Back River Shellfish Management Area shall consist of all current public clamping grounds bounded by a line from

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corner 3 on Shell Plant 115 through corner 17, a daymarker, on Shell Plant 115, 237.42 feet to a point being the point of beginning; thence southeasterly to corner number 1 Public Clamming Ground (PCG#12); thence southeasterly to corner number 3A Public Clamming Ground (PCG#12); thence northeasterly to corner number 3 Public Clamming Ground (PCG#12); thence northwesterly to corner number 2 Public Clamming Ground (PCG#12); thence southwesterly to the POB. Also, for a period of one year, throughout 1994, Shell Plant 115 will also be included in the Back River Shellfish Management Area.

D. The James River Broodstock Management Area shall begin at the southwest corner of Public Ground No. 1 Warwick County; thence along a bearing North 43-38-17 West 1,677.00 feet to corner 5 Public Ground No. 1 Warwick County; thence along a bearing North 50-05-07 East 280.30 feet to a corner; thence South 43-38-17 East 1,677.00 feet to a corner; thence South 50-5-077 West 260.30 feet to the Southwest corner of Public Ground No. 1 Warwick County, being the point of beginning, containing 10.00 acres.

§ 4. § 3. Permits required.

Each boat or vessel engaged in the harvesting of clams by patent tong from the York River Shellfish Management Area or, the Poquoson River Shellfish Management Area, or the Back River Shellfish Management Area shall first obtain a permit specific to the management area to be worked from any Marine Patrol Officer, and this permit shall be on board the vessel at all times and available for inspection. The permit shall state the name and port of the vessel, the registration or documentation number of the vessel, the name and address of the owner of the vessel and the name of the captain of the vessel. Any change to any of the above information shall require the vessel owner or captain to obtain a new permit. These permits shall be in addition to all other licenses or permits required by law.

§ 5. § 4. Patent tong season.

A. The lawful season for the harvest of clams by patent tong from the York and, Poquoson and Back River Shellfish Management Areas shall be January 1 through March 31.

B. It shall be unlawful for any person to harvest clams by patent tong from either the York or, Poquoson River, or Back River Shellfish Management Area from April 1 through December 31.

C. Shell planting area 115 in Back River will be closed at the end of the 1994 season for evaluation by the VMRC Fisheries Management Division.

§ 6. § 5. Time of day restriction and harvest restrictions.

A. It shall be unlawful for any person to harvest clams by patent tong from either the York or Poquoson River Shellfish Management Area before sunrise or after 2 p.m.

B. It shall be unlawful for any person to harvest clams by patent tong from the Back River Shellfish Management Area before sunrise or after 4 p.m.

B. C. It shall be unlawful for any person to harvest clams by patent tong from either the York or, Poquoson or Back River Shellfish Management Area on Saturday or Sunday.

D. It shall be unlawful for any person to harvest any shellfish from the James River Broodstock Management Area at any time.

§ 7. § 6. Penalty.

A. As set forth in § 28.2-503 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 4 3 misdemeanor and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalties prescribed by law, any person violating § 5 D shall immediately return all harvested shellfish to the Broodstock Management Area, shall cease harvesting on that day, shall be required to appear before the Marine Resources Commission pursuant to any violation, and all harvesting apparatus shall be subject to seizure.

B. C. The Marine Resources Commission may revoke the permit of any person convicted of a violation of this regulation.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-350; Filed March 9, 1995, 4:59 p.m.

Title of Regulation: VR 450-01-0081. Pertaining to Summer Flounder.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 9, 1995.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and trip limits, minimum size limits, and a recreational possession and season limit.

This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends VR 450-01-0081, which was promulgated by the Marine Resources Commission and made effective January 3, 1995. The effective date of this regulation is March 9, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0081. Pertaining to Summer Flounder.

§ 1. Purpose.

Marine Resources Commission

The purpose of this regulation is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

§ 2. Definition Definitions.

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

A trip shall mean "Trip" means that period during which a vessel shall have left a dockside landing place, relocated to waters where trawling is legally permitted, and returned to a dockside landing place.

§ 3. Commercial harvest quotas.

A. 1. During each calendar year, commercial landings of Summer Flounder shall be limited to the total pounds as determined and published annually by the National Marine Fisheries Service calculated pursuant to the joint Mid-Atlantic Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992; and shall be distributed as described in subdivisions 2 through 8 of this subsection:

2. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds.

3. During the period of January 1 through March 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 64.3% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

4. During the period of April 1 through June 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

5. During the period of July 1 through September 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

6. During the period of October 1 through December 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 22.9% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection and as may be further modified by subdivision 7 of this subsection.

7. a. During the periods set forth in subdivisions 3, 4, and 5 of this subsection, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such

shortage shall be added to, the quota for the period set forth in subdivision 6 of this subsection.

b. During the period specified in subdivision 2 of this subsection, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subdivision 6 of this subsection. A projection of harvest under this subdivision b will be made on or about November 1.

8. For each of the time periods and quotas set forth in subdivisions 3, 4, 5, 6 and 7 of this subsection, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto.

B. It shall be unlawful for any person to harvest for commercial purposes or to land Summer Flounder for sale after any commercial harvest or landing quotas as described in subsection 1 of this subsection this section has been attained and announced as such.

§ 4. Commercial trip limitation.

A. During the period of January 1 through March 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip after it is projected and announced that 85% of the quarterly quota has been taken.

B. During the period of April 1 through September 30 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel trip.

C. During the period October 1 through December 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 12,000 pounds per vessel per trip, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip.

D. For each of the time periods and trip limits set forth in subsections A and C of this section, the Marine Resources Commission will give timely notice of any changes in trip limits.

§ 5. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 13 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be 14 inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

Marine Resources Commission

D. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit.

§ 6. Possession limit.

A. ~~It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or with commercial hook-and-line, to possess more than eight Summer Flounder. Any Summer Flounder taken after the daily possession limit has been reached shall be returned to the water immediately. When fishing is from a boat, the possession limit of Summer Flounder shall be for the boat and shall be equal to the number of persons on board legally eligible to fish multiplied by eight. The boat captain or operator is responsible for the retention of the legal number of Summer Flounder. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.~~

B. ~~When fishing is from a boat, the possession limit of Summer Flounder shall be for the boat and shall be equal to the number of persons on board legally permitted to fish multiplied by eight.~~

C. ~~Charter, party and head boat captains or operators are ultimately responsible for the retention of the legal number of Summer Flounder.~~

§ 7. Recreational fishing season.

The recreational fishing season shall be from May 1 through October 31 for each calendar year. Prior to May 1 and after October 31 in any calendar year, it shall be unlawful for any person fishing pursuant to a recreational fishing license and using any of the gear permitted by that license to harvest or possess Summer Flounder.

§ 8. Penalty.

Pursuant to As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-351; Filed March 9, 1995, 5 p.m.

Title of Regulation: VR 450-01-0086. Closure of Public Oyster Grounds (REPEALED).

Statutory Authority: §§ 28.2-201, 28.2-506 and 28.2-507 of the Code of Virginia.

Effective Date: March 3, 1995.

Summary:

VR 450-01-0086 and VR 450-01-0095 contained conflicting dates for closure of public oyster grounds. The

dates set forth in VR 450-01-0095 are correct. Thus, with respect to VR 450-01-0086, only the provisions of § 3, "Standing Stock Criteria," are current. This provision has application to the provisions of VR 450-01-0095. The commission believes that consolidation of similar regulatory provisions into fewer regulations promotes clarity and is in the best interest of the commission and the industry. Thus VR 450-01-0086 is being rescinded and the provisions of § 3 are being added to VR 450-01-0095.

VA.R. Doc. No. R95-331; Filed March 3, 1995, 4:38 p.m.

Title of Regulation: VR 450-01-0092. Pertaining to Gill Nets (REPEALED).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 3, 1995.

Summary:

VR 450-01-0092 and VR 450-01-0091 each addressed the matter of banning the use of gill nets in areas of the lower Chesapeake Bay. They were promulgated at different times and for different areas. The areas are contiguous, and the effect was to ban gill nets in an area from point "A" to point "B" and in an area from point "B" to point "C." VR 450-01-0092 is being rescinded and its provisions are being incorporated into an amended VR 450-01-0091 such that the effect is to ban gill nets from point "A" to point "C." The commission believes that consolidation of these provisions into one regulation promotes clarity and is in the best interest of the commission and the industry.

VA.R. Doc. No. R95-332; Filed March 3, 1995, 4:40 p.m.

Title of Regulation: VR 450-01-0093. Pertaining to Crab Pots.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes a requirement for the use of cull rings in crab pots, and is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends and makes permanent emergency regulation VR 450-01-0093, that was adopted and made effective February 3, 1995. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

VR 450-01-0093. Pertaining to Crab Pots.

Marine Resources Commission

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. Other restrictions on crab potting can be found in Title 28.2, Chapter 7 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0009, VR 450-01-0033, VR 450-01-0036, VR 450-01-0041, and VR 450-01-0049.

C. The effective date of this regulation is January 1, 1994.

§ 2. Purpose.

The purpose of this regulation is to conserve the blue crab resource by promoting the escape of small crabs from crab pots through the use of cull rings.

§ 3. Cull ring requirements.

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters which does not contain at least one unobstructed cull ring of at least 2-5/16 inches, inside diameter, in an exterior panel of the upper chamber of the pot, two unobstructed cull rings of size and location within the pot as hereinafter described, except as provided in subsection B of this section. One cull ring shall be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. These cull rings shall be located one each in opposite exterior side panels of the upper chamber of the pot.

B. The required 2-5/16 inches inside diameter cull ring may be obstructed in crab pots set within the crab dredge areas as set forth in VR 450-01-0012, or within Pocomoke or Tangier Sounds.

B. C. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.

C. The Commissioner of the Virginia Marine Resources Commission is hereby authorized to allow crab pot cull rings to be closed off for specific times and in specific areas upon receipt of request which in his sole discretion is sufficient to demonstrate that such action is necessary to avoid significant economic hardship to the requester and that approval of the request will not have a significant detrimental impact on the blue crab resource.

§ 4. Penalty.

As set forth in Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-333; Filed March 2, 1995, 5:37 p.m.

Title of Regulation: VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 2, 1995.

Preamble:

This regulation establishes the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas and provisions to control the harvest of crabs from these areas. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. The effective date of this regulation is March 2, 1995.

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P. O. Box 756, Newport News, VA 23606, telephone (804) 247-2248.

VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.

§ 1. Purpose.

The provisions of this regulation are in response to reduced abundance in the blue crab stock and increased fishing pressure on this resource. This regulation promotes conservation of the blue crab resource within the below designated areas of the Chesapeake Bay system.

§ 2. Blue crab management areas.

The following management areas are established:

1. The Hampton Roads Blue Crab Management Area shall consist of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

2. The Bayside Eastern Shore Blue Crab Management Area shall consist of all tidal waters within a line beginning at buoy R"14" on the eastern side of the Chesapeake Channel at the Chesapeake Bay Bridge Tunnel, thence continuing northwesterly along the eastern side of Chesapeake Channel following the buoy line to buoy R"22," thence continuing in a northeasterly direction and extending through Flashing Light "2" (SW of Old Plantation Creek) to the mean low water line, thence continuing southerly following the mean low water line to its intersection with the Chesapeake Bay Bridge Tunnel, thence following the north side of the Chesapeake Bay Bridge Tunnel to buoy R"14," the point of beginning.

§ 3. Harvest restrictions.

A. It shall be unlawful for any person to dredge for crabs within the Hampton Roads Blue Crab Management Area at any time.

B. It shall be unlawful for any person to conduct commercial crabbing or recreational crab potting within the Bayside Eastern Shore Management Area from June 1 through September 15.

Marine Resources Commission

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any section of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-334; Filed March 2, 1995, 5:46 p.m.

GOVERNOR

EXECUTIVE MEMORANDUM 1-95

INFORMATION TECHNOLOGY INFRASTRUCTURE INITIATIVE

Purpose:

The purpose of this Executive Memorandum is to bring focus, coordination and new energy to Virginia's statewide information technology infrastructure and to further promote the establishment of a modern, state-of-the-art telecommunications and information technology network, fully utilized by state agencies and institutions as well as local governments and the public.

General Policy:

Information is one of the Commonwealth's most important resources. While the framework to support an information infrastructure exists in Virginia today, an initiative is needed to coordinate the efforts of the public and private sectors to propose policies and strategies necessary for the deployment of a statewide telecommunication and information technology infrastructure. This is critical since it will enable state agencies and institutions, local governments and the public to create, manipulate, manage, and use information to improve services to citizens and support economic growth in the Commonwealth. Additionally, future business development will be able to take advantage of the services offered through the creation of this infrastructure.

Therefore, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish a Statewide Information Technology Infrastructure Initiative and I hereby affirm and delegate the responsibilities, powers and duties to administer and coordinate the Information Technology Infrastructure Initiative as set out below.

Applicability:

This Memorandum applies to all executive branch state agencies and institutions.

Effective Date:

January 15, 1995.

Requirements:

1. The Secretary of Administration will provide overall direction to the Information Technology Infrastructure Initiative.
2. The Council on Information Management shall have the responsibility to advise the Secretary of Administration and the Governor on establishing an information technology infrastructure in Virginia. Specific duties shall include:

- a. To establish, in coordination with the Department of Information Technology, the Virginia Information Technology Infrastructure Task Force which shall be comprised of technology experts from the Commonwealth's agencies, institutions, boards, commissions, and councils, and which shall convene a series of public meetings to solicit the views and recommendations from private industry, local governments, and others to assist in recognizing and capitalizing on the Commonwealth's annual investment of over \$500 million in information technology;
- b. To direct all state agencies, institutions, boards, commissions, and councils to investigate and report on applications which currently, or which could, benefit from the utilization of statewide communication and technology resources to improve customer service, increase efficiency, and reduce public costs;
- c. To invite representatives of the private sector to advise the Council on matters relating to the development of the infrastructure; and
- d. To complete its work and report to the Governor a recommended Statewide Information Technology Infrastructure Strategic Plan no later than June 30, 1995, unless the Governor shall otherwise direct. It shall issue such interim reports and recommendations as it deems appropriate or upon the Governor's request.

This Executive Memorandum shall remain in full force and effect until June 30, 1995, unless superseded or rescinded by further executive action.

/s/ George Allen
Governor

VA.R. Doc. No. R95-347; Filed March 7, 1995, 11:54 a.m.

EXECUTIVE ORDER NUMBER FORTY (95)

PROVIDING ASSISTANCE BY THE VIRGINIA ARMY NATIONAL GUARD TO THE COMMONWEALTH OF KENTUCKY IN FIGHTING FOREST FIRES FROM NOVEMBER 8 TO NOVEMBER 10, 1994

The Governor of the Commonwealth of Kentucky, the Honorable Brereton G. Jones, called out the Kentucky National Guard to assist the Kentucky Division of Forestry and the United States Forest Service in fighting forest fires in Kentucky during the period from November 4 through November 20, 1994; and the Commonwealth of Kentucky lacked sufficient helicopters to carry all of the helicopter water buckets which were available and necessary to suppress the forest fires raging within Kentucky on and about November 8, 1994.

By letters dated November 8 and November 16, 1994, Governor Jones requested that the Commonwealth of Virginia come to the aid of the Commonwealth of Kentucky pursuant

to the Southern Regional Emergency Management Assistance Compact by sending Army National Guard UH-60 Blackhawk helicopters with crews and maintenance support to assist the Commonwealth of Kentucky in fighting those forest fires. In his letter requesting assistance, Governor Jones committed the Commonwealth of Kentucky to pay all expenses associated with the effort and to abide by all provisions of the Southern Regional Emergency Management Assistance Compact which has been signed by the Governors of Virginia and Kentucky.

Due to the emergency nature of the request and the lack of time available prior to departure of the requested helicopters and personnel for Kentucky, I verbally issued orders that the Adjutant General of Virginia dispatch the requested assistance to Kentucky as soon as flying conditions permitted under the terms set forth below herein.

Accordingly, by virtue of the authority vested in me under Article V, Section 7 of the Constitution of Virginia, the provisions of Sections 44-75.1(4) and 44-146.17(5) of the *Code of Virginia*, and consistent with the concept of interstate cooperation found in the Southern Regional Emergency Management Assistance Compact signed by the Governors of Virginia and Kentucky, I do hereby confirm, ratify and memorialize in writing my verbal orders issued on November 8, 1994, wherein I directed the Adjutant General of Virginia to deploy four Army National Guard UH-60 Blackhawk helicopters, other ancillary National Guard equipment and National Guard flight crews and maintenance personnel to the Commonwealth of Kentucky, there to assist the Commonwealth of Kentucky in fighting forest fires for so long as needed or until recalled to Virginia, all pursuant to and in accordance with Section 44-146.17(5) of the *Code of Virginia* and the Southern Regional Emergency Management Assistance Compact.

In addition to the provisions of the Southern Regional Emergency Management Assistance Compact, the following conditions did and do continue to apply to said deployment of the Virginia National Guard:

1. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. In the event of such injury or death as a result of service under this executive order, termination of this executive order is not intended to terminate entitlements to benefits as provided herein. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia

Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

2. The cost incurred by the Virginia Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 966 of the 1994 Acts of the General Assembly. The reimbursement of such costs by the Commonwealth of Kentucky shall be paid into the Treasury of the Commonwealth of Virginia to defray said sum sufficient expenditures when received.

This Executive Order shall be retroactively effective to November 8, 1994, upon its signing, and, except for that portion providing for benefits for members of the National Guard in the event of injury or death, retroactively ceased to be in effect on midnight, November 10, 1994, when all helicopters and personnel had returned from duty in the Commonwealth of Kentucky.

Given under my hand and under the Seal of the Commonwealth of Virginia this 8th day of February, 1995.

/s/ George Allen
Governor

V.A.R. Doc. No. R95-345; Filed March 7, 1995, 11:54 a.m.

EXECUTIVE ORDER NUMBER FORTY-ONE (95)

**DECLARATION OF A STATE OF EMERGENCY
ARISING FROM AN EXPLOSION IN THE TOWN OF
APPALACHIA, WISE COUNTY**

On the morning of December 25, 1994, an explosion likely caused by methane gas leaking from subsurface sources occurred in the Town of Appalachia, Wise County. Considerable property damage was caused by that explosion, and on December 28, 1994, county officials declared a local emergency. Assessment of the situation has revealed that a potentially large concentration of methane gas is situated below the surface of the northern outskirts of the Town at the mouth of Callahan Creek, and the potential for additional explosions exists. Appropriate agencies of state government,

Governor

including but not limited to the Departments of Emergency Services, Mines, Minerals and Energy, Environmental Quality as well as State Police, have responded to the emergency beginning on December 25. The Virginia National Guard has been placed in standby status to assist in the application of additional public safety measures and other support as may be required. The potential for more methane contamination and explosions in the area remains very real. Accordingly, at approximately noon on December 30, 1994, I verbally declared a state of emergency to exist for the purpose of rendering all possible state assistance to the affected jurisdictions and citizens.

The health and general welfare of the citizens of the affected jurisdictions required that state action be taken to help prevent and alleviate the conditions which were or could become a result of this situation. I found that this explosion and the potential for future such occurrences constituted a disaster wherein human life was imperiled, as contemplated by Section 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by the provisions of Section 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and as Director of Emergency Services, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby confirm, ratify and memorialize in writing my verbal orders issued December 30, 1994, wherein I proclaimed that a state of emergency exists in the affected areas and directed that appropriate assistance continue to be rendered by the agencies of the state government to prevent and alleviate these conditions. Pursuant to Section 44-75.1 (3) and (4) of the *Code of Virginia*, I also directed that the National Guard be called forth to assist in providing such aid, as may be required by the Coordinator of the Department of Emergency Services, in consultation with the Secretary of Public Safety and the Adjutant General of Virginia.

The following conditions did and do continue to apply to said deployment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard and such equipment as may be desirable to assist in preventing and alleviating both the potential and actual human suffering and damage to property as a result of the effects caused by the release of methane gas.
2. In all instances, members of the Virginia Army National Guard shall remain subject to military command as prescribed by Section 44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of the state or local governments.

3. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

4. The cost incurred by the Virginia Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 966 of the 1994 Acts of the General Assembly, with any reimbursement thereof from nonstate agencies for partial or full reimbursement of this cost to be paid into the general fund of the state treasury to defray said sum sufficient expenditures.

This Executive Order shall be retroactively effective to December 30, 1994, upon its signing, and shall remain in full force and effect until June 30, 1995, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death, shall continue to remain in effect after termination of this executive order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia this 23rd day of February, 1995.

/s/ George Allen
Governor

V.A.R. Doc. No. R95-346; Filed March 7, 1995, 11:54 a.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF HEALTH PROFESSIONS

NOTICE OF COMMENT

REVIEW OF REGULATIONS

Pursuant to Executive Order 15 (94), notice is hereby given that the following boards within the Department of Health Professions will review the regulations listed by July 1, 1996:

Board of Dentistry

VR 255-01-1. General Regulations.

Board of Funeral Directors and Embalmers

VR 320-01-02:1. General Regulations.

VR 320-01-03. Preneed Funeral Planning.

VR 320-01-04. Resident Trainee Program.

Board of Health Professions

VR 365-01-2. Practitioner Self-Referral.

Board of Medicine

VR 465-02-01. General Regulations.

VR 465-06-01. Correctional Health Assistants.

VR 465-09-01. Certification of Optometrists.

VR 465-10-01. Radiological Technology.

VR 465-11-01. Licensed Acupuncturists.

VR 465-07-01. Certified Nurse Practitioner.

Board of Nursing

VR 495-02-01. Certified Nurse Practitioner.

VR 495-01-01. General Regulations.

Board of Optometry

VR 510-01-1. General Regulations.

Board of Pharmacy

VR 530-01-1. General Regulations.

Board of Professional Counselors

VR 560-01-02. General Regulations.

Board of Psychology

VR 565-01-2. General Regulations.

Board of Social Work

VR 620-01-2. General Regulations.

Board of Veterinary Medicine

VR 645-01-1. General Regulations.

Purpose of Review:

The boards will review each regulation to ensure the following: (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable.

Schedule of Public Hearings:

Each board will schedule a time for the public to present comments on the regulations under review. Notices of meeting will be published and sent to interested parties under Public Participation Guidelines for the board.

Deadline for Written Comment:

Written comments on the regulations under review may be received by the individual boards until June 15, 1995.

Contact for Additional Information: Robert A. Nebiker, Deputy Director, Department of Health Professions, 6606 West Broad Street, 4th floor, Richmond, Virginia 23230, telephone (804) 662-9904.

GENERAL NOTICES/ERRATA

Symbol Key †

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

GENERAL NOTICES

COMMISSION ON LOCAL GOVERNMENT

Schedule of Assessments of Mandates on Local Government

(April 1, 1995 to June 30, 1996)

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia, the following schedule, established by the Commission on Local Government and approved by the Secretary of Administration and Governor Allen, represents the precise timetable for the period April 1, 1995, to June 30, 1996, which executive agencies will follow in conducting their assessments of the state and federal mandates on local governments which they administer. In conducting these assessments, agencies will follow the process established by Executive Memorandum 5-94, which became effective April 22, 1994.

As of April 1, 1994, the Commission on Local Government had identified 361 state and federal mandates applicable to Virginia's localities and administered by executive agencies of the Commonwealth. Of these, 290 assessments were scheduled for completion by March 31, 1995. The schedule for the assessment of those mandates was published in the June 27, 1994, *Virginia Register*. The following assessment schedule calls for the completion of all remaining assessments by June 30, 1996.

For further information, call Adele MacLean, Policy Analyst, Commission on Local Government at (804) 786-6508.

ADMINISTRATION SECRETARIAT

State Board of Elections

Mandate Summary: Electoral Board and Registrar

Type: Compulsory Order

Statutory/Regulatory Authority: Constitution of Virginia, Article II § 8; Code of Virginia §§ 24.2-106, 24.2-110 and 24.2-600; Voting Rights Act of 1965

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-95;

Duration: Two Months

Mandate Summary: Assistance for Disabled and Elderly at Polling Places

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 24.2-604.1

Assessment Schedule: Start Date: 5-1-95; End Date: 5-31-95;

Duration: One Month

COMMERCE AND TRADE SECRETARIAT

Virginia Employment Commission

Mandate Summary: New Hires Reporting

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 60.2-114

Assessment Schedule: Start Date: 8-1-95; End Date: 10-31-95;

Duration: Three Months

EDUCATION SECRETARIAT

Department of Education

Mandate Summary: Student-Teacher Ratio

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:1

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Student-Teacher Ratio Standards

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:1

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Public School Support Services

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:2

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Professional Development for School Board Members

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:5

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Six-Year School Improvement Plan

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:6

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: School Policy Manual

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:7

General Notices/Errata

Mandate Summary: Diplomas Required

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:4

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Competency-Based Vocational Educational Programs

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:1

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Programs for College-Bound Students

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:1

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

Mandate Summary: Instructional Program for Students with Disabilities

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 22.1-253.13:1

Assessment Schedule: Start Date: 4-1-95; End Date: 6-30-96;

Duration: Fifteen Months

HEALTH AND HUMAN RESOURCES SECRETARIAT

Department of Health

Mandate Summary: Optional Communicable Disease Services Program

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Department of Health Agreement with Local Government

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Optional Child Health Services Program

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Department of Health Agreement with Local Government

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Optional Family Planning Services Program

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Department of Health

Agreement with Local Government

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Optional General Medical Services Program

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Department of Health

Agreement with Local Government

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Optional Dental Health Services Program

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Department of Health

Agreement with Local Government

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Local Health Care Facility Licensing

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia §§ 32.1-123

through 32.1-144, §§ 32.1-162.1 through 32.1-162.15;

Regulations for licensure of hospitals, nursing homes, hospices, and home health agencies; Social Security Act, Titles XVIII, XIX (Fed.)

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Local Health Facility Medicaid Requirements

Type: Conditions of State and Federal Financial Aid

Statutory/Regulatory Authority: Social Security Act, Titles XVIII, XIX (Fed.)

Assessment Schedule: Start Date: 4-1-95; End Date: 9-30-95;

Duration: Six Months

Mandate Summary: Local Restaurant, Hotel or Summer Camp Licensing

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia §§ 35.1-13

through 35.1-17; Department of Health Regulations governing licensure of hotels, summer camps, campgrounds, and restaurants

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Public Marina

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 32.1-246;

Department of Health Regulation VR 355-17-01

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Sewerage Design Approval

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia §§ 32.1-164,

62.1-44.19; 1977 Sewerage Regulations VR 355-17-02

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

General Notices/Errata

Duration: Ten Months

Department of Social Services

Mandate Summary: Social Services Program Records Retention Policy

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 63.1-25

Assessment Schedule: Start Date: 7-1-95; End Date: 9-30-95;

Duration: Three Months

Mandate Summary: Social Services Staffing Report

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia §§ 63.1-33, 63.1-52

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-95;

Duration: Two Months

Mandate Summary: Employee Qualification Standards

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 63.1-248.6

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Office Space and Facilities Standards

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 63.1-25, Department of Social Services Local Administrative Manual, Vol. I, Ch. D

Assessment Schedule: Start Date: 7-1-95; End Date: 10-31-95;

Duration: Four Months

Mandate Summary: Child Protective Services

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 63.1-248.6; Department of Social Services Program Manual Volume VII and III, Ch. A; P. L. 100-294, as amended by P.L. 101-126 and P.L. 101-226 (Fed.)

Assessment Schedule: Start Date: 1-1-96; End Date: 6-30-96;

Duration: Six Months

Mandate Summary: Court-Ordered Evaluation for Guardianship

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 37.1-128.1

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Adult Protective Services

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia §§ 63.1-33, 63.1-52, 63.1-55.1; State Board of Social Services Policy; Department of Social Services Service Program Manual Volume VII and IV, Ch. A

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Home-Based Services

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 63.1-55.01; State Board of Social Services Policy, January 1975; and Department of Social Services Service Program Manual Volume VII and IV, Ch. B

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Purchase of Child Day Care Services

Type: Conditions of State and Federal Financial Aid

Statutory/Regulatory Authority: P.L. 101-508 (Fed.); Omnibus Budget Reconciliation Act of 1990 §§ 5081, 5082 (Fed.)

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Integration of Community Services

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 37.1-197.1; Department of Social Services Service Program Manual Volume VII and IV, Ch. D, 1d and 2b

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

Mandate Summary: Adult Day Care Centers and Adult Homes Licensing

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia §§ 63.1-172, 63.1-194.1; Department of Social Services Regulations VR 615-21-02, 615-22-02

Assessment Schedule: Start Date: 10-1-94; End Date: 6-30-95;

Duration: Nine Months

Mandate Summary: Purchase of Service System

Type: Compulsory Order

Statutory/Regulatory Authority: Department of Social Services Local Policy and Procedures Manual, Vol. VII and I, Ch. G

Assessment Schedule: Start Date: 12-1-95; End Date: 6-30-96;

Duration: Seven Months

NATURAL RESOURCES SECRETARIAT

Chesapeake Bay Local Assistance Department

Mandate Summary: Chesapeake Bay Preservation Areas Designation

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 10.1-2109 A; Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, §§ 1.3, 2.2 A, 5.5 A; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Comprehensive Plan Requirements in Tidewater

Type: Compulsory Order

General Notices/Errata

Statutory/Regulatory Authority: Code of Virginia § 10.1-2109.B; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, §§ 1.3, 2.2 C, 5.6 A; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Zoning Ordinance Requirements in Tidewater

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 10.1-2109.C; Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, §§ 1.3, 2.2 D, 5.6 B; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Development Review Requirements in Tidewater

Type: Compulsory Order

Statutory/Regulatory Authority: Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, §§ 2.2 G; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Subdivision Ordinance Requirements in Tidewater

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 10.1-2109.D; Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, §§ 1.3, 2.2 E, 5.6 D; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Erosion Ordinance Requirements in Tidewater

Type: Compulsory Order

Statutory/Regulatory Authority: Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, § 2.2 F; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Mandate Summary: Land Development Requirements in Tidewater

Type: Compulsory Order

Statutory/Regulatory Authority: Code of Virginia § 10.1-2111; Chesapeake Bay Local Assistance Department Regulation VR 173-02-01.1, § 4.1 A; 1987 Chesapeake Bay Agreement

Assessment Schedule: Start Date: 4-1-95; End Date: 5-31-96;

Duration: Fourteen Months

Department of Environmental Quality

Mandate Summary: Certified Supervisor for Solid Waste Management Facilities

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 10.1-1408.1; Department of Environmental Quality Regulation VR 672-20-10

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Solid Waste Management Facilities Permit

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 10.1-1408.1; Department of Environmental Quality Regulation VR 672-20-10

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Sanitary Landfill Requirements

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: 42 USC 6901 et seq. (Fed.); 40 CFR Parts 257, 258 (Fed.)

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Yardwaste Composting

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 10.1-1408.1; Department of Environmental Quality Regulation VR 672-20-32

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Removal of Litter from Public Receptacles

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 10.1-1421

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Solid Waste Management Facilities Permit Fee

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia §§ 10.1-1402.1 through 10.1-1402.3

Assessment Schedule: Start Date: 4-1-95; End Date: 1-31-96;

Duration: Ten Months

Mandate Summary: Hazardous Waste

Type: State and Federal Regulation of Optional Activities

Statutory/Regulatory Authority: Code of Virginia § 10.1-1400 et seq.; Department of Environmental Quality Regulation VR 672-10-1; 42 USC 6901 et seq.; 40 CFR 260-268 (Fed.)

Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;

Duration: One Year

Mandate Summary: Wastewater Treatment Facilities Permit

Type: State and Federal Regulation of Optional Activities

General Notices/Errata

Statutory/Regulatory Authority: Code of Virginia § 62.1-44.15; State Water Control Board Regulations VR 680-14-01, VR 680-14-02, VR 680-14-03; 33 USC 1251 et seq. (Fed.)
Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;
Duration: One Year

Mandate Summary: Virginia Water Protection Permit
Type: State and Federal Regulation of Optional Activities
Statutory/Regulatory Authority: Code of Virginia § 62.1-44.15; State Water Control Board Regulation VR 680-15-02; 33 USC 1341 (Fed.)
Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;
Duration: One Year

Mandate Summary: Virginia Pollution Abatement Permit
Type: State and Federal Regulation of Optional Activities
Statutory/Regulatory Authority: Code of Virginia §§ 62.1-44.15, 62.1-44.18; State Water Control Board Regulation VR 680-14-01
Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;
Duration: One Year

Mandate Summary: Ground Water Withdrawal Permit
Type: State and Federal Regulation of Optional Activities
Statutory/Regulatory Authority: Code of Virginia §§ 62.1-254 through 62.1-270
Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;
Duration: One Year

Mandate Summary: Surface Water Withdrawal Permit
Type: State and Federal Regulation of Optional Activities
Statutory/Regulatory Authority: Code of Virginia §§ 62.1-242 through 62.1-253; State Water Control Board Regulation VR 680-15-03
Assessment Schedule: Start Date: 6-1-95; End Date: 5-31-96;
Duration: One Year

PUBLIC SAFETY SECRETARIAT

Department of Criminal Justice Services

Mandate Summary: Intensified Drug Enforcement Assistance Grant
Type: Conditions of State and Federal Financial Aid
Statutory/Regulatory Authority: Code of Virginia §§ 14.1-133.3, 15.1-131.12; Department of Criminal Justice Services Grant Guidelines
Assessment Schedule: Start Date: 7-1-95 End Date: 9-30-95;
Duration: Three Months

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:

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-4.1940:1. Nursing Home Payment System.

Publication: 11:8 VA.R. 1345-1368 January 9, 1995.

Correction to the Final Regulation:

Page 1349, § 2.4 A 7 e, line 1, after "§ 2.4. A" insert "5"

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

April 19, 1995 - 10 a.m. -- Open Meeting

April 20, 1995 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia.

A regular business meeting to review applications and correspondence, conduct review and disposition of enforcement cases, and other routine board business. In addition, at 10 a.m. on Thursday, April 20, 1995, a public hearing will be held on a proposed education change to § 2.1 B 1 a of VR 105-01-2. Upon conclusion of the hearing, the meeting will continue. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD

April 25, 1995 - 9 a.m. -- Open Meeting

April 27, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the board to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance for consideration of your request.

Contact: Barbara B. Tinsley, Legal Assistant, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD

GOVERNOR'S ADVISORY BOARD ON AGING

† April 5, 1995 - 6 p.m. -- Open Meeting

Richmond Radisson Hotel, 555 East Canal Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

An informal dinner meeting with speaker.

Contact: Bill Peterson, Staff, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2803, FAX (804) 371-8381 or (804) 225-2271/TDD

† April 6, 1995 - 8:30 a.m. -- Open Meeting

Richmond Radisson Hotel, 555 East Canal Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly business meeting.

Contact: Bill Peterson, Staff, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2803, FAX (804) 371-8381 or (804) 225-2271/TDD

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† April 25, 1995 - 1 p.m. -- Open Meeting

Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia.

A meeting of the board to consider fiscal matters, regulations, the gypsy-moth program, and other matters that may be presented. There will be an orientation for new board members, beginning at 1 p.m. No other business will be conducted. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least nine days before the meeting so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD

Calendar of Events

† April 26, 1995 - 9 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, Room 204,
Richmond, Virginia. ☎

At the conclusion of business matters, the board will hear public comments for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least nine days before the meeting so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Farmers Market Board

† April 19, 1995 - 1 p.m. -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. ☎

A meeting in regular session to discuss issues related to 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 accommodation in order to participate at the meeting should contact Susan Simpson at least five days before the meeting so that suitable arrangements can be made.

Contact: Susan Simpson, Program Director, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2112.

Virginia Irish Potato Board

† April 10, 1995 - 8 p.m. -- Open Meeting

Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia. ☎

A meeting to discuss promotion, research and education programs, 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.W. Mapp at least five days before the meeting so that suitable arrangements can be made.

Contact: J.W. Mapp, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

Virginia Horse Industry Board

April 4, 1995 - 10 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☎

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., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Pesticide Control Board

April 13, 1995 - 9 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☎

A meeting to conduct general business and board committee meetings. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity at 9 a.m. to comment on any matter not on the Pesticide Control Board's agenda. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Winegrowers Advisory Board

April 28, 1995 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension Office, 168 Spotnap Road, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will hear grant proposal presentations for funding, hear committee and project reports, and discuss old and new business. Public comment will be heard following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

Calendar of Events

STATE AIR POLLUTION CONTROL BOARD

State Advisory Board on Air Pollution

† April 21, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia. ☎

The board will discuss ideas for improving the air permitting process and will work on the research projects assigned by the State Air Pollution Control Board. These projects are (i) Title V. enhancement monitoring; (ii) regulatory review; and (iii) enhancing citizen knowledge and participation in air quality management.

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4376, toll-free 1-800-592-5482 or FAX (804) 762-4346.

St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

April 4, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Board for Land Surveyors to make case decisions in regard to APELSLA Board v. S.L. Coleman, File Number 94-00418; and APELSLA Board v. W.R. Keyser, File Number 94-00547.

Contact: Stacie G. Camden, Legal Assistant, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

April 13, 1995 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Board for Architects to make case decisions in regard to the APELSLA Board v. Robert A. Steele, File Number 94-01969.

Contact: Stacie G. Camden, Legal Assistant, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

ALCOHOLIC BEVERAGE CONTROL BOARD

April 3, 1995 - 9:30 a.m. -- Open Meeting

April 17, 1995 - 9:30 a.m. -- Open Meeting

May 1, 1995 - 9:30 a.m. -- Open Meeting

May 31, 1995 - 9:30 a.m. -- Open Meeting

June 12, 1995 - 9:30 a.m. -- Open Meeting

June 26, 1995 - 9:30 a.m. -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

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

Contact: W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 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

April 3, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† May 18, 1995 - 11 a.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia.

The Department of Professional and Occupational Regulation, pursuant to Executive Order 15(94), is proposing to undertake a comprehensive review of the regulations of the Board for Asbestos Licensing and Lead Certification. As a part of this process, public input and comments are being solicited; comments may be provided from April 3, 1995, to June 5, 1995, to the administrator of the program, David E. Dick, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230. The department's goal in accordance with the executive order is to ensure that the regulations achieve the least possible interference in private enterprise while still protecting the public health, safety and welfare and are written clearly so that they may be used and implemented by all those who interact with a regulatory process.

Contact: David E. Dick, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

Calendar of Events

AUCTIONEERS BOARD

April 19, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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 OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† May 4, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss business. Public comment will be received for 15 minutes at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

† April 25, 1995 - 3 p.m. -- Open Meeting
Holiday Inn Central, U.S. Route 29 Expressway at Odd Fellows Road, Lynchburg, Virginia. ☎

A workshop for the board. No formal actions will be taken. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† April 26, 1995 - 9 a.m. -- Open Meeting
Holiday Inn Central, U.S. Route 29 Expressway at Odd Fellows Road, Lynchburg, Virginia. ☎

A regular bi-monthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3634/TDD ☎

BOARD FOR BARBERS

April 3, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

BOARD FOR BRANCH PILOTS

May 4, 1995 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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 ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

† April 6, 1995 - 2 p.m. -- Open Meeting
† May 4, 1995 - 2 p.m. -- Open Meeting
† June 1, 1995 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the department to verify meeting time, location and schedule.

Calendar of Events

No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD 

Northern Area Review Committee

- † April 5, 1995 - 10 a.m. -- Open Meeting
† May 3, 1995 - 10 a.m. -- Open Meeting
† June 7, 1995 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD 

Southern Area Review Committee

- † April 6, 1995 - 10 a.m. -- Open Meeting
† May 4, 1995 - 10 a.m. -- Open Meeting
† June 1, 1995 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD 

CHILD DAY-CARE COUNCIL

- † April 13, 1995 - 9:30 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. A public comment period will be held at noon. Please call ahead of time for possible changes in meeting time.

Contact: Richard Martin, Division of Management and Customer Service, Department of Social Services, Theater

Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Cave Board

- April 22, 1995 - 8:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A regularly scheduled meeting. A variety of issues relating to cave and karst conservation will be discussed.

Contact: Lawrence R. Smith, Natural Area Program Manager, Division of Natural Heritage, 1500 E. Main St., Suite 312, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 371-2674 or (804) 786-2121/TDD 

Falls of the James Scenic River Advisory Board

- April 20, 1995 - Noon -- Open Meeting
City Hall, 5th Floor, Planning Commission Conference Room, 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., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD 

Virginia State Parks Foundation

- † April 12, 1995 - 11 a.m. -- Open Meeting
Chippokes Plantation State Park, 695 Chippokes Park Road, Mansion Conference Room, Surry, Virginia. 

A general business meeting.

Contact: Darlene R. Worley, Executive Secretary, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-6124 or (804) 786-2121/TDD 

BOARD FOR CONTRACTORS

- † April 12, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regularly scheduled quarterly meeting of the board to address policy and procedural issues; review and render decisions on applications for contractor's licenses; and review and render case decisions on matured complaints

Calendar of Events

against licensees. The meeting is open to the public, however, a portion of the board's business may be discussed in executive session.

Contact: Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or FAX (804) 367-2474.

† April 26, 1995 - 9 a.m. -- Open Meeting

† April 27, 1995 - 9 a.m. -- Open Meeting

† May 3, 1995 - 9 a.m. -- Open Meeting

† May 4, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the board to determine case decisions for contractors.

Contact: Earlyne B. Perkins, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0946.

BOARD OF CORRECTIONAL EDUCATION

† April 21, 1995 - 10 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia.

A monthly meeting to discuss general business of the Department of Correctional Education.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3314.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

April 19, 1995 - 10 a.m. -- Public Hearing

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

May 20, 1995 -- Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to amend regulations entitled: VR 230-30-001. Minimum Standards for Jails and Lockups. The purpose of the proposed amendments is to alter the requirements for administration and programs in jails and lockups, and is based on a board committee review of the implementation and application of the standards. In summary, the changes are directed toward: offering more flexibility in terms of population management; strengthening requirements where inmate supervision and general safety is a concern; rearranging portions of the standards to enhance clarity, organization, and

consistency among standards; responding to Code of Virginia changes from the 1994 General Assembly; and incorporating recommendations from a recent Joint Legislative Audit and Review Commission study.

Statutory Authority: §§ 53.1-5, 53.1-68, 53.1-131 and 53.1-133.01 of the Code of Virginia.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3119.

† April 19, 1995 - 10 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

† April 19, 1995 - 8:30 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss administrative matters as may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

† April 18, 1995 - 1 p.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss correctional services matters as may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

† April 20, 1995 - 9:30 -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss criminal justice matters.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

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DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

† April 5, 1995 - 11 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☎

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before the adjournment of the meeting.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Virginia, telephone (804) 786-8730.

May 3, 1995 - 9 a.m. -- Public Hearing

General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

April 21, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: VR 240-03-2. **Regulations Relating to Private Security Services.** The proposed amendments to the regulations incorporate 1994 legislative changes to the Code of Virginia affecting private security services. House Bill 393 required the Criminal Justice Services Board to establish a regulation for the registration of a personal protection specialist (bodyguard) by July 1, 1995. Similarly, House Bill 395 required the board to promulgate a regulation for the licensure of electronic security businesses and the registration of such electronic security business employees as an "alarm respondent," "central station dispatcher," "electronic security sales representative," or "electronic security technician." As a result, the board must amend its private security services regulations to reflect these mandates.

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

Public comments may be submitted through April 21, 1995, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Leon D. Baker, Jr., Chief, Private Security Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4700.

Committee on Training

† April 5, 1995 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☎

A meeting to consider matters relating to training for criminal justice personnel.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Virginia, telephone (804) 786-8730.

BOARD OF DENTISTRY

April 7, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal conferences. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD ☎

DEPARTMENT OF EDUCATION (BOARD OF)

April 6, 1995 - 7 p.m. -- Public Hearing

Nandua High School, 26350 Lankford Highway, Onley, Virginia. ☎ (Interpreter for the deaf provided upon request)

April 6, 1995 - 7 p.m. -- Public Hearing

Loudoun County High School, 415 Dry Mill Road, S.W., Leesburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Board of Education is in the process of revising the Standards of Learning in Mathematics, Science, Social Studies, and English/Language Arts. The purpose of this hearing is to receive comments from the public on the proposed revisions.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

April 10, 1995 - 7 p.m. -- Public Hearing

Lebanon High School, Lebanon, Virginia. ☎ (Interpreter for the deaf provided upon request)

April 11, 1995 - 7 p.m. -- Public Hearing

George Mason High School, 7124 Leesburg Pike, Falls Church, Virginia. ☎ (Interpreter for the deaf provided upon request)

April 11, 1995 - 7 p.m. -- Public Hearing

Patrick Henry High School, 2102 Grandin Road, S.W., Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

April 12, 1995 - 7 p.m. -- Public Hearing

Warwick High School, 51 Copeland Lane, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

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April 12, 1995 - 7 p.m. -- Public Hearing

Atlee High School, 10301 Atlee Station Road, Mechanicsville, Virginia. (Interpreter for the deaf provided upon request)

The board wishes to receive comments from the public, teachers, and local school boards on the proposed guidelines on constitutional rights and restrictions on prayer and other religious expressions in public schools. Copies of the proposed guidelines are available upon request. Those wishing to speak at the public meeting are welcome to provide copies of their remarks. Speakers will be asked to limit their oral remarks to a maximum of three minutes each.

Contact: Margaret N. Roberts, Director of Community Regulations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2775, FAX (804) 225-2053 or toll-free 1-800-422-1098/TDD

Contact: Nancy L. Munnikhuyzen, Manager, Employer Relations and Customer Service, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004 or (804) 371-8050/TDD

DEPARTMENT OF ENVIRONMENTAL QUALITY

† April 12, 1995 - 9 a.m. -- Open Meeting

† May 10, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Waste Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the waste program. This meeting date is subject to change. Please contact Hassan Vakili for possible changes in meeting date or additional information.

Contact: Hassan Vakili, Director, Waste Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 527-5190 or FAX (804) 527-5141.

† April 12, 1995 - 10 a.m. -- Open Meeting

† May 10, 1995 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Air Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the air program. This meeting date is subject to change. Please contact John Daniel for possible changes in meeting date or additional information.

Contact: John Daniel, Director, Air Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4311 or FAX (804) 762-4501.

† April 12, 1995 - 10 a.m. -- Open Meeting

† May 10, 1995 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Water Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the water program. This meeting date is subject to change. Please contact James Adams for possible changes in meeting date or additional information.

Contact: James Adams, Director, Water Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4050 or FAX (804) 762-4032.

LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

April 11, 1995 - 5:30 p.m. -- Open Meeting

Arlington County Fire Station #1, 500 South Glebe Road, Arlington, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to conduct general business.

Contact: Michael Kilby, Captain, Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA 22204, telephone (703) 358-4652 or (703) 358-4644, FAX (703) 358-4655.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

April 5, 1995 - 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 (703) 662-2298 or (703) 665-5645/TDD

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

† April 12, 1995 - 1 p.m. -- Open Meeting

† April 13, 1995 - 8:30 a.m. -- Open Meeting

Virginia Employment Commission, 703 East Main Street, Richmond, Virginia.

A regular meeting of the board.

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† June 14, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the joint panel. This meeting is designed to define, assess and make recommendations in more closely aligning the Department of Environmental Quality's air, water and waste permitting procedures. This meeting date is subject to change. Please contact Kim Anderson for possible changes in meeting date or additional information.

Contact: Kim Anderson, Administrative Staff Assistant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4020, FAX (804) 762-4019 or (804) 762-4021/TDD 

Private Property Owners Advisory Committee on Exceptional Waters

† April 4, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

The department is establishing an advisory committee to assist DEQ staff in developing criteria for assuring that all affected private property owners are informed of potential exceptional waters designations and their impact on the use of private property. Other meetings of the advisory committee have been scheduled in the Board Room, 4900 Cox Road, on April 4 at 7 p.m.; April 8 at 12:30 p.m.; April 11 at 12:30 and 7 p.m.; April 25 at 12:30 and 7 p.m.; and April 29 at 12:30 p.m. However, these dates are not firm and are subject to change. Persons interested in attending the meetings of this committee should confirm the date and time with Jean Gregory.

Contact: Jean W. Gregory, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4113.

STATE EXECUTIVE COUNCIL

† April 28, 1995 - 9 a.m. -- Open Meeting

700 East Franklin Street, 4th Floor Conference Room, Richmond, Virginia.

The State Executive Council is established under § 2.1-746 of the Code of Virginia. The monthly meeting is to discuss and make decisions, set policies, review and act appropriately on Comprehensive Services Act-related issues as they pertain to at-risk youth and families.

Contact: Cynthia Montgomery, Office Manager, State Executive Council, 700 E. Franklin St., Suite 510, Richmond, VA 23219, telephone (804) 786-5394 or FAX (804) 786-5403.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† May 2, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss board business. Public comment will be received for 15 minutes at the beginning of the meeting. A routine Executive Committee meeting will follow adjournment of the board meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD 

Examination Committee

† April 11, 1995 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to continue discussion and review for next examination.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD 

Legislative Committee

† April 11, 1995 - 1 p.m. -- Open Meeting

† May 1, 1995 - 3 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to continue review of existing law and regulations governing the funeral industry.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD 

BOARD OF GAME AND INLAND FISHERIES

† May 4, 1995 - 10 a.m. -- Open Meeting

† May 5, 1995 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 4900 Cox Road, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to consider wildlife regulations to be effective July 1995 through June 1997. The board will determine whether any of the wildlife regulations proposed at its March 16 and 17, 1995, board meeting will be adopted as final regulations.

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The board intends, based upon public input received at a series of statewide meetings, to adopt changes governing seasons, bag limits, and methods of take and possession of wildlife. It reserves the right to expand or restrict the regulations proposed at its March 16 and 17, 1995, meeting, as necessary for the proper management of fish and wildlife resources.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session during this meeting, and committee chairmen of board committees may request committee meetings in conjunction with this meeting or thereafter.

The Board of Game and Inland Fisheries' meeting procedure is to solicit public comment at this meeting on May 4, 1995. If the board completes its agenda, it will not convene a meeting on May 5.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 786-8341.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† April 26, 1995 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Roanoke, Virginia.

† April 27, 1995 - 10 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

† June 3, 1995 -- 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 amend regulations entitled: VR 355-18-000. **Waterworks Regulations (R-Phase II, IIB and V).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Phase II, IIB, and V Rules. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for 13 new volatile organic chemicals, four revised and 24 new synthetic organic chemicals, three revised and nine new inorganic chemicals, and 11 new unregulated chemicals. These regulations follow the United States Environmental Protection Agency's standardized monitoring requirements with a nine-year compliance cycle broken into three three-year compliance periods. The monitoring requirements also define the locations and frequency with which the waterworks owners must comply. The amendments conform the state program to federal law and should avoid duplicative

enforcement action by the United States Environmental Protection Agency under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Contact: Monte J. Waugh, Technical Services Assistant, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

† April 26, 1995 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Roanoke, Virginia.

† April 27, 1995 - 10 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

† June 3, 1995 -- 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 amend regulations entitled: VR 355-18-000. **Waterworks Regulations (Lead and Copper).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Lead and Copper Rule. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for lead and copper. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Contact: Allen R. Hammer, P.E., Director, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

Biosolids Use Regulations Advisory Committee

April 5, 1995 - 2 p.m. -- Open Meeting
The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☎

A meeting to discuss issues related to implementation of final Biosolids Use Regulations involving land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755.

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Biosolids Use Committee

April 5, 1995 - 10 a.m. -- Open Meeting

The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☎

A meeting to discuss issues related to implementation of final Biosolids Use Regulations involving land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or (804) 786-5567.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† April 25, 1995 - 9:30 a.m. -- Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

HEMOPHILIA ADVISORY COMMITTEE

April 3, 1995 - 9 a.m. -- Open Meeting

Children's Hospital, 2924 Brook Road, Dining/Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board is composed of seven members serving a term of four years. Membership includes one representative each from hospitals, medical schools, blood banks, voluntary agencies interested in hemophilia, local public health agencies, medical specialists in hemophilia, and the general office (§ 32.1-89 of the Code of Virginia). The Advisory Board consults with the State Board of Health regarding programs serving persons suffering from hemophilia and other related bleeding diseases.

The board meets annually to discuss budget status, developments and future trends in blood products; update on impact of patient insurance program; plan for future developments in the hemophilia program; plan for treatment and management of hemophilia patients who are HIV-positive or suffering from Acute Immune Deficiency Syndrome.

Contact: Pamela G. Plaster, R.N., Hemophilia Nurse Coordinator, Division of Children's Specialty Services, Box 461, MCV Station, Richmond, VA 23298-0461, telephone (804) 786-3306.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources

† April 19, 1995 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX 225-4261 or (804) 786-1934/TDD ☎

State Review Board

† April 18, 1995 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to consider nominating the following properties to the National Register of Historic Places, and recommending their inclusion on the Virginia Landmarks Register.

1. Barcroft Community House, Arlington County
2. Cherrydale Volunteer Fire Department, Arlington County.
3. City Point National Cemetery, Hopewell
4. Cold Harbor National Cemetery, Hanover County
5. Danville Municipal Building, Danville
6. Danville Southern Railway Passenger Depot, Danville
7. Fort Harrison National Cemetery, Henrico County
8. Hook-Powell-Moorman Farm, Franklin County
9. Hotel Lincoln, Marion, Smyth County
10. Laurel Meadow, Hanover County
11. Long Grass, Mecklenburg County
12. Rocky Run Methodist Church, Brunswick County
13. Shockoe Hill Cemetery, City of Richmond
14. Longdale Furnace Historic District, Alleghany County
15. Old Kentucky Turnpike Historic District, Tazewell County

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX 225-4261 or (804) 786-1934/TDD ☎

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VIRGINIA HISTORIC PRESERVATION FOUNDATION

† April 12, 1995 - 10 a.m. -- Open Meeting
County Administration Building, Board of Supervisor's Meeting Room, King William, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX 225-4261 or (804) 786-1934/TDD

HIV PREVENTION COMMUNITY PLANNING COMMITTEE

April 27, 1995 - 8 a.m. -- Open Meeting
Holiday Inn Crossroads, 2000 Staples Mill Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to continue activities in planning HIV prevention for Virginia.

Contact: Elaine G. Martin, Coordinator, AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148/TDD

HOPEWELL INDUSTRIAL SAFETY COUNCIL

April 4, 1995 - 9 a.m. -- Open Meeting
May 2, 1995 - 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 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† April 17, 1995 - 10 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.

† June 2, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations

entitled: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code/1993. The purpose of the proposed action is to amend the building code to provide for local option enforcement of acoustical treatment measures in the construction of residential buildings near airports.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† April 18, 1995 - 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 for 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; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Section 8, Existing Housing Assistance Payments Program and Rules and Regulations for Section 8, Moderate Rehabilitation Program; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board 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 St., Richmond, VA 23220, telephone (804) 782-1986.

STATEWIDE INDEPENDENT LIVING COUNCIL

April 4, 1995 - 10 a.m. -- Open Meeting
Blue Ridge Independent Living Center, 1502-D Williamson Road, N.E., Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct regular quarterly business.

Contact: Catherine Northan, Chairperson, or Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134 (Hayfield), (804) 850-5922 (Northan), toll-free 1-800-552-5019 TDD and Voice, or (804) 662-9040/TDD

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DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

April 17, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include:

1. Hazard Communication, Corrections: General Industry, § 1910.1200 (VR 425-02-01); Shipyard Employment, § 1915.1200 (VR 425-02-173); Marine Terminals, § 1917.28 (VR 425-02-03); Longshoring, § 1918.90 (VR 425-02-174); and Construction, § 1926.59 (VR 425-02-31).
2. Logging Operations, General Industry, § 1910.266; Partial Stay of Enforcement (VR 425-02-52).
3. Regulatory Review: Boiler and Pressure Vessels (VR 425-01-75); Boiler and Pressure Vessels Certification (VR 425-01-64); and Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees (VR 425-01-74).
4. Welding, Cutting and Brazing Standard, General Industry, § 1910.252(c)(6); Repeal (VR 425-02-24) (Nonsubstantive repeal of former paragraph which has been redesignated)

Contact: John J. Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384, FAX (804) 786-8418 or (804) 786-2376/TDD

LIBRARY BOARD

† May 1, 1995 - 9 a.m. -- Open Meeting
† June 5, 1995 - 10:30 a.m. -- Open Meeting
† June 6, 1995 - 10:30 a.m. -- Open Meeting
Location to be announced.

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

VLIN Task Force/Automation and Networking Committee

† April 3, 1995 - 10 a.m. -- Open Meeting
† May 12, 1995 - 10 a.m. -- Open Meeting
† June 1, 1995 - 10 a.m. -- Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss strategic directions for the development of the Virginia Library and Information Network.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

† April 19, 1995 - 11 a.m. -- Open Meeting
† May 17, 1995 - 11 a.m. -- Open Meeting
† June 21, 1995 - 11 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the council, subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

STATE MANAGEMENT TEAM

† April 6, 1995 - 10 a.m. -- Open Meeting
St. Joseph's Villa, 8000 Brook Road, 2nd Floor Board Room, Richmond, Virginia.

The State Management Team is established under § 2.1-748 of the Code of Virginia. The State Management Team will meet to discuss and develop policies and make recommendations to the State Executive Council on Comprehensive Services Act-related issues as they pertain to at-risk youth and families.

Contact: Cynthia Montgomery, Office Manager, 700 E. Franklin St., Suite 510, Richmond, VA 23219, telephone (804) 786-5394 or FAX (804) 786-5403.

VIRGINIA MANUFACTURED HOUSING BOARD

April 19, 1995 - 10 a.m. -- Public Hearing
The Jackson Center, 501 North Second Street, First Floor Board Room, Richmond, Virginia.

May 10, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Manufactured Housing Board intends to amend regulations entitled: VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations. The proposed

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amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulants that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are proposed for clarity of intent and to avoid unnecessary restrictions on regulants.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Contact: Curtis L. McIver, Associate Director, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

April 18, 1995 - 10 a.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☎

A meeting to discuss medical assistance services and to take action on issues pertinent to the board.

Contact: Patricia Sykes, Policy Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

April 5, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-01-53, VR 460-02-4.1710, and VR 460-02-4.1730. OBRA '93 Estate Recoveries. The purpose of this action is to amend the plan for medical assistance concerning estate recoveries consistent with the requirements of OBRA '93, § 13612 and §§ 32.1-326.1 and 32.1-327 of the Code of Virginia. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care, returns general fund dollars to the Commonwealth.

Sections 32.1-326.1 and 32.1-327 of the Code of Virginia provide for the recovery, by the Title XIX agency, of expenditures for certain services from the estates of recipients. The Omnibus Budget Reconciliation Act of 1993 § 13612 (OBRA '93) permitted the recovery of Title XIX expended funds from the estates of individuals for all Medicaid covered services. The inclusion of states' estate recovery policies in their state plans for medical assistance was required by the cited OBRA section. Since 1984, DMAS has exercised its authority under state law and recovered expenditures for all Medicaid covered services. The fact that the new federal law makes recovery of institutional payments mandatory, but this degree of recovery an option for states lacking similar state authority, is what causes this regulatory action to be subject to the Article 2 requirements of the APA. DMAS' initial proposed regulations were published in the July 25, 1994, Virginia Register of Regulations for their public comment period from July 25 through September 23, 1994. Comments were received from two legal aid offices and from the Virginia Poverty Law Center, Inc. DMAS' review and consideration of the received comments indicated that there was considerable confusion and misunderstanding of the commenters' parts as to the substance of the regulatory package. In large measure, it is believed that the misunderstanding is due to mingling of two different types of policy statements on the preprinted pages issued by the Health Care Financing Administration (HCFA). In light of this assessment, DMAS has, with HCFA approval, slightly modified the preprinted pages so as to separate the previously mingled policies on liens on states, incorporating the legal aid comments where they pertained to estate recoveries, and is reproposing for an additional 30 days of comment this revised proposed regulation.

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

Public comments may be submitted until April 5, 1995, to Jesse Garland, Director, Fiscal Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

April 21, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-03-4.1940:1. Nursing Home Payment System (Smaller Nursing Facility Indirect Ceiling Adjustment). The purpose of this proposal is to comply with the 1994 Virginia Acts of Assembly which appropriated funds for use in increasing the indirect

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patient care operating per diem ceiling for small nursing facilities.

Under current DMAS policy, the indirect patient care operating cost ceiling is adjusted only to reflect geographical peer groups and is not modified to recognize any differences in bed size of facilities. The Virginia Health Care Association (VHCA) and the Joint Legislative Audit and Review Commission (JLARC) have recommended that DMAS adjust reimbursement to nursing facilities to reflect the relatively higher indirect operating costs incurred in operating a smaller facility. Based upon information from these organization, the 1994 General Assembly appropriated funds for this purpose and directed DMAS to work with the VHCA to develop an appropriate methodology.

For the purposes of this regulatory action, both DMAS and the nursing home industry have agreed that a smaller nursing facility is one with 90 or fewer beds. Effective July 1, 1995, existing indirect peer group ceilings of smaller nursing facilities will be adjusted by the predetermined amount identified in the regulation. In subsequent fiscal years, the facilities' adjusted ceilings will be increased according to a formula reflecting the increase in cost due to inflation.

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

Public comments may be submitted through April 21, 1995, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

† June 2, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.7. Client Appeals Regulations**. The purpose of this proposal is to abolish the Medical Assistance Appeals Panel (MAAP) as is necessary for the efficient and economical operation of a government function and to comply with the order of the court.

42 CFR Part 431 Subpart E concerns fair hearings for applicants and recipients. This subpart implements § 1902(a)(3) of the Social Security Act (Act), which requires that a State Plan for Medical Assistance provide an opportunity for a fair hearing to any persons whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services. This subpart also implements §§ 1819(f)(3), 1919(f)(3), and 1919(e)(7)(F) of the Act by providing an appeals process for individuals

proposed to be transferred or discharged from skilled nursing facilities and those adversely affected by the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Act.

This section of the federal regulations establishes the requirements for a hearing system, recipient notice requirements which must be met by the agency, recipients' rights to hearings, procedures, hearing decisions, due process standards, and corrective actions. DMAS' current MAAP is not required by either federal or state law.

The present DMAS administrative appeals process involves two levels. If the client is dissatisfied with the local social services agency's decision denying or reducing eligibility or services, the decision may be appealed to DMAS. A DMAS hearing officer conducts a fair and impartial hearing and issues a decision. That decision may be appealed to a circuit court or, at the option of the appellant, to the Medical Assistance Appeal Panel. If MAAP review is sought, the MAAP decision can also be appealed to a circuit court.

On January 28, 1994, an order was entered by Judge James H. Michael, Jr., in the U.S. District Court for the Western District of Virginia in the case of *Shifflet v. Kozlowski* (Civil Action No. 92-00072). Judge Michael ordered DMAS to comply with federal law by issuing final agency decisions to appellants within 90 days of the appeals. The court concluded that both hearing officer decisions and MAAP decisions must comply with the 90-day rule. The department has concluded that it is impossible, with present staff, to complete both levels of appeals within 90 days.

Currently, the Virginia Medical Assistance Program operates with two levels of appeal: the hearing officer level and the Medical Assistance Appeal Panel. The MAAP is not required by state or federal law. A recent federal court ruled that the entire administrative appeals process for applicants for or recipients of medical assistance must be completed within 90 days. The 90-day deadline cannot be met as long as both appeal levels exist.

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

Public comments may be submitted through June 2, 1995, to Diana Salvatore, Director, Appeals Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

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BOARD OF MEDICINE

April 5, 1995 - 9:30 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.
Roanoke, Virginia. ☎

April 13, 1995 - 9:30 a.m. -- Open Meeting
May 11, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. ☎

† April 28, 1995 - 9:30 a.m. -- Open Meeting
Fort Magruder Inn, Route 60 East, Williamsburg, Virginia. ☎

April 28, 1995 - 9:30 a.m. -- Open Meeting
Jamestown-Yorktown Foundation, Route 31 South,
Williamsburg, 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, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

April 6, 1995 - 1 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

- VR 465-02-01. General Regulations
- VR 465-09-01. Certification of Optometrists
- VR 465-11-01. Acupuncturists
- VR 465-06-01. Correctional Health Assistant
- VR 465-10-01. Radiological Technology

These regulations will be received to ensure that: (i) it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) it is mandated or authorized by law; (iii) it offers the least burdensome alternative and most reasonable solution; and (iv) it is clearly written and easily understandable. Written comments may be sent to the board before July 15, 1995.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Credentials Committee

April 8, 1995 - 8:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Executive Committee

April 7, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ☎

The committee will meet in open and closed session to: (i) review cases of files requiring administrative action; (ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act upon certain issues as presented. The chairman will entertain public comments following the adoption of the agenda for 10 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Advisory Board on Physical Therapy

April 14, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The advisory board will meet to receive reports, develop problem statements for promulgation of revised regulations with recommendation to the Board of Medicine, and such other business that may come before the advisory board. The chairperson will entertain public comments following the adoption of the agenda for 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† May 18, 1995 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A final meeting and regular meeting of the Board of Visitors to (i) hear committee reports; (ii) approve awards, distinctions, and diplomas; (iii) discuss personnel

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changes; and (iv) elect president pro tem. This is not a meeting for public comment.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

STATE MILK COMMISSION

April 12, 1995 - 9 a.m. -- Open Meeting
200 North Ninth Street, Suite 1015, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters, and to receive reports from staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. Any person who requires accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr. at least five days prior to the meeting so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013/TDD

April 12, 1995 - 11 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

This hearing is being held pursuant to §§ 3.1-430 and 3.1-437 of the Code of Virginia and VR 475-02-01, Public Participation Guidelines, §§ 1 through 4, and VR 475-02-02, Rules and Regulations for the Control, Regulation, and Supervision of the Milk Industry in Virginia, § 12. The purpose of this hearing is to consider a proposed temporary order effecting VR 475-02-02, § 8, Class prices for producer's milk time and method of payment and butterfat testing and differential, subdivisions A 1(5)(a), (b), (c), and (e). The proposed order would enable the commission to calculate monthly Class I producer price using reconstructed and reweighed indexes of prices paid and prices received; and the index of prices paid, production items, and complete feeds as published by the U.S. Department of Agriculture, National Statistics Service. The reason for the temporary substitution of these indexes is that the indexes currently referenced in VR 475-02-02, § 8, Class prices for producer's milk time and method of payment and butterfat testing and differential, subdivisions A1 (5)(a)(b) and (c) are no longer available. The order would also amend subdivision A1 (5)(e) to provide a change as to the authoritative publishing source of the average cost of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth to the Virginia Department of Agriculture and Consumer Services. The order provides that movement of these indexes will be used to move indexes specified in the regulation until a study can be conducted and

completed on the adequacy of the current economic indexes specified in the regulations in accurately reflecting conditions that influence the supply of milk, the demand for milk, or both. The study should conclude with specific recommendations concerning the formula, its components, and modifications necessary to properly amend the regulation.

The text of the proposed order is located in the proposed regulation section of 11:12 V.A.R. March 20, 1995. All interested parties will be afforded an opportunity to be heard and to present proposals, objections, amendments, evidence and arguments. The commission will allow examination of witnesses only by those persons who have reserved their right of examination by filing a written notification of intent with the commission at 200 North Ninth Street, Suite 1015, Richmond, Virginia 23219-3414, by noon on April 5, 1995.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013/TDD

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

April 12, 1995 - 1 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (C)

A regular business meeting.

Contact: Karen Ruby, Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2240.

VIRGINIA MUSEUM OF NATURAL HISTORY

† April 22, 1995 - 9 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, Blacksburg, Virginia. (C)

A meeting to include reports from the executive, finance, legislative, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the February meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD

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BOARD OF NURSING

April 18, 1995 - 3 p.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia.

May 19, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **VR 495-01-1. Regulations of the Board of Nursing**. The purpose of the proposed amendments is to facilitate the process of approval of nursing and nurse aide education programs in accordance with Administrative Process Act requirements and to comply with statutory change for practice pending licensure resulting from changes in the administration of examinations.

Statutory Authority: §§ 54.1-2400 and 54.1-3000 et seq. of the Code of Virginia.

Contact: Corinne F. Dorsey, 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

Education Advisory Committee

† April 18, 1995 - 4 p.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will meet to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed. There will be a public hearing at 3 p.m. to receive oral comments on proposed regulations VR 495-01-1 of the Board of Nursing. The purpose of the proposed regulation is to facilitate the process of approval of nursing and nurse aide education programs in accordance with APA requirements and to comply with statutory change for practice pending licensure resulting from changes in the administration of examination.

Contact: Corinne F. Dorsey, 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

Nurse Aide Registry

April 3, 1995 - 9 a.m. -- Open Meeting

April 12, 1995 - 9 a.m. -- Open Meeting

April 13, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A special conference committee will meet to hold informal conferences for certified nurse aides. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD

BOARD OF NURSING HOME ADMINISTRATORS

† April 26, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th 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: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD

BOARDS OF NURSING AND MEDICINE

† May 1, 1995 - 1 p.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† June 2, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing and the Board of Medicine intend to amend regulations entitled: **VR 495-02-1 and VR 465-07-1. Regulations Governing the Licensure of Nurse Practitioners**. The Boards of Nursing and Medicine propose amendments to these regulations as the result of a biennial review. The changes proposed will add a definition of collaboration, delete a restrictive definition of supervision and clarify the categories of licensed nurse practitioners. Clarification of compliance with the Administrative Process Act in administrative proceeding is also included.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Contact: Corinne F. Dorsey, 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

† May 1, 1995 - 1 p.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Calendar of Events

A public hearing to receive comments on proposed amendments to VR 495-02-1 and VR 465-07-01, Regulations Governing the Licensure of Nurse Practitioners. Other matters within the jurisdiction of the committee may be considered as time permits.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing and Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD 

BOARD FOR OPTICIANS

April 28, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

The board will meet for regulatory review, further discussions of contact lens sales by pharmacies and mail-order houses, and other matters requiring board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman or Les Newton. The board fully complies with the Americans with Disabilities Act. Please notify the board of your request for accommodations or interpreter services at least 10 days in advance for consideration.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD 

BOARD OF OPTOMETRY

April 21, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: VR 510-01-1. Regulations of the Board of Optometry. The purpose of the proposed amendments are to (i) remove defunct public participation guidelines; (ii) establish provisions for licensure by endorsement; (iii) reduce fees; and (iv) establish specifications for a complete contact lens prescription.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-3200 et seq. of the Code of Virginia.

Contact: Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD 

BOARD OF PHARMACY

† April 4, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting of the Committee on Regulations. This is a working meeting and no public comment will be received at this time. The committee will begin development of proposed regulations subsequent to Notices of Intended Regulatory Action published March 20, 1995, develop a workplan and begin work on the comprehensive review of VR 530-01-1, Virginia Board of Pharmacy Regulations, in response to Executive Order 15(94), and discuss the use of an ad hoc advisory committee.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† April 12, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

There will be a board meeting and formal hearings beginning at 9 a.m. and a public hearing on proposed regulations relating to licensure of graduates of foreign schools of pharmacy from 1 to 1:30 p.m. This is a public meeting and there will be a 15-minute public comment period from 9:15 a.m. to 9:30 a.m.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

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April 12, 1995 - 1 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

May 22, 1995 -- 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 Pharmacy intends to amend regulations entitled: VR 530-01-1. **Regulations of the Board of Pharmacy.** The Board of Pharmacy is proposing amendments to its regulations necessary to implement legislation enacted by the 1994 General Assembly allowing graduates of foreign schools of pharmacy to apply for licensure as a pharmacist.

Statutory Authority: §§ 54.1-2400, 54.1-3307, and 54.1-3312 of the Code of Virginia.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

Calendar of Events

PREVENTION AND PROMOTION ADVISORY COUNCIL

April 20, 1995 - 10 a.m. -- Open Meeting
Henrico Area Mental Health and Mental Retardation Services Board, 10299 Woodman Road, Conference Room B, Glen Allen, Virginia. ☎

A quarterly business meeting.

Contact: Hope Richardson, Program Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-1530.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† May 18, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct board business and to hold a public hearing in accordance with Executive Order 15(94).

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

† April 6, 1995 - 9:30 a.m. -- Open Meeting
† April 7, 1995 - 9:30 a.m. -- Open Meeting
Division of Alcoholic and Beverage Control, Chesapeake Region, 1103 South Military Highway, Chesapeake, Virginia.

† April 19, 1995 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions.

Contact: Stacie G. Camden, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† April 13, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Training Room, Richmond, Virginia.

The council will continue work on developing and monitoring a plan to strengthen Virginian's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors and manufacturers to handle and use specified recyclable materials. Subcommittee meetings, if appropriate, will be held prior to the general council meeting; subcommittees will meet from 10 to 11:30 a.m., and the council will meet from 11:30 a.m. to 12:30 p.m., then break for lunch.

Contact: Paddy Katzen, Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

DEPARTMENT OF REHABILITATIVE SERVICES, DEPARTMENT OF VISUALLY HANDICAPPED, AND STATEWIDE INDEPENDENT LIVING COUNCIL

† April 19, 1995 - 1 p.m. -- Public Hearing
Hampton Public Library, 4207 Victoria Boulevard, Hampton, Virginia. ☎ (Interpreter for the deaf provided upon request)

† April 25, 1995 - 1 p.m. -- Public Hearing
Tuckahoe Library, Parham and Fargo Roads, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

† April 26, 1995 - 1 p.m. -- Public Hearing
Penno Building, 12011 Government Center Parkwy, Room 749, Fairfax, Virginia. ☎ (Interpreter for the deaf provided upon request)

† April 27, 1995 - 1 p.m. -- Public Hearing
Special telephone call-in for the Southwest area of the state, 1-800-552-5019.

The Statewide Independent Living Council, the Virginia Department of Rehabilitative Services, and the Virginia Department for the Visually Handicapped will host public hearings to develop the Statewide Independent Living Plan which will describe the scope and extent of independent living services for the Commonwealth of Virginia. Tentative goals of the plan will be available at the hearings and in advance. Requests for receipt of the goals may be made to the Department of Rehabilitative Services through Kathy Hayfield at 1-800-552-5019.

Contact: Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, and (804) 662-9040/TDD ☎

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† April 27, 1995 - 4 p.m. -- Open Meeting

Calendar of Events

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, Richmond, VA 23204-0548, telephone (804) 782-1938.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

† April 18, 1995 - 6 p.m. -- Public Hearing Marion, Virginia. Location to be announced. (Interpreter for the deaf provided upon request)

† April 20, 1995 - 4 p.m. -- Public Hearing Junction Center for Independent Living, 4300 B Powell Valley Road, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

† April 21, 1995 - 6 p.m. -- Public Hearing Danville, Virginia. Location to be announced. (Interpreter for the deaf provided upon request)

† April 24, 1995 - 5 p.m. -- Public Hearing Independence Center, 15 Koger Center, Suite 100, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† April 25, 1995 - 6 p.m. -- Public Hearing Fishersville/Staunton area. Location to be announced. (Interpreter for the deaf provided upon request)

† April 26, 1995 - 5 p.m. -- Public Hearing Northern Virginia area. Location to be announced. (Interpreter for the deaf provided upon request)

These meetings are being held to discuss issues and concerns that impact persons with disabilities. Public comment, either orally or in writing, is invited on the mission, programs, priorities, and planning of the department. Please call for directions, to request accommodation, or for further information.

Contact: Rebecca Currin, Human Services Supervisor, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962/TDD

Protection and Advocacy for Individuals with Mental Illness Advisory Council

April 30, 1995 - 9 a.m. -- Open Meeting Shoney's Inn, 7007 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled bi-monthly meeting. There will be opportunity for public comment at 9 a.m.

Contact: Barbara Hoban, Advocate, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

April 12, 1995 - 10 a.m. -- Open Meeting Dumbarton Library, 6800 Staples Mill Road, Richmond, Virginia.

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to § 32.1-166.1 et seq. and § 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

SUBCOMMITTEE ON TEEN PREGNANCY PREVENTION

April 6, 1995 - 9:30 a.m. -- Open Meeting Henrico Area Mental Health and Retardation Services Board, 10299 Woodman Road, Conference Room C, Glen Allen, Virginia.

A quarterly business meeting.

Contact: Jeanne McCann, Program Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-5793.

COMMONWEALTH TRANSPORTATION BOARD

† April 19, 1995 - 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.

† April 20, 1995 - 10 a.m. -- Open Meeting Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Calendar of Events

A monthly meeting of the board to vote on proposals presented regarding bid, 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 VDOT 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

† April 19, 1995 - 9 a.m. -- Open Meeting
† May 17, 1995 - 9 a.m. -- Open Meeting
† June 21, 1995 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☎

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Treasury Board, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

April 19, 1995 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☎

The commission will conduct a regular monthly meeting including a review of its regulations.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† April 19, 1995 - 5 p.m. -- Public Hearing
Lions Sight Foundation, 501 Elm Avenue, Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request. Deadline for interpreter is April 7 at 5 p.m.)

† May 1, 1995 - 2 p.m. -- Public Hearing
† May 1, 1995 - 6:30 p.m. -- Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request. Deadline for interpreter is April 17 at 5 p.m.)

† May 4, 1995 - Noon -- Public Hearing
† May 4, 1995 - 6:30 p.m. -- Public Hearing
Howard Johnson Motel, 700 Monticello Avenue, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request. Deadline for interpreter is April 20 at 5 p.m.)

† May 10, 1995 - 6:30 p.m. -- Public Hearing
Central Arlington County Library, 1015 North Quincy Street, Arlington, Virginia. ☎ (Interpreter for the deaf provided upon request. Deadline for interpreter is April 26 at 5 p.m.)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

Contact: James G. Taylor, Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111.

Vocational Rehabilitation Advisory Council

May 20, 1995 - 10 a.m. -- Open Meeting
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 the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is May 4, 1995.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, 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

April 27, 1995 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

April 6, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

Calendar of Events

A meeting to conduct regulation review and other matters which may require board action. A public comment period will be scheduled during the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8590 at least 10 days in advance for consideration. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD

COLLEGE OF WILLIAM AND MARY

Board of Visitors

† April 6, 1995 - 2:30 p.m. -- Open Meeting

† April 7, 1995 - 8 a.m. -- Open Meeting

Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.

A regularly scheduled meeting to approve the budgets and fees of the College of William and Mary and Richard Bland College, to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the meeting for those individuals or organizations who request it.

Contact: Ray L. Betzner, Director of Public Information, Office of University Relations, College of William and Mary, Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2628.

LEGISLATIVE

VIRGINIA CODE COMMISSION

Title 15.1 Recodification Task

April 6, 1995 - 10 a.m. -- Open Meeting

May 18, 1995 - 10 a.m. -- Open Meeting

May 19, 1995 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, 6th Floor, Speakers Conference Room, Richmond, Virginia.

A meeting to continue drafting revision of Title 15.1 to present to the Virginia Code Commission. SJR 2.

Contact: Michelle Browning, Senior Operations Staff Assistant, Division of Legislative Services, General Assembly

Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 3

Alcoholic Beverage Control Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
Barbers, Board for
Hemophilia Advisory Committee
† Library Board
- VLIN Task Force/Automation and Networking Committee of the Library of Virginia
Nursing, Board of
- Nurse Aide Registry

April 4

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Environmental Quality, Department of
- Private Property Owners Advisory Committee on Exceptional Waters
Hopewell Industrial Safety Council
Independent Living Council, Statewide
† Pharmacy, Board of

April 5

† Aging, Governor's Advisory Board on
† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Criminal Justice Services Board
- Committee on Training
Emergency Planning Committee, Local - Winchester Health, Department of
- Biosolids Use Committee
Medicine, Board of

April 6

† Aging, Governor's Advisory Board on
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee
† Management Team, State
† Real Estate Board
Teen Pregnancy Prevention, Subcommittee on
Title 15.1 Recodification Task Force
Waterworks and Wasteworks Operators, Board for
† William and Mary, College of
- Board of Visitors

April 7

Dentistry, Board of
Medicine, Board of
- Executive Committee

Calendar of Events

- † Real Estate Board
† William and Mary, College of
- Board of Visitors
- April 8**
Medicine, Board of
- Credentials Committee
- April 10**
† Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
- April 11**
Emergency Planning Committee, Local - Arlington
County/City of Falls Church/Washington National Airport
† Funeral Directors and Embalmers, Board of
- Examination Committee
- Legislative Committee
- April 12**
† Conservation and Recreation, Department of
- Virginia State Parks Foundation
† Contractors, Board for
† Employment Commission, Virginia
- State Advisory Board
† Environmental Quality, Department of
† Historic Preservation Foundation, Virginia
Milk Commission, State
Motor Vehicles, Department of
- Medical Advisory Board
Nursing, Board of
- Nurse Aide Registry
† Pharmacy, Board of
Sewage Handling and Disposal Appeals Review Board
- April 13**
Agriculture and Consumer Services, Department of
- Pesticide Control Board
Architects, Professional Engineers, Land Surveyors and
Landscape Architects
† Child-Day Care Council
† Employment Commission, Virginia
- State Advisory Board
Medicine, Board of
Nursing, Board of
- Nurse Aide Registry
† Recycling Markets Development Council, Virginia
- April 14**
Medicine, Board of
- Advisory Board of Physical Therapy
- April 17**
Alcoholic Beverage Control Board
Labor and Industry, Department of
- Safety and Health Codes Board
- April 18**
† Corrections, Board of
- Correctional Services Committee
† Historic Resources, Department of
- State Review Board
† Housing, Development Authority, Virginia
Medical Assistance Services, Board of
- April 19**
Accountancy, Board for
† Agriculture and Consumer Services, Department of
- Virginia Farmers Market Board
Auctioneers Board
† Corrections, Board of
- Administration Committee
† Historic Resources, Board of
† Local Debt, State Council on
† Real Estate Board
† Commonwealth Transportation Board
† Treasury Board
Virginia Racing Commission
- April 20**
Accountancy, Board for
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Corrections, Board of
- Liaison Committee
Prevention, Promotion Advisory Council
† Transportation Board, Commonwealth
- April 21**
† Air Pollution Control Board, State
- State Advisory Board on Air Pollution
† Correctional Education, Board of
- April 22**
Conservation and Recreation, Department of
- Virginia Cave Board
† Natural History, Virginia Museum of
- Board of Trustees
- April 25**
Accountancy, Board for
† Agriculture and Consumer Services, Department of (Board of)
† Aviation Board, Virginia
† Health Services Cost Review Council, Virginia
- April 26**
† Aviation Board, Virginia
† Contractors, Board for
† Nursing Home Administrators, Board of
- April 27**
Accountancy, Board for
† Contractors, Board for
HIV Prevention Community Planning Committee
† Richmond Hospital Authority
- Board of Commissioners
Voluntary Formulary Board, Virginia
- April 28**
Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board Medicine, Board of
† Executive Council, State
† Medicine, Board of
Opticians, Board for
- April 30**
Rights of Virginians with Disabilities, Department of
- Protection and Advocacy for Individuals with Mental
Illness Advisory Council

Calendar of Events

May 1	Alcoholic Beverage Control Board † Funeral Directors and Embalmers, Board of - Legislative Committee † Library Board	† Library of Virginia - VLIN Task Force/Automation and Networking Committee
May 2	† Funeral Directors and Embalmers, Board of Hopewell Industrial Safety Council	June 5 † Library Board
May 3	† Chesapeake Bay Local Assistance Board - Northern Area Review Committee † Contractors, Board for	June 6 † Library Board
May 4	† Audiology and Speech-Language Pathology, Board of Branch Pilots, Board for † Chesapeake Bay Local Assistance Board - Central Area Review Committee - Southern Area Review Committee † Contractors, Board for † Game and Inland Fisheries, Board of	June 7 † Chesapeake Bay Local Assistance Board - Northern Area Review Committee
May 5	† Game and Inland Fisheries, Board of	June 12 Alcoholic Beverage Control Board
May 10	† Environmental Quality, Department of	June 14 † Environmental Quality, Department of
May 11	Medicine, Board of	June 21 † Local Debt, State Council on † Treasury Board
May 12	† Library of Virginia - VLIN Task Force/Automation and Networking Committee	June 26 Alcoholic Beverage Control Board
May 15	Alcoholic Beverage Control Board	PUBLIC HEARINGS
May 17	† Local Debt, State Council on † Treasury Board	April 6 Education, Board of Medicine, Board of
May 18	† Military Institute, Virginia - Board of Visitors † Professional and Occupational Regulation, Department of Title 15.1 Recodification Task Force	April 10 Education, Board of
May 19	Title 15.1 Recodification Task Force	April 11 Education, Board of
May 20	Visually Handicapped, Department for the Vocational Rehabilitation Advisory Council	April 12 Education, Board of Milk Commission, State Pharmacy, Board of
May 31	Alcoholic Beverage Control Board	April 17 † Housing and Community Development, Board of
June 1	† Chesapeake Bay Local Assistance Board - Central Area Review Committee - Southern Area Review Committee	April 18 Nursing, Board of - Education Advisory Committee
		April 19 Corrections, Board of Manufactured Housing Board, Virginia † Rehabilitative Services, Department of; Visually Handicapped, Department of; Statewide Independent Living Council † Visually Handicapped, Department for the
		April 25 † Rehabilitative Services, Department of; Visually Handicapped, Department of; Statewide Independent Living Council
		April 26 † Health, Department of

Calendar of Events

† Rehabilitative Services, Department of; Visually Handicapped, Department of; Statewide Independent Living Council

Statewide Independent Living Council

April 27

† Health, Department of

† Rehabilitative Services, Department of, Visually Handicapped, Department of, Statewide Independent Living Council

May 1

† Nursing and Medicine, Committee of the Joint Boards of

† Visually Handicapped, Department for the

May 3

Criminal Justice Services, Department of

May 4

† Visually Handicapped, Department for the

May 10

† Visually Handicapped, Department for the

May 18

† Asbestos Licensing and Lead Certification, Board for

