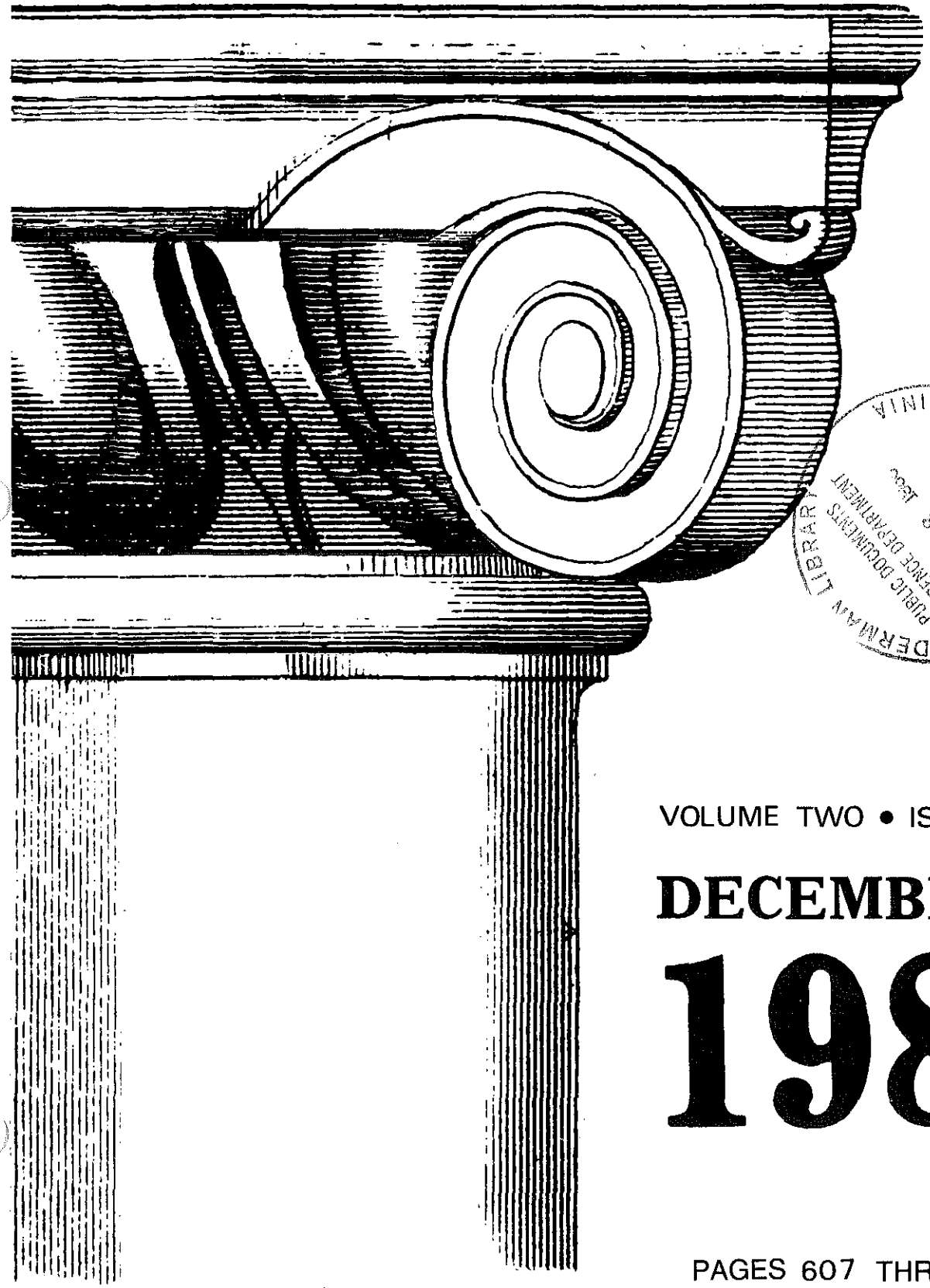
THE VIRGINIA REGISTER

OF REGULATIONS



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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

PUBLICATION DATE	MATERIAL SUBMITTED BY 12 noon Wednesday
July 8	June 21
Index	
July 22	July 3
Aug. 5	July 17
Aug. 19	July 31
Sept. 2	Aug. 14
Sept. 16	Aug. 28
Sept. 30	Sept. 11
Final Index - Volume I	
Oct. 14	Sept. 25
Oct. 28	Oct. 9
Nov. 11	Oct. 23
Nov. 25	Nov. 6
Dec. 9	Nov. 20
Dec. 23	Dec. 4
Index	
Jan. 6 *1986*	Dec. 18
Jan. 20	Dec. 31 (Tuesday)
Feb. 3	Jan. 15
Feb. 17	Jan. 29
Mar. 3	Feb. 12
Mar. 17	Feb. 26
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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.

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NOTICE:

The following regulations do not comply with the format established by the Registrar of Regulations since the Board of Agriculture and Consumer Services is bound and preempted by the Federal Fair Packaging and Labeling Act of the United States and the rules and regulations adopted under the U. S. Food and Drug Administration Act and the Federal Trade Commission Act concerning "Labeling of Commodities in Package Form"; and preemptive labeling by U. S. Department of Agriculture and other federal agencies. The most up-to-date manual on this subject is the National Bureau of Standards Handbook 130 (NBS No. 130) Uniform Laws and Regulations, sections entitled Packaging and Labeling Regulation and Method of Sale of Commodities Regulation, published annually by the U. S. Department of Commerce, National Bureau of Standards, as adopted by the National Conference on Weights and Measures annually. The Department proposes to adopt this manual in its latest form as the basis for regulations of "Commodities in Package Form" for the Commonwealth.

Title of Regulation: **VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.**

Statutory Authority: §§ 3.1-926 and 3.1-943 of the Code of Virginia.

Public Hearing Date: February 26, 1985 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

These regulations establish industry-wide rules to promote honesty and fair dealing in the market place and to provide consumers with information relating to quantity and pricing. Among the many specific requirements for individual commodities, the regulation generally provides for:

1. Labeling consumer commodities which enhances value comparisons and reduces the potential for misrepresentation or fraud;

2. Uniform method of sale of some commodities;

3. Exemption of certain standard weights or measures such as berry baskets, milk bottles or lubricating oil bottles from sealing or marking and/or annual retesting;

4. Record keeping and weighing procedures on the sale of producers' tobacco at auction markets;

5. Requiring a delivery ticket showing net weight of certain bulk commodities such as coal, limestone or fertilizer;

6. Uniformity with the Federal Fair Packaging and Labeling Act and its regulations; and

7. Uniformity with the rules and regulations recommended by the National Conference on Weights and Measures.

VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.

The Board of Agriculture and ~~Commerce~~ *Consumer Services* , recognizing that the department is bound and preempted by the Fair Packaging and Labeling Act of the United States and the rules and regulations adopted ~~pursuant to the Act by~~ *under* the U. S. Food and Drug Administration *Act* and the Federal Trade Commission *Act* concerning "Labeling of Commodities in Package Form"; and preemptive labeling by U. S. Department of Agriculture and other federal agencies; and recognizing that the most up-to-date manual on this subject is the National Bureau of Standards Handbook 130 (NBS No. 130) Uniform Laws and Regulations, sections entitled Packaging and Labeling Regulation and Method of Sale of Commodities Regulation, published annually by the U. S. Department of Commerce, National Bureau of Standards, as adopted by the National Conference on Weights and Measures annually, does hereby give official status to, adopt, and establish this manual in its latest form as the basis for regulations of "Commodities in Package Form" for the Commonwealth.

To promote uniformity with the Packaging and Labeling Laws and Regulations of the United States and sister states, the board directs the Commissioner of the Department of Agriculture and Consumer Services to publish and enforce changes made to the ~~Model State Packaging and Labeling Regulation~~ Uniform Packaging and Labeling Regulation and Method of Sale of Commodities Regulation as received in accordance with the provisions of the Administrative Process Act, (§§ 9-6.14:6 and 9-6.14:9 *of the Code of Virginia* .)

PACKAGING AND LABELING REQUIREMENTS

~~Section~~ § 1. Application.

This regulation shall apply to packages and to commodities in package form, but shall not apply to:

A. Inner wrappings not intended to be individually sold to the customer,

B. Shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined herein,

C. Auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity,

D. Containers used for retail tray pack displays when the container itself is not intended to be sold (e.g., the tray that is used to display individual envelopes of seasonings, gravies, etc., and the tray itself is not intended to be sold), or

E. Open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by this regulation.

~~Section~~ § 2. Definitions.

2.1. Commodity in Package Form. The term "commodity in package form" shall be construed to mean a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be a commodity in package form. Where the term "package" is used in this regulation, it shall be construed to mean "commodity in package form" as herein defined.

2.2. Consumer Package: Package of Consumer Commodity. A "consumer package" or "package of consumer commodity" shall be construed to mean a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

2.3. Nonconsumer Package: Package of Nonconsumer Commodity. A "nonconsumer package" or "package of nonconsumer commodity" shall be construed to mean any commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution.

2.4. Random Package. The term "random package" shall be construed to mean a package that is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

2.5. Label. The term "label" shall be construed to mean any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for the purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package, except that an inspector's tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this regulation.

2.6. Person. The term "person" shall be construed to mean both singular and plural, and shall include any individual, partnership, company, corporation, association, and society.

2.7. Principal Display Panel or Panels. The term "principal display panel or panels" shall be construed to mean that part, or those parts, of a label that is, or are, so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."

2.8. Multi-Unit Package. The term "multi-unit package" shall be construed to mean a package containing two or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multi-unit package but capable of being individually sold in full compliance with all requirements of this regulation.

~~Section~~ § 3. Declaration of Indentity: Consumer Package.

3.1. Declaration of Identity: Consumer Package. A declaration of identity on a consumer package shall appear on the principal display panel, and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.

3.1.1. Parallel Identity Declaration: Consumer Package. A declaration of the identity on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed.

~~Section~~ § 4. Declaration of Identity: Nonconsumer Package.

A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall positively identify the commodity in the package by its

common or usual name, description, generic term, or the like.

~~Section~~ § 5. Declaration of Responsibility: Consumer and Nonconsumer Packages.

Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed shall specify conspicuously on the label of the package the name and address of the manufacturer, packer, or distributor. The name shall be the actual corporate name, or when not incorporated, the name under which the business is conducted. The address shall include street address, city, state, and zip code; however, the street address may be omitted if this is shown in a current city directory or telephone directory.

If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as "Manufactured for and packed by .....," "Distributed by .....," or any other wording of similar import that expresses the facts.

~~Section~~ § 6. Declaration of Quantity: Consumer Packages.

6.1. General*. The metric and inch-pound systems of weights and measures are recognized as proper systems to be used in the declaration of quantity. Units of both systems may be presented in a dual declaration of quantity. ~~Except where additional exemption is otherwise provided herin, all metric labeling requirements affected by this 1978 revision shall apply to labels:~~

~~A. Revised after the effective date of this regulation or~~

~~B. As of July 1, 1980, whichever occurs first.~~

*Packages subject to the Federal Fair Packaging and Labeling Act must be labeled in inch-pound units of measure. Metric units may also be declared on the principal display panel and may even appear first.

6.2. Largest Whole Unit. Where this regulation requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed (following the requirements of Section 6.10. Fractions):

A. Inch-Pound Units.

1. In common or decimal fractions of such largest whole unit, or in

2. The next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

B. Metric Units, in decimal fractions of such largest whole unit.

6.3. Net Quantity. A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material paced with such commodity (except as noted in Section 10.3), shall appear on the principal display panel of a consumer package and, unless otherwise specified in this regulation (see subsections 6.7. through 6.8.3.), shall be in terms of the largest whole unit.

6.3.1. Use of "Net Weight." The term "net weight" shall be used in conjunction with the declaration of quantity in units of weight. The term may either precede or follow the declaration of weight.

6.3.2. Lines of Point or Type. A declaration of quantity may appear on one or more lines of print or type.

6.4. Terms: Weight, Liquid Measure, Dry Measure, or Count. The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or dry measure if the commodity is dry, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such a declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

6.4.1. Combination Declaration.

A. A declaration of quantity in terms of weight shall be combined with appropriate declarations of the measure, count, and size of the individual units unless a declaration of weight alone is fully informative.

B. A declaration of quantity in terms of measure shall be combined with appropriate declarations of the weight, count, and size of the individual units unless a declaration of measure alone is fully informative.

C. A declaration of quantity in terms of count shall be combined with appropriate declarations of the weight, measure, and size of the individual units unless a declaration of count alone is fully informative.

6.5. Inch-Pound Units: Weight, Measure. A declaration of Quantity:

A. In units of weight, shall be in terms of the avoirdupois pound or ounce;

B. In units of liquid measure, shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon and shall express the volume at 68°F., except in the case of petroleum products, for which the declaration shall express the volume at 60°F, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40°F;

C. In units of linear measure, shall be in terms of the yard, foot, or inch;

D. In units of area measure, shall be in terms of the square yard, square foot, or square inch;

E. In units of volume measure, shall be in terms of the cubic yard, cubic food, or cubic inch;

F. In units of dry measure, shall be in terms of the United States bushel of 2150.42 cubic inches, or peck, dry-quart, and dry-pint subdivisions of the bushel.

6.5.1. Symbols and Abbreviations. Any of the following symbols and abbreviations, and none other, shall be employed in the quantity statement on a package of commodity:

avoirdupois	avdp	ounce	oz
cubic	cu	pint	pt
feet or foot	ft	pound	lb
fluid	fl	quart	qt
gallon	gal	square	sq
inch	in	weight	wt
liquid	liq	yard	yd

(There normally are no periods following, nor plural forms of, symbols. For example, "oz" is the symbol for both "ounce" and "ounces". Both upper and lower case letters are acceptable.)

6.5.2. Units of Two or More Meanings. When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term "fluid"; however, such distinction may be omitted when, by association of terms (for example, as in "20 fluid ounces, 1 pint 4 ounces"), the proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word "dry."

6.6. Metric Units: Weight, Measure. A declaration of quantity in:

A. Units of weight shall be in terms of the kilogram, gram, or milligram;

B. Units of liquid measure shall be in terms of the liter or milliliter, and shall express the volume at 20°C, except in the case of petroleum products, for which the declaration shall express the volume at 15°C, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 4°C;

C. Units of linear measure shall be in terms of the meter, centimeter, or millimeter;

D. Units of area measure, shall be in terms of the square meter or square centimeter;

E. Units of volume other than liquid measure, shall be in terms of the liter and milliliter, except that the terms cubic meter and cubic centimeter will be used only when specifically designated as a method of sale.

6.6.1. Symbols. Any of the following symbols for metric units, and none other, may be employed in the quantity statement on a package of commodity:

kilogram	kg
gram	g
milligram	mg
liter	L or l
milliliter	mL or ml
meter	m
centimeter	cm
millimeter	mm
square meter	m/2
square centimeter	cm/2
cubic meter	m/3
cubic centimeter	cm/3

A. Symbols, except for liter, are not capitalized unless the unit is derived from a proper name. Periods should not be used after the symbol. Symbols are always written in the singular form—do not add "s" to express the plural when the symbol is used.

B. The "l" symbol for liter and "ml" symbol for milliliter are permitted; however, the "L" symbol and the "mL" symbol are preferred.

6.7. Prescribed Units, Inch-Pound System.

6.7.1. Less than 1 Foot, 1 Square Foot, 1 Pound, or 1 Pint. The declaration of quantity shall be expressed in terms of:

A. In the case of length measure of less than 1 foot, inches and fractions of inches;

B. In the case of area measure of less than 1 square foot, square inches and fractions of square inches;

C. In the case of weight of less than 1 pound, ounces and fractions of ounces;

D. In the case of liquid measure of less than 1 pint, fluid ounces and fractions of fluid ounces;

Provided , that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than three[1] decimal places.

[1] Packages entering interstate commerce are restricted by federal regulations to two decimal place quantity declarations. For example, see 9 CFR § 317.2(h)(5) for meat and meat products, 21 CFR § 101.105(j)(2) for non-meat and non-poultry foods, and 16 CFR § 500.9(b) for certain non-food consumer commodities.

6.7.2. Weight: Dual Quantity Declaration. On packages containing 1 pound or more but less than 4 pounds, the declaration shall be expressed in ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit: *Provided,* that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractiions of the pound carried out to not more than two decimal places.

6.7.3. Liquid Measure: Dual Quantity Declaration. On packages containing 1 pint or more, but less than 1 gallon, the declaration shall be expressed in fluid ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

6.7.4. Length Measure: Dual Quantity Declaration. On packages containing 1 foot or more, but less than 4 feet, the declaration shall be expressed in inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

6.7.5. Area Measure: Dual Quantity Declaration. On packages containing 1 square foot or more but less than 4 square feet, the declaration shall be expressed in square inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

6.7.6. Four Feet, 4 Square Feet, 4 Pounds, 1 Gallon, or More. In the case of:

A. Length measure of 4 feet or more

The declaration of quantity shall be expressed in terms of feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches. In the case of

B. Area measure of 4 square feet or more;

C. Weight of 4 pounds or more;

D. Liquid measure of 1 gallon or more

The declaration of quantity shall be expressed in terms of the largest whole unit.

6.7.7. Bidimensional Commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

A. If less than 1 square foot, in terms of linear inches and fractions of linear inches;

B. If at least 1 square foot but less than 4 square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit; *Provided,* that

1. No square inch declaration is required for a bidimensional commodity of 4 inches width or less,

2. A dimension of less than 2 feet may be stated in inches within the parenthetical declaration, and

3. Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see subsection 6.9. *Count: Ply* .) require a declaration of unit area but not a declaration of total area of all such units,

C. If 4 square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole unit; *Provided,* that

1. No declaration in square feet is required for a bidimensional commodity with a width of 4 inches or less,

2. Bidimensional commodities, with a width of 4 inches or less, shall have the length expressed in inches followed by a statement in parentheses of the length in the largest whole unit. (Example: 2 inches by 360 inches (10 yards).)

3. A dimension of less than 2 feet may be stated in inches within the parenthetical declaration, and

D. No declaration in square units is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

6.8. Prescribed Units, Metric System.

6.8.1. Less Than 1 Meter, 1 Square Meter, 1 Kilogram, or 1 Liter. The declaration of quantity shall be expressed in terms of:

A. In the case of length measure of less than 1 meter, centimeters, or millimeters;

B. In the case of area measure of less than 1 square meter, square centimeters and decimal fractions of square centimeters;

C. In the case of weight of less than 1 kilogram, grams and decimal fractions of a gram, but if less than 1 gram, then in milligrams;

D. In the case of liquid or dry measure of less than one liter, milliliters;

Provided, that the quantity declaration appearing on a random weight package may be expressed in terms of decimal fractions of the largest appropriate[1] unit, the fraction being carried out to not more than three[1] decimal places.

[1] Packages entering interstate commerce are restricted by federal regulations to two decimal place quantity declarations. For example, see 9 CFR § 317.2(h)(5) for meat and meat products, 21 CFR § 101.105(j)(2) for nonmeat and nonpoultry foods and 16 CFR § 500.9(b) for certain nonfood consumer commodities.

6.8.2. One Meter, 1 Square Meter, 1 Liter or More. In the case of:

A. Length measure of 1 meter or more; in meters and decimal fractions to not more than two places.

B. Area measure of 1 square meter or more; in square meters and decimal fractions to not more than two places.

C. Weight of 1 kilogram or more; in kilograms and decimal fractions to not more than two places.

D. Liquid or dry measure of 1 liter or more; in liters and decimal fractions to not more than two places.

6.8.3. Bidimensional Commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

A. If less than 1 square meter in terms of length and width.

B. If 1 square meter or more, in terms of square measure followed in parentheses by a declaration of length and width: *Provided,* that

1. Quantity declarations on bidimensional commodities with a width of 100 millimeters or less may be expressed in terms of width and length, only.

2. Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see subsection 6.9. *Count: Ply* .) require a declaration of unit area but not a declaration of total area of all such units.

3. No declaration in square units is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

6.9. Count: Ply. If the commodity is in individually usable units of one or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this regulation, include the number of ply and total number of usable units.

Roll-type commodities, when perforated so as to identify individual usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of:

A. Total area measurement,

B. Number of ply,

C. Count of usable units, and

D. Dimensions of a single usable unit.

6.10. Fractions.

A. Metric: A metric statement in a declaration of net quantity of contents of any consumer commodity may contain only decimal fractions.

B. Inch-Pound: An inch-pound statement of net quantity of contents of any consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eights, sixteenths, or thirty-seconds, except that:

1. If there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed, and

2. If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds.

C. Common Fractions: A common fraction shall be reduced to its lowest term (Example: 2/4 becomes 1/2).

D. Decimal Fractions: A decimal fraction shall not be carried out to more than two places.

6.11. Supplementary Declarations.

6.11.1. Supplementary Quantity Declarations. The required quantity declaration may be supplemented by

one or more declarations of weight, measure, or count, such declaration appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package (e.g., "giant" quart, "larger" liter, "full" gallon, "when packed," "minimum," or words of similar import).

6.11.2. Combined Metric and Inch-Pound Declarations. An equivalent statement of the net quantity of contents in terms of either the inch-pound or metric system is not regarded as a supplemental statement and such statement may also appear on the principal display panel; *Provided,* that it conforms to both subsections 6.5. and 6.6.

6.11.3. Rounding. In all conversions for the purpose of showing an equivalent metric or inch-pound quantity to a rounded inch-pound or metric quantity, the number of significant digits retained should be such that accuracy is neither sacrificed nor exaggerated. As a general rule, converted values should be rounded down by dropping any digit beyond the first three. (Example: 196.4 grams becomes 196 grams or 1.759 feet becomes 1.75 feet.)

6.12. Qualification of Declaration Prohibited. In no case shall any declaration of quantity be qualified by the addition of the words "when packed," "minimum," or "not less than" or any words of similar import, nor shall any unit weight, measure, or count be qualified by any term (such as "jumbo," "giant," "full," or the like) that tends to exaggerate the amount of commodity.

6.13. Character of Declaration: Average. The average quantity of contents in the packages of a particular lot, shipment, or delivery shall at least equal the declared quantity, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage.

§ 7. Declaration of Quantity: Nonconsumer Packages.

7.1. General. The metric and inch-pound systems of weights and measures are recognized as proper systems to be used in the declaration of quantity. Units of both systems might be combined in a dual declaration of quantity.[1]

[1] NOTE: Although nonconsumer packages under this regulation might bear only metric declarations, this regulation should not be construed to supersede any labeling requirement specified in federal law.

7.2. Location. A nonconsumer package shall bear on the outside a declaration of the net quantity of contents. Such declaration shall be in terms of the largest whole unit (see subsection 6.2. Largest Whole Unit).

7.3. Terms: Weight, Liquid Measure, Dry Measure, or Count. The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or in terms of dry measure if the commodity is dry, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

7.4. Inch-Pound Units: Weight, Measure. A declaration of quantity:

A. In units of weight, shall be in terms of the avoirdupois pound or ounce;

B. In units of liquid measure, shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions or the gallon, and shall express the volume at 68°F. except in the case of petroleum products, for which the declaration shall express the volume at 60°F., and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40°F.;

C. In units of linear measure, shall be in terms of the yard, foot, or inch;

D. In units of area measure, shall be in terms of the square yard, square foot, or square inch;

E. In units of volume measure, shall be in terms of the cubic yard, cubic foot, or cubic inch;

F. In units of dry measure, shall be in terms of the United States bushel of 2150.42 cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel.

7.4.1. Symbols and Abbreviations. Any generally accepted symbol and abbreviation of a unit name may be employed in the quantity statement on a package of commodity. (For commonly accepted symbols and abbreviations, see subsection 6.5.1. Symbols and Abbreviations.)

7.5. Metric Units: Weight, Measure. A declaration of quantity:

A. In units of weight, shall be in terms of the kilogram, gram, or milligram;

B. In units of liquid measure, shall be in terms of the

liter or milliliter, and shall express the volume at 20°C., except in the case of petroleum products, for which the declaration shall express the volume at 15°C., and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 4°C.;

C. In units of linear measure, shall be in terms of the meter, centimeter, or millimeter;

D. In units of area measure, shall be in terms of the square meter or square centimeter;

E. In units of volume other than liquid measure, shall be in terms of the liter and milliliter, except that the terms cubic meter and cubic centimeter will be used only when specifically designated as a method of sale.

7.5.1. Symbols. Only those symbols as detailed in subsection 6.6.1. Symbols, and none other, may be employed in the quantity statement on a package of commodity.

7.6. Character of Declaration: Average. The average quantity of contents in the packages of a particular lot, shipment, or delivery shall at least equal the declared quantity, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage.

§ 8. Prominence and Placement: Consumer Packages.

8.1. General. All information required to appear on a consumer package shall appear thereon in the English language and shall be prominent, definite, and plain, and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

8.1.1. Location. The declaration or declarations of quantity of the contents of a package shall appear in the bottom 30 ~~percent~~ % of the principal display panel or panels. For cylindrical containers, see also subsection 10.7. for additional requirements.

8.1.2. Style of Type or Lettering. The declaration or declarations of quantity shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the package, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface is permissible when all label information is blown, formed, or molded on the surface.

8.1.3. Color Contrast. The declaration or declarations of quantity shall be in a color that contrasts conspicuously with its background, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color.

8.1.4. Free Area. The area surrounding the quantity declaration shall be free of printed information:

A. Above and below, by a space equal to at least the height of the lettering on the declaration, and

B. To the left and right, by a space equal to twice the width of the letter "N" of the style and size of type used in the declaration.

8.1.5. Parallel Quantity Declaration. The quantity declaration shall be presented in such a manner as to be generally parallel to the declaration of identity and to the base on which the package rests as it is designed to be displayed.

8.2. Calculation of Area of Principal Display Panel for Purposes of Type Size. The area of the principal display panel shall be:

A. In the case of a rectangular container, one entire side which properly can be considered to be the principal display panel, the product of the height times the width of that side;

B. In the case of a cylindrical or nearly cylindrical container, 40 ~~percent~~ % of the product of the height of the container times the circumference; or

C. In the case of any other shaped container, 40 ~~percent~~ % of the total surface of the container, unless such container presents an obvious principal display panel (e.g., the top of a triangular or circular package of cheese, or the top of a can of shoe polish), in which event the area shall consist of the entire such surface.

Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

8.2.1. Minimum Height of Numbers and Letters. The height of any letter or number in the required quantity declaration shall be not less than that shown in Table 1 with respect to the area of the panel, and the height of each number of a common fraction shall meet one-half the minimum height standards. In the case of the symbol for milliliter, the "m" shall meet the minimum height standard.

8.2.2. Numbers and Letters: Proportion. No number or letter shall be more than three times as high as it is wide.

TABLE 1.
MINIMUM HEIGHT OF NUMBERS AND LETTERS.

Area of Principal Display Panel	Minimum Height of Numbers and Letters	Minimum Height: Label Information Blown, Formed, or Molded on Surface of Container
5 square inches (in/2) and less	1/16 inch	1/8 inch
Greater than 5 in/2 and not greater than 25 in/2	1/8 inch	3/16 inch
Greater than 25 in/2 and not greater than 100 in/2	3/16 inch	1/4 inch
Greater than 100 in/2 and not greater than 400 in/2	1/4 inch	5/16 inch
Greater than 400 in/2	1/2 inch	9/16 inch

§ 9. Prominence and Placement: Nonconsumer Packages.

9.1. General. All information required to appear on a nonconsumer package shall be definitely and clearly stated thereon in the English language. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

§ 10. Requirements: Specific Consumer Commodities, Nonconsumer Commodities, Packages, Containers.

10.1. Display Card Package. For an individual package affixed to a display card, or for a commodity and display card together comprising a package, the type size of the quantity declaration is governed by the dimensions of the display card.

10.2. Eggs. When cartons containing 12 eggs have been designed so as to permit division in half by the retail purchaser, the required quantity declaration shall be so positioned as to have its context destroyed when the carton is divided.

10.3. Aerosols and Similar Pressurized Containers. The declaration of quantity on an aerosol package, and on a similar pressurized package, shall disclose the net quantity of the commodity (including propellant), in terms of weight, that will be expelled when the instructions for use as shown on the container are followed.

10.4. Multi-Unit Packages[1]. Any package containing more than one individual "commodity in package form" (see subsection 2.1.) of the same commodity shall bear on the outside of the package a declaration of:

A. The number of individual units,

B. The quantity of each individual unit, and

C. The total quantity of the contents of the multi-unit package; *Provided,* that any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation. (example: soap bars, "6 Bars, Net Weight 75 grams each; Total Net Weight 450 grams)

[1] Open multi-unit retail food packages under the authority of the Food and Drug Administration or U. S. Department of Agriculture that do not obscure the number of units or prevent examination of the labeling on each of the individual units are not required to declare the number of individual units or the total quantity of contents of the multi-unit package if the labeling of each individual unit complies with requirements so that it is capable of being sold individually. (See also ~~Section~~ *Subsection* 11.12.)

10.5. Combination Packages. Any package containing individual units of dissimilar commodites (such as an antiquing or a housecleaning kit, for example) shall bear on the label of the package a the label of the package a quantity declaration for each unit. (Example: sponges and cleaner: "2 sponges, each 10 centimeters x 15 centimeters x 2 centimeters; 1 box cleaner, net weight 150 grams")

10.6. Variety Packages. Any package containing individual units of reasonably similar commodities (such as seasonal gift packages, variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package. (Example: plastic tableware: 4 spoons, 4 forks, 4 knives, 12 pieces total.)

10.7. Cylindrical Containers. In the case of cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that 40 ~~percent~~ % of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

10.8. Measurement of Container-Type Commodities, How Expressed.

10.8.1. General. Commodities designated and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled with the declaration of net quantity as follows:

A. For bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise).

When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be expressed:

1. Inch-pound units - in inches, except that a dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot. (Example: "25 BAGS, 17 inches X 20 inches" or "100 BAGS, 20 inches X 2 feet 6 inches" or "50 BAGS, 20 inches X 2-1/2 feet")

2. Metric units - in millimeters except a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter (Examples: "25 BAGS, 500 millimeters X 600 millimeters" or "50 BAGS, 750 millimeters X 1.2 meters")

When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length.

(a) Inch-pound units - expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot. (Examples: "25 BAGS, 17 inches X 4 inches X 20 inches" or "100 BAGS, 20 inches X 12 inches X 2-1/2 feet")

(b) Metric Units. In millimeters except a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter. (Exampled: "25 Bags, 430 millimeters X 100 millimeters X 500 millimeters" or "50 bags, 500 millimeters X 300 millimeters X 1.2 meters")

B. For other square, oblong, rectangular, or similarly shaped containers, in terms of count followed by length, width, and depth, except depth need not be listed when less than 50 millimeters or 2 inches. (Examples: "2 PANS, 8 inches X 8 inches" or "2 PANS, 203 millimeters X 203 millimeters")

C. For circular or other generally round-shaped containers, except cups, and the like, in terms of count followed by diameter and depth, except depth need not be listed when less than 50 millimeters or two inches. (Examples: "4 PANS, 8 inches diameter X 4 inches" or "4 PANS, 200 millimeters diameter X 100 millimeters")

D. Notwithstanding the above requirements, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit. (Examples: "24 CUPS, 6 fluid ounces capacity" or "24 CUPS 250 milliliter capacity")

10.8.2. Capacity. When the functional use of the container is related by label references in standard terms of measure to the capability of holding a specific quantity of substance or class of substances such references shall be a part of the net quantity statement and shall specify capacity as follows:

A. Inch-Pound Units:

1. Liquid measure for containers which are intended to be used for liquids, semisolids, viscous materials, or mixtures of solids and liquids. The expressed capacity will be stated in terms of the largest whole unit (gallon, quart, pint, ounce, with any remainder in terms of the common or decimal fraction of that unit). (Examples: Freezer Box - "4 BOXES, 1 quart capacity, 5 inches X 4 inches X 3 inches")

2. Dry measure for containers which are intended to be used for solids. The expressed capacity will be stated in terms of the largest whole unit (bushel, peck), with a remainder in terms of the common or decimal fraction of that unit. (Example: Leaf Bags - "8 BAGS, 6 bushel capacity, 3 feet X 5 feet")

3. Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent containers. (Example: Garbage Can Liners - "10 LINERS, 2 feet 6 inches X 3 feet 9 inches. FITS UP TO 30-GALLON CANS")

B. Metric Units: Volume measure for all containers and liners. (Examples: "4 BOXES, 1 liter capacity. 150 millimeters X 120 millimeters X 90 millimeters;" "8 BAGS, 200 liter capacity, 85 millimeters X 1.5 meters" or "10 LINERS, 750 millimeters X 1 meter, fits up to 120 LITER CANS")

10.8.3. Terms. For purposes of this section, the use of the terms "CAPACITY", "DIAMETER", and "FLUID" is optional.

10.9. Textile Products, Threads, and Yarns.

10.9.1. Wearing Apparel. Wearing apparel (including nontextile apparel and accessories such as leather goods and footwear) sold as single-unit items, or if normally sold in pairs (such as hosiery, gloves, and shoes) sold as single-unit pairs, shall be exempt from the requirements for a net quantity statement by count, as reqiured by subsection 6.4. of this regulation.

10.9.2. Textiles. Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dishtowels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, nonrectangular diapers, slip covers, etc., shall be exempt from the requirements of subsections 6.7.7. and 6.8.3. of this regulation: *Provided,* that

A. The quantity statement for fitted sheets and mattress covers shall state, in centimeters or inches, the length and width of the mattress for which the item is designed, such as "twin," "double," "king," etc. (Example: "Double Sheet for 135 centimeter X 190 centimeter mattress.")

B. The quantity statement for flat sheets shall state the size designation of the mattress for which the sheet is

designed, such as "twin," "double," "king," etc. The quantity statement also shall state, in centimeters or inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in centimeters or inches, of the length and width of the finished sheet. (Example: "Twin Flat Sheet for 100 centimeter X 190 centimeter mattress (170 centimeter X 240 centimeter finished size)")

C. The quantity statement for pillowcases shall state the size designation of the pillow for which the pillowcase is designed, such as "youth," "standard," and "queen," etc. The quantity statement also shall state, in centimeters or inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in centimeters or inches, of the length and width of the finished pillowcase. (Example: "Standard Pillowcase for 50 centimeter X 65 centimeter pillow (53 centimeter X 75 centimeter finished size)")

D. The quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state the length of any ornamentation and the size designation of the mattress for which the item is designed, such as "twin," "double," "king," etc.

E. The quantity statement for tablecloths and napkins shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state parenthetically, in centimeters or inches, the length and width of the item before hemming and properly identified as such.

F. The quantity statement for curtains, drapes, flags, furniture scarfs, etc., shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state parenthetically, in centimeters or inches, the length of any ornamentation.

G. The quantity statement for carpets and rugs shall state, in meters or feet, with any remainder in decimal fractions of the meter for metric sizes or common or decimal fractions of the foot or in inches for customary sizes, the length and width of the item. The quantity statement also may state parenthetically, in centimeters or inches, the length of any ornamentation.

H. The quantity statement for woven dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, etc., shall state, in centimeters or inches, the length and width of the item. The quantity statement for such items, when knitted, need not state the dimensions.

I. The quantity statement for textile products such as pot holders, fixture and appliance covers, nonrectangular diapers, slip covers, etc., shall be stated in terms of count and may include size designations and dimensions.

J. The quantity statement for other than rectangular textile products indentified in subsections A. through H. shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape. (Example: "Oval Tablecloth 140 centimeters X 110 centimeters" representing the maximum length and width in this case)

K. The quantity statement for packages of remnants of textile products of assorted sizes, when sold by count, shall be accompanied by the term "irregular dimensions" and the minimum size of such remnants.

10.9.3. Textiles: Variations From Declared Dimensions.

A. For an item with no declared dimension less than 60 centimeters or 24 inches, a minus variation greater than 3% of a declared dimension and a plus variation greater than 6% of a declared dimension should be considered unreasonable.

B. For an item with a declared dimension less than 60 centimeters or 24 inches, a minus variation greater than 6% of that declared dimension and a plus variation greater than 12% of that declared dimension should be considered unreasonable.

10.9.4. Exemption: Variety Textile Packages. Variety packages of textiles which are required by reason of subsection 6.4.1. to provide a combination declaration stating the quantity of each inidividual unit, shall be exempt from the requirements in this regulation for:

A. Location (see subsection 8.1.1.),

B. Free Area (see subsection 8.1.4.), and

C. Minimum height of numbers and letters (see subsection 8.2.1.).

10.9.5. Sewing Threads, Handicrafts Threads, and Yarns. Sewing and handicraft threads shall be exempt from the requirements of subsections 6.7.2. and 6.8.2. of this regulation: *Provided,* that

A. The net quantity statement for customary sizes of sewing and handicraft threads shall be expressed in terms of yards.

B. The net quantity statement for yarns shall be expressed in terms of weight.

C. Thread products may, in lieu of name and address, bear a trademark, symbol, brand, or other mark that positively identifies the manufacturer, packer, or distributor, provided that such marks, employed to identify the vendor, shall be filed with the director.

D. Each unit of industrial thread shall be marked to show its net measure in terms of meters or yards or its net weight in terms of kilograms or grams or avoirdupois pounds or ounces, except that ready-wound bobbins which

are not sold separately, shall not be required to be individually marked to show the number of bobbins contained therein and the net meters or yards of thread on each bobbin.

10.10. Packaged Seed. Packages of seed intended for planting shall be labeled in full accord with this regulation except as follows:

A. The quantity statement shall appear in the upper thirty percent of the principal display panel.

B. The quantity statements shall be in terms of the largest whole unit of the metric system for all weights up to seven grams, and in grams or in ounces for all other weights less than 225 grams or eight ounces; packaged seed weighing 225 grams or eight ounces or more shall not be subject to subsection 10.10.

C. The quantity statement for coated seed, encapsulated seed, pelletized seed, preplanters, seed tapes, etc., shall be in terms of count.

10.11. Bark Mulch: Variations From Declared Volume.[1] An individual package minus variation greater than 5 ~~percent~~ % of the declared volume shall be considered unreasonable.

10.12. Polyethylene Products: Variations From Declared Thickness[1]. Any individual thickness measurement of polyethylene sheeting, film, or bag may be as much as 20 ~~percent~~ % below the labeled thickness (i.e., at least 80% of the labeled thickness)[2].

[1] In addition, the average net contents of lots, shipments, or deliveries must equal or exceed the labeled net contents. See Section 12.1.

[2] ASTM Standard D-4397-84, "Specification for Polyethylene Sheeting for Construction, Industrial and Agricultural Applications", 1984.

§ 11. Exemptions.

11.1. General. Whenever any consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity required to appear on the package shall be in terms of the largest whole unit (except see subsection 10.4.(c)).

11.2. Random Packages. A random package bearing a label conspicuously declaring:

A. The net weight,

B. The price per kilogram or pound, and

C. The total price.

Shall be exempt from the type size, dual declaration, placement, and free area requirements of this regulation. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label included both such prices at the time it is offered or exposed for sale at retail.

This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this section.

11.3. Small Confections. Individually wrapped pieces of "penny candy" and other confectionery of less than 15 grams or one-half ounce net weight per individual piece shall be exempt from the labeling requirements of this regulations when the container in which such confectionery is shipped is in conformance with the labeling requirements of this regulation. Similarly, when such confectionery items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this regulation, including the required declaration of net quantity of contents, when the declaration of the bag or box meets the requirements of this regulation.

11.4. Individual Servings. Individual-serving-size packages of foods containing less than 15 grams or 1/2 ounce or less than 15 milliliters or 1/2 fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this regulation.

11.5. Cuts, Plugs, and Twists of Tobacco and Cigars. When individual cuts, plugs, and twists of tobacco and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this regulation, such individual cuts, plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements.

11.6. Reusable (Returnable) Glass Containers. Nothing in this regulation shall be deemed to preclude the continued use of reusable (returnable) glass containers: *Provided,* that such glass containers ordered after the effective date of this regulation shall conform to all requirements of this regulation.

11.7. Cigarettes and Small Cigars. Cartons of cigarettes and small cigars, containing ten individual packages of twenty, labeled in accordance with the requirements of this regulation, shall be exempt from the requirements set forth in subsection 8.1.1. Location, subsection 8.2.1. Minimum Height of Numbers and Letters, and subsection 10.4. Multi-Unit Packages; *Provided,* that such cartons bear a declaration of the net quantity of commodity in the package.

11.8. Packaged Commodities With Labeling Requirements Specified in Federal Law. Packages of meat and meat

products, poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, and alcoholic beverages shall be exempt from those portions of these regulations requiring dual declarations in customary units and specifying location and minimum type size of the net quantity declaration: *Provided,* that quantity labeling requirements for such products are specified in federal law, so as to follow reasonably sound principles of providing consumer information.

11.9. Fluid Dairy Products, Ice Creams, and Similar Frozen Desserts:

A. When packaged in 1/2-liquid-pint and 1/2-gallon containers, are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as 1/2 pint and 1/2 gallon, respectively.

B. When packaged in 1-liquid-pint, 1-liquid-quart, and 1/2-gallon containers, are exempt from the dual net contents declaration requirements of subsection 6.7.3.

C. When measured by and packaged in measure containers as defined in "Measure Container Code of National Bureau of Standards Handbook 44," are exempt from the requirements of subsection 8.1.1. that the declaration of net contents be located within the bottom 30 ~~percent~~ % of the principal display panel.

D. Milk and milk products when measured by and packaged in glass or plastic containers of 1/2-pint, 1-pint, 1-quart, 1/2-gallon, and 1-gallon capacities are exempt from the placement requirement of subsection 8.1.1. that the declaration of net contents be located within the bottom 30 ~~percent~~ % of the principal display panel; *Provided,* that other required label information is conspicuously displayed on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, or molded on, or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

11.10. Single Strength and Less Than Single Strength Fruit Juice Beverages, Imitations Thereof, and Drinking Water:

A. When packaged in glass, plastic, or fluid milk type paper containers of 8- and 64-fluid-ounce capacity, are exempt from the requirements of subsection 6.5. (b), to the extent that net contents of 8 fluid ounces and 64 fluid ounces (or 2 quarts) may be expressed as 1/2 pint (or half pint) and 1/2 gallon (or half gallon), respectively.

B. When packaged in glass, plastic, or fluid milk type paper containers of 1-pint, 1-quart, and 1/2-gallon capacities, are exempt from the dual net contents declaration requirements of subsection 6.7.4.

C. When packaged in glass or plastic containers of 1/2-pint, 1-pint, 1-quart, 1/2-gallon, and 1-gallon capacities, are exempt from the placement requirements of subsection 8.1.1. that the declaration of net contents be located within the bottom 30 ~~percent~~ % of the principal display panel; *Provided,* that other label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, or molded into or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

11.11. Soft-Drink Bottles. Bottles of soft drinks shall be exempt from the placement requirements for the declaration of:

A. Identity, when such declaration appears on the bottle closure, and

B. Quantity, when such declaration is blown, formed, or molded on or above the shoulder of the container and when all other information required by this regulation appears only on the bottle closure.

11.12. Multi-Unit Soft-Drink Packages. Mult-unit packages of soft drinks are exempt from the requirement for a declaration of:

A. Responsibility, when such declaration appears on the individual units and is not obscured by the multi-unit packaging, or when the outside container bears a statement to the effect that such declaration will be found on the individual units inside, and

B. Identity, when such declaration appears on the individual units and is not obscured by the multi-unit packaging.

11.13. Butter. When packaged in 4-ounce, 8-ounce, and 1-pound packages with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity (subsection 3.1.1.) and the net quantity declaration (subsection 8.1.5.) be generally parallel to the base of the package. When packaged in 8-ounce and 1-pound units, butter is exempt from the requirement for location (subsection 8.1.1.) of net quantity declaration and, when packaged in 1-pound units, is exempt from the requirement for dual quantity declaration (subsection 6.7.2.).

11.14. Eggs. Cartons containing 12 eggs shall be exempt from the requirement for location (subsection 8.1.1.) of net quantity declaration. When such cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this regulation if the undivided carton conforms to all such requirements.

11.15. Flour. Packages of wheat flour in conventional 2-, 5-, 10-, 25-, 50-, and 100-pound packages shall be exempt from the requirement in this regulation for location (subsection 8.1.1.) of the net quantity declaration and, when packaged in units of 2 pounds, shall be exempt also from the requirement for a dual quantity declaration (subsection 6.7.2.).

11.16. Small Packages. On a principal display panel of 5 square inches or less, the declaration of quantity need not appear in the bottom 30% of the principal display panel if that declaration satisfies the other requirements of this regulation.

11.17. Decorative Containers. The principal display panel of a cosmetic marketed in a "boudoir-type" container including decorative cosmetic containers of the "cartridge", "pill box", "compact", or "pencil" variety, and those with a capacity of 1/4 ounce or less, may be a tear-away tag or tape affixed to the decorative container, and bearing the mandatory label information as required by this regulation.

11.18. Combination Packages. Combination packages are exempt from the requirements in this regulation for:

A. Location (see subsection 8.1.1.),

B. Free Area (see subsection 8.1.4.), and

C. Minimum Height of Numbers and Letters (see subsection 8.2.1.).

11.19. Margarine. Margarine in 1-pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than four sticks, shall be exempt from the requirement in this regulation for location (see subsection 8.1.1.) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration (see subsection 6.7.2.).

11.20. Corn Flour and Corn Meal. Corn flour and corn meal packaged in conventional 5-, 10-, 25-, 50-, and 100-pound bags shall be exempt from the requirement in this regulation for location (see subsection 8.1.1.) of the net quantity declaration.

11.21. Prescription and Insulin-Containing Drugs. Prescription and insulin-containing drugs subject to the provisions of Section 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act shall be exempt from the provisions of this regulation.

11.22. Camera Film. Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this regulation which specify how measurement of commodities should be expressed; *Provided,* that:

A. The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of linear meters or feet of usable film contained therein.

B. The net quantity of contents on packages of movie film is expressed in terms of the running time of the exposed film for that portion of film which is of entertainment value.

"Entertainment value" is defined as that portion of a film that commences with the first frame of sound or picture, whichever comes first after the countdown sequence and ends with either:

1. the last frame of credits; or

2. the last frame of the phrase "The End", or

3. the end of sound whichever is last.

C. The net quantity of contents on packages of still film is expressed in terms of the number of exposures that contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: "36 exposures, 36 millimeters X 24 millimeters" or "12 exposures, 2-1/4 inches X 2-1/4 inches")

11.23. Paints and Kindred Products:

A. Paints, varnishes, lacquers, thinners, removers, oils, resins, and solvents, when packed in 1-liquid-pint and 1-liquid-quart units shall be exempt from the dual quantity declaration requirements of subsection 6.7.3.

B. Tint base paint may be labeled on the principal display panel, as required by this regulation, in terms of a quart or a gallon including the addition of colorant selected by the purchaser, provided that the system employed ensures that the purchaser always obtains a quart or a gallon; and further provided that in conjunction with the required quantity statement on the principal display panel, a statement indicating that the tint base paint is not to be sold without the addition of colorant is presented; and further provided that the contents of the container, before the addition of colorant, is stated in fluid ounces elsewhere on the label.

Wherever the above conditions cannot be met, containers of tint base paint must be labeled with a statement of the actual net contents prior to the addition of colorant in full accord with all the requirements of this regulation.

11.24. Automotive Cooling System Antifreeze. Antifreeze, when packed in 1-liquid-quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of subsection 6.7.3.

11.25. Motor Oils. Motor oils, when packed in 1-liquid-quart units, shall be exempt from the dual quantity declaration requirements of subsection 6.7.3. Additionally, motor oil in 1-liquid-quart, 1-gallon, 1-1/4-gallon, 2-gallon, and 2-1/2-gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements, of § 3., Declaration of Identity: Consumer Package, to the extent that the Society of Automotive Engineers (SAE) viscosity number is required to appear on the principal display panel, provided the SAE viscosity number appears on the can lid and is expressed in letters

and numerals in type size of at least 6 millimeters or 1/4 inch.

11.26. Pillows, Cushions, Comforters, Mattress Pads, Sleeping Bags, and Similar Products. Those products, including pillows, cushions, comforters, mattress pads, and sleeping bags, that bear a permanent label as designated by the Association of Bedding and Furniture Law Officials or by the California Bureau of Home Furnishings shall be exempt from the requirements for location (subsection 8.1.1.), size of letters or numbers (subsection 8.2.1. and 8.2.2.), free area (subsection 8.1.4.) and the declarations of identity and responsibility (subsections 3.1. and 5.); *Provided,* that declarations of identity, quantity, and repsonsibility are presented on a permanently attached label and satisfy the other requirements of this regulation, and further provided that the information on such permanently attached label be fully observable to the purchaser.

11.27. Commodities' Variable Weights and Sizes. Individual packaged commodities put up in variable weights and sizes for sale intact, and intended to be weighed and marked with the correct quantity statement prior to or at the point of retail sale, are exempt from the requirements of § 6. Declaration of Quantity: Consumer Packages, while moving in commerce and while held for sale prior to weighing and marking: *Provided,* that the outside container bears a label declaration of the total net weight.

11.28. Packaged Commodities Sold By Count. When a packaged consumer commodity is properly measured in terms of count only, or in terms of count and some other appropriate unit, and the individual units are fully visible to the purchaser, such packages shall be labeled in full accord with this regulation except that those containing 6 or less items need not include a statement of count.

11.29. Fishing Lines and Reels. Packaged fishing lines and reels are exempt from the dual quantity declaration requirements of subsection 6.7.6. A.; *Provided,* that quantity or capacity, as appropriate is presented in terms of meters or yards in full accord with all other requirements of this regulation.

§ 12. Variations To Be Allowed.

12.1. Packaging Variations.

12.1.1. Variations From Declared Net Quantity. Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large.

12.1.2. Variations Resulting From Exposure. Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce: *Provided,* that the phrase "introduced into intrastate commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the State, the delivery being either:

A. Directly to the purchaser or to his agent, or

B. To a common carrier for shipment to the purchaser, and this paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted.

12.2. Magnitude of Permitted Variations. The magnitude of variations permitted under subsection 12., 12.1, 12.1.1., and 12.1.2. of this regulation shall be those expressly set forth in this regulation and those contained in the procedures and tables of National Bureau of Standards Handbook ~~67~~ *133* , Checking *The Net Contents of* Prepackaged ~~Commodities~~ *Goods* .

§ 13. Retail Sale Price Representations.

13.1. "Cents-Off" Representations. RESERVED

13.2. Introductory Offers. RESERVED

13.3. Economy Size.

A. The term "economy size" means any printed matter consisting of the words "economy size," "economy pack," "budget pack," "bargain size," "value size," or words of similar import placed upon any package containing any consumer commodity, or placed upon any label affixed adjacent to such commodity, stating or representing directly or by implication that a retail sale price advantage is accorded the purchaser thereof by reason of the size of that package or the quantity of its contents.

B. The packager or labeler of a consumer commodity may not have inprinted thereon an "economy" size representation unless:

1. At the same time the same brand of the commodity is offered in at least one other packaged size or labeled form.

2. Only one packaged or labeled form of that brand of commodity labeled with an "economy size" representation is offered.

3. The commodity labeled with an "economy size" representation is sold at a price per unit of weight, volume, measure, or count which is substantially reduced (i.e., at least 5 ~~percent~~ %) from the actual price of all other packaged or labeled units of the same brand of that commodity offered simultaneously.

C. No "economy size" package shall be made available in any circumstances where it is known that it will be used as an instrumentality for deception, e.g., where the retailer charges a price which does not pass on to the consumer the substantial reduction in cost per unit initially granted.

D. The sponsor of an "economy size" package shall prepare and maintain invoices or other records showing compliance with paragraph B. of the subsection. The invoices or other records required by this section shall be open to inspection and shall be retained for one year.

METHODS OF SALE OF COMMODITIES REGULATION

§ 14.

~~Regulation No. 2~~ Food Products*

14.1. Berries and Small Fruits.

Shall be offered and exposed for sale and sold by weight or by measure *in open measure containers having capacities per subsection 1.1(a) or subsection 14.1(b) and when sold by measure, the containers* ~~When sold by measure in open containers having capacity of 1/2 dry pint, 1 dry pint, or 1 dry quart~~ shall be deemed not be packages for labeling purposes. ~~For the purpose of this Section, open containers covered with cellophane or see through tops are not regarded as commodities in package form.~~

(a) Inch-Pound Capacities - 1/2 dry pint, 1 dry pint, or 1 *dry quart.*

(b) Metric Capacities - 250 milliliters, 500 milliliters, or *1 liter.*

14.2. Butter, Oleomargarine, and Margarine.**

Shall be offered and exposed for sale and sold by weight ~~only in units of 1/4 pound, 1/2 pound, 1 pound, or multiples of 1 pound~~ *per subsection 14.2(a) or subsection 14.2(b)* .

(a) Inch-Pound-Weights - 1/4 pound, 1/2 pound, 1 pound, or a *multiple of 1 pound.*

(b) Metric Weights - 125 grams, 250 grams, 500 grams, or a *multiple of 500 grams.*

**Packages subject to the Federal Fair Packaging and Labeling Act must be labeled in inch-pound units of measure. Metric units may also be declared on the principal display panel and may even appear first.*

**Oleomargarine and margarine are not permitted in multiples of one pound, 500 grams, or multiples of 500 grams because Section 407(b) (2) of the Federal Food, Drug, and Cosmetic Act prohibits margarine and oleomargarine packaged in sizes greater than one pound.

14.3. Flour, Cornmeal, and Hominy Grits.

~~When in package form, and when packed, kept, offered or exposed for sale, or sold,~~ Wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, ~~enriched flour, enriched self-rising flour, enriched bromated flour,~~ corn flour, cornmeal, and hominy grits *whether enriched or not,* shall be packaged, ~~only in units of three, five, ten, twenty-five, fifty, or one hundred pounds, avoirdupois weight: Provided, that packages in units of less than three pounds or more than one hundred pounds shall be permitted~~ *kept, offered, or exposed for sale, or sold only in weights per subsection 14.3.(a) or subsection 14.3(b); Provided, that inch-pound sizes less than 2 pounds or more than 100 pounds and that metric sizes less than 1 kilogram or more than 50 kilograms shall be permitted* .

(a) Inch-Pound Weights - 2, 5, 10, 25, 50, or 100 pounds.

(b) Metric Weights - 1, 2.5, 5, 10, 25, or 50 kilograms. (Section 3.1-952 Weights and Measures Law).

14.4. Meat, Poultry, Fish, and Seafood[1].

Shall be sold by weight, except ~~the following, which~~ *that shellfish* may be sold by weight, measure, or count : .

~~(a) Shellfish.~~

~~(b) Items sold for consumption on the premises.~~

~~(c) Items sold as one of several elements comprising a ready to eat meal sold as a unit for consumption elsewhere than on the premises where sold.~~

~~(d) Items sold as part of a sandwich.~~

[1] See § 14.9 for additional requirements for ready-to-eat food.

14.4.1. *In Combination With Other Foods.*

When meat, poultry, *fish* or seafood is combined with

some other food element to form a distinctive food product, the quantity representation may be in terms of the total weight of the product or combination, and a quantity representation need not be made for each element. (Weights and Measures Law Section 3.1-950)

14.4.2. *Stuffed Fish, Seafood, Poultry or Meat Products.*

In the case of ready-to-cook stuffed *fish, seafood,* poultry , *or meat products* , the label must show the total net weight of the *stuffed fish, seafood,* poultry *or meat* ~~product~~ *products* and the minimum net weight of the *fish, seafood,* poultry *or meat* in the product *excluding the fish, seafood, meat, or poultry that may be part of the stuffing* .

Excluding the poultry or meat that may be part of the stuffing. (Required by the United States Department of Agriculture).

14.5. Fluid ~~Dairy~~ *Milk* Products.

All fluid ~~dairy~~ *milk* products, including but not limited to ~~whole~~ milk, *lowfat milk* , ~~skimmed~~ *skim* milk, cultured ~~milk~~ *milks, and* ~~sweet~~ cream ~~, sour cream, and buttermilk, unless specifically exempted by the Board of Agriculture and Commerce,~~ shall be packaged for retail sale only in ~~units of one gill, one-half liquid pint, ten fluid ounces, one liquid pint, one liquid quart, or multiples of one liquid quart;~~ *volumes per subsection 14.5(a), or subsection 14.5(b);* Provided, that ~~any fluid dairy product which contains not less than eleven percent milk fat may be sold in packages of the capacity of one-half fluid ounce.~~ *inch-pound sizes less than 1 gill and metric sizes less than 100 milliliters shall be permitted.* (Section 3.1-951 - Weights and Measures Law).

(a) Inch-Pound Volumes - 1 gill, 1/2 liquid pint, 10 fluid *ounces, 1 liquid pint, 1 liquid quart, 1/2 gallon, 1 gallon, 1-1/2 gallons, 2 gallons, 2-1/2 gallons, or multiples of 1 gallon.*

(b) Metric Volumes - 125 milliliters, 250 milliliters, 500 *milliliters, 1 liter, or multiples of 1 liter* .

14.6. Other Milk Products.

Cottage cheese, cottage cheese products, and other milk products which are solid, semi-solid, viscous, or a mixture of solid and liquid, as defined in the Pasteurized Milk Ordinance of the United States Public Health Service, as amended in 1965, shall be sold in terms of weight; Provided, that cottage cheese, *cottage cheese products,* sour cream, and yogurt shall be packaged for retail sale only ~~in units of 8, 12, 16, 24, 32, 64, 80, and 128 ounces avoirdupois:~~ *in weights per subsection 14.6(a) or subsection 14.6(b).* And provided further, that, multipack or single serving *inch-pound* sizes of 6 ounces or less shall be sold only in ~~even~~ *whole* ounces increments *and that metric sizes of 200 grams or less shall be sold only in 25-gram increments* .

(a) Inch-Pound Weights - 8, 12, 16, 24, 32, 64, 80, and 128 *ounces avoirdupois. And provided further that an 18 ounce size of yogurt may be packed for retail sale.*

(b) Metric Weights - 250, 375, 500, 750 grams; 1, 2, and 4 *kilograms.*

(Standard package sizes shall apply to low fat and dry curd cottage cheese products.)

14.6.1. *Factory Packaged and Hand Packed Ice Cream and Similar Frozen Products.*

Ice cream, ice milk, frozen yogurt, and similar products shall be kept, offered or exposed for sale, or sold in terms of fluid measure.

14.7. Pickles.

The declaration of net quantity of contents on pickles and pickles products, including relishes but excluding one or two whole pickles in a transparent wrapping which may be declared by count, shall be expressed in terms of ~~fluid~~ *liquid* measure. Sales of pickles from bulk may be by count.

14.8. Pricing of Bulk Food Commodities.

Bulk food commodities or food commodities not in package form and sold be weight shall be priced in terms of whole units of weight and not in common or decimal fractions.

14.9. *Ready-To-Eat Food.*

The following may be sold by weight, measure, or count:

(a) Items sold for consumption on the premises;

(b) Items sold as one of three or more different elements, *excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold;*

(c) Ready-to-eat chicken parts cooked on the premises but not *packaged in advance of sale;*

(d) Sandwiches and sandwich-like commodities when offered or *exposed for sale on the premises where packed or produced and not intended for resale.*

§ 15. Nonfood Products.

15.1. Coatings.

Asphalt paints, coatings, and plastic shall be sold in terms of liquid measure.

15.2. Fireplace and Stove Wood.

For the purpose of this regulation, this section shall apply to the sale of all wood, natural and processed, for use as fuel.

15.2.1. Definitions.

15.2.1.1. "Fireplace and Stove Wood." Any kindlings logs, boards, timbers or other wood, split or not split, advertised, offered for sale, or sold as fuel.

15.2.1.2. "Cord." The amount of wood which is contained in a space of 128 cubic feet, when the wood is ranked and well stowed. For the purpose of this regulation, "ranked and well stowed" shall be construed to mean that pieces of wood are placed in a line or row, with individual pieces touching and parallel to each other, and stacked in a compact manner.

15.2.1.3. "Representation." ~~A "representation" shall be construed to mean~~ *Any advertisement, offering, invoice, or the like that pertains to the sale of fireplace or stove wood.*

15.2.2. "Identity." A representation may include a declaration of identity that indicates the species group (Example: 50% hickory, 50% miscellaneous softwood). Such a representation shall indicate, within 10% accuracy, the percentages of each group.

15.2.3. *"Quantity." Wood, of any type, for use as fuel shall be advertised, offered for sale and sold only by measure, using the term "cord" and fractional parts of a cord, or the cubic meter; except that wood, natural or processed, offered for sale in packaged form shall display the quantity in terms of cubic feet, to include fractions of cubic feet or cubic meters, to include decimal fractions of cubic meters. A single log may be sold by weight or count. Packages of individual logs containing less than 4 cubic feet (1/32 cord) if sold by inch-pound volume, or less than one-tenth cubic meter if sold by metric volume may be sold by net weight plus count.*

15.2.4. *"Prohibition of Terms." The terms "face cord," "rack," "pile," "truckload," or terms of similar import shall not be used when advertising, offering for sale, or selling wood for use as fuel. An agreement after visual inspection, between buyer and seller in the sale of fireplace or stove wood by the "truckload" shall be permitted.*

15.2.5. *"Delivery Ticket or Sales Invoice." A delivery ticket or sales invoice shall be presented by the seller to the purchaser whenever any nonpackaged fireplace or stove wood is sold. The delivery ticket or sales invoice shall contain at least the following information:*

(a) The name and address of the vendor;

(b) The name and address of the purchaser;

(c) The date delivered;

(d) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;

(e) The price of the amount delivered.

15.3. Peat and Peat Moss.

Applies only with respect to organic matter of geological origin, excluding coal and lignite, originating principally from dead vegetative remains through the agency of water in the absence of air and occurring in a bog, swampland, or marsh, and containing an ash content not exceeding 25 ~~percent~~ % on a dry-weight basis (dried in an oven at 105°C. (221°F.) until no further weight loss can be determined).

15.3.1. Declaration of Quantity.

The declaration of quantity of peat and peat moss shall be expressed in weight units or in cubic-measure units.

15.3.2. Units.

15.3.2.1. Weight.

Peat and peat moss sold in ~~package form in~~ terms of weight shall be offered or exposed for sale only in ~~units of 50 pounds, 40 pounds, 20 pounds, 10 pounds, or 3 pound~~ *pounds and/or kilograms* .

15.3.2.2. Cubic Measure. Peat and peat moss sold in ~~package form in~~ terms of cubic measure shall be offered and exposed for sale only in ~~units of 6, 5.5, 4, 2, 1, 0.7, 0.5, 0.3, or 0.2~~ cubic feet *and/or liters.* If the commodity is labeled in terms of compressed cubic measurement, the quantity declaration shall represent the quantity in the compressed state and the quantity from which the final product was compressed (the latter declaration not exceeding the actual amount of material that can be recovered.)

15.4. Prefabricated Utility Buildings.

These buildings shall be offered for retail sale on the basis of usable inside space as follows:

(a) Length, measured from inside surface of wall panels at the base;

(b) Width, measured from inside surface of wall panels at the base;

(c) Height, measured from the base to the top of the shortest wall panel.

(Inside dimensions in inch-pound units shall be declared to the nearest inch; inside dimensions in

metric units shall be declared to the nearest 0.01 meter.)

If total usable inside space is declared in a supplemental declaration, it shall be to the nearest cubic decimeter or cubic foot.

15.5. Roofing and Roofing Material.

Shall be sold either by the square or by the square foot only *if sold in inch-pound units or by the square meter only if sold in metric units* .

15.5.1. Definitions.

15.5.1.1. *"Square Meter." The quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover on square meter exclusive of side laps or side joints.*

15.5.1.2. "Square." ~~The term "square" shall mean~~ The quantity of roofing or roofing material that, when applied according to directions or instructions of the manufacturer, will cover an area of 100 square feet exclusive of side laps or side joints; Provided ~~;~~ that, in the case of roofing or roofing material ~~or~~ *of* corrugated design, the side lap or side joint shall be one full corrugation.

15.5.1.3. "Square Foot." ~~The term "square foot" shall mean~~ The quantity of roofing and roofing material that, when applied according to the directions or instructions of the manufacturer, will cover 1 square foot (144 square inches) exclusive of side laps or side joints.

15.5.2. "Declaration of Quantity." When the declaration of quantity on a package of roofing or roofing material contains the term "square," it shall include, plainly and conspicuously, a numerical definition of the term "square;" for example, "One square covers 100 square feet of roof area."

15.5.2.1. "Common Fractions." The use of the common fraction one-third (1/3) is specifically authorized in the quantity statement of a package of roofing or roofing material when, and only when, used as the common fraction of the "square."

15.5.2.2. "Quantity Statement." The primary declaration *if in inch-pound units* shall only be in terms of a square or square feet *and if in metric units shall only be in terms of square meters.* There is no prohibition against the use of supplementary quantity declarations, such as shingle dimensions but in no case shall the weight of the material be stated or implied. However, the use of numerical description for rolls of felt roofing material may continue to be used.

15.6. Sealants.

Calking compounds, glazing compounds and putty shall be sold in terms of liquid measure *except that rope calk shall be sold by weight* .

15.7. Softwood Lumber.*

Applies to softwood boards, timbers, and dimension lumber that have been dressed on four sides, but shall not apply to rough lumber, to lumber that has been matched, patterned, or shiplapped, or to lumber remanufactured or joined so as to have changed the form or identity, such as individual, assembled, or packaged millwork items.

*Values in metric units for softwood lumber will not be added until a new standard is developed to cover metric softwood lumber.

15.7.1. Definitions.

15.7.1.1. "Dressed (Surfaced) Lumber." Lumber that has been dressed (or surfaced) for the purpose of attaining smoothness of surface and uniformity of size.

15.7.1.2. "Boards." Lumber 1-1/4 inches or less in actual thickness and 1-1/2 or more inches in actual width. ~~Boards~~ *Lumber* less than ~~5-1/2~~ *1-1/2* inches in actual width may be classified as strips.

15.7.1.3. "Timbers." Lumber ~~4-1/2~~ *1-1/2* or more inches in least actual dimension. Timber may be classified as beams, stringers, posts, caps, sills, girders, purlins, etc.

15.7.1.4. "Dimension Lumber." Lumber from 1-1/2 inches to, but not exceeding, 4-1/2 inches in actual thickness, and 1-1/2 or more inches in actual width. Dimension lumber may be classified as framing, joists, planks, rafters, studs, small timbers, etc.

15.7.1.5. "Rough Lumber." Lumber that has not been dressed but which has been sawed, edged, and trimmed at least to the extent of showing saw marks in the wood on the four longitudinal surfaces of each piece for its overall length.

15.7.1.6. "Matched Lumber." Lumber that has been worked with a tongue on one edge of each piece and a groove on the opposite edge to provide a close tongue-and-groove joint by fitting two pieces together; when end-matched, the tongue and groove are worked in the ends also.

15.7.1.7. "Patterned Lumber." Lumber that is shaped to a pattern or to a molded form, in addition to being dressed, matched, or shiplapped, or any combination of these workings.

15.7.1.8. "Shiplapped Lumber." Lumber that has been worked or rabbeted on both edges of each piece to provide a close-lapped joint by fitting two

pieces together.

15.7.1.9. "Grade." The commercial designation assigned to lumber meeting specifications established by a nationally recognized grade rule writing organization.

15.7.1.10. "Species." The commercial name assigned to a species of trees.

15.7.1.11. "Species Group." The commercial name assigned to two or more individual species having similar characteristics.

15.7.1.12. "Representation." ~~A "representation shall be construed to mean~~ Any advertisement, offering, invoice, or the like that pertains to the sale of lumber.

15.7.1.13. "Minimum Dressed Sizes (Width and Thickness)." The standardized width and thickness at which lumber is dressed when manufactured in accordance with the United States Department of Commerce Voluntary Product Standard 20-70, "American Softwood Lumber Standard," and regional grading rules conforming to VPS 20-70. (See Table 1.)

15.7.2. "Identity." Representations shall include a declaration of identity that specifies the grade or grades, species or species group, and whether the lumber is unseasoned (green) or dry.

15.7.3. "Quantity." Representations shall be in terms of the number of pieces, the minimum dressed width and thickness, the length of individual pieces, or the lineal footage, except that:

(a) The use of nominal dimensions shall be allowed when used in conjunction with the required minimum dressed sizes and actual length.

(b) With respect to all invoices, a table of minimum dressed sizes may appear on the reverse side of the invoice, so long as appropriate reference to the table is prominently and conspicuously shown on the face of the invoice.

TABLE 1.
SOFTWOOD LUMBER SIZES.

Minimum standard dressed sizes at the time of manufacture for both unseasoned (green) and dry lumber as published by the United States Department of Commerce in Product Standard 20-70.

Product Classification (Normal Size)	Minimum Dressed Sizes (See Note 2)	
Inches	Unseasoned Inches	Dry Inches
Dimension Lumber		
2 x 4	1-9/16 x 3-9/16	1-1/2 x 3-1/2
2 x 6	1-9/16 x 5-5/8	1-1/2 x 5-1/2
2 x 8	1-9/16 x 7-1/2	1-1/2 x 7-1/4
2 x 10	1-9/16 x 9-1/2	1-1/2 x 9-1/4
2 x 12	1-9/16 x 11-1/2	1-1/2 x 11-1/4
(See Note 1)		
Board Lumber		
1 x 4	25/32 x 3-9/16	3/4 x 3-1/2
1 x 6	25/32 x 5-5/8	3/4 x 5-1/2
1 x 8	25/32 x 7-1/2	3/4 x 7-1/4
1 x 10	25/32 x 9-1/2	3/4 x 9-1/4
1 x 12	25/32 x 11-1/2	3/4 x 11-1/4

Note 1. The dry thicknesses of nominal 3" and 4" lumber are 2 1/2" and 3 1/2"; unseasoned thicknesses are 2 9/16" and 3 9/16". Widths for these thicknesses are the same as shown above.

Note 2. Product Standard 20-70 defines dry lumber as being 19 ~~percent~~ % or less in moisture content and unseasoned lumber as being over 19 ~~percent~~ % moisture content. The size of lumber changes approximately 1 ~~percent~~ % for each 4 ~~percent~~ % change in moisture content. Lumber stabilizes at approximately 15 ~~percent~~ % moisture content under normal use conditions.

15.8. *Polyethylene Products. Consumer products offered and exposed for sale at retail shall be sold in terms of:*

15.8.1. Sheeting and Film.

(a) Length and width.

(b) Area in square feet or square meters.

(c) Thickness.

(d) Weight.

15.8.2. Food Wrap.

(a) Length and width.

(b) Area in square feet or square meters.

15.8.3. Lawn and Trash Bags.

(a) Count.

(b) Dimensions.

(c) Thickness.

15.8.4. Food and Sandwich Bags.

(a) Count.

(b) Dimensions.

Products not intended for the retail consumer shall be offered and exposed for sale in terms of:

15.8.5. Sheeting and Film.

(a) Length.

(b) Width.

(c) Thickness.

(d) Weight.

15.8.6. Bags.

(a) Count.

(b) Dimensions.

(c) Thickness.

(d) Weight.

15.8.7. Declaration of Weight.

The labeled statement of weight for polyethylene products under subsections 15.8.1., 15.8.5, and 15.8.6. shall be not less than the weight calculated by using the following formula:

W = T x A x 0.03613D, where

W = net weight in pounds

T = nominal thickness in inches

A = nominal length in inches times nominal width in inches

D = density in grams per cubic centimeter as determined by ASTM Standard D1505-68 "Standard Method of Test for Density of Plastics by the Density Gradient Technique" (or latest issue).
0.03613 is a factor for converting g/cm 3 to lb/in3.

15.9. Insulation.

15.9.1. Packaged Loose-Fill Insulation Except Cellulose. Packaged loose-fill insulation, except cellulose, shall declare the net weight with no qualifying statement.; each package must contain at least the stated weight. In addition, the following information shall be supplied on the package: minimum thickness, maximum net coverage area, number of bags per 1000 square feet, and minimum weight per square foot at R-values of 11, 19, and 22. This information shall also be supplied for any additional R-values listed.

15.9.2. Packaged Loose-Fill Cellulose Insulation. The principal display panel of packaged loose-fill cellulose insulation shall declare the net weight with no qualifying statement; each package must contain at least the stated weight. In addition, the following information shall be supplied on the package: minimum thickness, maximum net coverage area, number of bags per 100 square feet, and minimum weight per square foot at R-values of 13, 19, 24, 32, and 40. This information shall also be supplied for any additional R-values listed.

15.9.3. Batt and Blanket Insulation. The principal display panel of packaged batt or blanket insulation shall declare the square feet of insulation in the package, and the length and width of the batt or blanket. In addition, R-value and thickness shall be declared on the package.

15.9.4. Installed Insulation. Installed insulation must be accompanied by a contract or receipt. For all insulation except loose fill and aluminum foil, the receipt must show the coverage area, thickness, and R-value of the insulation installed. For loose-fill, the receipt must show those three items plus the number of bags used. For aluminum foil, the receipt must show the number and thickness of the air spaces, the direction of heat flow, and R-value. The receipt must be dated and signed by the installer.

EXAMPLE: This is to certify that the insulation has been installed in conformance with the requirements indicated by the manufacturer to provide a value of R-19 using 31.5 bags of insulation to cover a 1500 square foot area. Signed and dated.

15.10. Liquified Petroleum Gas Cylinder Tare Weights. Whenever stamped tare weights on cylinders are employed in the sale of liquified petroleum gas, the following shall apply:

15.10.1. Allowable Difference. The allowable difference between the actual tare weight and the stamped tare weight for a new or used cylinder shall be 1 ~~percent~~ % of the actual tare weight. The tare weight shall include the weight of the cylinder (including paint), valve, and other permanent attachments. The weight of a protective cap shall not be included in tare or gross weights.

15.10.2. Average Requirement. The tare weights of cylinders at a single place of business found to be in error predominantly in a direction favorable to the seller and near the allowable difference limit shall be considered to be not in conformance with these requirements.

15.11. Bark Mulch. All bark mulch shall be sold, offered, or exposed for sale in terms of volume measure: in inch-pound units, in terms of the cubic yard or cubic foot; in metric units, in terms of the cubic meter or liter.

§ 16. GENERAL.

16.1. Presentation of Price. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count for any commodity includes a fraction of a cent, all elements of the fraction shall be prominently displayed, and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half of the height and width of the numerals representing the whole cent. (Sec. 3.1-949 Weights and Measures Law)

16.2. *Allowable Differences: Combination Quantity Declarations.* Whenever the method of sale for a bulk or packaged commodity requires the use of a statement ~~including two or more declarations of weight and measure, or count, or size, or other appropriate combinations~~ , *that includes count in addition to weight, measure, or size,* the following shall apply to the particular commodity:

16.2.1. Beverageware: Pressed and Blown Tumblers and Stemware. The allowable difference between actual and declared capacity shall be:

(a) *For Inch-Pound:*

(1) Plus or minus 1/4 ounce for items of 5 ounce capacity or less;

(2) Plus or minus 5 ~~percent~~ % of the stated capacity for items over 5 ounce capacity.

(b) *For Metric:*

(1) Plus or minus 10 milliliters for items of 200 milliliter capacity or less;

(2) Plus or minus 5 ~~percent~~ % of the stated capacity for items over 200 milliliter capacity.

~~15.2. Paper Plates. The allowable difference between actual and declared dimensions shall be minus 1/8 inch to plus 1/4 inch.~~

~~15.3. Sanitary Paper Products. The allowable difference between actual and declared dimensions for toilet tissue shall be plus or minus 1/16 inch. The allowable difference for paper towels, paper napkins, and facial tissue shall be plus or minus 1/8 inch.~~

16.3. Machine Vended Commodities. All vending machines dispensing packaged commodities shall indicate:

(a) Product indentity.

(b) Net Quantity.

(c) Name, address, and telephone number of responsible party.

The requirements for product identity and net quantity can be met either by display of the package or by information posted on the outside of the machine.

16.4. Railroad Car Tare Weigths. Whenever stenciled tare weights on freight cars are employed in the sale of commodities or the assessment of freight charges, the following conditions and requirements shall apply:

16.4.1. *Newly or Restenciled Tare Weights.* All newly stenciled or restenciled tare weights shall be accurately represented to the nearest 100 pounds *for inch-pound units and the nearest 50 kilograms for metric units* and the representation shall include the date of weighing.

16.4.2. *Allowable Differences.* The allowable difference between actual tare weight and stenciled tare weight on freight cars in use shall be *per subsection 16.4.2(a) or subsection 16.4.2(b).*

(a) Inch-pound allowable difference:

(1) Plus or minus 300 pounds for cars 50,000 pounds or less;

(2) Plus or minus 400 pounds for cars over 50,000 pounds to and including 60,000 pounds;

(3) Plus or minus 500 pounds for cars over 60,000 pounds.

(b) Metric allowable difference:

(1) Plus or minus 150 kilograms for cars 25,000 kilograms or less;

(2) Plus or minus 200 kilograms for cars over 25,000 kilograms to and including 30,000 kilograms;

(3) Plus or minus 250 kilograms for cars over 30,000 kilograms.

16.4.3. *Change of Stenciled Weights.* Tare weight determinations for verification or change of stenciled weights shall only be made on properly prepared and adequately cleaned freight cars.

~~16.4.4. The provisions in Section 16.4 shall be effective as of July 1, 1973, for all railroad cars stenciled or restenciled with a tare weight after that date and for all railroad cars as of January 1, 1978.~~

16.4.5. *Repsonsibility For Reweighing and Restenciling.* Tank cars, covered hopper cars, flat cars equipped with multideck racks, or special superstructure, mechanical refrigerator cars, and house-type cars equipped with special lading protective devices must be reweighed and restenciled only by owners or other authorized representatives:

(a) When car bears no light weight (empty weight)

stenciling;

(b) When repairs or alterations result in a change of weight in excess of the permissible lightweight tolerance.

~~Regulation No.~~

§ 17. Exemptions From Sealing or Marking and/or Annual Retesting of Weights and Measures Devices.

17.1. *Weights and Measures Specifically Exempted.* The weights and measures listed below shall be specifically exempted from the sealing and marking requirements of §§ 3.1-926 and 3.1-934, Title 3.1, Chapter 35 of the Code of Virginia.

17.1.1. Measure containers.

~~2. Milk bottles.~~

~~3. Lubricating oil bottles.~~

~~4. Berry baskets and boxes.~~

17.2. *Annual Retesting Exemption.* The weights and measures listed below shall be specifically exempted from the annual retesting requirements of §§ 3.1-926 and 3.1-928 of Title 3.1, Chapter 35 of the Code of Virginia, and shall be retested only as required ~~by the Commissioner~~ :

17.2.1. Vehicle tanks used as measures.*

17.2.2. Farm milk tanks.*

17.2.3. Liquid measures.*

17.2.4. Glass graduates.*

17.2.5. Measures containers.*

~~6. Milk bottles.*~~

~~7. Lubricating oil bottles.*~~

17.2. ~~7~~ *6.* Linear measures.*

17.2. ~~8~~ *7.* Dry measures.*

~~10. Berry baskets and boxes.~~

* Whenever an item of this class is damaged, repaired, or modified in any way that affects the accuracy of measurement, it shall not thereafter be used for measurement until it has been officially inspected and reapproved.

~~Regulation No.~~

§ 18. Weighing Tobacco in Auction Warehouses.

18.1. *Sale By Net Weight - Value of Minimum Graduation.* All tobacco received at tobacco auction warehouses ; for the purpose of sale ; must be weighed and sold on ~~a~~ *the basis of* net weight , ~~basis~~ and shall be weighed on approved scales. The value of the minimum graduated interval on the main-weighbeam elements, on the tare-weighbeam elements, and on the reading face elements of scales in tobacco weighing service shall be not greater than one pound. The weighbeam or any other device or mechanism that is used to set the tare weight of the pushcart, dollies, baskets and/or sheets shall be completely enclosed ~~by July 1, 1977~~ .

18.2. *Variation Permitted in Basket or Truck.* In markets where baskets and trucks used in placing tobacco on the warehouse floor are represented as being of an average weight and uniform weight deductions are made ; to determine net weight, no basket or truck shall vary more than one-half pound either above or below the true average weight. If uniform weight deductions are made for the average weight of the basket and truck, the scale shall be balanced at the average weight of trucks and baskets used ; by back-balancing the scale. Each warehouse operation using baskets shall ; ~~for each warehouse operation,~~ have *(* available at the warehouse at least 8 week prior to the opening date of each sales season *)* a reasonable number (but not less than 100) of baskets* on which the average weight can be determined by the Weights and Measures Inspector.

18.3. *Baskets Required To Be Marked.* In markets where baskets are not represented as being of an average weight , or where baskets vary more than 1/2 pound from the average weight of baskets used, each such basket shall be plainly makred with its correct weight , and this weight shall be deducted from the gross weight at the time of weighing. In all such markets, scales shall be balanced at the average weight of the truck only by back-balancing the scale. No warehouse truck shall vary more than 1/2 pound either above or below the true average weight.

18.4. *Scale Ticket Requirements.* All baskets or other containers of tobacco weighed and placed on the warehouse floor for the purpose of sale shall be accompanined by a scale ticket on which there shall be plainly and conspicuously stated the name of the seller and the net weight of the tobacco. The date of weighing and the initials of the ~~weighmaster~~ *weighmasters* must be shown on each floor sheet (Tobacco Sale Bill). The seller shall be given a copy of this floor sheet at the time the tobacco is weighed.

18.5. *Weigh To The Nearest Whole Pound.* All tobacco weighed for the purpose of sale, offering for sale, or sold, including "House" and/or "Speculators" tobacco , shall be weighed and recorded accurately to the nearest ~~one~~ *whole* pound ~~effective July 1, 1977~~ .

18.6. *Reworked or Resale Tobacco.* All "reworked" or "resale" tobacco must be reweighed before it is again offered or exposed for sale.

18.7. *Weighmaster Name and Address To be Posted.* In all tobacco warehouse offices , ~~the shall be posted~~ the full name and complete address (residence) of all weighmasters *shall be posted* . Each weighmaster shall personally initial the posted lists ~~in a manner consistent~~ with the same initials he will use on floor sheets.

18.8. *Record Retention.* It shall be the duty of every tobacco auction market manager to retain a copy of all records, including sales coupons, weight tickets, accounts of sales, and other records covering each transaction , for a period of three years . ~~which~~ *This* copy shall ~~at all times~~ be available for, and open to, the confidential inspection of the Commissioner of Agriculture and ~~Commerce~~ *Consumer Services* , or his authorized agents *at all times* .

~~Regulation No.~~

§ 19. Regulation Requiring Delivery Ticket.

19.1. *Requirements For Delivery Tickets.* All coal, coke, charcoal, agricultural limestone (whether burnt or unburnt), and fertilizer shall be sold by weight. Unless the product is delivered to the purchaser in package form, each delivery ~~of coal, coke, charcoal, agricultural limestone (whether burnt or unburnt) and fertilizer~~ to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there shall be clearly stated :

(a) The name and address of the vendor,

(b) The name and address of the purchaser, and

(c) The net weight of the delivery and the gross and tare weight from which the net weight is computed, each expressed in pounds.

However, on any agricultural commodity, produce, sand, gravel, or any other commodity product or merchandise that is being sold in bulk form be weight, the gross and tare weights need not appear on the delivery ticket. The net weight may be expressed in pounds or kilograms. One of these tickets shall be retained by the vendor , and the other shall be delivered to the purchaser at the time of delivery of the product, or shall be surrendered ; on demand ; to the Commissioner of Agriculture and Consumer Services ; or his assistant, or an inspector, or sealer . ~~who~~ If ~~he~~ *the official* desires to retain ~~it~~ *the ticket* as evidence, ~~shall issue~~ a *substitute* weight slip ~~in lieu thereof for delivery~~ *shall be given* to the purchaser ; . ~~Provided~~ *However* , if the purchaser carries away the purchase, the vendor shall be required only to give to the purchaser ~~at the time of sale~~ a delivery ticket *at the time of sale* stating the number of pounds of product delivered ~~to him~~ . (Referenced § 3.1-953 Weights and Measures Law)

* * * * * * * *

Title of Regulation: **VR 115-04-10. Rules and Regulations for the Enforcement of the Virginia Fertilizer Law.**

Statutory Authority: § 3.1-104 of the Code of Virginia.

Public Hearing Date: February 26, 1986 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

These regulations were adopted in 1970 pursuant to § 3.1-104 of the Code of Virginia, to prescribe how plant nutrients must be expressed on the product label. They provide for (i) minimum guarantees for nutrients other than nitrogen, phosphorus and potassium; (ii) how slowly available plant nutrients may be guaranteed; (iii) the requirements for registering the labeling "Soil Conditioners"; (iv) investigational allowances to be used in determining when a product is deficient; (v) monetary penalty assessments for nitrate and water insoluble nitrogen, secondary and minor elements, and for excessive chlorine in tobacco fertilizers; (vi) maximum chlorine guarantees for tobacco fertilizers, and (vii) a minimum percentage for primary plant nutrients (Nitrogen, Phosphate and Potash) in mixed fertilizers.

Pursuant to the Governor's Regulatory Review Process, these regulations were reviewed and 84 changes were made to improve clarity.

One provision of the 1970 regulations has been deleted. In § 1, industry was given one year from the date of the 1970 regulations to remove the term "borax" from product labels. Since the period for this provision has expired it has been deleted from these regulations. One provision has been added to the 1970 regulations. In the regulatory review process the fertilizer industry requested that investigation allowances be amended to provide that an overage in primary nutrients compensate, within certain limits, for a deficiency in another primary nutrient when determining when a fertilizer is deficient. This provision is included in § 5 of the regulation.

~~Regulation III.~~

§ 1. Definitions.

A. Except as the board designates otherwise in specific cases, the names and definitions for commercial fertilizer shall be those adopted as official by the Association of American ~~Fertilizer~~ *Plant Food* Control Officials.

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

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

"Fertilizer Law" means Chapter 10 (§ 3.1-74 et seq.) of Title 3.1 of the Code of Virginia, known as the Virginia

Fertilizer Law.

"Pesticide Law" means Chapter 14 (§ 3.1-189 et seq.) of Title 3.1 of the Code of Virginia, known as the Virginia Pesticide Law.

~~Regulation I.~~

§ 2. Plant nutrients in addition to nitrogen, phosphorus and potassium.

Other plant nutrients, when claimed in any ~~form of~~ written, printed, or graphic matter , shall be registered and ~~/or shall be~~ guaranteed on the package ~~,~~ ; or if *in* bulk, on the accompanying invoice or delivery slip. Guarantees shall be made on the elemental basis ~~, except boron may also be guaranteed as borax provided that the elemental form is also shown for a period of one year from date of this regulation~~ . Sources of the *guaranteed* elements ~~guaranteed~~ and proof of *their* availability shall be provided *to* the commissioner upon request. The minimum percentages which will be accepted as guarantees ~~and/~~ or for registration are as follows:

A. Calcium (Ca)	1.0
B. Magnesium (Mg)	0.50
C. Sulfur (S)	1.0
D. Boron (B)	0.02
E. Chlorine (CL)	0.10
F. Cobalt (Co)	0.0005
G. Copper (Cu)	0.05
H. Iron (Fe)	0.10
I. Manganese (Mn)	0.05
J. Molybdenum (Mo)	0.0005
K. Sodium (Na)	0.10
L. Zinc (Zn)	0.05

~~Guarantees or claims for the above listed plant nutrients are the only ones which will be accepted.~~ Proposed labels and directions for use of the fertilizer shall be furnished *upon request* with the application for registration ~~upon request~~ . Warning or caution statements are required on the label for any product which contains 0.001% or more *of* molybdenum. Any of the above listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients ~~,~~ nitrogen, phosphorous, and potassium. ~~(The Board authorized the present industry an extension of one year from the date of these regulations to dispose of or use their present inventories of labeling materials which are not in compliance with the regulation at the present time.)~~

~~Regulation II.~~

§ 3. Speciality fertilizer labels.

A. The following information, if not appearing on the face or display side in a readable and conspicuous form, shall occupy at least the upper third of a side of the container , and shall be considered the label . *(* With *the* exception of "net weight" , which must always appear on the display panel package or container. *)*

..... Net Weight

1. Brand name.

2. Grade.

Guaranteed Analysis:

Total Nitrogen (N) ..... %

..... % Ammoniacal Nitrogen**

..... % Nitrate Nitrogen**

..... % Water Insoluble Nitrogen*

Available Phosphoric Acid (P2O5) ..... %

Soluble Potash (K2O) ..... %

Additional Plan Nutrients as prescribed by regulation.

** Potential Acidity or Basicity ....% or ..... lbs.

Calcium Carbonate Equivalent per ton.

Name and address of registrant.

NOTES:

* If claimed or the statement "organic" or "slow acting nitrogen" is used on the label.

** If claimed or required.

B. Slowly available plant nutrients.

1. No fertilizer label shall bear a statement that connotes or ~~infers~~ *implies* the presence of a slowly available plant nutrient unless the nutrient or nutrients are identified.

2. When a fertilizer label ~~infers~~ *implies* or connotes that the nitrogen is slowly available through *the* use of "organic", "organic nitrogen", "ureaform", "long - lasting" or similar terms, the guaranteed analysis must indicate the percentage of water insoluble nitrogen in the material.

3. ~~To supplement (b), it should be established that~~ If a label states the amount of organic nitrogen present in a phrase, such as "25.% of the nitrogen from ureaformaldehyde (ureaform)," then the water insoluble nitrogen guarantee must be not less than 60.% of the nitrogen so designated.

Example: 10-6-4 Rose Food
25% of Nitrogen is Organic

10 (Total N) X .25 (%N claimed or Organic) X .60 (Average insolubility in H2O) of organic nitrogen sources = 1.5% WIN

4. When the water insoluble nitrogen is less than 15% of the total nitrogen, the label shall bear no references to any designations ; such as stated in ~~(b)~~ *subsection* B *paragraph* 2 *of these regulations* .

5. The term "Coated-slow release fertilizer", or "Coated-slow release" *shall* be accepted as descriptive of products.

6. Further, the above phrases ~~(c)~~ *in paragraph 5 shall be* allowed for any products that can show a testing program substantiaing the claim. (Testing under *the* guidance of experiment station personnel, or a recognized reputable researcher, etc.) Water insoluble nitrogen must be guaranteed at 15% of *the* total nitrogen level as in organic materials.

7. ~~The~~ *Association of Official Analytical Chemist (AOAC)* Method 2,047 *shall* be used initially to substantiate the fact that "Coated-slow release" materials are present. The determination need only be modified by *the* elimination of sample grinding during preparation. ~~When the AOAC Committee, working on this problem, comes up with a more specific method it will, of course, be substituted.~~

C. Soil conditioners.

1. Each container of a soil conditioner shall be labeled in a legible and conspicuous form to show the following information:

a. The net weight of the contents;

b. The name of the product;

c. The guaranteed analysis, including the common or usual English name and the percentage of each active ingredient, and the name and percentage of inert ingredients;

d. A statement ~~as to~~ *of* the purpose of the product ; , stated in terms of the claimed or beneficial effect resulting from the use of the product;

e. Adequate directions for use ; , and cautions or warnings against misuse , if applicable; and

f. The name and address of the registrant.

2. Bulk lots shall be labeled by attaching a copy of a printed label to the invoice , or by *the* inclusion on the invoice *of* all information required by ~~(3)a~~ *C 1.* The invoice shall be ~~furnished~~ *given* to the purchaser at the time of sale or delivery.

3. The commissioner may require proof of any ~~claim~~ ~~or~~ *claims* made for any soil conditioner. If no claims are made, the commissioner may require proof of usefulness and value ~~of the soil conditioner~~ . For evidence of proof, the commissioner may rely on experimental data, evaluations or advice ~~supplied~~ from such sources as the extension service of the Virginia Polytechnic Institute and State University. The experimental data shall relate to Virginia conditions for which the product is advertised or sold. The commissioner may accept or reject other sources of proof as additional evidence in evaluating soil conditioners.

4. No soil conditioning ingredient may be listed or guaranteed on the labels or in labeling of soil conditioners without the commissioner's approval. The commissioner may allow a soil conditioning ingredient to be listed or guaranteed on the label or in labeling if satisfactory supportive data is provided ~~the Commissioner~~ to substantiate the value and usefulness of the ~~soil conditioning ingredients~~ *product* . The commissioner may rely on outside sources such as the extension service of the Virginia Polytechnic Institute and State University for assistance in evaluating the data submitted. When a soil conditioning ingredient is permitted to be listed and guaranteed , it must be ~~determinable~~ *verifiable* by laboratory methods and is subject to inspection and analysis. The commissioner may prescribe methods and procedures of inspection and analysis of the soil conditioning ingredient.

5. ~~The applicant shall submit~~ When the application for registration for each product *the applicant shall submit* a copy of the label , ~~and~~ a copy of all advertisements ; ~~brochures, posters, and television and radio announcements~~ *and any other materials* to be used in promoting the sale of the soil conditioner.

~~Regulation IV.~~

§ 4. Percentages.

The term ~~of~~"Percentage", *when used* by symbol or word ~~when used~~ on a fertilizer label , shall represent only the amount of individual plant nutrients or other factors in relation to the total *weight of the* product ~~by weight~~ .

~~Regulation V.~~

§ 5. Investigational allowances or tolerances and penalties.

A. * A commercial fertilizer shall be deemed deficient if the analysis of any primary nutrient is below the guaranteed analysis or grade by ~~an amount exceeding 0.30 of one percent~~ *more than 0.30%* plus ~~three percent~~ *3.0%* of the guarantee, or if the overall index value of the fertilizer is below 97 ~~percent~~ % . *Except when the found relative value of a sample is equal to or exceeds the guaranteed relative value, an overage in primary nutrients may compensate for a deficiency in another primary nutrient up to 10% of the guarantee of the deficient*

nutrient, not to exceed two units. No compensation will be allowed toward a deficiency unless the total percent of primary plant nutrients is equal to or greater than the percent guaranteed or if the deficiency exceeds 10% of the guarantee or the deficiency exceeds two units. If more than one primary nutrient is in penalty status, no compensation will be allowed.

~~* For these investigational allowances to be applicable apply, the recommended AOAC procedures for obtaining samples, sample preparation, and analysis must be used. These are described in the Official Methods of Analysis of the Association of Official Agriculture Chemists, 10th edition, 1965 beginning on page 9 and in succeeding issues of the Journal of the Association of Official Analytical Chemists. In evaluating replicate data, Table 19, page 935, Journal of the Association of Official Analytical Chemists, Volume 49, No. 5, October, 1966 should be followed. Averaging at least two values must be adhered to. If more than two values are obtained, all significant values must be averaged. Values carried to two decimals places are needed in applying averages to this table. Values may be "rounded" to one place where preferred in reporting.~~

** In applying these investigational allowances, the recommended Association of Official Analytical Chemists procedures for obtaining samples, sample preparation, and analyses must be used. These are described in the current edition of the Official Methods of the Association of Official Analytical Chemists and in subsequent issues of the Journal of Official Analytical Chemists. Averaging at least 2 values must be adhered to. Values carried to 2 decimals are to be used in this averaging, but values may be (rounded) to 1 place where preferred in reporting.*

B. Assessment for deficiency of nitrate nitrogen or water insoluble nitrogen.

~~If the analysis of any commercial fertilizers guaranteed to contain a minimum of one percent or less of nitrogen derived from nitrate, or one percent or less of water insoluble nitrogen, shall fall as much as or more than one third below the guarantee in either of these constituents, it shall be the duty of the Commissioner to access against the manufacturer, dealer or agent, who sold such commercial fertilizer, a penalty amounting to twice the value of such deficiency or deficiencies.~~ *Fertilizers guaranteed to contain 1.0% or less. If the nitrogen content of any commercial fertilizer is found to be one-third or more less than the guaranteed minimum, the commissioner shall assess a penalty against the manufacturer, dealer, or agent. This penalty shall amount to twice the value of the deficiency.*

~~If the analysis of any commercial fertilizer guaranteed to contain a minimum of more than one percent of either of the constituents shall fall as much as, or more than one fourth below the guarantee in either of the constituents, it shall be the duty of the Commissioner to assess against the manufacturer, dealer or agent, who sold such commercial fertilizer, a penalty amounting to twice the value of such deficiency or deficiencies.~~ *Fertilizers guaranteed to contain more than 1.0%. If the nitrogen content of any commercial fertilizer is found to be one-fourth or more less than the guaranteed minimum, the commissioner shall assess a penalty against the manufacturer, dealer, or agent. This penalty shall amount to twice the value of the deficiency.*

C. Secondary and minor elements shall be deemed deficient if any element is below the guarantee by an amount exceeding the values in the following schedule:

ELEMENT		
Calcium	0.2 unit	+ 5.0% of guarantee
Magnesium	0.2 unit	+ 5.0% of guarantee
Sulfur	0.2 unit	+ 5.0% of guarantee
Boron	0.003 unit	+ 25% of guarantee
Cobalt	0.0001 unit	+ 30% of guarantee
Molybdenum	0.0001 unit	+ 30% of guarantee
Chlorine (except for tobacco)	0.005 unit	+ 10% of guarantee
Copper	0.005 unit	+ 10% of guarantee
Iron	0.005 unit	+ 10% of guarantee
Manganese	0.005 unit	+ 10% of guarantee
Sodium	0.005 unit	+ 10% of guarantee
Zinc	0.005 unit	+ 10% of guarantee

The maximum allowance when calculated ~~in accordance to the~~ *as* above shall be one unit (1.0%).

D. Penalties for secondary and minor elements.

For each deficiency in *a* secondary or micronutrient element , a penalty of $1.00 per ton, plus three times the commercial value of the shortage, shall be paid to the ultimate user of the fertilizer. If *the purchaser is* not known, then *the penalty shall be paid* to the State Treasury and reported to the State Comptroller, who shall credit the ~~same~~ *amount* to a special fund.

E. ~~Assessment for excess chlorine for tobacco only if the chlorine content of any lot of fertilizer branded for tobacco shall exceed the maximum amount guaranteed by more than one half of one percent, a penalty shall be assessed equal to ten percent of the value of the fertilizer for each additional one half of one percent of excess or fraction thereof.~~ *If the guaranteed minimum chlorine content of fetilizer labeled for tobacco is exceeded by more than 0.5%, a penalty shall be assessed equal to 10% of the value of the fertilizer for each 0.5% or fraction thereof of excess.*

~~Regulation VII.~~

§ 6. Fertilizer-pesticide mixtures.

A. Specialty fertilizer-pesticide mixtures.

The labeling, claims and use of all mixtures shall comply with and be registered under the Virginia

Fertilizer *Law* and *the Virginia* Pesticide Law , and shall be subject to approval by the commissioner.

B. Farm crop fertilizer-pesticide mixtures.

1. General sale.

~~Combinations of fertilizer with pesticides, when offered for general sale, whether in bulk or bags,~~ *When offered for general sale, bulk lots or bags of fertilizer with pesticides* must be registered and labeled as required by the Virginia Pesticide Law prior to sale or distribution. Although the Fertilizer Law does not require registration, labeling must meet *its* other requirements ~~stated therein~~ , and shall be subject to approval by the commissioner. All bulk containers and bins shall be labeled with a copy of the registered label ~~and~~ , a copy of ~~such label~~ *which* shall accompany each shipment and delivery.

2. Custom mixtures.

Pesticides may be mixed with fertilizers without label registration when the pesticide product is properly registered under the Virginia Pesticide Law, except when ~~such~~ *these* mixtures are prohibited by the registered pesticide label ; ; provided *that* the mixture is:

a. Applied to the user's property by the distributor or his authorized agent; or

b. To be applied by *the* user or his authorized agent ~~provided~~ . *In this case,* each delivery must be accompanied by a label , including directions for application use limitations , and sufficient caution and warning statements ; all of which shall be subject to approval by the commissioner.

~~Regulation VIII.~~

§ 7. Chlorine guarantees for tobacco fertilizer. (All commercial fertilizers labeled for tobacco shall show a guarantee for chlorine.)

A. The maximum chlorine guarantees permitted for tobacco plant bed fertilizers shall be:

1. *One-half (0.5)* percent *chlorine* for fertilizers with nitrogen guarantees up to and including ~~six percent, one half (0.5) percent chlorine,~~ *6.0%.*

2. *One (1)* percent *chlorine* for fertilizers with a nitrogen guarantee above ~~six percent, one (1) percent chlorine~~ *6.0%* .

B. The maximum chlorine guarantees permitted for field crop tobacco fertilizer shall be:

1. *A maximum chlorine guarantee of* ~~two percent~~ *2.0%* for fertilizer with nitrogen guarantees up to and including ~~four percent a maximum chlorine guarantee of two (2) percent~~ *4.0%* .

2. *A maximum chlorine guarantee not more than one-half of the respective total nitrogen guarantee* for fertilizer with nitrogen guarantees greater than ~~four percent, a maximum chlorine guarantee not more than one, half (1/2) of the respective total nitrogen guarantee~~ *4.0%* .

C. The maximum chlorine guarantee permitted in tobacco top dressers shall be ~~2.00 percent~~ *2.0%* .

~~Regulation IX.~~

§ 8. Minimum plant food allowed.

A. No person shall be allowed to distribute, register, or offer for sale any mixed fertilizer, collodial phosphate or similar materials in this ~~state~~ *Commonwealth* which contains less than ~~eighteen percent~~ *18%* of plant food, (~~namely,~~ total nitrogen, available phosphoric acid and soluble or available potash, either singly or in combination ;) except as provided in ~~(b)~~ *B* and ~~(c)~~ *C* of this section and in § 3.1-79 *of the Code of Virginia* .

B. There may be one grade of tobacco plant bed fertilizer in which the sum of guarantees for total nitrogen, available phosphoric acid , and soluble or available potash shall not total less than ~~sixteen percent~~ *16%* .

C. The minimum plant food requirement shall not apply to ground rock phosphate.

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

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

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Title of Regulation: **VR 115-05-11. Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores.**

Statutory Authority: § 3.1-364 of the Code of Virginia.

Public Hearing Date: February 25, 1986 - 2 p.m.
(See Calendar of Events section for additional information)

Summary

This proposed regulation establishes requirements for (i) retail food stores and covers potentially hazardous food products, (ii) temperatures for preparing and storing hot and cold foods products, (iii) reheating hot

foods, (iv) methods and materials to be used in the sanitation of food processing equipment, (v) employee hygiene and cleanliness practices, (vi) food sample demonstration and food promotion, (vii) construction and maintenance of physical facilities and (viii) water supply and plumbing requirements.

VR 115-05-11. Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores.

PART I.

§ 1.1. Definitions.

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

"Bulk food" means processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

"Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue can be effectively removed by normal cleaning methods.

"Employee" means the individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food store.

"Equipment" means items other than utensils used in the storage, preparation, display, and transportation of food such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a retail food store. This item does not include fork lift trucks or dollies.

"Food" means any raw, cooked, or processed edible substance; ice, beverage or ingredient used or intended for use, or for sale, in whole or in part for human consumption.

"Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

"Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The terms includes delicatessens that offer prepared food in individual service portions. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

"Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

"Law" includes applicable federal, state, and local statutes, ordinances, and regulations.

"Packaged" means bottled, canned, cartoned, bagged, or securely wrapped.

"Person" includes any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a retail food store who is the supervisor of the retail food store at the time of inspection.

"Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include: clean, whole, uncracked, odor-free shell eggs; foods that have pH level of 4.6 or below or a water activity (aw) value of 0.85 or less than under standard conditions; food products in hermetically sealed containers processed to prevent spoilage.

"Regulatory authority" means the state and/or local enforcement authority or authorities having responsibility for enforcing these regulations.

"Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, nonpotentially hazardous foods; roadside markets that offer only fresh vegetables for sale; food service establishments[1]; or food and beverage vending machines[2].

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in § 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act[3] as used they are "safe" only if they are used in conformity with regulations established pursuant to

§ 409 or § 706 of that Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in § 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act[3] and are used in conformity with all applicable regulations of the Food and Drug Administration.

"Sanitation" means effective bactericidal treatment[4] by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on cleaned food-contact surfaces of utensils.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Single-serve articles" means items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

"Transportation" (transported) means movement of food within the retail food store or delivery of food from that retail food store to another place while under the control of the person in charge.

"Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispensing of food.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

PART II.
FOOD.

§ 2.1. Food supplies.

A. General.

Food shall be in sound condition and safe for human consumption. Food shall be obtained from sources that comply with the applicable laws relating to food safety. Food prepared in a home shall not be used or offered for sale.

B. Special requirements.

1. Fluid milk and milk products used or offered for sale shall comply with the Grade "A" standards as established by law. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products.

2. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be received and/or repacked in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the state certification number issued according to law. Shucked shellfish should be kept in the container in which they were received until used or sold.

Each original container of unshucked shellfish (oysters, clams, or mussels) shall be identified by an attached tag, to be retained for a period of 90 days, that states the name and address of the original shell-fish processor, the kind and quantity of shellfish, and the certification number issued by the state or foreign shellfish control agency, where applicable.

3. Only clean shell eggs meeting applicable grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.

4. Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.

§ 2.2. Food protection.

A. General.

At all times, including while being stored, prepared, displayed, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, insecticides, rodents, rodenticides, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining, and overhead leakage or condensation, or other agents of public health significance. The temperature of potentially hazardous foods shall be 45°F (approx. 7°C) or below or 140°F (60°C) or above, at all times, except as otherwise provided in these regulations. Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled or that are in damaged containers that may affect the product and those food items that have been returned to, or are being detained by, the retail food store because of spoilage, container damage, or other public health considerations, shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the regulatory authority.

B. Emergency occurrences.

The person in charge of a retail food store that is affected by a fire, flood, extend power outage, or a similar significant occurrence that creates a reasonable probability that food in the retail food store may have been contaminated or that the temperature level of food which is in a potentially hazardous form may have caused that food to have become hazardous to health, shall take such action as is necessary to protect the public health and shall promptly notify the regulatory authority of the emergency.

§ 2.3. Food storage.

A. General.

1. Food packaged in an immediate closed container, once the container is opened in the retail food store prior to use or retail sale, shall be kept covered. Food, whether raw or prepared, if removed from the immediate closed container in which it was originally packaged prior to use or retail sale, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempted from this requirement. Container covers shall be impervious and nonabsorbent. During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping material. Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon, and smoked or cured sausages, may be hung uncovered on clean, sanitized hoods or placed on clean, sanitized metal racks in such a manner as to preclude contamination of any food products in storage.

2. Containers of food shall be stored a minimum of six inches (152 millimeters (mm)) above the floor or stored on dollies, skids, racks, or open-ended pallets, provided such equipment is easily movable either by hand or with the use of pallet-moving equipment that is on the premises and used. Such storage areas shall be kept clean. Cased food packaged in cans, glass, or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean.

3. Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking on or which condensed water has accumulated.

4. Packaged foods shall not be stored in contact with water or undrained ice.

5. A food ingredient, such as flour, sugar, salt, baking powder, cooking oil or vinegar, that is not stored in the original package and is not readily identifiable on sight, shall be stored in a container identifying it by common name.

6. Toilet rooms and their vestibules, and garbage or mechanical rooms shall not be used for the storage of food.

B. Refrigerated/frozen storage.

1. Refrigeration units or effectively insulated units shall be provided in such number of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +-3°F (approx. +-1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to +-3°F (approx. +-1°C) may be used in lieu of indicating thermometers.

2. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F (approx. 7°C) or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45°F (approx. 7°C) or below unless maintained in accordance with the hot storage requirements of these regulations.

3. Potentially hazardous frozen foods shall be kept frozen and should be stored at an air temperature of 0°F (approx. +-18°C) or below except for defrost cycles and brief periods of loading or unloading.

4. Ice used as a cooling medium for food storage shall not be used or sold for human consumption.

C. Hot storage.

1. Hot food storage units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at the required temperature during storage. Each hot food storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +-3°F (approx. +-1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers accurate to +-3°F (approx. 1°C) may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps, calrod units, or insulated food transport carriers, a food product thermometer shall be available and used to check internal food temperature.

2. The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F (60°C) or above, except during necessary periods of preparation.

Potentially hazardous food to be transported shall be held at a temperature of 140°F (60°C) or above unless maintained in accordance with the refrigerated storage requirements of these regulations.

Food storage locations are restricted to minimize risk of food contamination from other foods, equipment, routine employee activities, and environmental systems. Labeling of bulk ingredients is required to prevent confusion which could lead to inadvertent contamination of food during preparation.

Provisions covering the availability of hot and refrigerated/frozen food storage facilities, and the parameters defining the cooling period for foods in storage, are included since controlling product temperature is the best means available for controlling growth of pathogens in food. Thermometers are required in or on equipment to provide a means for monitoring air temperatures around potentially hazardous foods.

§ 2.4. Food preparation.

A. General.

1. Food shall be prepared with a minimum of manual contact. Food shall be prepared on food-contact surfaces and with utensils which are clean and have been sanitized.

2. Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which are clean and have been sanitized. Salads and other ready-to-eat foods should be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.

3. Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products should be prepared from chilled products.

B. Raw fruits and raw vegetables.

Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the retail food store shall be thoroughly cleaned with potable water before being used.

C. Cooking potentially hazardous foods.

Potentially hazardous foods being processed within the retail food store by cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F (60°C), except that:

1. Poultry, poultry stuffings, stuffed meats, and stuffings containing meat, shall be cooked to heat all parts of the food to at least 165°F (approx. 74°C) with no interruption of the cooking process.

2. Pork and pork products shall be cooked to heat all parts of the food to at least 150°F (approx. 60°C), or, if cooked in a microwave oven, to at least 170°F (approx. 77°C).

3. When beef roasts under 10 pounds (approx. 5 kilograms (kg)) in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of at least 350°F (approx. 177°C) throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of at least 325°F (approx. 163°C) throughout the process.

When beef roasts of 10 pounds (approx. 5 kilograms (kg)) or over in weight are cooked in a dry heat oven, the oven shall be preheated to and held at an air temperature of at least 250°F (approx. 122°C) throughout the process.

Further, in order to meet public health requirements for the processes cited above, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature.

MINIMUM HOLDING TIMES FOR BEEF ROASTS AT VARIOUS INTERNAL TEMPERATURES

Minimum internal temperature		Minimum holding time
°F	°C	Minutes
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	56.7	47
135	57.2	37
136	57.8	32
137	58.4	24
138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5

4. Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145°F (approx. 63°C).

D. Bakery product fillings.

Custards, cream fillings, and similar products, including synthetic fillings, shall meet the temperature requirement in § 2.3, B. 2. of these regulations following preparation and be maintained at that temperature during storage, transportation and display. Products with synthetic fillings

may be excluded from this requirement if:

1. The food, including the interface between the bakery product and its filling, has a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions; or

2. It is handled in such a manner as to preclude contamination with and the growth of pathogenic microorganisms after heat processing; or

3. Other scientific evidence is on file with the regulatory authority demonstrating that the specific product will not support the growth of pathogenic microorganisms.

Bakery products with synthetic fillings, which meet the above criteria, may be labeled to state that refrigeration is not required.

E. Reheating.

Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F (approx. 74°C) or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

F. Food product thermometers.

Metal stem-type numerically scaled indicating thermometers, accurate to +-2°F (approx. +-1°C) shall be provided and used to assure attainment and maintenance of proper temperature during preparations of all potentially hazardous foods.

G. Thawing potentially hazardous foods.

Potentially hazardous foods shall be thawed:

1. In refrigerated units at a temperature not to exceed 45°F (approx. 7°C); or

2. Under potable running water at a temperature of 70°F (approx. 21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that reasonably required to thaw the food; or

3. In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

4. As part of the conventional cooking process.

§ 2.5. Food display.

A. Potentially hazardous foods.

Potentially hazardous foods shall be held at an internal temperature of 45°F (approx. 7°C) or below or at an internal temperature of 140°F (approx. 60°C) or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F (approx. 55°C).

B. Frozen foods.

Foods intended for sale in a frozen state should be displayed at an air temperature of 0°F (approx. -18°C) or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturers' specifications.

C. Food display.

Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that will protect the food from contamination. Hot or cold food units shall be provided to assure the maintenance of potentially hazardous food at the required temperature during display. Potentially hazardous food shall not be provided for consumer self-service.

D. Dispensing utensils.

To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. Dispensing utensils shall be:

1. Stored in the food with the dispensing utensil handle extended out of the food; or

2. Stored clean and dry; or

3. Stored in running potable water.

E. Food sample demonstrations and food promotions.

When food sample demonstrations and food promotions are authorized in the retail food store, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of these regulations.

§ 2.6. Food transportation by the retail food store.

A. General.

Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of

these regulations relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken.

PART III.
PERSONAL HYGIENE.

§ 3.1. Employee health.

A. General

No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a retail food store in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

§ 3.2. Personal cleanliness.

A. General.

Employees engaged in food preparation and warewashing operations shall thoroughly wash their hands and the exposed portions of their arms with soap or detergent and warm water before starting work; after smoking, eating or using the toilet; before and after handling raw meat, or raw poultry, or raw seafood; and as often as is necessary during work to keep them clean. Employees shall keep their fingernails trimmed and clean.

§ 3.3. Clothing.

A. General.

1. Employees shall wear clean outer clothing.

2. Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

§ 3.4. Employee practices.

A. General.

1. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods.

2. Employees shall consume food or use tobacco only in designated areas. Such designated areas must be located so that the eating or tobacco use of an employee does not result in contamination of food, equipment, or utensils.

PART IV.
EQUIPMENT AND UTENSILS.

§ 4.1. Materials.

A. General.

Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color or taste.

B. Solder.

If solder is used, it shall be composed of safe materials and be corrosion resistant, nor contribute to the contamination of food.

C. Wood.

Hard maple or equivalent nonabsorbent wood that meets the general requirements set forth in subsection A of § 4.1 of these regulations, may be used for cutting blocks, cutting boards, and bakers' tables. Wood shall not be used as a food-contact surface under other circumstances, except for contact with raw fruits, raw vegetables, and nuts in the shell.

D. Plastics and rubber materials.

Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in subsection A of § 4.1 of these regulations, are permitted for repeated use.

E. Cutting surfaces.

Cutting surfaces subject to scratching or scoring must be resurfaced so as to be easily cleaned, or be discarded when these surfaces can no longer be effectively cleaned and sanitized.

F. Single-service articles.

Single-service articles shall not be reused.

§ 4.2. Design and fabrication.

A. General.

All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

1. Food-contact surfaces shall be easily cleanable,

smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.

2. Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Equipment designed to received lubrication of bearings and gears on or within food-contact surfaces shall be lubricated with materials meeting the requirements of 21 CFR 178.3570[5].

3. Sinks and drain boards shall be sloped to drain and be self-draining.

B. Accessibility.

Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

1. Without being disassembled; or

2. By disassembling without the use of tools; or

3. By easy disassembling with the use of only simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment.

C. Cleaned in place (CIP).

Equipment designed and constructed for CIP shall meet requirements equivalent to those contained in § 4-203 of the FDA Model Food Service Sanitation Ordinance.[1]

D. Food product thermometers.

Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to +-2°F (approx. +-1°C).

E. Nonfood-contact thermometers.

Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris, or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

F. Ventilation hoods.

Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.

G. Maintenance of equipment and utensils.

All equipment and utensils shall be maintained in good repair to comply with the requirements of these regulations.

§ 4.3. Equipment installation and location.

A. General.

Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has accumulated, open stairwells, or other sources of contamination.

B. Table-mounted equipment.

1. Table-mounted equipment, shall be installed to facilitate the cleaning of the equipment and the adjacent areas.

2. Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four inch (102 mm) clearance between the table or counter, except that if no part of the table under the equipment is more than 18 inches (457 mm) from cleaning access, the clearance space shall be three inches (76 mm) or more; or if no part is more than three inches (76 mm) from cleaning access, the clearance space shall be two inches (51 mm) or more.

3. Equipment is portable within the meaning of § 4.3 B. 2. of these regulations if:

a. It is small and light enough to be moved easily by one person; and

b. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; and

c. It is table-mounted, such as powered mixers, grinders, slicers, tenderizers, and similar equipment, and:

–does not exceed 80 pounds (approx. 36 kilograms (kg)), or
–is equipped with a mechanical means of safely tilting the unit for cleaning.

C. Floor-mounted equipment.

1. Floor-mounted equipment, unless easily movable, shall be:

a. Sealed to the floor; or

b. Elevated on legs to provide at least a six inch (152 mm) clearance between the floor and equipment, except that equipment may be elevated to provide at least a four inch (102 mm) clearance between the floor and equipment if no part of the floor under the equipment is more than six inches (152 mm) from cleaning access.

c. Display shelving units, display refrigeration units, display freezer units are exempt from the provisions of § 4.3, C.1. a and b of these regulations if they are installed so that the floor beneath the units can be cleaned.

2. Equipment is easily movable if:

a. It is mounted on wheels or casters; and

b. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

3. Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be no more than 1/32 inch (0.8 mm) and, if exposed to seepage, the space shall be sealed.

D. Aisles and working spaces.

Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and open-ended pallets shall be positioned to provide accessibility to working areas.

PART V.
CLEANING, SANITIZATION, AND STORAGE OF EQUIPMENT AND UTENSILS.

§ 5.1. Equipment and utensil cleaning and sanitization.

A. Cleaning frequency.

1. Utensils and food-contact surfaces of equipment shall be cleaned and sanitized:

a. Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods;

b. After any interruption of operations during which time contamination may have occurred; and

c. After final use each working day.

2. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

3. The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil.

4. Nonfood-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

B. Wiping cloths.

1. Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in § 5.1, C. 8. of these regulations and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

2. Cloths or sponges used for cleaning nonfood-contact surfaces of equipment shall be clean and rinsed as specified in § 5.1, B.1. of these regulations and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

3. Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

C. Manual cleaning and sanitizing.

1. For manual cleaning and sanitizing of equipment and utensils, a sink with two or three compartments shall be provided and used. Sink compartments shall be large enough to accommodate the immersion of most equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Where immersion in sinks is impracticable (e.g., because equipment is too large), equipment and utensils shall be cleaned and sanitized manually or by pressure spray methods.

2. Drain boards or easily movable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for

cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of the warewashing facilities.

3. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil.

4. The sinks shall be cleaned before use.

5. When a three-compartment sink is utilized for warewashing, the operation shall be conducted in the following sequence:

a. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and

b. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and

c. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in § 5.1, C. 8. a through e of these regulations.

6. When a two-compartment sink is utilized for warewashing, one of the following two methods shall be used:

a. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in hot water in the second compartment in accordance with § 5.1. C. 8. a of these regulations; or

b. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent-sanitizer solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in the second compartment in hot water in accordance with § 5.1, C. 8. a of these regulations, or with a solution containing that same detergent-sanitizer in accordance with § 5.1, C. 8. b through e of these regulations.

7. When pressure spray methods are utilized for cleaning and sanitizing, the equipment and utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article is free of visible food particles and soil. The detergent-sanitizer shall be used in accordance with the manufacturer's instructions and shall be of the type that does not require a potable water rinse when used according to those instructions.

8. The food-contact surfaces of all equipment and utensils shall be sanitized by:

a. Immersion for at least one-half minute in clean, hot water of a temperature of at least 170°F (approx. 77°C); or

b. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F (approx. 24°C); or

c. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75°F (approx. 24°C); or

d. Immersion for at least one minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75°F (approx. 24°C). The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration; or

e. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010[5] that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F (approx. 24°C) for one minute; or

f. Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310[5] in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

g. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under § 5.1. C. 8. b, c, e of these regulations in the case of equipment too large to sanitize by immersion.

9. When hot water is used for sanitizing, the following equipment shall be provided and used:

a. An integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F (approx. 77°C); and

b. A numerically scaled indicating thermometer, accurate to +-3°F (approx. +-1°C) convenient to the sink for the frequent checks of water temperature; and

c. Utensil racks or baskets of such size and design

to permit complete immersion of utensils and equipment in the hot water.

10. When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010[5] and a test kit or other device that measures the parts per million concentration of the solution shall be provided and used.

D. Mechanical cleaning and sanitizing.

Mechanical cleaning and sanitizing equipment and practices shall conform to the provisions contained in § 5-104 of the Model Food Service Sanitation Ordinance[1].

E. Drying.

Unless used immediately after sanitization, all equipment and utensils shall be air dried. Towel drying shall not be permitted.

F. Retail food stores without equipment and utensil cleaning facilities.

Retail food stores that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables.

§ 5.2. Equipment and utensil handling and storage.

A. Handling.

Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

B. Storage.

1. Cleaned and sanitized utensils and equipment shall be stored at least six inches (152 mm) above the floor in a clean, dry location in a way that protects them from splash, dust, and other means of contamination. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

2. Utensils shall be air dried before being stored or shall be stored in a self-draining position.

3. Stored utensils shall be covered or inverted wherever practical.

C. Single-service articles.

1. Single-service articles shall be stored in closed cartons or containers at least six inches (152 mm) above the floor or on easily movable dollies, skids, racks, or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

2. Single-service articles shall be handled in a manner that prevents contamination of surfaces that may come in contact with food.

D. Prohibited storage areas.

Food equipment, utensils, or single-service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms, or mechanical rooms.

PART VI.
SANITARY FACILITIES AND CONTROLS.

§ 6.1. Water supply.

A. General.

Sufficient potable water for the needs of the retail food store shall be provided from a source constructed, maintained, and operated according to law.

B. Water delivery.

All potable water not provided to the retail food store directly from the source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both of these systems shall be constructed, maintained, and operated according to law.

C. Water under pressure.

Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

D. Steam.

Steam used in contact with food or food-contract surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310[5].

§ 6.2. Sewage.

A. General.

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained, and operated according to law. Nonwater carried sewage disposal facilities are prohibited, except as permitted by the regulatory authority.

§ 6.3. Plumbing.

A. General.

Plumbing shall be sized, installed, and maintained

according to law. There shall be no cross-connection between the potable water supply and any other system containing:

1. Water of unknown or questionable origin, or

2. Contaminating or polluting substances.

B. Nonpotable water system.

A nonpotable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed according to law. Nonpotable water shall not directly or indirectly contact food or equipment or utensils that contact food. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

C. Backflow.

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a backflow prevention device.

D. Grease traps.

Grease traps, if used, shall be located to be easily accessible for cleaning.

E. Garbage grinders.

Garbage grinders, if used, shall be installed and maintained according to law.

F. Drains.

Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a warewashing machine is located within five feet (152 centimeters (cm)) of a trapped floor drain, the warewasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if permitted by law.

§ 6.4. Toilet facilities.

A. Toilet installation.

Toilet facilities shall be installed according to law, shall be at least one and not less than the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

B. Toilet design.

Toilets and urinals shall be designed to be easily cleanable.

C. Toilet rooms.

Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation systems.

D. Toilet facility maintenance.

Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptables shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

§ 6.5. Handwashing facilities.

A. Handwashing facility installation.

Handwashing facilities shall be installed according to law, shall be at least one and not less than the number required by law, and shall be conveniently located to permit use by all employees in food preparation and warewashing areas. Handwashing facilities shall be accessible to employees at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules. Sinks used for food preparation or for warewashing shall not be used for washing of hands or for any other purpose.

B. Handwashing facility faucets.

Each handwashing facility shall be provided with hot and cold water tempered by means of mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds with the need to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities.

C. Handwashing supplies.

A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

D. Handwashing facility maintenance.

Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair.

§ 6.6. Garbage and refuse.

A. Containers.

1. Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the retail food store.

2. Containers used in food preparation and utensil washing areas shall be kept covered during nonworking hours and after they are filled.

3. Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

5. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, detergent, and hot water or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

B. Storage.

1. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of nonrodent-resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

2. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and rodent resistant, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.

3. Outside storage areas or enclosures, if used, shall be kept clean and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be stored on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

C. Disposal.

1. Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.

2. Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with law. Areas around incineration units shall be kept clean and orderly.

§ 6.7. Insect and rodent control.

A. General.

Effective measures shall be utilized to minimize the entry, presence, and propagation of rodents, flies, cockroaches, or other insects. The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents.

B. Openings.

Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

PART VII.
CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES.

§ 7.1. Floors.

A. Floor construction.

1. Except as specified in § 7.1. B. of these regulations, floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

2. Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with properly installed trapped

drains. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain.

3. In all establishments, utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall be coved so as not to present an open seam of more than 1/32 inch (0.8 mm).

B. Floor carpeting.

Carpeting, if used as floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas, or in toilet room areas where urinals or fixtures are located.

C. Prohibited floor covering.

Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings; however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

D. Mats and duckboards.

Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair.

E. Utility line installation.

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

§ 7.2. Walls and ceilings.

A. Maintenance.

Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

B. Construction.

The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, warewashing areas, and toilet rooms and their vestibules shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

C. Exposed construction.

Studs, joists, and rafters shall not be exposed in those areas listed in § 7.2. B. of these regulations. If exposed in other rooms and areas, they shall be finished to provide a cleanable surface.

D. Utility line installation.

Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in § 7.2 B. of these regulations. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

E. Attachments.

Light fixtures, vent covers, wall mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

F. Covering material installation.

Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable.

§ 7.3. Cleaning physical facilities.

A. General.

Cleaning of floors, walls, and ceilings shall be done as often as necessary, but preferably during periods when the least amount of food is exposed, such as after closing. Only dustless methods of cleaning floors, walls, and ceilings shall be used, such as vacuum cleaning, wet cleaning, treated dust mops, or the use of dust-arresting sweeping compounds with brooms. Floors, mats, duckboards, walls, ceilings, and attachments (e.g., light fixtures, vent covers, wall mounted fans, and similar equipment), and decorative materials (e.g., signs and advertising materials) shall be kept clean.

B. Service sinks.

At least one service sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose.

§ 7.4. Lighting.

A. General.

1. Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles (215 lux) of light on all food preparation surfaces and at warewashing work levels.

2. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches (762 mm) from the floor;

a. At least 20 foot candles (215 lux) of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas; and

b. At least 10 foot candles (108 lux) of light in walk-in refrigeration units, dry food storage areas, and in all other areas.

B. Protective shielding.

1. Lamps located over or within food storage, food preparation, and food display facilities, and facilities where utensils and equipment are cleaned and stored shall be shielded, coated or otherwise shatter resistant.

2. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

§ 7.5. Ventilation.

A. General.

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create a harmful or unlawful discharge. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

§ 7.6. Dressing rooms and locker areas.

A. Dressing rooms and areas.

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, food storage, food display, warewashing, or storage of utensils and equipment.

B. Locker areas.

Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or areas of, in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

§ 7.7. Poisonous or toxic materials.

A. Materials permitted.

Only those poisonous or toxic materials necessary and intended for the maintenance of the establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in retail food stores, except those items being stored or displayed for retail sale as described in § 7.7. E. of these regulations.

B. Labeling materials.

Containers of poisonous or toxic materials necessary for operational maintenance of the establishment shall be prominently and distinctly labeled in accordance with law. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents.

C. Storage of materials.

Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following two categories:

1. Insecticides and rodenticides;

2. Detergents, sanitizers, related cleaning or drying agents, and caustics acids, polishes, and other chemicals.

Materials in each of these two categories shall be stored and located to be physically separated from each other; shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose; and, to preclude potential contamination, shall not be stored above or intermingled with food, food equipment, utensils, or single-service articles, except that this latter requirement does not prohibit the convenient availability or detergent sanitizers, or sanitizers at warewashing facilities.

D. Use of materials.

1. Sanitizers, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

2. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way other than in full compliance with the manufacturer's labeling.

E. Storage and display materials for retail sale.

Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles.

F. First-aid supplies and personal medications.

Retail food store employee first-aid supplies and personal medications shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

§ 7.8. Premises.

A. General.

1. Retail food stores and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operation or maintenance of the establishment.

2. The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

B. Living areas.

No operation of a retail food store shall be conducted in any room used as living or sleeping quarters. Retail food store operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

C. Laundry facilities.

1. If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

2. Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

D. Linens and work clothes storage.

1. Clean work clothes and linens, including articles such as wiping cloths, shall be stored in a clean place and protected from contamination until used.

2. Soiled work clothes and linens, including articles such as wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until removed for laundering and shall be stored to prevent contamination of food, food equipment and utensils.

E. Cleaning equipment storage.

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

F. Animals.

1. Live animals shall be excluded from within the retail food store operational areas and from immediately adjacent areas inside the store under the control of the person in charge. This exclusion does not apply to edible fish, crustacea, shellfish, or fish in aquariums.

Live or dead fish bait shall be stored separately from food or food products.

Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas and outside store premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.

2. While on duty, persons employed in the food operational areas of an establishment shall not care for or handle any pets, or patrol/sentry dogs.

FOOTNOTES

[1]. Food Service Sanitation Manual, 1976, DHEW Pub. No. (FDA) 78-2081. This manual is sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[2]. The Vending of Food and Beverages, 1978, DHEW Pub. Co. (FDA) 78-2091. This code is sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[3]. Federal Food, Drug, and Cosmetic Act, As Amended May 1980, HHS Pub. No. (FDA) 80-1051. This Act is sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[4]. Procedures for the Bacteriological Examination of Food Utensils and/or Food Equipment Surfaces, Technical Information Bulletin No. 1, 1967, Public Health Service Publication No. 1631. Copies may be obtained from Food and Drug Administration, Retail Food Protection Branch, 200 'C' Street, S.W., Washington, D.C. 20204.

[5]. Code of Federal Regulations, Title 21, Parts 170 to 199. This volume is sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

STATE BOARD OF PHARMACY

Title of Regulation: **VR 530-01-1. Board of Pharmacy Regulations.**

Statutory Authority: § 54-524.16 of the Code of Virginia.

Public Hearing Date: March 12, 1986 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation establishes licensure and practice requirements for pharmacies and sets standards for various aspects of activities of persons who wish to be involved in the distribution of drugs through dispensing, administering, wholesaling or manufacturing.

VR 530-01-1. Board of Pharmacy Regulations.

PART 1.
GENERAL PROVISIONS.

Authority: § 54-524.16 of the Drug Control Act.

§ 1.1. Definitions.

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

"Board" means the Virginia Board of Pharmacy.

"Drug Control Act" means Chapter 15.1 (§ 54-524.1 et seq.) of Title 54 of the Code of Virginia.

"DEA" means Drug Enforcement Administration.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Hospital" or "Nursing Home" means those facilities as defined in Title 32.1 of the Code of Virginia, or as defined in regulations by the Virginia Department of Health.

"Light resistant container" means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless or a translucent container may be made light-resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where it is directed to protect from light in an individual monograph, storage in a light-resistant container is intended.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act(s) being performed. Neither prior nor future instructions shall be sufficient nor such supervision rendered by telephone, written instructions, or by any mechanical or electronic methods.

"Radiopharmaceutical" means any article that exhibits spontaneous decay or disintegration of any unstable atomic nucleus, usually accompanied by the emission of ionizing radiation and any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such article.

"Repackaged drug" means any drug removed from the manufacture's original package and placed in different packaging.

"Safety closure container" means a container which meets the requirements of the Federal Poison Prevention Packaging Act (15 U.S.C. 39A), i.e., in testing such containers, that 85% of a test group of 200 children of ages 41-52 months be unable to open the container in a five minute period and the 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Schedules I through VI" means those schedules set forth in the Virginia Drug Control Act.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

"Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which the temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

"Room temperature" means the temperature prevailing in a working area.

"Controlled room temperature" means a temperature maintained thermostatically between 15° and 30°C (50° and 86°F).

"Warm" means any temperature between 30° and 40°C (86° and 104°F).

"Excessive heat" means any temperature above 40°C (104°F).

"Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or the destructive alteration of the dosage form, the container label bears an appropriate instruction to protect the product from freezing.

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescense, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

"Unit-dose container" means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for patient.

"Unit dose system" means a pharmacy coordinated method of drug dispensing and control in which drugs are distributed in properly labeled unit-dose containers or single unit containers in ready to administer form as far as possible, in a supply for not more than 72 hours.

"U.S.P.-N.F." means the United States Pharmacopoeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

§ 1.2. Fees.

The fee which shall accompany an application or a renewal for a license, permit, registration, or the charge for the delinquent payment of a renewal, shall be as follows:

1. Application for pharmacist examination - $300.

If applicant withdraws the application after the deadline for filing all but $25 of the fee will be refunded.

2. Application for a temporary or probationary or reciprocal license - $300.

3. Renewal of pharmacist license - $20.

a. The application fee for a person whose license has been revoked or suspended for other than a definite period shall be $50.

b. If a pharmacist does not maintain a license within the Commonwealth, all back renewal fees and a $10 delinquent fee shall be paid before a renewal of the license will be issued.

4. Pharmacy permit - $75.

5. Physician drug dispensing license - $75.

6. a. Nonrestricted manufacturing permit - $200.

b. Restricted manufacturing permit - $200.

c. Wholesaler or distributor - $200.

7. Controlled substances registration - $20.

8. If a licensee fails to renew a required license or registration prior to the expiration date for the license or registration, a $10 late fee shall be assessed.

9. A duplicate certificate of registration for a pharmacist or the certification of grades and registration for a pharmacist - $15.

PART II.
ENTRY AND LICENSURE REQUIREMENTS.

Authority: §§ 54-524.17 and 54-524.21 of the Drug Control Act.

§ 2.1. Practical experience required.

A. Each applicant for licensure by examination shall have gained practical experience in prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. During the six months of practical experience required, the applicant shall accumulate a minimum of 1000 hours. For purposes of this regulation, credit will not be given for more than 40 hours per week.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience needed toward fulfilling the six months of experience required.

E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.

§ 2.2. Procedure for gaining practical experience.

A. Every pharmacy student, including those enrolled in an approved college clerkship program, who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged. This requirement shall also apply to student gaining practical experience within the Commonwealth for licensure in another state. The student shall be called a "student externe."

B. The applicant shall be supervised by a pharmacist who shall hold a current pharmacist license and who assumes full responsibility for the training, supervision and professional conduct of the externe or the interne. The supervising pharmacist shall not supervise more than one interne or externe during the same time period.

C. Graduates in pharmacy of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall likewise register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne." Out of state experience shall be certified by the board in the state in which the experience was gained.

D. All practical experience of the student externe and the pharmacy interne shall be under the personal supervision of any pharmacist on duty.

E. The practical experience of the student externe shall be gained nonconcurrent with the school year excepting that gained in any board approved program of a pharmacy school.

F. Any practical experience gained within any state by a student externe or a pharmacy interne who has not registered with the board of record will not be accepted by the board nor certified to another state by the board.

G. All practical experience of the student externe shall be evidenced by an affidavit filed with the board at the end of such period of experience.

H. An applicant for examination shall file the certificate of experience no less than 30 days prior to the date of the practical examination, and such certificates required in subsection G and H of this section shall be a form prescribed by the board.

I. The registration of a student externe shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

§ 2.3. Curriculum and appoved colleges of pharmacy.

A. Length of curriculum.

The following educational requirements for licensure for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.

2. On and after June 1, 1936, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

3. On and after June 1, 1964, the applicant for licensure shall have been graduated from a five-year course of study with a Bachelor of Science degree in pharmacy awarded.

B. Approved colleges of pharmacy.

In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of one of the colleges of pharmacy approved by the board.

§ 2.4. Content of the examination and grades required.

A. The examination shall consist of the examination (NAPBLEX) provided by the National Association of Boards of Pharmacy and the law examinations provided by the board.

B. Passing Requirements.

On and after June 23, 1986, subjects will not be identified on the examination and a passing grade shall not be less than 75. The passing grade on pharmacy law shall not be less than 75.

C. Limitation on admittance to examination.

When an applicant for licensure by examination fails to pass the examination on three occasions, he shall not be readmitted to the examination until he has completed an additional 1000 hours of practical experience as a pharmacy interne as set forth in § 2.2 of these regulations.

§ 2.5. Acceptance of official reciprocal application.

The executive director of the board may accept an application from a pharmacist, licensed in another state, who possesses the legal qualifications, and issue a license; such application and temporary license will be subject to acceptance by the board at the first board meeting subsequent to the filing of the application.

1. Prior to the issuance of a license by the executive director and appearance before the board, the applicant must complete an examination in pharmacy law, as provided by the board, and must attain a score of not less than 75.

2. Any pharmacist applying for reciprocity shall have engaged in the practice of pharmacy or shall have obtained 50 contact hours of approved continuing education during the five-year period immediately preceding his application. If the applicant is unable to document such activity, he shall be required to obtain 160 hours of practice under the supervision of a pharmacist.

PART III.
PHARMACIES.

Authority: §§ 54-524.17, 54-524.19, 54-524.26, and 54-524.31 of the Drug Control Act.

§ 3.1. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be in charge simultaneously of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty by nonpharmacist personnel shall be deemed the practice of pharmacy.

§ 3.2. Special or limited-use pharmacy permits.

For good cause shown, the board may issue a special or limited-use pharmacy permit when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited and unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and method of operation, hours of operation, and method of documentation of continuing pharmacist control must accompany the application.

2. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

§ 3.3. Pharmacies going out of business.

Ten days prior to the closing date, the board shall be notified by the pharmacist-in-charge or other required person of the closing of a pharmacy.

1. At that time, the disposition of all Schedule II through VI drugs shall be reported to the board. If the pharmacy drug stock is to be transferred to another licensee, the pharmacist-in-charge or other responsible person shall inform the board of the name, address, and DEA number of the licensee to whom the drugs are being transferred.

2. All permits issued to the closed pharmacy shall be returned to the board office by the pharmacist-in-charge or other responsible person within five days.

§ 3.4. New pharmacies.

A. Space requirements.

The area which is to be used for the storage, compounding, and preparation of prescription orders for Schedule II-VI drugs shall not be less than 240 square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

B. Plans to be submitted; access to dispensing area.

1. Plans for the location of a proposed pharmacy practice area shall be filed with the board for approval. Plans for any substantial change in this area at any time after an original permit is issued shall also be filed with the board for approval prior to change.

2. Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the dispensing or drug storage area.

C. Inspections required.

1. The proposed location of a pharmacy practice area shall be inspected by an agent of the board prior to the issuance of a permit. All minimum equipment shall be on hand at the time of the inspection.

2. The request for the inspection of a new pharmacy shall be submitted to the board not less than 14 days prior to the opening date. If the request for inspection of a new pharmacy is received less than 14 days prior to the opening date, the request shall be accompanied by a fee of $500.

D. Drugs shall not be stocked within the proposed

pharmacy until adequate safeguards against diversion have been provided and approved by the board or its authorized agent.

§ 3.5. Physical standards for all pharmacies.

A. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

B. The entire area of the location of pharmacy practice, including all areas where drugs are stored shall be well lighted, well ventilated, and the proper storage temperature maintained to meet U.S.P.-N.F. specifications for drug storage.

C. The work counter space for dispensing and compounding of drugs shall be adequate for the number of pharmacists, externes, and internes or other board authorized personnel who are to be working at the same time.

D. The counter work space shall be used only for the compounding and dispensing of drugs and necessary record keeping.

E. A sink with hot and cold running water shall be within the immediate compounding and dispensing area.

F. Adequate refrigeration facilities for the storage of drugs requiring cold storage temperature shall be maintained within the compounding and dispensing area.

§ 3.6. Sanitary conditions.

A. The entire area of any place bearing the name of a pharmacy shall be maintained in a clean and sanitary manner and in good repair and order.

B. The dispensing area and the work counter space and equipment in the dispensing area shall be maintained in a clean and orderly manner.

C. Adequate trash disposal facilities and receptables shall be available.

§ 3.7. Required minimum equipment.

The pharmacist-in-charge shall be responsible for maintaining sufficient equipment to adequately carry out the practice of pharmacy. The equipment shall include the following items:

1. A current copy of the U.S.P.-N.F. Reference Book and Supplements;

2. A set of Prescription Balances, sensitive to 15 milligrams, and weights;

3. A refrigerator with a monitoring thermometer;

4. A copy of the current Virginia Drug Control Act and Board Regulations;

5. A current copy of the Virginia Voluntary Formulary.

6. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).

§ 3.8. Safeguards against diversion of drugs.

Security alarm.

A device for the detection of breaking shall be installed in each dispensing and drug storage area of each pharmacy. The installation and the device shall be based on accepted burglar alarm industry standards, and shall be subject to the following conditions.

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device based on burglar alarm industry standards.

2. The device shall be maintained in operating order.

3. The device shall fully protect the immediate drug compounding dispensing and storage areas and shall be capable of detecting breaking by any means whatsoever in the area when the pharmacy or other business in which the pharmacy is located is closed.

4. The alarm system must have an auxiliary source of power.

§ 3.9. Special security requirements.

A. If the compounding and dispensing area is to be closed while the remainder of the pharmacy or business in which the dispensing area is located is open for the conduct of business, an alarm system shall be installed in the dispensing area and be subject to the following requirements:

1. The alarm system is activated and operated separately from any other alarm system in the pharmacy, or the business in which the dispensing area is located.

2. The alarm system will detect breaking in the dispensing area when it is closed.

3. The alarm system is controlled only by the pharmacist.

B. An emergency key or access code to the system shall be maintained as set forth in § 3.10 of these regulations.

C. If the dispensing and drug storage area is enclosed from floor to ceiling with a suitable enclosure, the separately activated alarm system referred to in this

regulation shall not be required.

§ 3.10. Dispensing area enclosures.

A. The drug dispensing and drug storage areas of each pharmacy shall be provided with suitable enclosures which shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

B. The door keys to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in possession of any keys to the locking device on the door to such enclosure.

2. The pharmacists may place a key in an envelope or other container which contains a seal and a signature placed by the pharmacist on the envelope or container in a safe or vault within the pharmacy or other secure place.

3. The key may be used to allow emergency entrance to the dispensing area by other pharmacists.

C. Restricted access to the dispensing area.

1. The prescription drug compounding and dispensing area is restricted to pharmacists, externes, and internes who are practicing at the location indicated.

2. Clerical assistants and other personnel designated and needed by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

§ 3.11. Drugs outside of dispensing area.

Any Schedule II-VI drugs not sorted within the prescription compounding and dispensing area and kept for stock replenishing or other purposes shall be secured and access restricted to the pharmacist and person authorized by the pharmacist.

§ 3.12. Prescriptions awaiting delivery.

Prescriptions prepared for delivery to the patient may be placed in a secure place outside of the compounding and dispensing area and access to the prescriptions restricted by the pharmacist to designated clerical assistants. The prepared prescriptions may be transferred to the patient whether or not a pharmacist is on duty.

§ 3.13. Dispersion of Schedule II drugs.

Schedule II drugs may be dispersed with other schedules of drugs or maintained within a locked cabinet, drawer, or safe.

§ 3.14. Safeguards for controlled paraphernalia.

Controlled paraphernalia shall not be placed on open display or in an area completely removed from the drug compounding and dispensing area whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control over the sale.

§ 3.15. Expired drugs; security.

Any drug which has exceeded the expiration date shall be separated from the stock used for dispensing and shall be maintained separately under secure conditions prior to proper disposal of the expired drug.

§ 3.16. Destruction of Schedule II-V drugs in pharmacies.

If a pharmacist-in-charge wishes to destroy unwanted Schedule II-V drugs kept for dispensing in lieu of returning the drugs to the Drug Enforcement Administration (DEA), he shall use the following procedures for the drug destruction:

1. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

a. Date, time, and manner or place of destruction.

b. The names of the pharmacist who will witness the destruction process.

2. If the destruction date is to be changed or the destruction does not occur, a new notice shall be provided to the board office as set forth above in this subsection.

3. The DEA Form No. 41 shall be used to make a record of all drugs to be destroyed.

4. The drugs shall be destroyed by burning in an incinerator; an alternate method of flushing or appropriate covering at a landfill may be used if incineration is not possible and if permitted by the municipality.

5. The actual destruction shall be witnessed by the pharmacist-in-charge, and another pharmacist not employed by the pharmacy.

6. Each DEA Form No. 41 shall show the following information:

a. Legible signatures of the pharmacist-in-charge and the witnessing pharmacist;

b. The license number of the pharmacist destroying the drugs; and

c. The date of the destruction.

7. At the conclusion of the destruction of the drug stock;

a. Two copies of the completed DEA Form No. 41 shall be sent to: Drug Enforcement Administration, Washington Field Division, Room 2558, 400 - 6th Street, S.W., Washington, DC 20024. Attn: Diversion Control Group.

b. A copy of the completed DEA Form No. 41 shall be sent to the office of the board.

c. A copy of the completed DEA Form No. 41 shall be retained with the pharmacy inventory records.

PART IV.
NUCLEAR PHARMACIES.

Authority: §§ 54-524.17 and 54-524.31 of the Drug Control Act.

§ 4.1. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist. In emergency situations, in the pharmacist's absence, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of radiopharmaceuticals for the immediate emergency and must document such withdrawals in the control system.

B. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

C. Nuclear pharmacies shall dispense only radiopharmaceuticals which comply with acceptable standards of quality assurance.

D. A prescription order for a radiopharmaceutical shall be dispensed in a unit dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

E. In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution–Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in cubic centimeters; (vii) the requested calibration time for the amount of radioactivity contained; (viii) the practitioner's name and the assigned lot number.

F. The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution–Radioactive Material"; and (iii) the prescription number.

G. The amount of radioactivity shall be determined by radiometric methods for each individual does immediately prior to dispensing.

H. Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product packaging.

§ 4.2. Qualification as a nuclear pharmacist.

In order to practice as a nuclear pharmacist, a pharmacist must possess the following qualifications:

1. Meet Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material.

2. Be a currently licensed pharmacist in the state.

3. Have received a minimum of 90 contact hours of didactic instructions in nuclear pharmacy from an approved college of pharmacy.

4. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved college of pharmacy.

5. Submit an affidavit of experience and training to the board.

PART V.
DRUG INVENTORY AND RECORDS.

Authority: §§ 54-524.17, 54-524.56, and 54-524.69 of the Drug Control Act.

§ 5.1. Manner of maintaining records, prescriptions, inventory records.

Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule IV drugs but shall not be maintained with other records of the pharmacy.

3. Location of records.

All records of Schedule II-V drugs shall be maintained at the same location as the stock of drugs to which the records pertain.

4. Inventory after drug theft.

In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54-524.56(d) of the Drug Control Act, the inventory shall be used as the opening inventory for any further board audits within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

B. Prescriptions.

1. Schedule II drugs.

Prescription orders for Schedule II drugs shall be maintained in a separate prescription file.

2. Schedule III-V drugs.

Prescription orders for Schedule III-V drugs shall be maintained either in separate prescription file for drugs listed in Schedules III, IV, and V only, or, in such form that they are readily retrievable from the other prescription records of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one-inch high and filed either in the prescription file for drugs listed in Schedule II or in the usual consecutively numbered prescription file for Schedule VI drugs. Under no circumstances may prescription orders for Schedule II and Schedule VI drugs be filed together.

§ 5.2. Automated data processing records of prescription.

A. An automated data processing system may be used for the storage and retrieval of original and refill dispensing information for prescriptions in place of manual record keeping requirements, subject to the following conditions:

1. Any computerized system shall provide retrieval (via CRT display or hard-copy printout) of original prescription order information for those prescription orders which are currently authorized for dispensing.

2. Any computerized system shall also provide retrieval via CRT display or hard-copy printout of the current refill history for Schedule III-VI prescription orders (those authorized for refill during the past two years).

3. Docmentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription order for a controlled substance is correct shall be provided by the individual pharmacist who makes use of such a system. If such a system provides a hard-copy print-out of each day's controlled substance prescription order refill data, that printout shall be verified, dated and signed by the individual pharmacist who refilled such a prescription order. The individual pharmacist shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith).

4. A printout of the day's controlled substance prescription order refill data shall be provided to each pharmacy using such a computerized system within 72 hours of the date on which the refill was dispensed. It shall be verified and signed by each pharmacist who is involved with such dispensing, or in place of such printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement (in the manner previously described) each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him and is correct as shown.

B. Printout of dispensing data requirements.

Any such computerized system shall have the capability of producing a printout of any dispensing data which the user pharmacy is responsible for maintaining under the Drug Control Act.

C. Auxiliary procedure when data system is down.

In the event that a pharmacy which employes such a computerized system experiences system down-time, the pharmacy shall have an auxiliary procedure which will be used for documentation of refills of prescription orders. This auxiliary procedure shall ensure that refills are authorized by the orginial prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for data entry as soon as the computer system is available for use again.

§ 5.3. Pharmacy repackaging of drug; records required.

A. Records required.

Pharmacies in which bulk reconstitution of injectables, bulk compounding and the prepackaging of multi-dose and/or unit dose packages are performed shall maintain adequate control records for a period of one year, and such records shall show the name of the drug(s) used, strength, if any, quantity prepared, initials of the pharmacist supervising the process, manufacturer's control number or the assigned number, and an expiration date.

B. Expiration date.

The drug name, strength, if any, the manufacturer's control number or assigned control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstitutional units:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral solid unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted unit dose.

2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.

3. If U.S.P.-N.F. Class C or less packaging material is used for oral solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted unit doses.

4. An expiration date not to exceed the expiration date shown on the original manufacturer's bulk container shall appear on all repackaged unit dose packages of oral liquid medication.

PART VI.
PRESCRIPTION ORDER AND DISPENSING STANDARDS.

Authority: §§ 54-524.17, 54-524.48, 54-524.67, 54-524.68, and 54-524.69 of the Drug Control Act.

§ 6.1. Distribution of a prescription device.

Any person, except those persons who are registered under the provisions of § 54-524.31 of the Drug Control Act, who sells or distributes a Schedule VI device which under the applicable federal or state law may be sold, dispensed, or distributed only by or on the order of prescription of a practitioner, shall maintain every such prescription or order on file for two years.

§ 6.2. Emergency prescriptions for Schedule II drugs.

In case of an emergency situation, a pharmacist may dispense a controlled drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period: dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing practitioner.

2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54-524.67 of the Drug Control Act, except for the signature of the prescribing practitioner.

3. If the prescribing practitioner is not known to the pharmacist, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity.

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54-524.67 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it shall be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcement Administration and the board if the prescribing practitioner fails to deliver a written prescription to him; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

§ 6.3. Partial dispensing of Schedule II prescription orders.

A. The partial filling of a prescription order for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in written or emergency oral prescription order and he makes a notation of the quantity supplied on the face of the written prescription order. The remaining portion of the prescription may be dispensed within 72 hours of the first partial dispensing; however, if the remaining portion is not or cannot be dispensed within the 72-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

B. Prescription orders for Schedule II drugs written for patients in nursing homes may be dispensed in partial quantities, to include individual dosage units. For each partial dispensing, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained) the date of the partial dispensing, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharamcist. The total quantity of Schedule II drugs in all partial dispensing shall not exceed the total quantity prescribed. Schedule II prescription orders shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

C. Information pertaining to current Schedule II prescription orders for patients in a nursing home may be

maintained in a computerized system if this system has the capability to permit;

1. Output (display or printout) of the original prescription number, date of issue, identification of prescribing practitioner, identification of patient, identification of the nursing home, identification of drug authorized (to include dosage form strength and quantity), listing of partial dipsensing under each prescription and the information required in subsection B of this section.

2. Immediate (real time) updating of the prescription record each time a partial dispensing of the prescription is conducted.

§ 6.4. Dispensing of prescriptions; acts restricted to pharmacists.

A. The following acts shall be performed by a pharmacist or by a student externe or pharmacy interne provided a method of monitoring such acts of the externe and interne is provided:

1. The accepting of an oral prescription order from a practitioner and the reducing of such oral prescription order to writing.

2. The personal supervision of the compounding of extemporaneous preparations.

3. The providing of drug information to practitioners and to the patients.

4. The interpretation of the information contained in medication profile records.

5. The personal presentation of the completed prescription product to the patient thereby making the pharmacist available to that patient for consultation and information. This shall not preclude an agent of the patient's receiving the prescription or the patient's requesting delivery of the prescription by an agent of the pharmacist.

B. Persons assisting pharmacist. The following shall apply to persons present in the compounding and dispensing area:

1. Only one person who is not a pharmacist may be present in the immediate compounding and dispensing area at any given time with one pharmacist for the purpose of assisting the pharmacist in preparing and dispensing prescription orders.

2. In addition to the person authorized in paragraph 1 in this section, personnel authorized by the pharmacist may be present in the immediate compounding and dispensing area for the purpose of performing clerical functions.

C. Certification of completed prescription.

After the prescription order has been prepared and prior to the delivery of the order, the pharmacist shall inspect the dispensed prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction.

§ 6.5. Refilling of prescriptions.

A. Schedule II drugs.

Prescription for a Schedule II drug shall not be refilled.

B. Schedule III-V drugs.

A prescription for a drug listed in Schedule III, IV or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the back of the prescription he shall be deemed to have dispensed a refill for the full face amount of the prescription.

2. Partial dispensing of prescriptions.

The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling.

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed, and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

3. When all refills authorized on the original prescription order have been dispensed, no further refills may be dispensed on the prescription order. If additional refills are authorized by the prescriber, the refills shall be made pursuant to a new prescription order and assigned a current number.

C. As an alternative to all manual record-keeping requirements provided for in subsections A and B of this section, an automated data processing system may be used for the storage and retrieval of dispensing information for prescription orders for drugs dispensed.

D. Schedule V-VI drugs.

1. A prescription for a drug listed in Schedule V or VI

shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled.

2. A prescription order for a Schedule VI drug or device shall not be refilled if the prescription order is more than two years old. In instances where the drug or device is to be continued, authorization shall be obtained from the prescriber and a new prescription order shall be filed.

E. Refilling in reasonable conformity with use directions.

Authorized refills of all drugs, the dispensing of which requires a prescription, shall be refilled in reasonable conformity with the directions for use as indicated by the practitioner; if the directions have not been supplied by the practitioner, then the prescription shall be refilled in reasonable conformity with the recommended dosage and with the exercise of sound professional judgment.

PART VII.
LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.

Authority: §§ 54-524.17, 54-524.93, and 54-524.94 of the Drug Control Act.

§ 7.1. Labeling of prescription as to content and quantity.

A. Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription order shall bear on the label of the container, in addition to other requirements, the following information:

1. The name of the drug and the strength of the drug when applicable.

2. The number of dosage units, or number of milliliters, if liquid, dispensed.

B. Labeling of generic drugs.

In addition to the requirements of § 32.1-87(A) of the Code of Virginia if a generic drug is dispensed, it shall be labeled as follows:

1. Only the generic name is used, or

2. Only an alternate name or trade name for the product dispensed which appears on the generic manufacturer's label is used, or

3. An alternate trade name or the generic name followed by the words "generic for" follows the trade name of the drug for which the generic drug is used.

C. Labeling of proprietary medicine in third party payment.

The assignment of a prescription number to a proprietary medicine for the sole purpose of reimbursement (or repayment) by a "third party" carrier shall not be construed as being a prescription and is not subject to labeling requirements.

§ 7.2. Packaging standards for dispensed prescriptions.

A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such a packaging standard for the drug, it shall be dispensed in a well-closed container.

§ 7.3. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription order by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970 (15 U.S.C. 39 A).

B. Each pharmacy may have a sign posted near the compounding and dispensing area advising the patients that nonspecial packaging may be requested.

PART VIII.
STANDARDS FOR PRESCRIPTION TRANSACTIONS.

Authority: §§ 54-524.16, 54-524.17, and 54-524.68 of the Drug Control Act.

§ 8.1. Issuing a copy of a prescription order than can be refilled.

A. A copy of the prescription order for a drug which pursuant to § 54-524.68 of the Code of Virginia can be refilled at the time the copy is issued shall be given upon request to another pharmacist.

B. The transfer of original prescription order information for a drug listed in Schedules III-IV for the purpose of refill dispensing is permissible between pharmacies, the transfer is communicated directly between two pharmacist, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription order;

2. Records on the reverse of the invalidated prescription order the name, address and the federal registry number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription order information; and

3. Records the date of the transfer and the name of the pharmacits transferring the information.

C. The pharmacist receiving the transferred prescription order information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription order.

2. Provide all information to be on a prescription order and include:

a. Date of issuance of original prescription order;

b. Original number of refills authorized on the original prescription order;

c. Date of original dispensing;

d. Number of valid refills remaining and date of last refill;

e. Pharmacy's name, address, federal registry number, and original prescription number from which the prescription order information was transferred; and

f. Name of transferring pharmacist.

3. Both the original and transferred prescription order shall be maintained for a period of two years from the date of last refill.

§ 8.2. Issuing a copy of a prescription that cannot be refilled.

A. A copy of a prescription order for a drug which, pursuant to § 54-524.68 of the Drug Control Act, cannot be refilled at the time the copy is issued, shall be given on request of a patient but such copy shall be marked with the statement "FOR INFORMATION ONLY", the patient's name and address, the date of the original prescription, and the date the copy was given.

B. A copy marked in this manner is not a prescription order, as defined in § 54-524.2 of the Drug Control Act, and shall not be refilled.

C. The original prescription order shall indicate that a copy has been issued, to whom is was issued, and the issuing date.

§ 8.3. Confidentiality of patient information.

A pharmacist shall not exhibit, dispense, or reveal any prescription or discuss the therapeutic effects thereof, or the nature or extent of, or the degree of illness suffered by or treatment rendered to, any patient served by the pharmacist with any person other than the patient or his authorized representative, the prescriber, or other licensed practitioner caring for this patient, or a person duly authorized by law to receive such information.

§ 8.4. Kickbacks, fee-splitting, interference with supplier.

A. A pharmacist shall not solicit or foster prescription practice by secret agreement with a prescriber of drugs or any other person providing for rebates, "kickbacks", fee-splitting, or special charges in exchange for prescription orders.

B. A pharmacist shall not interfere with the patient's right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medication.

§ 8.5. Returning of drugs and devices.

Drugs or devices shall not be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed unless such drug or devices are in the manufacturer's original sealed container or in unit dose container which meet the U.S.P.-N.F. Class A or Class B container requirement.

§ 8.6. Physicians permitted by the board.

Physicians permitted by the board to dispense drugs shall be subject to the following sections of these regulations:

§ 3.8. Safeguards against diversion of drugs;

§ 5.1. Manner of maintaining records, prescriptions, inventory records;

§ 6.4. Filling of prescriptions;

§ 6.5. Refilling of prescriptions;

§ 7.1. Labeling of prescriptions;

§ 7.2. Packaging standards for dispensed prescriptions;

§ 7.3. Special packaging;

§ 8.5. Returning of drugs and devices.

PART IX.
UNIT DOSE DISPENSING SYSTEMS.

Authority: §§ 54-524.16, 54-524.17, 54-524.56 and 54-524.93 of the Drug Control Act.

§ 9.1. Unit dose dispensing systems.

A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or nursing home. The following requirements shall apply:

1. If a unit dose system is utilized by a pharmacy, no more than a 72 hour supply of drug shall be dispensed at any one given time.

2. A signed order by the prescribing physician shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a

Schedule II controlled substance may be transmitted to a licensed nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.

3. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

4. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

5. All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray.

6. A "back-up" dose of a drug of not more than one unit shall be maintained provided that the dose is maintained in the patient's drawer or tray with the other drugs for that patient.

7. A record shall be made and maintained within the pharmacy for a period of one year showing:

a. The date of filling of the drug cart;

b. The location of the drug cart;

c. The initials of person who filled the drug cart; and

d. The initials of the pharmacist checking the drug cart.

8. A patient profile record or medication card will be accepted as the distribution record of the pharmacy for Unit Dose Dispensing Systems only subject to the following conditions:

a. The record of distribution shall be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.

b. In the case of Schedule II-V drugs, after the patient profile record or medication card has been completed, the card shall be filed in chronological order by date and readily retrievable and maintained for two years.

c. The drugs may be dispensed as set forth in §§ 6.4 and 6.5 of these regulations.

PART X.
HOSPITAL PHARMACIES.

Authority: §§ 54-524.16 and 54-524.17 of the Drug Control Act.

§ 10.1. Hospital pharmacies - chart order not a prescription.

A chart order is an order for a medication to be dispensed for an inpatient in a hospital. It is not a prescription order as defined in § 54-524.28 b of the Drug Control Act.

§ 10.2. Standards for hospital pharmacies.

A. Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or drugs transferred from one container to another, shall obtain a pharmacy permit with at least a part-time pharmacist designated to perform such functions or to provide personal supervision of such functions.

B. If there is no formally organized pharmacy department, the pharmacy service shall be obtained from another hospital having such a service or from a community pharmacy. Properly labeled and prepackaged drugs may then be distributed from the storage area under the supervision and direction of the pharmacist-in-charge of the service provider.

C. When the hospital pharmaceutical service is decentralized, a licensed pharmacist, responsible to the pharmacist-in-charge of the pharmaceutical service shall supervise each satellite pharmacy or separate organizational element involved with the preparation and dispensing of drugs, providing drug information and other pharmaceutical services.

D. Before any such decentralized satellite unit is made operational, the board shall be informed in adequate time to allow for inspection and approval of the area and facilities in which the satellite operation is to be conducted. This regulation shall not be construed to mean that a separate license be required for each satellite operation.

§ 10.3. Labeling of drugs; preparation and storage of drugs.

A. Labeling.

All medications issued as floor stock shall be labeled with the name of the drug, strength, lot number and expiration date when applicable. In the case of a drug order sent to a nursing unit in a multiple dose container for subsequent administration to a particular patient, the drug shall be labeled with the name and the strength of the drug and the name and the location of the patient.

B. Equipment.

There shall be adequate equipment, properly maintained and supplies provided to ensure proper professional and administrative services as may be required for patient safety through proper storage, compounding, dispensing, distribution and administration of drugs. When sterile products are prepared in the pharmacy, the product shall be prepared by qualified personnel in the environment of a laminar air flow hood.

C. Storage.

All drugs within the pharmacy and throughout the hospital shall be under the supervision of the pharmacist. The drugs shall be stored under proper conditions of temperature, light, sanitation and security.

§ 10.4. After-hours access of the pharmacy.

When authorized by the pharmacist-in-charge, a supervisory nurse may have access to the pharmacy in the absence of the pharmacist in order to obtain emergency medication, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist, and provided further that a separate record shall be made and left within the pharmacy on a form prescribed by the pharmacist-in-charge and such records are maintained within the pharmacy for a period of one year showing:

1. Date of withdrawal;

2. Patient's name;

3. Name of the drug and dose prescribed;

4. Number of doses removed, and

5. Signature of the authorized nurse.

§ 10.5. Floor stock drugs.

A. Proof of delivery.

A delivery receipt shall be obtained for Schedule II-V drugs supplied as floor stock. Receipts shall be maintained in the pharmacy for a period of two years.

B. Distribution records.

A record of disposition/administration shall be used to document administration of controlled substances when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The pharmacist-in-charge or his designee shall:

1. Match returned records with delivery receipt to verify that all records are returned;

2. Periodically audit returned administration records for completeness as to patients' names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;

3. Verify the accuracy of all mathematic entries;

4. Initial or sign the returned record and retain for two years from the date of return; and

5. Establish a system of documentation of administration of drugs is all areas where drugs are stored and/or administered.

C. Repackaging.

Durgs repackaged for floor stock shall comply with § 5.3 of these regulations.

§ 10.6. Securing the pharmacy.

The pharmacy shall be locked in the absence of a pharmacist prior to, and after, routine hours of operation and shall be secured from access to other personnel except as provided in § 10.4 of these regulations.

§ 10.7. Emergency room.

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

1. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

2. Drugs may be administered by a nurse in the emergency room upon oral or written order of the medical staff practitioner or other authorized medical practitioner. Oral orders shall be reduced to writing and shall be signed by the physician.

3. In the emergency room, when no pharmacy service is readily available, a medical practitioner may dispense drugs for the immediate need of his patient if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of these regulations and the Drug Control Act.

4. A record shall be maintained of all drugs administered in the emergency room.

5. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of 90 days showing:

a. Date and time dispensed;

b. Patient's name;

c. Physician's name;

d. Name of drug dispensed and dose.

§ 10.8. Out-patient pharmacy permit.

A. An out-patient pharmacy of a hospital shall be operated under a separate pharmacy permit issued to a specific pharmacist-in-charge of each such operation if the

pharmacy dispenses drugs to walk-in customers who are not patients of the hospital; the out-patient pharmacies shall be governed by laws and regulations as they apply to pharmacies in general and shall be operated in a space separated from the hospital pharmacy.

B. An out-patient pharmacy of a hospital may be operated under the permit of the hospital pharmacy, if the drugs are dispensed only:

1. To patients who receive treatments or consultations on the premises;

2. To inpatients, outpatients, or emergency patients upon discharge for their personal use away from the hospital;

3. To the hospital employees, medical staff members, or students for personal use or for the use of their dependents.

§ 10.9. Mechanical devices for dispensing drugs.

A hospital may utilize mechanical devices for the dispensing of drugs pursuant to § 54-524.54 of the Drug Control Act, provided the utilization of such mechanical devices is under the personal supervision of the pharmacist. Such supervision shall include:

1. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.

2. The placing of previously packaged and labeled drug units into the mechanical dispensing device.

3. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.

4. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical devices under policies and procedures established by the pharmacist-in-charge. Such policies and procedures shall provide for the review of the dispensing operation and for determiniation of the accuracy of the drugs removed for a particular patient from mechanical dispensing devices. Proper documentation establishing that the policies and procedures were in fact carried out shall be maintained within the pharmacy.

5. All requirements of law and regulation regarding record keeping shall be complied with for all drugs dispensed by means of these mechanical devices.

6. If controlled substances in Schedule II-V are to be dispensed through mechanical devices, record shall be maintained pursuant to § 54-524.56 of the Drug Control Act.

§ 10.10. Certified emergency medical technician program.

The pharmacy may prepare a drug kit for a certified emergency medical technician program provided:

1. The pharmacist-in-charge of the hospital shall be responsible for all controlled drugs contained in this drug kit and administered by any technician.

2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.

3. Drugs may be administered by a technician upon an oral order of an authorized medical practitioner. Oral order shall be reduced to writing by the technician and shall be signed by the physician.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. A record signed by the physician for the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations.

10.11. Identification for interne or resident prescription form in hospitals.

The prescription form for the prescribing of Schedule II-V drugs for use by medical interns or residents who prescribe only in a hospital shall bear the prescriber's signature, the legibly printed name, address and telephone number of the prescriber and an identification number assigned by the hospital. The identification number shall be the Drug Enforcement Administration number assigned to the hospital pharmacy plus a suffix assigned by the institution. The assigned number shall be valid only within the course of duties within the hospital.

PART XI.
PHARMACY SERVICES TO NURSING HOMES.

Authority: §§ 54-524.16 and 54-524.17 of the Drug Control Act.

§ 11.1. Drugs in nursing homes.

Drugs, as defined in the Drug Control Act, shall not be floor stocked by a nursing home, and in no case shall there be a floor stock of drugs except those provided for emergency use within these regulations.

§ 11.2. Pharmacist's responsibilities to nursing homes.

The pharmacist serving a nursing home shall ascertain:

1. That complete and accurate records are kept by

the issuing pharmacy of all Schedule II-VI drugs delivered to the facility.

2. That a valid order exists prior to the delivery of any drug.

3. That the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.

4. That each cabinet utilized for the storage of the drugs for individual patients is locked and accessible only to authorized personnel.

5. That the storage area for patient drugs is well lighted, of sufficient size to permit storage without crowding and is of the appropriate temperature.

6. That poisons and drugs for "external use only" are kept in a cabinet and separate from other medications.

7. That discontinued drugs are destroyed under the following conditions:

a. The drugs are destroyed on the premises of the facility.

b. The drugs are destroyed in the presence of the pharmacist supplying pharmacy service to the facility and the director of nurses of the facility.

c. A complete and accurate record of the drugs destroyed shall be maintained by the facility and signed by the pharmacist and director of nurses.

d. All destruction of the drugs is done within 30 days of the time the drug was discontinued.

e. The records of destruction shall be made a part of the records on all Schedule II-V drugs administered in the nursing home.

f. This procedure does not apply to discontinued drugs in unit dose containers which meet U.S.P.-N.F. Class A or Class B container requirements or the manufacturer's sealed containers. Such drugs may be returned to the issuing pharmacist for reuse.

8. That drug reference materials are available on the nursing units.

9. That a monthly review of drug therapy by a pharmacist is conducted for each patient. Such review shall be used to determine any irregularities. The pharmacist shall sign and date the notation of review. An irregularity shall include therapy which is not right and proper, and may include drug interactions and/of drug administration or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

§ 11.3. Emergency drug kit.

The pharmacist may prepare an emergency drug kit for a facility served by the pharmacy provided:

1. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

2. The contents of the kit shall be determined by the Pharmacy and Therapeutics Committee of the institution and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

3. The kit is sealed in such a manner that it will preclude any possible loss of the drugs.

4. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

5. Any drug used from the kit shall be covered by a prescription, signed by the physician when legally required, within 72 hours.

§ 11.4. "Stat" drug box.

An additional drug box called a "stat" drug box may be prepared for the facility served by the pharmacy provided:

1. The "stat" box is sealed in such a manner that will preclude the loss of drugs, or the loss of control of the contents of the "stat" box.

2. When the "stat" box has been opened, it is returned to the pharmacy.

3. Any drug used from the "stat" box shall be covered by a drug order signed by the physician, when legally required, within 72 hours.

4. There shall not be more than one "stat" box per 200 patients in a facility.

5. There shall be a listing of the contents of the "stat" box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

6. The drug listing on the "stat" box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

7. Contents of the "stat" drug box.

The contents of the box shall be limited to the following classes of drugs, the drugs and strengths to be selected by the drug committee of the facility in consultation with the providing pharmacist:

a. Antibiotics (injectable) - not more than five doses of each of four different antibiotics.

b. Antibiotics (oral) - not more than five doses each of five different antibiotics including two strengths of each antibiotic.

c. Antiemetics - not more than five doses each of three different antiemetics.

d. Antihistamines - not more than five doses each of two different antihistamines.

e. Antihypertensives - not more than five doses each of two different antihypertensives.

f. Antipyretics - not more than five doses each of two antipyretics.

g. Antipsychotics - not more than five doses each of five antipsychotics.

h. Diuretics - not more than five doses each of two diuretics.

i. Antidiarrheals - not more than five doses of two oral antidiarrheal products.

j. Anticonvulsants - not more than five doses of two oral anticonvulsants.

k. Analgesics - not more than five doses of one oral narcotic drug in Schedule III or IV and five doses of one nonnarcotic drug in Schedule III or IV.

§ 11.5. Pharmacy services in nursing home.

The pharmacist's professional responsibility to a nursing home shall be as follows:

1. He shall have training experience in the specialized functions of institutional pharmacy or related training programs.

2. He shall serve as a member of the institution's Pharmacy Services Committee.

3. He shall function as a staff member of the institution with the following responsibilities:

a. The pharmacy services are under the supervision of a qualified pharmacist who is responsible to the administrative staff for developing, coordinating and supervising all pharmacy services.

b. The pharmacist shall devote a sufficient number of hours to carry out each responsibility for the needs of the facility during regularly scheduled visits.

c. The pharmacist shall review the drug regimen of each patient at least monthly, and report any irregularity to the medical director and administrative office.

PART XII.
OTHER INSTITUTIONS AND FACILITIES.

§§ 54-524.17, 54-524.47:1 and 54-524.65 of the Drug Control Act.

§ 12.1. Drugs in industrial infirmaries/first aid rooms.

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia to practice at that institution, agency, or business and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs will be maintained and secured in a suitable locked facility, the key to which will be in the possession of the practitioner and/or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of controlled (prescription) drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a physician in an emergency situation when the timely prior verbal or written order of a physician is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this regulation, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes by an inspector.

D. The issuance of a protocol by an institution, agency, or business shall be in conformity with § 54-524.65 of the Drug Control Act and all controlled drugs listed in the protocol shall be maintained in accordance with the provisions of § 54-524.56 et seq. of the Drug Control Act, and other pertinent statutes.

E. A nurse may, in the absence of a practitioner, administer nonprescription drugs and dispense same in unit dose container in quantities which in the professional judgment of the nurse and the existing circumstances will maintain the person at an optimal comfort level until the employee's personal practitioner can be consulted. The

administering and dispensing of such medication shall be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.

§ 12.2. Licensed humane societies and animal shelters; use of pentobarbital.

A humane society or animal shelter, after having obtained proper license pursuant to state and federal laws, may purchase, possess and administer sodium pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that:

1. The facility shall be under the general supervision of a veterinarian.

2. The person(s) responsible for administering the drug shall have been trained by a veterinarian in the manner of administration.

3. The drug shall be stored in a secure place and only the person responsible for administering the drug may have access to the drug.

4. The drug shall be obtained and administered in the injectable form only.

5. All invoices and order forms shall be maintained for a period of two years.

6. Complete and accurate records shall be maintained on the administration of the drug; the record shall show the date of administration, the species of animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

§ 12.3. Drugs in correctional institutions.

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. The prescription orders shall be initiated by the physician or his agent.

2. The number of doses on each prescription order shall be specified.

3. All prepared drugs shall be maintained in a suitable locked facility with only the person responsible for administering the drugs having access.

4. All drugs shall be taken in the presence of the person administering the drug.

5. Drug administration record.

Complete and accurate records shall be maintained on all drugs received, administered and discontinued. This record shall consist of a two-part drug administration record. The administration record shall show the:

a. Prescription number;

b. Drug name and strength;

c. Number of dosage units received;

d. Physician's name;

e. Date, time and signature of person administering the individual dose of drug.

6. Disposal of unused drugs.

All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with Part 2 of the drug administration record within seven days. The drug shall be returned by the same means as it was originally sent.

a. The provider pharmacy shall compare the number of drug dosage units dispensed against Part 2 of the drug administration record, the number of dosage units administered and the number of dosage units returned to the issuing pharmacy.

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or at the option of the facility, the records may be returned by the provider pharmacy to the facility.

c. The returned drugs shall be destroyed at least every 30 days. This destruction shall be carried out by the provider pharmacy and a responsible witness. The Board of Pharmacy shall be notified two weeks prior to the destruction in order that the board may witness any such destruction. An agent of the board shall, from time to time, witness a destruction of such drugs and, prior to the destruction, randomly reconcile the contents of selected containers against the drug administration record.

b. Drugs in the manufacturer's original sealed container may be returned to the stock of the provider pharmacy.

7. Emergency and "stat" drug boxes.

An emergency box and a "stat" drug box may be prepared for the facility served by the pharmacy pursuant to §§ 11.3 and 11.4 of the regulations provided:

a. The facility employs one or more full time physicians, registered nurse, licensed practical nurse or correctional health assistant.

b. No drugs are to be administered from the emergency box or "stat" box unless authorized by the physician either in writing or orally. If orally, the order shall be signed by the physician within 72 hours.

c. Only the physician, nurse, licensed practical nurse or correctional health assistant may administer a drug from the emergency box or "stat" box.

d. The emergency drug box or "stat" box shall be sealed in such a manner that it will preclude any possibility of loss of drugs. Any drug box which has been opened shall be returned to the pharmacy within 72 hours.

PART XIII.
MANUFACTURERS, WHOLESALERS AND DISTRIBUTORS.

Authority: §§ 54-524.17, 54-524.36, 54-524.37, 54-524.44, and 54-524.45 of the Drug Control Act.

§ 13.1. Manufacturers, wholesalers and distributors.

A permit shall not be issued to any manufacturer and/or distributor to operate from a private dwelling, unless a separate entrance is provided, and the place of business is open for inspection at all times during normal business hours. In any case all other state and local laws and ordinances shall be complied with before any permit is issued.

§ 13.2. Manufacturers and wholesalers safeguards against diversion of drugs.

A. The holder of the license shall restrict all areas in which Schedule II-V drugs are manufactured, stored, or kept for sale, to a limited number of designated and necessary persons.

B. The holder of the license shall take reasonable measures to prevent any person from pilfering drugs from the restricted area.

C. The holder of the license shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally possess such drugs.

§ 13.3. Manufacturing of cosmetics.

A. The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:

1. Provide adequate space for the orderly placement of equipment and materials used.

2. Provide adequate lighting and ventilation.

3. Provide adequate washing, cleaning, and toilet facilities.

B. Equipment used for the manufacture, processing, packaging, labeling, holding or control of cosmetics shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction and location in relation to surroundings to facilitate maintenance and operation for its intended purpose.

C. The key personnel involved in the manufacture and control of the cosmetics shall have a background of appropriate education or appropriate experience, or a combination thereof, for assuming responsibility for such manufacturing.

PART XIV.
EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

Authority: § 54-524.84:1 of the Drug Control Act.

§ 14.1. Excluded substances.

The list of excluded substances, which may be lawfully sold over the counter without a prescription under the Federal Food Drug and Cosmetic Control Act (21 U.S.C. 301), as set forth in Code of Federal Regulations, Title 21, Part 1308.22, is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 14.2. Exempted chemical preparations.

The list of exempted chemical preparations set forth in the Code of Federal Regulation, Title 21, parts 1308.23 and 1308.24, is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 14.3. Excepted compounds.

The list of excepted compounds set forth in the Code of Federal Regulations, Title 21, part 1308.34 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c); the excepted compounds are drugs which are subject to the provisions of § 54-524.84:13 of the Drug Control Act.

OMB Approval No. 43-R0548	DEPARTMENT OF JUSTICE / DRUG ENFORCEMENT ADMINISTRATION REGISTRANTS INVENTORY OF DRUGS SURRENDERED	PACKAGE No.

The following schedule is an inventory of controlled substances which is hereby surrendered to you for proper disposition.

FROM: *(Include Name, Street, City, State and ZIP Code in space provided below).*

Signature of applicant or authorized agent

Registrant's DEA Number

Registrant's Telephone Number

NOTE: Registrants will fill in Columns 1, 2, 3, and 4 Only.

NAME OF DRUG OR PREPARATION	Number of Containers	CONTENTS *(Number of grams, tablets, ounces or other units per container)*	Controlled Substance Content, *(Each Unit)*	FOR DEA USE ONLY		
				DISPOSITION	QUANTITY	
					GMS.	MGS.
	2	3	4	5	6	7
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						

DEA Form — 41

* See instructions on reverse side

NAME OF DRUG OR PREPARATION	Number of Containers	CONTENTS (Number of grams, tablets, ounces or other units per container)	Controlled Substance Content (Each Unit)	FOR DEA USE ONLY		
				DISPOSITION	QUANTITY	
					GMS.	MGS
	2	3	4	5	6	7
17						
18						
19						
20						
21						
22						
23						
24						

The controlled substances surrendered in accordance with Title 21 of the Code of Federal Regulations, Section 1307.21, have been received in _____ packages purporting to contain the drugs listed on this inventory and have been: **(1) Forwarded tape-sealed without opening; (2) Destroyed as indicated and the remainder forwarded tape-sealed after verifying contents; (3) Forwarded tape-sealed after verifying contents.

DATE _____ 19 ___

Destroyed By: Signature _____

(Print Name) _____ License No.

Witnessed By: Signature _____

(Print Name) _____ License No.

** *Strike out lines not applicable.*

INSTRUCTIONS

1. List the name of the drug in column 1, the number of containers in column 2, the size of each container in column 3, and in column 4 the controlled substance content of each unit described in column 3: e.g., morphine sulfate tabs., 3 pkgs., 100 tabs., 1/4 gr. (16 mg.) or morphine sulfate tabs., 1 pkg., 83 tabs., 1/2 gr. (32 mg.), etc.
2. All packages included on a single line should be identical in name, content and controlled substance strength.
3. Prepare this form in quadruplicate. Mail two (2) copies of this form to the Special Agent in Charge, under separate cover. Enclose one additional copy in the shipment with the drugs. Retain one copy for your records. One copy will be returned to you as a receipt. No further receipt will be furnished to you unless specifically requested. Any further inquiries concerning these drugs should be addressed to the DEA District Office which serves your area.
4. There is no provision for payment for drugs surrendered. This is merely a service rendered to registrants enabling them to clear their stocks and records of unwanted items.
5. Drugs should be shipped tape-sealed via prepaid express or registered mail to Special Agent in Charge, Drug Enforcement Administration, of the DEA District Office which serves your area.

PRIVACY ACT INFORMATION

AUTHORITY: Section 307 of the Controlled Substances Act of 1970 (P.L. 91-513).

PURPOSE: To document the surrender of controlled substances which have been forwarded by registrants to DEA for disposal.

ROUTINE USES: This form is required by Federal Regulations for the surrender of unwanted Controlled Substances. Disclosures of information from this system are made to the following categories of users for the purposes stated.

A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.

B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

EFFECT: Failure to document the surrender of unwanted Controlled Substances may result in prosecution for violation of the Controlled Substances Act.

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DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **VR 615-31-02. Regulation for Criminal Record Checks: Licensed Child Care Centers and Child Care Institutions.**

Statutory Authority: § 63.1-217 of the Code of Virginia

Public Hearing Date: N/A

Summary:

The statutory change to §§ 63.1-198 and 63.1-198.1 of Virginia effective July 1, 1985, requires that all compensated employees and all volunteers as well as applicants/licensees of child care centers and child caring institutions, subject to licensure by the Virginia Department of Social Services, secure a criminal history clearance and be issued a certificate by the Commissioner of Social Services.

The Department of Social Services has collaborated with the state police in order to develop procedures to implement the statutory change. The statute pertains only to specific crimes related to sexual assault. It is intended to discourage people already convicted of these crimes from applying for employment which would expose children to predatory individuals.

The Department of Social Services has recognized that several terms and conditions within the statute required further definition when used in conjunction with the criminal record checks. This regulation addresses these terms and sets out procedures regarding issuing, routing and validity of certificates.

VR 615-31-02. Regulations For Criminal Record Checks: Licensed Child Care Centers and Child Care Institutions.

PART I.
INTRODUCTION.

Article 1.
Definitions.

§ 1.1. The following words and terms, when used in conjunction with these regulations, shall have the following meaning:

"Applicants for licensure" means all agents of a child care center or child caring institution, including owners, partners or officers of the board of a corporation or association, who have applied for a license or renewal of a license to operate a child care center or child caring institution.

"Certificate" means the clearance document issued by the Commissioner of the Department of Social Services verifying that (i) a criminal history record search has been conducted for a particular individual through the Department of State Police and, (ii) no convictions have been found of any offense pursuant to those referenced in § 63.1-198.1 of the Code of Virginia. These offenses include those set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 or in §§ 18.2-370 or 18.2-370.1 of the Code of Virginia.

"Criminal history record request" means the required Department of Social Services form to be submitted to the Department of State Police for the individual requesting clearance.

"Employee" means all personnel paid by or through a contract with the facility regardless of their role, service, age, function or duration of employment at the facility.

"Facility" means a child care center or child caring institution subject to licensing by the Department of Social Services as defined in § 63.1-195 of the Code of Virginia.

"Officer of the board" means anyone holding an office on the board of the facility and responsible for its operation in any manner.

"Volunteer" means anyone who either is counted as staff for purposes of maintaining staff/child ratio or who at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member. This pertains to all activities either occurring at the facility location or sponsored by the licensed facility.

Article 2.
Individuals Required to Obtain Certificates.

§ 1.2. Sections 63.1-198 and 63.1-198.1 of the Code of Virginia, require all employees, volunteers and applicants for licensure of a licensed child care center or child caring institution to obtain a certificate.

Article 3.
Routing of Certificates.

§ 1.3. In order to obtain a certificate, each applicant for licensure, employee, volunteer or applicant for employment/volunteer work shall submit a form approved by the Department of Social Services to the state police with the appropriate fee. The state police will run a clearance check and respond directly to the Department of Social Services with the results.

§ 1.4. A certificate, or notification that a certificate cannot be issued due to a conviction, will be sent directly to the individual whose criminal record was checked.

§ 1.5. The facility shall obtain the original certificate from the individual.

PART II.
VALIDITY OF CERTIFICATES.

§ 2.1. A facility shall accept only the original certificate

on Department of Social Services stationery with blue letterhead.

§ 2.2. Obtaining certificates.

A. The certificate shall be obtained prior to the first day of work for individuals participating in the operation of a facility.

B. A certificate issued by the department shall not be accepted by the facility if the certificate is dated more than 90 days prior to the date of employment or volunteer service in the facility.

§ 2.3. All certificates shall be verified by the operator of the facility by matching the name and social security number with another form of identification such as a driver's license.

§ 2.4. A certificate remains valid as long as the employee/volunteer remains in continuous service in the same facility.

§ 2.5. When an individual terminates employment or ceases volunteer work at one facility and begins work at a facility owned and operated by a different entity, the certificate secured for the prior facility shall not be valid for the new facility. A new certificate shall be required.

§ 2.6. A new certificate shall not be required when the employee/volunteer transfers with a lapse in service of not more than 30 days to a facility owned by the same entity. The file in the previous location shall contain a statement that the original certificate, including the date of the certificate, has been forwarded to the new location.

§ 2.7. A certificate for an individual who takes a leave of absence will remain valid as long as the period of separation does not exceed four consecutive months. Once a period of four consecutive months has expired, a new certificate is required.

§ 2.8. Duplicate and replacement certificates.

A. When staff or volunteers serve concurrently in more than one facility, a duplicate certificate shall be requested.

1. Individuals who have been in service prior to July 1, 1985, may indicate on the criminal history record request form that duplicates are needed with the names of the facilities for which they will be used. Their service may be verified by the Department of Social Services prior to issuance of duplicate certificates. The request form shall be sent directly to the state police as routinely required.

2. Those individuals who begin service after July 1, 1985, must obtain a separate Department of Social Services form letter from the facility to request duplicate certificates. This form letter shall contain the social security number and signature of the individual for whom the duplicate is being requested.

a. The request shall be sent directly to the Department of Social Services.

b. The request for a duplicate certificate will be valid only if it is received within 90 days of issuance of the original certificate and contains the social security number and signature of the individual for whom the duplicate certificate is being requested.

c. The request must indicate the name and mailing address of the facility for which the duplicate certificate will be used.

d. The duplicate certificate will be sent directly to the facility.

B. When a facility requires a replacement for a lost or misplaced certificate, a request from the facility is to be made directly to the Department of Social Services. It shall include both the signature and social security number of the individual for whom the certificate is requested. The replacement certificate shall be sent directly to the facility.

NOTE: All duplicate certificates shall be verified by the facility operator in accordance with § 2.3 of this regulation.

§ 2.9. When agents or officers of the board are involved in the operations of more than one facility, duplicate certificates shall not be required. It shall be made known to the commissioner's representative that an original certificate is being maintained at a designated facility location.

PART III.
MAINTENANCE OF CERTIFICATES.

Artice 1.
Responsibility of Facilities.

§ 3.1. Prior to the issuance of an initial license, a copy or copies of the certificate(s) for the applicant(s) for licensure shall be made available to the commissioner's representative by the facility.

§ 3.2. Certificates conforming to the requirements for all employed staff or utilized volunteers for the period of time being studied shall be maintained in the files of the facility for one year after termination of employment or volunteer work and made available by the facility to the commissioner's representative.

Exception: A statement that an individual has transferred services to another facility of the same entity is acceptable as long as there is information in the file of the new location of the original certificate and its date, as stated in § 2.6.

§ 3.3. When an individual becomes an officer of the board which serves as the licensee of a facility, a certificate shall be obtained by the facility prior to the board member assuming this position.

NOTE: Officers of advisory boards are not required to obtain certificates.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **VR [~~395-01-2~~ *394-01-2*]. Certification of Tradesmen Standards/1984.**

Statutory Authority: § 15.1-11.4 of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

The 1984 Edition of the Certification of Tradesmen Standards is a statewide, uniform regulation that must be used by every local governing body that chooses to require certification of plumbers, building-related mechnical workers, and electricians as to ability, proficiency and qualifications. Provision is made for examination for two levels of certification in each trade, journeyman and master. The purposes of the standards are to ensure reasonable competency of tradesmen who are certificate holders, and to enable each certificate holder to work throughout Virginia without further examination; a certificate from any community must be honored by all others.

VR [~~395-01-2~~ *394-01-2*]. Certification of Tradesmen Standards/1984.

~~§ 3~~ *§ 1. Definitions.*

The terms used in these standards shall have the following meaning:

"Agent" [means] the person designated by the county, city, or town, according to local ordinance, to examine and determine an applicant's qualifications for certification.

"Board" [means] the board established by a county, city, or town, according to local ordinance, to examine and determine an applicant's qualification for certification.

"Building-related mechanical worker" [means] a tradesman who does building-related mechanical work, including heating, air conditioning, ventilation and gas piping.

"Contractor" [means] a person licensed according to § 54-113 of the Code of Virginia who for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending the construction, removal, repair or improvement of any building or structure owned, controlled or leased by another person.

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

"Electrician" [means] a tradesman who does electrical work.

"Helper or laborer" [means] a person who assists a tradesmen certified according to these standards.

"Journeyman" [means] a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment:

(a) Utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code; and

(b) According to plans and specifications complying with the Virginia Uniform Statewide Building Code. A tradesman must be certified as a journeyman in each of the trades for which local certification is required in order to practice such trades as a journeyman.

"Master" [means] a person who possesses the necessary ability, proficiency and qualifications to:

(a) Supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code; and

(b) Plan and lay out the details for installation of specific types of materials and equipment that comply with the Virginia Uniform Statewide Building Code. A tradesman must be certified as a master in each of the trades for which local certification is required in order to practice such trades as a master.

"Plumber" [means] a tradesman who does plumbing work.

"Plumber-gas fitter" [means] a plumber who does gas piping work.

"Supervision" [means] monitoring of the work in progress to determine that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

"Trade" [*means*] *any of the following: plumbing, plumbing-gas fitting, building-related mechanical or electrical work.*

"Tradesman" [*means*] *a person who engages in or offers to engage in, for the general public for compensation, any of the trades covered by these standards.*

"Voluntary Apprenticeship Act" [*means*] *an Act authorized in Chapter 6, Title 40.1 of the Code of Virginia that establishes an Appenticeship Council to determine standards for apprentice agreements, approve local apprenticeship agreements, and appoint local joint apprenticeship committees; includes required information on apprentice agreements; and defines apprentice.*

~~§ 1~~ *§ 2.* Authority and ~~Use~~ *application* .

A. These standards are ~~promulgated pursuant to~~ *established in accordance with* § 15.1-11.4 ~~and 36 - 99.1~~ of the Code of Virginia for use ~~of~~ *by* counties, cities , and towns. These standards are not intended to affect licensing under other provisions of the Code of Virginia ~~: by individual counties, cities and towns~~ *by local governments* .

B. These standards are to be used by local governments when certifying plumbers, plumbers-gas fitters, building-related mechanical workers, and electricians as indentified by local ordinance. Such local ordinance may specify the trade(s) to be certified, the type of tradesmen within a trade to be certified, or the level(s) of certification (journeyman or master).

~~§ 9~~ *§ 3. Exemption from certification.*

A. Plumbers, plumbers-gas fitters, building-related mechnical workers, or electricians who were certified or licensed prior to July 1, 1978, in accordance with the certification or license provisions of the Commonwealth or any local government, shall be exempt from any further local certification requirement for the same trade.

B. Any persons certified according to these standards shall be exempt from obtaining any other certificate as a journeyman or master in the same trade.

C. Helpers or laborers who assist tradesmen that are required to be certified by local government shall be exempt from local certification.

D. Any person that performs plumbing, plumbing-gas fitting, building-related mechanical, or electrical work on their own property rather than for the general public for compensation shall be exempt from local certification.

~~§ 2 Levels of Certification~~

~~The issuance of certificates pursuant to these standards shall be limited to two (2) levels based on the ability and proficiency demonstrated by the applicant in specified areas of competence. These levels are defines as:~~

~~A. Level One~~

~~A certificate issued under Section 15.1-11.4 of the Code of Virginia to a person who possesses the necessary ability, proficiency and qualifications to perform the work in installing, repairing and maintaining specific types of equipment and related apparatus, and is capable of performing such tasks (a) utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code, and (b) according to plans and specifications complying with the Virginia Uniform Statewide Building Code. The holder of a Level One certificate shall be limited to the type of work and types of equipment and related apparatus for which certification is granted.~~

~~B. Level Two~~

~~A certificate issued under Section 15.1-11.4 of the Code of Virginia to a person who possesses the necessary ability, proficiency and qualifications to (a) supervise the work of installing, repairing and maintaining specific types of equipment and related apparatus utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code, and (b) to plan and lay out the details of installation and specific types of equipment and related apparatus according to plans and specifications complying with the Virginia Uniform Statewide Building Code. The holder of a Level Two certificate shall be limited to the type of work and types of equipment and related apparatus for which certification is granted.~~

~~§ 3~~ *§ 4.* Evidence of ability and proficiency.

~~§ 3.1~~ *§ 4.1.* ~~Level One~~ *Journeyman.*

Applicants desiring to obtain certification as a ~~Level One~~ *journeyman* shall furnish evidence that one of the following experience and education standards have been attained:

A. Four [~~(4)~~] years of practical experience ~~in the specific areas of expertise~~ *in the trade* [~~or a directly related area of expertise for which certification is desired; or~~ *"of which two years must include recognized formal vocational training in the trade";*]

B. Successful completion *prior to July 1, 1981,* of a Registered Apprenticeship ~~System~~ *Program* established in accordance with the Virginia Voluntary Apprenticeship Act *, Title 40.1, Chapter 6 of the Code of Virginia,* in the *trade* area of expertise for which certification is desired; *or*

C. An Associate Degree in ~~the area of expertise~~ *a curriculum related to the trade* for which certification is desired and two [~~(2)~~] years of practical experience in the ~~specific area of expertise~~ *trade* for which certification is desired; *or*

D. *A* Bachelor's Degree in the study of engineering in a curriculum related to the ~~area~~ ~~of~~ ~~expertise~~ *trade* for which certification is desired and one [~~(1)~~] year of practical experience in the ~~specific~~ ~~area~~ ~~of~~ ~~expertise~~ *trade* for which certification is desired.

~~§ 3.4~~ *§ 2.* ~~Level~~ ~~Two~~ *Master.*

Applicants desiring to obtain certification ~~at~~ ~~Level~~ ~~Two~~ *as a Master* shall furnish evidence that *they have met* Item A, below and one or more of experience *or education standards of item* ~~requirements~~ B through E ~~have been met~~ .

A. One [~~(1)~~] year of ~~experience~~ ~~in~~ ~~supervision~~ *supervising* ~~of~~ the installation or repair of the specific types of ~~equipment~~ *materials,* ~~involved~~ ~~and~~ *or* related apparatus utilized ~~within~~ [*experience as a certified journeyman*] *in* the *trade,* or equivalent education ~~specific~~ ~~area~~ ~~of~~ ~~expertise~~ for which certification is desired; or

[~~B. Four (4) years of practical experience in the specific trade area of expertise or directly related area of expertise for which certification is desired; or~~]

[~~C.~~ *B.*] Successful completion *prior to July 1, 1981,* of a Registered Apprenticeship ~~System~~ *Program* established in accordance with the Virginia Voluntary Apprenticeship Act *, Title 40.1, Chapter 6 of the Code of Virginia, in the trade* ~~in~~ ~~the~~ ~~area~~ ~~of~~ ~~expertise~~ for which certification is desired; or

[~~D.~~ *C.*] An Associate Degree ~~in~~ ~~the~~ ~~area~~ ~~of~~ ~~expertise~~ *in a curriculum related to the trade* for which certification is desired ~~,~~ and two [~~(2)~~] years of practical experience in the ~~specific~~ ~~area~~ ~~of~~ ~~expertise~~ *trade* for which certification is desired *; or*

[~~E.~~ *D.*] *A* Bachelor's Degree in the study of engineering in a curriculum related to the ~~area~~ ~~of~~ ~~expertise~~ trade for which certification is desired and one [~~(1)~~] year of practical experience in the ~~specific~~ ~~area~~ ~~of~~ ~~expertise~~ *trade* for which certification is desired.

~~§ 6~~ *§ 5.* Examination *and testing* for determination of qualifications.

Each applicant is required by § 15.1-11.4(B) of the Code of Virginia to be examined by an agent or board appointed by the governing body to determine his qualifications. *The* [~~*Director*~~ ~~*of*~~ ~~*the*~~ ~~*Department*~~ *Board*] *of Housing and Community Development will establish the method(s) for determining the applicant's qualifications.* Such examination for each level of certification shall be in accordance with the following guidelines:

~~A. The examination shall be based on current pertinent provisions of the Virginia Statewide Building Code.~~

A. The [~~*Director*~~ *Board of Housing and Community Development*] *may enter into a contract with a national testing organization to develop and administer tests based on the current provisions of the Virginia Uniform Statewide Building Code that are relevant to the certified trades. In the case of trades for which the* [~~*Director*~~ *Board of Housing and Community Development*] *has contracted with a national testing organization to develop and administer tests, the local agent or board shall proceed as follows:*

1. Forward qualifying application to the national testing organization which will administer the appropriate test of qualifications;

2. Receive and examine the test results from the national testing organization; and

3. Issue certificates, provided by the department, to applicants receiving a notice of satisfactory results.

~~B. The examination shall be provided to the agent or board by the Department of Housing and Community Development. Such examination shall be administered by the agent or board and returned to the Department after examinations have been administered and graded and the applicant certified or denied certification.~~

B. For all trades for which the [~~*Director*~~ *Board of Housing and Community Development*] *has not entered into a contractural arrangement with a testing organization, the department will develop tests to be administered to applicants by the local agency or board. The local agency or board shall:*

1. Adminster the test in accordance with accompanying instructions;

2. Administer the test in either a written or oral form;

3. Provide adequate supervision of the test to assure that applicants do not receive assistance in completing the test;

4. Assure that neither the test nor its contents are provided to any person except the applicant;

5. Assure that the test is not copied or reproduced by any person or entity including the applicant;

6. Administer the test to applicants at least once every three months, at a time and place designated by the local agency or board that is reasonably accessible to applicants; and

7. Issue certificates provided by the department to applicants receiving a satisfactory 75% score on the test.

C. The agent or board shall administer the examination in accordance with the instructions accompanying the examination.

D. The agent or board shall provide adequate supervision at the time of the examination to ensure that the applicant does not receive any assistance from any other person in completing the examination.

E. The agent or board shall in no way provide the examination or any or its contents to any person or entity other than the applicant. The agent or board shall not allow the examination to be copied or reproduced by the applicant or any other person.

F. The agent or board shall administer the examination to prospective applicants at a time and place established by the agent or board but not less frequently than once every three months and at a location reasonably accessable to the applicant.

G. An applicant must successfully answer [~~seventy five percent~~ ~~(~~] 75% [~~)~~] of the questions on the examination to be deemed qualified.

~~§ 5~~ *§ 6. Master* certification ~~Level~~ inclusive.

Certification ~~at Level Two~~ *as a Master* includes certfication ~~at Level One~~ *as a Journeyman* for the ~~type of work and types of equipment and related apparatus~~ *trade* for which ~~this~~ *the* certificate is granted.

~~§ 6~~ *§ 7.* Alternate qualification method.

A. ~~Determination~~ *Individuals who have successfully passed the Class A contractor's exam administered* by the Virginia State Board for Contractors ~~of compliance with the requirements for licensing as a Class "A" contractor~~ in ~~the~~ *a* ~~specified~~ *certified* trade ~~is deemed as substantial compliance with the standards specified herein relating to qualifications for Level Two~~ *shall be qualified as Masters* in the trade *: in accordance with the standards.*

B. Individuals receiving after July 1, 1981, certificates of journeymanship in a ~~specified~~ *certified trade upon completion of an apprenticeship program approved by the Virginia Apprenticeship Council shall be qualified as journeyman in that trade in accordance with these standards.*

~~Graduates of a Registered Apprenticeship System who have taken the examination prepared by the Department of Housing and Community Development for Level One and have successfully answered seventy five percent (75%) of the questions as part of their apprenticeship program are deemed to be qualified in accordance with Section 4 of these standards.~~

C. Individuals certified as journeymen or masters by governing bodies located outside the Commonwealth of Virginia shall be considered to be in compliance with these standards, if the [~~*Director of the Department*~~ *Board] of Housing and Community Development has determined the certifying system to be equivalent to the Virginia system. The department will provide certificates to localities for such individuals.*

§ 8. Certificates.

A. The governing body of any county, city or town that has adopted a local ordinance to certify tradesmen shall issue to persons complying with these standards the certificate provided by the department. Such certificate shall be filled in by the agent or board with the following information:

~~A.~~ *1. The name and social security number of the certificate holder;*

2. The locality where the certificate was issued;

~~B~~ *3. The date of issue;*

~~C~~ *4. The trade for which it is applicable : plumber, plumber-gas fitter, building-related mechanical worker, or electrician : ; and*

~~D~~ *5. The level of certification for which it is issued as defined in these standards : Journeyman or Master : ; and*

B. The certificate shall be signed by an authorized representative of the local government.

§ 9. Revocation of certification.

The [~~*Director*~~ *Board] of the Department of Housing and Community Development shall be notified by the certifying local board or agent when a certificate issued by that board* ~~*of*~~ *or agent has been revoked in accordance with provisions of the local certification ordinance.*

§ 10. Exemption card.

Section 36-99.1 of the Code [of Virginia] establishes that tradesmen who were certified or licensed prior to July 1, 1978, according to the certification of licensing provisions of the Commonwealth or any local government shall be exempt from any further local certification requirement for the same trade.

A. The local agent or board may request the department to provide them with a special card to issue to persons who are determined by the agent or board to be exempt from certification in accordance with § 36-99.1 of the Code of Virginia. Such card may contain the following information:

1. The name and social security number of the card holder : ;

2. The locality which determined the card holder was exempt from certification in accordance with § 36-99.1 of the Code of Virginia : ;

3. The date of issue : ;

4. The trade for which the exemption is applicable: plumber, plumber-gas fitter, building-related mechanical worker or electrician ; ;

5. The trades for which exemption is being given as defined in these standards – journeyman or master;

6. A statement that the card holder was determined to be exempt from certification in accordance with § 36-99.1 of the Code of Virginia.

B. The card shall be signed by an authorized representative of the local government.

NOTE: It is recommended that local certification procedures provide for appeals of the decisions of the local agent or board.

§ 11. TEMPORARY CERTIFICATES.

A. The agent or board may issue a temporary certificate, furnished by the department, to an applicant who holds a license or certificate issued by another state in the trade for which certification is desired, or to an applicant who furnishes evidence to the agent or board that documents the applicant's competence to perform work at the level of certification.

B. Certificates shall be issued on a one-time basis per year.

C. Temporary certificates shall be valid for a period of three months.

D. The local agent or board shall notify the department of the issuance of temporary certificates.

[*§ 12. Severability clause.*

Should any provision of these standards be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the standards as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.]

* * * * * * * *

Title of Regulation: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1984.**

Statutory Authority: §§ 36-97 - 36-107 of the Code of Virginia.

Effective Date: April 1, 1986

NOTICE

Due to its length the final **1984 Edition** of the **Virginia Uniform Statewide Building Code, Volume I - New Construction Code,** filed by the Division of Building Regulatory Services, Department of Housing and Community Development, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

Volume I - New Construction Code of the 1984 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarged, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation, and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA model Building Code. The new construction code specifies the enforcement procedures to be used by local governments. Enforcement by local governments is mandatory. Provision is made for modifications by the building official when alternate means will provide equivalent health and safety. An administrative appeals system is established for resolution of disagreements between the building owner and the building official.

Minor clarifications have been made to the administrative and enforcement provisions for accessibility for persons with disabilities. Those provisions, contained in Article 5 of Addendum 1, have been extensively revised to reflect comments received from affected groups throughout Virginia. Incremental changes to the building design requirements of the new construction code will occur when the referenced model codes are updated to the current editions as proposed by the board. The referenced models include the 1984 editions of the model Building, Plumbing and Mechanical Codes of Building Officials and Code Administrators International, Inc., and the Electrical Code of the National Fire Protection Association. These will be supplemented by adoption of the 1983 edition, with 1984 supplement, of the One and Two Family Dwelling Code (published by the Council of American Building Officials).

* * * * * * * *

Title of Regulation: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984.**

Statutory Authority: Article 1 (§ 36-97 et seq.) of Chapter 6, of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

Volume II - Building Maintenance Code of the 1984 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Technical requirements of the Building Maintenance Code are based on the BOCA model Existing Structures Code, a companion document to the BOCA model Building Code which serves as the basis for Volume I of the USBC, the New Construction Code. Enforcement procedures that must be used when the Building Maintenance Code is enforced by local agencies are provided. Local enforcement of the Building Maintenance Code is optional. An administrative appeals system is established for resolution of disagreements between the building owner and the code official.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984.

Article 1.
Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, Building Maintenance Code or Code, shall mean Volume II - Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code.

NOTE: See Volume I - New Construction Code for regulations applicable to new construction. See Volume III - Fire Prevention Code for fire safety requirements applying to existing public buildings used by 10 or more persons.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on [November 18, 1985] . This order was prepared according to the 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.

100.4. Effective date: The Building Maintenance Code shall become effective on [April 1, 1986] .

100.5. Effect on other codes: The Building Maintenance Code shall [~~supersede all building maintenance codes and regulations of the counties, municipalities, political subdivisions and State agencies, that have been or may be enacted or adopted~~ apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that may have been or may be enacted or adopted, except as modified by § 100.5.1, below.

NOTE: This will not prevent adoption in accordance with Chapter 1, Title 15 of the Code of Virginia or other special or general legislation, of other requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.]

100.5.1. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the Virginia Uniform Statewide Building Code (USBC) shall be maintained in compliance with the Building Maintenance Code [~~and with the applicable State and local building regulations that were in effect at that time,~~] and with the Virginia Public Building Safety Regulation/1984 Edition.

[~~Note: Such existing regulations include, but are not limited to, the following examples:~~

- *~~Local building codes~~*
- *~~Local housing and property maintenance codes~~*
- *~~These parts of local fire prevention codes that apply to buildings and their equipment.~~]*

100.5.2. Application to post-USBC buildings: Buildings or portions thereof that were subject to the Uniform Statewide Building Code when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

[~~Note: The Building Maintenance Code is based on the premise that all matters pertaining to the design and equipment of a building or structure (either in its initial construction or through subsequent alterations, repairs, additions, and conversions of use) should be governed by the applicable building code or regulations, and should thereafter be maintained in compliance with those requirements. Continuation of such compliance is the objective of the Building Maintenance Code.~~]

100.6. Exemptions for certain equipment: The provisions of the Building Maintenance Code shall not apply to distribution equipment installed by a provider of public regulated utility services, or to electrical equipment used

for radio and television transmission. However, the buildings, including their service equipment, housing such utility services shall be subject to this Code. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

100.7. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code. However, such structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable floodproofing regulations or mudslide regulations.

100.8. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and [use and continued] compliance with minimum building construction, energy conservation, water conservation, and physically handicapped and aged accessibility standards.

SECTION 101.0. REQUIREMENTS.

101.0. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code. [~~In accordance with the Virginia Uniform Statewide Building Code Law, this model code shall protect the health, safety and welfare of the residents of this State at the least possible cost consistent with recognized standards of health, safety, welfare, energy conservation, water conservation, and accessibility for the physically handicapped and aged.~~

° ~~The BOCA BASIC/NATIONAL EXISTING STRUCTURES CODE/1984 EDITION~~

~~Published by:~~

~~Building Officials and Code Administrators International, Inc.~~

~~4051 West Flossmoor Road~~

~~Country Club Hills, Illinois 60477~~]

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced [~~hereby~~ therein] that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA Basic/National Existing Structures Code/1984 edition for use as part of this Code.

[101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. No provision of the model code that exceeds the requirements of the 1984 edition of the USBC may be applied to any portion of a building that was not subject to the USBC when constructed, altered or converted.

° THE BOCA BASIC/NATIONAL EXISTING STRUCTURES CODE/1984 EDITION

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SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the Code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to [~~another~~ the] local agency [or agencies of its choice] . The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies [to which responsibility for enforcement has been] assigned. However, the terms "building official" or "building department" [~~shall~~] apply only to the local building official or building departments.

[102.1.1. Right of inspection: The local governing body may inspect existing buildings to enforce the Building Maintenance Code, as authorized by § 36-105 of the Code of Virginia.]

102.2. Interagency coordination: Where enforcement of any portion of the Building Maintenance Code [~~has been~~ is] assigned to an agency other than the building department, such as the fire prevention bureau, such agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of the Uniform Statewide Building Code [, Volume I, New Construction Code] .

102.3. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official. [~~Where the local building department has been designated as the local enforcing agency, the building official shall serve as the code official.~~]

102.4. Appointment: The code 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.~~]

102.5. Qualification of local enforcing agency personnel: The local government shall establish qualifications for the code official and his assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

NOTE: Detailed requirements for the qualifications of the building official and his assistants are provided in Volume I - New Construction Code of the Uniform Statewide Building Code. However, if a person from another agency is appointed as the code official to enforce the Building Maintenance Code, the requirements of Volume I - New Construction Code would not apply. In such cases, it is recommended that the code official have at least five years of related experience. Consideration should be given to the use of the Virginia Voluntary Certification Program for Building Officials and Assistants and of the Fire Inspection Certification Program of the State Department of Fire Programs in the selection and maintenance of enforcing agency personnel.

[~~102.6.1.~~ *102.6.*] *Relief from personal responsibility: The local enforcing agency 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 duites while assigned to the* [~~department~~ *enforcing agency*] *as employees. The* [~~building~~ *code*] *official or his 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~~ *enforcing agency*] *as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee becuase of an act performed by him in the discharge of his duties and under the provisions of the* [~~USBC~~ *Building Maintenance Code*] *may be defined by the* [~~Department's~~ *enforcing agency's*] *legal representative.*]

[~~102.6~~ *102.7.*] *Control of conflict of interest: An official or employee of the enforcing agency except one whose only connection is that of a member of the local Board of Building Code Appeals, shall not be engaged in or connected with the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of plans or specifications thereof, unless that person is the owner of the building; such officer or employee shall not engage in any work which conflicts with official duties or with the interests of the enforcing agency within the jurisdiction in which the official or employee works.*

[~~102.7~~ *102.8.*] *Assistance by state: Upon notification of appointment of a code official, the Office of Uniform Building Code shall advise the official of all services offered and will keep him continually informed of developments affecting the Code and its interpretation and administration.*

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

103.1. General: The code official shall enforce the provisions of the Building Maintenance Code as provided herein [*and as interpreted by the State Building Code Technical Review Board in accordance with § 38-118 of the Code of Virginia*] .

NOTE: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

[*103.2. Applications and permits: Applications for permits for any construction or alterations necessary for compliance with the FPC shall be made to the building official for issuance under the procedures prescribed in Volume I - New Construction Code of the Uniform Statewide Building Code.*]

[~~103.2~~ *103.2.1.*] *Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this Code for the health, safety and general welfare of the public.*

103.3. Delegation of duties and powers: The code official may delegate his 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 Code.

103.4. Maintenance inspections: When the local government has acted under § 36-105 of the Code of Virginia to enforce the requirements of this Code, the code official may inspect buildings to which it applies to assure continued compliance.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, coverted, or repaired before the effective date of the initial edition of the Uniform Statewide Building Code, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, he may order the minimum changes needed to remedy the hazardous condition. Such order shall be in writing and shall be made a part of the permanent records of the code official relating to the building affected.

NOTE: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty design or equipment, that constitute such serious

and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the Uniform Statewide Building Code. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to Section 107.0 of the administrative provisions of the Uniform Statewide Building Code - Volume I, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6 Annual report: At least annually, the code official shall submit to the authority designated by the local government a written statement of operations in the form and content prescribed by such local government. A copy shall be forwarded to the Office of Uniform Building Code for use in studies to improve the Virginia Uniform Statewide Building Code system.

[103.7. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act and, (i) after retention for one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (ii) after retention for three years in the case of all other buildings.]

SECTION 104.0. APPLICATIONS AND PERMITS.

104.1. Procedures: Applications for permits for construction or alterations necessary to comply with this code shall be made to the building official under the procedures prescribed in Volume I - New Construction Code of the Uniform Statewide Building Code.

SECTION 105.0. MODIFICATIONS.

105.1. Modifications: When there are practical difficulties involved in carrying out any provision of the Code, the owner or his agent, or the code official, may apply to the building official for a modification under the procedures of Volume I - New Construction of the Uniform Statewide Building Code [:] when the proposed modification [~~does not involve any~~ involves] alterations or construction for which a building permit would be required [; ~~the code official may issue the modification~~]. [When the proposed modification does not involve any alterations or construction for which a building permit would be required, the code official may issue the modification.]

105.2. Records: A copy of the application for modification and a copy of the final decision of the official to whom the application was made shall be kept in the permanent records of the enforcing agency.

SECTION 106.0. VIOLATIONS.

106.1. Code violations prohibited: No person, firm or corporation shall maintain or use any building or equipment in conflict with or in violation of any of the provisions of this Code.

106.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this Code. Such order shall direct the discontinuance and abatement of the violation.

106.3. Prosecution of violation: If the notice of violation is not complied with promptly, the code official shall request 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 this Code.

106.4. Violation penalties: Violations of this Code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than [~~one thousand dollars~~ $1,000].

106.5. Abatement of violation: Conviction of a violation of this Code shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of this Code relating to maintenance and use of the building or premises.

SECTION 107.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

107.1. Grounds for appeal: The owner of a building or his agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I - New Construction of the Uniform Statewide Building Code when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the Code;

2. The true intent of this Code has been incorrectly interpreted;

3. The provisions of this Code do not fully apply;

4. The use of a form of compliance that is equal to or better than that specified in this Code has been denied.

107.2. Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

107.3. Form of decision, notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

107.4. Enforcement of decision: The code official shall take

immediate action in accordance with the decision of the board.

SECTION 108.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

108.1. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, or any officer or member of the governing body of the local jurisdiction, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

108.2. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

108.3. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1.1:1, Title 9 of the Code of Virginia.

SECTION 109.0. UNSAFE BUILDINGS.

109.1. Right of condemnation: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through deterioration, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, and which constitute a ~~fire~~ hazard, or are otherwise dangerous to human life or the public welfare. All such buildings shall be made safe through compliance with this Code or shall be vacated, taken down and removed. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

109.2. Inspection of unsafe buildings: The code official shall examine every such building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. 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.

109.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, his agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay his acceptance or rejection of the terms of the notice.

109.4. 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.

109.5. Disregard of notice: Upon refusal or neglect of the person served with a notice of unsafe building to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the occupancy permit.

109.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IN UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: [~~(a)~~ (i)] to make the required repairs; [~~(b)~~ (ii)] to take the building down and remove it; or [~~(c)~~ (iii)] to make inspections.

109.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building 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, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

SECTION 110.0. DEMOLITION OF BUILDINGS.

110.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this Code, the work shall be carried out in compliance with the requirements of Volume I - New Construction Code of the Uniform Statewide Building Code.

[SECTION 111.0. VALIDITY.]

[111.1. Partial invalidity: In the event any part or provision of the USBC is held to be illegal or void, such holdings shall not have the effect of making void or illegal any of the other parts of provisions thereof. It shall be presumed that the USBC would have been adopted without

such illegal or invalid part or provision if the determination of invalidity had been shown at the time of adoption.]

ADDENDA.

ADDENDUM 1.

AMENDMENTS TO THE BOCA BASIC/NATIONAL EXISTING STRUCTURES CODE/1984 EDITION.

As provided in Section 101.3 of Volume II - Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code, the amendments noted in this Addendum shall be made to the BOCA Basic/National Existing Structures Code/1984 edition for use as part of the Building Maintenance Code.

[*NOTE: The following sections of the BOCA Existing Structures Code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-97 (7) of the Code of Virginia: ES-301.1, ES-301.1.1, ES-301.3, ES-301.4, ES-301.6, ES-301.7, ES-301.10, ES-301.10.1, ES-301.10.2, ES-301.11, ES-801.2, and ES-801.3.*]

Article 1.
Administration and Enforcement.

1. Article 1, Administration and Enforcement, [~~*has been*~~ *is*] *deleted in its entirety and replaced with Article 1 of the Building Maintenance Code* [; ~~*as established in Section 101.2 of this Code*~~] .

[~~*ARTICLE 2*~~
~~*DEFINITIONS*~~

~~*2. Delete the following definitions from Section ES-201:*~~

~~*Building Code*~~
~~*Extermination*~~
~~*Garbage*~~
~~*Infestation*~~
~~*Junk Vehicle*~~
~~*Public Nuisance*~~
~~*Renovation*~~
~~*Rubbish*~~

~~*2. Amend the term Premises to read:*~~

~~*Premises: Any building on a lot, plot or parcel of land. **Whenever the words "multi-family dwelling," "residence building," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this Code, they shall be construed as though they were followed by the words, "or any part thereof."*~~]

Article 3.
Environmental Requirements.

[~~*1. Amend Section ES-300.1 to read:*~~

~~*ES-300.1 Scope: The provisions of this article shall govern the minimum conditions for maintenance of premises and structures. Premises shall comply with the conditions herein prescribed insofar as they are applicable.*~~

~~*2. Amend Section ES-300.2 to read:*~~

~~*ES-300.2 Responsibility: The owner of the premises shall maintain such structures and premises in compliance with these requirements.*~~

~~*3. Amend Section ES-300.3 to read:*~~

~~*ES-300.3 Vacant structures: All vacant structures shall be maintained in a clean, safe, secure, and sanitary condition as provided in this code so as not to cause a hazard or adversely affect public health, safety or welfare.*~~

[~~*4.*~~ *1.*] *Delete Section ES-301.1*

[~~*5.*~~ *2.*] *Delete Section ES-301.1.1*

[~~*6.*~~ *3.*] *Delete Section ES-301.3.*

[~~*7.*~~ *4.*] *Delete Section ES-301.4.*

[~~*8. Amend Section ES-301.5 to read:*~~

~~*ES-301.5 Public areas: All sidewalks, steps, driveways, parking spaces and similar paved areas for public use shall be kept in a proper state of repair. Accumulations of snow, ice, mud and other debris shall be removed within a reasonable time as determined by the code official.*~~]

[~~*9.*~~ *5.*] *Delete Section ES-301.6.*

[~~*10.*~~ *6.*] *Delete Section ES-301.7.*

[~~*11.*~~ *7.*] *Delete Section ES-301.10.*

[~~*12.*~~ *8.*] *Delete Section ES-301.10.1.*

[~~*13.*~~ *9.*] *Delete Section ES-301.10.2.*

[~~*14.*~~ *10.*] *Delete Section ES-301.11.*

[~~*15. Amend Section ES-302.3.3. to read:*~~

~~*ES-302.3.3 Roofs: Roofs shall be structurally sound and shall not have defects which admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portions of the building.*~~

~~*16. Amend Section ES-302.3.5 to read:*~~

~~*ES-302.3.5 Exterior components and structures: All canopies, marquees, signs, metal awnings, stairways,*~~

~~*fire escapes, standpipes, exhaust ducts, and similar exterior extensions or overhangs shall be maintained in good repair and shall be kept properly anchored.*~~

~~*17. Amend Section ES-302.3.6 to read:*~~

~~*ES-302.3.6 Chimneys: All chimneys, flues, smokestacks and similar appurtenances shall be maintained in structurally safe and sound condition and in good repair.*~~

~~*18. Delete Section ES-302.3.7.*~~

~~*19. Amend Section ES-302.4 to read:*~~

~~*ES-302.4 Window and door frames: All exterior door and window frames shall be maintained with materials that are compatible with the walls in which they are installed so as to prevent the entrance of rain as completely as possible.*~~

~~*20. Amend Section ES-302.4.1 to read:*~~

~~*ES-302.4.1 Weathertightness of windows and doors: All exterior windows and doors shall be fitted reasonably in their frames so that they are weathertight.*~~

~~*21. Delete Section ES-302.4.4.*~~

~~*22. Amend Section ES-302.4.6 to read:*~~

~~*ES-302.4.6 Basement hatchways: Every basement or cellar hatchway shall be maintained to prevent, as far as practicable, the entrance of rats, rain, and surface drainage water into the structure.*~~

~~*Amend Section ES-302.4.7 to read:*~~

~~*ES-302.4.7 Guards for basement window: Every basement or cellar window which can be opened shall be supplied with rat-proof shields, or storm windows, or other material affording protection against the entry of rats.*~~

~~*23. Amend Section ES-303.2 to read:*~~

~~*ES-303.2 Structural members: The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads.*~~

~~*24. Amend Section ES-303.3 to read:*~~

~~*ES-303.3 Interior surfaces: Floors, walls (including windows and doors), ceilings and other interior surfaces, and any protective coatings that have been applied thereto, shall be maintained in good condition and shall be kept clean and sanitary.*~~

~~*25. Delete Section ES-303.3.1.*~~

~~*26. Delete Section ES-303.5.*~~

~~*27. Delete Section ES-303.5.1.*~~

~~*28. Delete Section ES-303.6.*~~

~~*29. Amend Section ES-303.7 to read:*~~

~~*ES-303.7 Exit facilities: Landings, stairs, railings and other exit facilities shall be maintained in sound condition and good repair. Treads and risers that show evidence of excessive wear or are broken, warped or loose shall be replaced or repaired. Inside stairs shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.*~~

~~*30. Delete Section ES-303.8.*~~

~~*31. Delete Section ES-303.8.1.*~~

~~*32. Delete Section ES-303.8.2.*~~

Article 4.
Light, Ventilation and Space Requirements.

[~~*1. Amend Section ES-400.2 to read:*~~

~~*ES-400.2 Responsibility: The owner of the structure shall maintain such light and ventilation and space conditions in compliance with these requirements.*~~

~~*2. Delete Section ES-401.2*~~]

[*Change Section ES-401.2 to read:*

ES-401.2. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstruction are located lass than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

~~*3. Amend Section ES-401.3 to read:*~~

~~*ES-401.3 Common halls and stairways: Every common hall and stairway, in buildings other than single family dwellings, shall be adquately lighted at all times, with an illumination of at least one foot candle, measured at a level of 30 inches above the floor.*~~

~~*4. Amend Section ES-402.2 to read:*~~

~~ES-402.2 Habitable rooms: Every habitable room shall have at least one window which can be easily opened, or other means which will adequately ventilate the room.~~

~~4. Amend Section ES-402.3 to read:~~

~~ES-402.3 Toilet rooms: Every bathroom and water closet compartment shall be provided with adequate light and ventilation, except that a window shall not be required when the space is equipped with an approved mechanical ventilation system.~~

~~6. Amend Section ES-402.4 to read:~~

~~ES-402.4 Cooking Facilities: Cooking facilities shall not be permitted in any sleeping room.~~

~~Note: Not intended to apply to efficiency apartments.~~

~~7. Delete Section ES-403.1~~

~~8. Amend Section ES-403.3 to read:~~

~~ES-403.3 Below Grade Rooms: Basement rooms partially below grade shall not be used for living purposes unless the following requirements have been met:~~

~~a. Floors and walls are substantially watertight and protected to prevent entry of moisture; and~~

~~b. The required minimum window area, including required openable area, of habitable rooms below grade shall be protected by window wells or other approved means.~~

~~9. Delete Section ES-404.0~~

~~ARTICLE 5~~
~~PLUMBING FACILITIES AND FIXTURE REQUIREMENTS~~

~~1. Amend Section ES-500.1 to read:~~

~~ES-500.1 Scope: The provisions of this article shall govern the maintenance of existing plumbing facilities and fixtures. All plumbing facilities and fixtures shall comply with the applicable requirements of this Code.~~

~~Note 1: A provision of the Virginia Residential Landlord and Tenant Act, Section 55-248.13, Code of Virginia, requires that "running water and reasonable amounts of hot water shall be provided at all times in dwelling units subject to the Act.~~

~~Note 2: The Code of Virginia permits political subdivisions to create water and/or sewer authorities. In accordance with Section 15.1-1261, Code of Virginia, such authorities are empowered, with the concurrence of the local government, to require the connection of residential, commercial and industrial buildings to water mains and sanitary sewers operated by the authority and to restrict the use of other sources of water supply or disposal of sewage under certain conditions specified in the law.~~

~~2. Amend Section ES-500.2 to read:~~

~~ES-500.2 Responsibility: The owner of the structure shall maintain such plumbing facilities and fixtures in compliance with these requirements.~~

~~3. Add Section ES-500.3 to read:~~

~~ES-500.3 High density districts: For the purpose of controlling the special problems of health and sanitation in areas of high population density, the local government may establish districts designated as "high density districts" in any area or areas within the jurisdiction in which the population density exceeds 1,000 persons per square mile.~~

~~4. Amend Section ES-501.1 to read:~~

~~ES-501.1 Dwelling units: Every dwelling unit shall have ready access to adequate facilities, in the dwelling unit or on the same lot, which can be used in privacy for personal cleanliness and the disposal of human waste. Sections ES-501.1, ES-501.1.2, and ES-501.1.3 shall apply only in areas designated by the local government as high density districts.~~

~~5. Delete Section ES-501.2~~

~~6. Delete Section ES-501.3~~

~~7. Amend Section ES-501.4 to read:~~

~~ES-501.4 Maintenance: Plumbing facilities shall be maintained in proper operating condition.~~

~~8. Amend Section ES-502.2 to read:~~

~~ES-502.2 Direct access: Toilet rooms and bathrooms located in public buildings shall not be used as a passageway between public spaces.~~

~~9. Delete Section ES-502.6~~

~~10 Amend Section ES-503.2 to read:~~

~~ES-503.2 Connections: Water supply lines, plumbing fixtures, vents and drains shall be kept properly connected and free from obstructions, leaks and defects, and shall be kept in good working order and capable of performing the functions for which they are designed.~~

~~11. Delete Section ES-503.5.~~

~~12. Amend Section ES-504.1 to read:~~

~~ES-504.1 General: Sinks, lavatories, bathtubs or showers, drinking fountains, water closets, or other facilities shall be properly connected to either a public water system or to an approved private water system.~~

~~13. Amend Section ES-504.2 to read:~~

~~Contamination: The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture.~~

~~14. Amend Section ES-504.4 to read:~~

~~ES-504.4 Water heating facilities: Where hot water is provided, water heating facilities shall be maintained in an approved manner and properly connected with hot water lines to the fixtures required to be supplied with hot water.~~

~~ARTICLE 6~~
~~MECHANICAL AND ELECTRICAL REQUIREMENTS~~

~~1. Amend Section ES-600.1 to read:~~

~~ES-600.1 Scope: The provisions of this article shall govern the maintenance of existing mechanical and electrical facilities and equipement. All mechanical and electrical facilities and equipment shall comply with the applicable requirements.~~

~~2. Amend Section ES-600.2 to read:~~

~~ES-600.2 Responsibility: The owner of the structure shall maintain such mechanical and electrical facilities and equipment in compliance with these requirements.~~

~~3. Amend Section ES-601.1 to read:~~

~~ES-601.1 Residential buildings: In high density districts designated by the local government, every dwelling unit and guest room shall be provided with means capable of maintaining a room temperature of not less than 65 degrees F. (18.33 degrees C), at a point 3 feet (0.91 m) above the floor and 3 feet (0.91 m) from an exterior wall in all habitable rooms, bathrooms and toilet rooms.~~

~~4. Delete Section ES-601.2.~~

~~5. Amend Section ES-601.3 to read:~~

~~ES-601.3 Cooking and heating equipment: All cooking and heating equipment, components, and accessories in every heating, cooking, and water heating device shall be maintained in proper working condition free from leaks and obstructions~~

~~Note: A provision of the Virginia Residential Landlord and Tenant Act, Section 55-248.13, Code of Virginia, requires that "reasonable heat in season" shall be provided in dwelling units subject to the Act.~~

~~6. Delete Section ES-601.4.5.~~

~~7. Delete Section ES-601.6.~~

~~8. Amend Section ES-602.1 to read:~~

~~ES-602.1 Facilities required: The electrical facilities installed in all buildings subject to this Code shall be maintained in proper operating condition and shall be capable of safe operation under imposed electrical load. The electrical system shall be maintained free of defects, improper circuit protection, deterioration and damage.~~

~~9. Delete Section ES-602.1.1~~

~~10. Delete Section ES-602.1.2~~

~~11. Delete Section ES-602.3~~

~~ARTICLE 7~~
~~FIRE SAFETY REQUIREMENTS~~

~~1. Amend Section ES-700.1 to read:~~

~~ES-700.1 Scope and purpose: The provisions of this article shall govern the maintenance of fire safety in buildings. Buildings shall be maintained and used in a manner to prevent and avoid fire hazards which would endanger the safety of the occupants.~~

~~Note: See Section 100.5.2 for the relationship between the requirements of this article and those of the local building regulations and fire prevention codes in the case of buildings erected prior to the effective date of the initial edition of the USBC.~~

~~2. Amend Section ES-700.2 to read:~~

~~ES-700.2 Responsibility: The owner or operator of the structure shall maintain the fire safety facilities and equipment in compliance with these requirements.~~]

Article 8.

[*1. Delete Section ES-801.2*

2. Delete Section ES-801.3

~~Delete Article 8~~

~~ARTICLE 9~~

~~Delete Article 9~~

~~APPENDIX A~~

~~Delete Appendix A~~

~~APPENDIX B~~

~~Delete Appendix B~~

~~*APPENDIX C*~~

~~Delete Appendix C~~]

* * * * * * * *

Title of Regulation: **VR 394-01-31. Virginia Industrialized Building and Mobile Home Safety Regulations.**

Statutory Authority: §§ 36-70 and 36-85.1 of the Code of Virginia.

Effective Date: April 1, 1986 (Tentative)

Summary:

The Virginia Industrialized Building and Mobile Home Safety Regulations provide for the administration and enforcement of uniform, statewide, health and safety standards for manufactured buildings and mobile homes, wherever produced. A major purpose of the regulation is to make good quality housing more affordable for residents of Virginia. It does so by providing precertification of manufactured buildings that contain concealed parts which cannot be readily inspected at the point of use. Such units must be accepted by the local building official without disassembly. The enforcement system includes: (i) state accreditation, use, and monitoring of independent third-party inspection agencies to review the design of manufactured buildings and to inspect their production for code compliance, (ii) assignment of responsibility for safe installation to local building departments, and (iii) state action to secure correction of defects discovered after installation.

VR 394-01-31. Virginia Industrialized Building and Mobile Home Safety Regulations/1984.

~~1981~~ *1984* EDITION
VIRGINIA INDUSTRIALIZED BUILDING AND MOBILE HOME SAFETY REGULATIONS

PART ONE.
INDUSTRIALIZED BUILDINGS AND MOBILE HOMES NOT SUBJECT TO FEDERAL REGULATIONS.

Article 1.
Administration.

SECTION ~~101.0~~ *100.0.* General.

~~101.1~~ *100.1.* Title: Articles 1 through 5 of ~~the State~~ *these* regulations shall be known ~~and may be cited~~ as the Virginia Industrialized Building and Mobile Home Safety Regulations - Part One. Except as otherwise indicated, regulations, or these regulations, as used in Articles 1 through 5, shall mean the Virginia Industrialized Building and Mobile Home Safety Regulations - Part One.

100.2. Authority: These regulations are adopted according to the authority granted the Board of Housing and Community Development by the Virginia Industrialized Building Unit and Mobile Home Safety Law, Chapter 4, Title 36, Code of Virginia.

100.3. Adoption: The Virginia Industrialized Building and Mobile Home Safety Regulations were adopted by order of the Board of Housing and Community Development on [*November 18, 1985*] *. This order was prepared according to the 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.*

~~101.2~~ *100.4.* Application: Part One shall apply to industrialized ~~building units~~ *buildings* and mobile homes, as defined in Section ~~100.0~~ *200.0* , that are not subject to federal regulations.

~~101.3~~ *100.5.* Effective date: The effective date of Part one of these regulations is ~~July 16, 1982~~ *(to be inserted).*

~~101.3.1~~ *100.5.1.* Compliance after effective date: No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building ~~unit~~ or mobile home which has been produced after the effective date of any provision of these regulations unless it conforms with such provision of the regulations.

~~101.3.2~~ *100.5.2.* Local regulations: Nothing in these regulations shall prevent the local adoption of requirements for industrialized ~~building units~~ *buildings* or mobile homes produced before the effective date of these regulations where necessary to provide for adequate safety to life, health and property.

100.6. Continued compliance: Industrialized buildings and mobile homes subject to any edition of these regulations when constructed shall be maintained in compliance with the applicable edition by the owners and/or occupants.

100.7. Purpose: The purpose of the Virginia Industrialized Building and Mobile Home Safety Regulations is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for industrialized buildings and enforcement regulations for mobile homes.

[*100.8. Partial invalidity: In the event any part or provision of these regulations is held to be illegal or void, such holdings shall not have the effect of making void or illegal any of the other parts or provisions thereof. It shall be presumed that these regulations would have been adopted without such illegal or invalid part of provision if the determination of invalidity had been known at the time of adoption.*]

SECTION ~~102.0~~ *101.0.* ENFORCEMENT GENERALLY.

~~102.1~~ *101.1.* General: These regulations shall be enforced as ~~prescribed~~ *authorized* by ~~Chapter 103, Acts of Assembly, 1971, and Chapter 613, Acts of Assembly, 1977~~ *Chapter 4*

of Title 36, of the Code of Virginia [; ~~as amended~~]. (Note: See Addendum 3, "Virginia Industrialized Building Unit and Mobile Home Safety Law.")

~~102.2~~ *101.2.* Inspection and enforcement: The Office of Industrialized Building Code is designated as the ~~Board's~~ *Board of Housing and Community Development's (the board)* representative for the enforcement of these regulations ; ~~it~~ . *It* shall have authority to make such inspections and to take such other actions as are required to enforce the regulations.

~~102.2.1~~ *101.2.1.* ~~Monitoring~~ *Factory* inspections: The board's representative shall, during reasonable hours, make such inspections of factories producing industrialized ~~building units~~ *buildings* or mobile homes as many be necessary to determine whether the approved testing facility having jurisdiction is performing its evaluation and compliance assurance functions in a satisfactory manner.

1~~02.2.2~~ *101.2.2.* Field inspections: The board's representative may, during reasonable hours, make ~~such~~ inspections ~~as are necessary~~ to determine whether industrialized ~~building units and~~ *buildings or* mobile homes, not at the time occupied as ~~a dwelling~~ *dwellings* , are in compliance with these regulations. Such inspections may include but are not limited to: industrialized ~~building units~~ *buildings* and mobile homes on dealer lots, or *industrialized buildings and mobile homes* that are otherwise offered for sale to the public. Industrialized ~~building units and~~ *buildings or* mobile homes that are occupied as ~~a dwelling~~ *dwellings* may be examined from the exterior for the presence of labels and registration seals required by Article 5 of these regulations *or may be inspected at the request of the owners or occupants* .

~~102.2.3~~ *101.2.3.* ~~Orders of compliance~~ *Notice of violation* : ~~Wherever~~ *Where* such representative ~~shall find~~ *finds* any ~~violations~~ violation of the *provisions of these* regulations *,a notice of violation shall be issued.* ~~he~~ *This notice of violation* shall order the party responsible ~~therefor~~ to bring the unit into compliance, within a reasonable time ; . ~~to be fixed in the order. If the party cited shall feel aggrieved, he may within ten days after notice of such order, appeal to the Board and the cause of his complaint shall be at once investigated by the Board, and unless its authority under such order is revoked, the same shall remain in force and be complied with by such party.~~

~~102.2.4~~ *101.2.4.* Placarding ~~non complying~~ units *in violation* : Wherever the board's representative ~~shall find~~ *finds* any violations of the regulations, ~~he may require~~ *placards may be required on* the noncomplying unit ~~to be conspicuously placarded~~ . Such placards shall not be removed except upon permission of the board's representative. The placard shall list the violations and may prohibit the use of any unit , not at the time occupied as a dwelling , until the necessary corrections have been made.

101.2.5. Appeals to notice of violation: Parties aggrieved by the findings of the notice of violation may appeal to the board, which shall investigate the complaint. The aggrieved party must file the appeal within [~~ten~~ *10*] *days of the receipt of the notice of violation. Unless the notice of violation is revoked by the board, the aggrieved party must comply with stipulations of the notice of violation.*

~~102.3~~ *101.3.* Referral to local building officials: If the nature of the violation is such that it may be remedied under Section ~~103.0~~ *102.0* of these regulations, the board's representative may refer the matter to the local building official for enforcement.

~~102.4~~ *101.4.* Limitation of manufacturers liability: The manufacturer of the unit shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the unit.

~~102.5~~ *101.5.* Penalty for violation: Any person, firm or corporation violating any provisions of these ~~rules and~~ regulations shall be ~~subject to the penalties prescribed by~~ *considered guilty of a misdemeanor and, upon conviction, shall be fined not more than $500.00* (§ 36-83 of the Code of Virginia.)

SECTION ~~103.0~~ *102.0.* ENFORCEMENT IN LOCALITIES.

~~103.1~~ *102.1.* Responsibility of local building officials: Every local building official is authorized to and shall enforce the provisions of these regulations within the limits of his jurisdiction. He shall not permit the use of any industrialized building ~~unit~~ that does not comply with these regulations.

~~103.2~~ *102.2.* Labeled industrialized ~~building units~~ *buildings and mobile homes:* Industrialized ~~building units or~~ *buildings and* mobile homes that are both registered and labeled shall be ~~acceptable~~ *accepted* in all localities as meeting the requirements of this law, and shall be ~~acceptable~~ *accepted* as meeting the requirements of safety to life, health and property imposed by any ordinance of any local governing body of this [~~State~~ *Commonwealth*] without further investigation, testing or inspection. Notwithstanding this provision, ~~the~~ local building ~~official is~~ *officials are* authorized to carry out the following functions ~~applicable~~ *that apply* to registered, labeled industrialized ~~building units~~ *buildings and mobile homes* provided ~~they~~ *such functions* do not involve disassembly of units or parts ~~thereof~~ *of units,* or change of design, or result in the imposition of more stringent conditions than those required by the approved testing agency or by these regulations.

1. ~~He~~ *They* may, after installation of the unit, verify that it has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for shorts at the meter connection in the electrical system.

2. ~~He~~ *They* may verify that supplemental components

required by the label or by these regulations are properly provided.

3. ~~He~~ *They* may verify that the instructions of the label for installation and erection are observed.

4. ~~He~~ *They* may verify that any special conditions or limitations of use that are stipulated by the label ~~pursuant to~~ *in accordance with* the standards of ~~Articles 2 and~~ *Article* 3 of these regulations are observed.

5. ~~He~~ *They* may require submission and approval of plans and specifications for the supporting structures, foundations including anchorages, and all other components necessary to form the completed building in combination with the labeled units. ~~He~~ *They* may require such architectural and engineering services as may be specifically authorized by the standards of ~~Articles 2 and~~ *Article* 3 of these regulations to assure that the supporting structures, foundations including anchorages, and other components necessary to form the completed building in combination with the labeled units are ~~correctly~~ designed in accordance with these regulations.

6. ~~He~~ *They* may enforce applicable requirements of these regulations for alterations and additions to the units or to the buildings ~~of~~ *for* which they are component parts, and for their maintenance. As an aid ~~thereto, he~~ , *they* may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.

7. Where permitted by the standards of ~~Articles 2 and~~ *Article* 3, ~~he~~ *they* may establish local rules that require design for special wind, snow, earthquake and other ~~special~~ local conditions whose existence is verified by authoritative records. Such rules shall not become effective until filed with and approved by the board.

8. ~~He~~ *They* may enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, certificates of use and occupancy, and all other applicable requirements ~~thereof~~ *of the USBC* , except those governing the design and construction of the labeled units and the design of the buildings of which the labeled units are component parts.

9. ~~He~~ *They* may verify that the unit ~~bears~~ *displays* the required state registration seal and the proper label of the approved testing faciltiy.

~~103.3~~ *102.3.* Unlabeled industrialized ~~building units~~ *buildings* and mobile homes: No unlabeled industrialized building ~~unit~~ or mobile home constructed after the effective date of these regulations shall be used until it has been inspected by the local building official for compliance with these regulations. ~~He~~ *The building official* shall require the units to be in compliance with these regulations, and ~~he~~ may also require the units to comply with all applicable local regulations. ~~He~~ *The building official* shall enforce all applicable requirements of these regulations including those relating to the sale, rental and disposition of noncomplying units. ~~In aid thereof he~~ *The building official* may require submission of full plans and specifications for each unit and for the completed building of which it is to be a part. ~~He may require concealed~~ *Concealed* parts of the unit ~~to~~ *may* be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The government of any locality for which a building official has not been appointed may exercise the powers of enforcement for unlabeled industrialized ~~building units~~ *buildings* that are granted ~~therein~~ to the local building official, except for inspection.

~~103.3.1~~ *102.3.1.* Unlabeled ~~units~~ *industrialized buildings and mobile homes* offered for sale: Unlabeled industrialized ~~building units~~ *buildings* or mobile homes offered for sale by dealers in this [~~State~~ *Commonwealth*] shall be marked by a warning sign to prospective purchasers that the unit is not labeled ~~pursuant to~~ *in accordance with* these regulations and must be inspected and approved by the local building official having jurisdiction. The sign shall be of a size and form approved by the department and shall be conspicuously posted on the exterior of the unit near the main entrance door.

~~103.4~~ *102.4.* Disposition of noncomplying units: ~~Where the local building official finds any~~ *When a* unit ~~that has been delivered for use in his jurisdiction~~ *is found* to be in violation of these regulations, ~~he shall~~ *the local building official may* require the violations to be corrected before ~~such use~~ *occupancy of the unit is permitted* and ~~he~~ may require the unit to be conspicuously placarded to indicate that it may not be used in this [~~State~~ *Commonwealth*] until the corrections have been made. If the unit is moved to another locality before the violations are corrected, such placard shall not be removed except upon permission of the building official in the new locality. If such locality has no building official, permission shall be obtained from the department before the placard is removed.

~~103.5~~ *102.5.* Report to the Office of Industrialized Building Code: ~~Where~~ *If* the unit is moved from the jurisdiction ~~of the local building official~~ before the violations have been corrected, ~~he~~ *the local building official* shall make a prompt report of the circumstances to the Office of Industrialized Building Code. The report shall include *the following:*

1. A list of the uncorrected violations.

2. All information contained on the label pertinent to the identification of the unit ~~and~~ , the manufacturer and the approved testing facility.

3. The number of the ~~Department~~ *Virginia* registration

seal.

4. The new destination of the unit, if known.

5. The party responsible for ~~the~~ moving ~~of~~ the unit.

6. Whether the unit was placarded for violation.

SECTION ~~104.0 VARIANCE FROM~~ *103.0. MODIFICATION OF THE* REGULATIONS.

~~104.1~~ *103.1.* When ~~variance~~ *modification* may be granted: The board shall have the power upon appeal in specific cases to authorize ~~variances from~~ *modification of* the regulations so as to permit certain specified alternatives where the objectives of this law can *still* be fulfilled ~~by such other means~~ . Such appeals shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the ~~variance~~ *modification* requested.

~~104.1.1~~ *103.1.1.* Input by local building official: Before ~~any variance~~ *a modification* is authorized, the ~~local~~ building official having *local* jurisdiction may be afforded an opportunity to present his views and recommendations.

~~ARTICLE 2~~
~~SAFETY STANDARDS FOR MOBILE HOMES~~

~~SECTION 200.0. DESIGN REQUIREMENTS~~

~~200.1 Protection against hazards. Mobile homes produced after the effective date of these Regulations shall be reasonably safe for the users thereof and shall provide reasonable protection to the public against the hazards thereof to life, health and property. Compliance with the standards specified in Section 200.2 shall be acceptable evidence of compliance with this provision for mobile homes which are produced during the applicable time periods specified in Section 200.2.~~

~~200.2 Reference standards and time limits established. The standards and time limitations specified below are those referred to in Section 200.1:~~

~~º ANSI A119.1 (NFPA No. 501B), STANDARD FOR MOBILE HOMES, BODY AND FRAME DESIGN AND CONSTRUCTION REQUIREMENTS AND THE INSTALLATION OF PLUMBING, HEATING AND ELECTRICAL SYSTEMS~~

~~Published by: American National Standards Institute, 1430 Broadway, New York, New York 10018~~

~~Either the 1974 or 1975 Edition, until superseded by the Federal Manufactured Home Construction and Safety Standards, with the following amendment to Part C, Section 11.2.1 - Water Connection. Add the following sentence: A master coal water shut off full flow valve shall be installed on the main feeder line in an accessible area.~~

~~200.2.1 Optional standard: The following standard may be used as an option to the standards listed above:~~

~~º FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS~~

~~Published by: U. S. Department of Housing and Urban Development, Federal Register, Volume 40, Number 244, December 18, 1975 (Part 280, Code of Federal Regulations)~~

~~No time limit.~~

Article 2.
Definitions.

SECTION ~~100.0~~ *200.0.* DEFINITIONS.

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

"Approved" [*means*] as applied to a material, device, ~~mode~~ *method* of construction, labeled unit or as otherwise used in these regulations means approved by the Board of Housing and Community Development , unless the context clearly indicates another meaning.

"Approved testing facility" means an organization, or an architect or professional engineer registered in Virginia, determined by the department to be specially qualified by reason of facilities, personnel, experience and demonstrated reliability, to investigate, test and evaluate industrialized ~~building units~~ *buildings* and mobile homes subject to Part One ; . *The approved testing facility shall have the ability* to list such units complying with standards approved by the board; to provide adequate follow-up services at the point of manufacture to ~~insure~~ *ensure* that production units are in full compliance; and to provide a label, seal or other evidence of compliance on each unit. An approved testing facility may utilize the services of other organizations or individuals determined by it to be qualified and reliable in performing any of these functions, provided that the approved testing facility shall be held responsible for all such services.

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

"Federal regulations" means the Manufactured Home Construction and Safety Standards and the procedural and Enforcement Regulations ~~promulgated~~ *enacted* by the U. S. Department of Housing and Urban Development ~~pursuant to~~ *in accordance with* the National Manufactured Housing Construction and Safety Standards Act of 1974 (Title VI of Public Law 93-383, 88 Stat. 700, 42 U.S.C. 5401, et seq.).

"Industrialized building" means a finished building in which one or more industrialized building units have been used.

"Industrialized building unit" or *"Unit"* means a building assembly or system of building sub-assemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as a part of a finished building comprising two or more industrialized building units ~~and not designed for ready removal to or installation or erection on another site~~ . Off-site, as used in this definition, refers to an industrialized building unit produced at any place other than the location in the completed building where it is permanently positioned.

"Labeled" , as applied to an industrialized building ~~unit~~ or mobile home subject to Part One, means that the unit has been found by an approved testing facility to be in full compliance with all applicable safety standards specified by the board; ~~and that~~ the unit has been provided with appropriate evidence of such compliance by an approved, permanently affixed label, seal or similar device; ~~and that~~ the finding of compliance by the approved testing facility has been preceded by appropriate investigation, testing and evaluation of the unit model acceptable to the board; and ~~that~~ inspections and other quality assurance follow-up services acceptable to the board have been provided at the point of manufacture to the extent necessary to ~~insure~~ *ensure* that each labeled production unit complies with Part One.

"Local building official" *means an official designated by any city, town, or county to enforce structural, plumbing, electrical, mechanical or other building regulations for safety to life, health and property.*

"Mobile home" , as used within Part One ~~hereof~~ , means ~~an industrialized building unit~~ *a structure* not subject to federal regulation ; ~~which is constructed on a chassis for towing to the point of use and designed to be used, with or without a permanent foundation, for continuous year round occupancy as a dwelling; or two or more such units separately towable, but designed to be joined together at the point of use to form a singel dwelling, and which is designed for removal to, and installation or erection on other sites.~~ *which is transportable in one or more sections; is* [*8 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.*

"Model" means a specific design, as designated by the producer, of an industrialized building ~~unit~~ or mobile home. Production units of any model may include variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical or electrical systems or any other items governed by these regulations.

"Office of industrialized building code" means the Office of the Department of Housing and Community Development which has been designated to carry out the state plan for enforcement of the Virginia Industrialized Building and Mobile Home Safety Regulations.

"Registered" means a labeled industrialized building ~~unit~~ or mobile home subject to Part One that ~~bears~~ *displays* a registration seal issued by the Department of Housing and Community Development in accordance with Article 5 of these regulations.

"Regulations" means regulations as defined by Section ~~101.1~~ *100.1* .

"State regulations" means the Virginia Industrialized Building and Mobile Home Safety Regulations, consisting of Part One (Articles 1 through 5) and Part Two (Article 11 ~~and 12~~ *through 13*).

"The law" or *"This law"* means the Virginia Industrialized Building Unit and Mobile Home Safety Law as embraced in ~~Chapter 103, Acts of Assembly, 1971, as amended.~~ *Chapter 4 (§ 36-70 et seq.) of the Code of Virginia* [*; as ~~amended~~*].

Article 3.
Safety Standards for Industrialized ~~BUILDING UNITS~~ *Buildings* other than Mobile Homes.

SECTION 300.0. REQUIREMENTS.

300.1. Hazards prohibited ; *and* standards specified: Industrialized ~~building units~~ *buildings* , other than mobile homes, produced after the effective date of these regulations shall be reasonably safe for the users ~~thereof~~ and shall provide reasonable protection to the public against ~~the~~ hazards ~~thereof~~ to life, health and property. Compliance with all applicable requirements of the code and standards specified in Section 301.0, subject to the *specified* time limitations ~~specified therein~~ , shall be acceptable evidence of compliance with this provision.

300.2. Combination of units and components: Where industrialized building units are used in combination with each other or in combination with other components, compliance of the entire resulting building with all applicable requirements of the codes and standards specified in Section 301.0 shall be acceptable evidence of compliance with this provision.

~~300.3 Door hardware. The local building official may also enforce the door hardware requirements of the Virginia Uniform Statewide Building Code, provided that installation of the required security devices may be made after delivery of the industrialized building units to the building site.~~

SECTION 301.0. REFERENCE STANDARDS.

301.1. Reference standards and time limits established: The standards and time limitations specified below are those referred to in Section 300.0:

°BOCA ~~BASIC~~ *BASIC/NATIONAL* BUILDING CODE

Published by: Building Officials and Code Administrators International, Inc. (BOCA), ~~17926 South Halsted Street, Homewood, Illinois 60432~~ *4051 West Flossmoore Road, Country Club Hills, Illinois 60477*

~~(a) 1978~~ *1. 1981* Edition – until ~~November 15, 1982~~ *(to be inserted)*

~~(b) 1981~~ *2. 1984* Edition – no time limit

°BOCA ~~BASIC~~ *BASIC/NATIONAL* PLUMBING CODE

~~(a) 1978~~ *1. 1981* Edition – until ~~November 15, 1982~~ *(to be inserted)*

~~(b) 1981~~ *2. 1984* Edition – no time limit

°BOCA ~~BASIC~~ *BASIC/NATIONAL* MECHANICAL CODE

~~(a) 1978~~ *1. 1981* Edition – until ~~November 15, 1982~~ *(to be inserted)*

~~(b) 1981~~ *2. 1984* Edition – no time limit

° NATIONAL ELECTRICAL CODE – NFPA NO. 70

Published by: National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269

~~(a) 1978~~ *1. 1981* Edition – until ~~November 15, 1982~~ *(to be inserted)*

~~(b) 1981~~ *2. 1984* Edition – no time limit

301.2. Optional standard: The following standard may be used for one and two family dwellings only, as an alternative to the standards specified ~~above:~~ *in Section 301.1.*

° ONE AND TWO FAMILY DWELLING CODE

Jointly published by: BOCA; ~~American Insurance Association, 85 John Street, New York, New York 10038;~~ Southern Building Code Congress *International* , ~~3617 Eighth Avenue~~ *900 Montclair Road* , Birmingham, Alabama ~~35203~~ *35213* ; International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601

~~(a) 1975 Edition with the following amendment unit November 15, 1982~~

~~One and two family dwellings shall conform to the energy conservation design specifications of ASHRAE Standard 90 75, the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.~~

~~(b) 1975 Edition, as amended and adopted June 19, 1978, as part of the Virginia Uniform Statewide Building Code until November 15, 1982~~

~~(c)~~ *1.* 1979 Edition and 1980 Supplement ; ~~as amended and adopted March 15, 1982, as part of the 1981 Edition of the Virginia Uniform Statewide Building code no time limit~~ *until (to be inserted)*

2. 1983 Edition – no time limit

301.3. General amendment to reference codes and standards: All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of these regulations and the applicable provisions of Article 1 of the Virginia Uniform Statewide Building Code.

[*301.4. Soldered joints: Solder or flux containing greater than 0.2% lead shall not be used in potable water service or potable water distribution piping.*]

Article 4.
Approved Testing Facilities.

SECTION 400.0. PROCEDURES FOR APPROVAL.

400.1. Application to department: Application may be made to the department for acceptance as an approved testing facility as defined in ~~Section 100.0~~ *Article 2* . Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the department to determine whether the applicant is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized ~~building units and mobile homes~~ *buildings* for compliance with these regulations, and to provide adequate follow-up and quality assurance services at the point of manufacture.

NOTE: A suggested format for the application for acceptance as an approved testing facility may be obtained from the Office of Industrialized Building Code.

400.2. Freedom from conflict of interest: An approved testing facility shall not be affiliated with nor influenced or controlled by producers, suppliers, or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. An approved testing facility is judged to be free of such affiliation, influence, and control if it complies with all of the following *conditions* :

1. ~~Has~~ *It has* no managerial affiliation with producers, suppliers or vendors, and is not engaged in the sale or promotion of any product or material.

2. The results of its work accrue no financial benefits to the agency ~~via~~ *through* stock ownership ; and the like, of any ~~producers, suppliers, or~~ *producer, supplier or* vendor of the ~~products~~ *product* involved.

3. Its directors and other management personnel, in such capacities, receive no stock option, ~~nor~~ *or* other financial benefit from any producer, supplier, or vendor of the product involved.

4. ~~Has~~ *It has* sufficient ~~breadth of~~ interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's ; or vendor's product with these regulations would not be a ~~determinative~~ *determining* factor in its financial well-being.

5. The employment security status of its personnel is free of influence or control ~~of~~ *by* producers, suppliers, or vendors.

400.3. Information required by department: The following information and criteria will be considered by the department in designating approved testing facilities:

1. Names of officers and location of offices.

2. Specification and description of services proposed to be furnished under these regulations.

3. Description of qualifications of personnel and their responsibilities.

Personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors shall meet the requirements of the American Society for Testing and Materials (ASTM) Standards E-541-84, Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings.

4. Summary of ~~organizational~~ experience *within the organization* .

5. General description of procedures and facilities to be used in proposed services, including evaluation of the model unit, factory follow-up, quality assurance, labeling of production units, and specific information to be furnished on or with labels.

6. Procedures to deal with any defective units resulting from oversight.

7. Acceptance of these services by independent accrediting organizations and by other jurisdictions.

8. Proof of independence and absence of conflict of interest.

Article 5.
Labeling, Registration and Fees.

SECTION 500.0. LABELS.

500.1. Minimum information required: Every labeled industrialized building ~~unit~~ and mobile home shall be marked with a label, seal , or similar evidence of compliance supplied by the approved testing facility that ~~bears~~ *includes* the following information directly or by reference:

1. Name and address of approved testing facility.

2. Type of unit (mobile home or other type of industrialized building ~~unit~~), and list of codes and standards for which the unit has been evaluated, inspected and found in compliance by the approved testing facility.

3. Serial number of label.

4. Special instructions for handling, installation and erection, or list of such instructions that are furnished separately with the unit.

5. Special conditions or limitations of use of the unit under the standards for which the unit has been evaluated , or list of such conditions and limitations that are furnished separately with the unit.

500.2. Mounting of label: To the extent practicable, the label shall be so installed that it cannot be removed without destroying it. It shall be applied in the vicinity of the electrical distribution panel or other location that is readily accessible for inspection, except that on mobile homes the label shall be applied to the exterior of the unit in a location that can be readily viewed by the board's representative or local building official without entering into or upon the unit. Where the unit ~~comprises~~ *is part of* a system of sub-assemblies the required label may be furnished as a single label for the system , provided each sub-assembly is listed on or with the label and is marked by the approved testing facility in some clearly identifiable manner that relates it to the label.

500.3. Manufacturer's data plate and other markings: The following information shall be placed on one or more permanent manufacturer's data plates in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The approved testing facility shall approve the form, completeness and location ~~thereof~~ *of the data plate to include the information listed below:*

1. Manufacturer's name and address.

2. Serial number of the ~~separate~~ label of the approved testing facility.

3. ~~Manufacturer's serial~~ *Serial* number of the unit.

4. Name of manufacturer and model designation of major factory installed appliances.

5. Where applicable, identification of permissible type of gas for appliances, designation of electrical ratings for single and multiple cord entrance, *and* directions for water and drain connections.

6. For mobile homes, a zone map indicating the zone for which the home is designed.

7. For mobile homes, details relative to pier spacing and location on which the home design is based.

500.4. Label control: The labels shall be under direct control of the approved testing facility until applied by the manufacturer to units that comply fully with these regulations. The manufacturer shall place ~~his~~ *its* order for labels with the approved testing facility. ~~He~~ *The manufacturer* is not permitted to acquire labels from any other source. Each approved testing facility shall keep a list of the serial numbers of labels issued to each manufacturer's plant in such manner that a copy of the record can be submitted to the department upon request.

SECTION 501.0. REGISTRATION OF LABELED UNITS.

501.1. Registration seal for mobile homes: Every labeled mobile home, composed of one or more units, shall be marked with an approved registration seal issued by the department. The seal shall be applied by the manufacturer to any unit intended for sale or use in Virginia prior to its shipment *from the factory* .

501.2. Registration seal for industrialized ~~building units~~ *buildings* other than mobile homes: ~~Every such~~ *Each* labeled unit, or combination ~~thereof~~ *of units* , that constitutes a single-family house or that constitutes a single-family living unit in a building of multi-family occupancy, shall be marked with an approved registration seal issued by the department. Every labeled unit , or combination ~~thereof~~ *of units,* that is erected as a single building for some other type of occupancy shall be marked with an approved registration seal issued by the department. The seal shall be applied by the manufacturer to any unit intended for sale or use in Virginia prior to its shipment *from the factory* .

501.3. Issue of registration seals and fees: Approved registration seals may be purchased from the Department of Housing and Community Development in advance of use. The fee for each registration seal shall be ~~$25.00~~ *set by the board* . Checks shall be made payable to "Treasurer of Virginia".

501.4. Mounting of registration seal: To the extent practicable, the registration seal shall be ~~so~~ installed *so* that it cannot be removed without destroying it. It shall be installed ~~in the vicinity of~~ *near* the label applied by the approved testing facility.

PART TWO.
MOBILE HOMES SUBJECT TO FEDERAL REGULATIONS.

Article 11.
Administration.

SECTION ~~1101.0~~ *1100.0.* GENERAL.

~~1101.1~~ *1100.1.* Title: Articles 11 ~~and 12 hereof~~ *through 13* shall be known ~~and may be cited~~ as the Virginia Industrialized Building and Mobile Home Safety Regulations - Part Two. Part Two shall mean the Virginia Industrialized Building and Mobile Home Safety Regulations - Part Two.

~~1101.2~~ *1100.2.* Application: Part Two shall apply to ~~mobile~~ *manufactured* homes as defined in Section ~~1100.0.~~ *1200.0.*

~~1101.3~~ *1100.3.* Effective date: The effective date of Part two of these regulations is ~~July 16, 1982.~~ *(to be inserted).*

SECTION ~~1102.0~~ *1101.0.* ENFORCEMENT GENERALLY.

~~1102.1~~ *1101.1.* Federal regulation: Enforcement of Part two shall be in accordance with the Federal Manufactured Home Procedural and Enforcement Regulations, ~~promulgated~~ *enacted* May 13, 1976 , ~~pursuant to~~ *under* authority granted by Section 625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of the department's regulations. (Part 3282 consists of subparts A through L, with Sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

~~1102.2~~ *1101.2.* Delegation of authority: ~~Mindful of the statutory responsibility placed upon it by the provisions of the Virginia Industrialized Building Unit and Mobile Home Safety Law, and in furtherance of the legislative policies expressed in Section 36-72 thereof,~~ *By the authority of* the board , ~~hereby delegates to~~ the Department of Housing and Community Development *is delegated* all lawful authority for the enforcement of the federal standards *pertaining to manufactured homes.* ~~as prescribed by the aforesaid Procedural and Enforcement Regulations. The Board hereby approves the~~ *The* Division of Building Regulatory Services of the Department of Housing and Community Development *is designated by the board* as a state administrative agency in the HUD enforcement program, and ~~the exercise by said division of all authority vested in it~~ *shall act* as an agent of HUD. ~~And the board hereby authorizes the~~ *The* division, under the supervision of the Deputy Director of Building Regulatory Services, as administrator, *is authorized* to perform the activities required of an SAA by the HUD enforcement plan, including (but not limited to) investigation, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required.

SECTION ~~1103.0~~ *1102.0.* ENFORCEMENT IN LOCALITIES.

~~1103.1~~ *1102.1.* Responsibility of local building officials: ~~Every~~ *All* local building ~~official~~ ~~is~~ *officials are* authorized by Section 36-81 of the Law to enforce the provisions of Part Two within the limits of ~~his~~ *their* jurisdiction. Such local building officials shall enforce Part Two, subject to the general oversight of the division, and shall not permit the use of any ~~mobile~~ *manufactured* home that does not comply with Part Two within their respective jurisdictions.

~~1103.2~~ *1102.2.* Effect of label: ~~Mobile~~ *Manufactured* homes ~~bearing~~ *displaying* the HUD label shall be ~~acceptable~~ *accepted* in all localities as meeting the requirements of this Law, and shall be acceptable as meeting the requirements of safety to life, health, and property imposed by any ordinance of any local governing body of this [~~State~~ *Commonwealth*] without further investigation, testing, or inspection. Notwithstanding this provision, local building officials are authorized to carry out the following functions with respect to ~~mobile~~ *manufactured* homes ~~bearing~~ *displaying* the HUD label, provided such functions ~~can be performed without~~ *do not involve* disassembly of the units or parts ~~thereof~~ *of the units,* ~~or~~ change of design, ~~and provided such function does not~~ *or* result in the imposition of more stringent conditions than those required by the federal regulations:

1. After installation of the unit, ~~local officials~~ *they* may verify that it has not been damaged in transit to ~~such~~ a degree ~~as~~ *that* would render it unsafe. Where indicated, tests may be made for : tightness of plumbing systems ; ~~tightness of~~ *and* gas piping, and electrical short circuits at meter connections.

2. They may verify that supplemental components required by the label or ~~by this Part~~ *Part Two* are properly provided.

3. They may verify that installation or erection instructions are observed.

4. They may verify that any special conditions or limitations of use stipulated by the label ~~pursuant to~~ *in accordance with* the standards or Part Two are observed.

5. They may enforce applicable requirements of Part Two for alterations and additions to ~~mobile~~ *manufactured* homes, and for maintenance ~~thereto.~~ *of the homes.*

6. They may enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, certificates of use and occupancy, and all other applicable requirements ~~thereof~~ , except those governing the design and construction of the labeled units.

7. They may verify that a ~~mobile~~ *manufactured* home ~~bears~~ *displays* the required HUD label.

8. They may verify that ~~corrections of~~ nonconforming items have been ~~accomplished~~ *corrected* .

~~1103.3~~ *1102.3.* Action upon noncompliance: Whenever any local building official finds that a ~~mobile~~ *manufactured* home delivered for use in his jurisdiction is in violation of Part Two, he shall initiate the corrective procedure required, in accordance with Part Two.

~~1103.4~~ *1102.4.* Report to the division: Whenever any ~~mobile~~ *manufactured* home is moved from a local ~~building official's~~ jurisdiction before a noted violation has been corrected, ~~such~~ *the building* official shall make a prompt report of the circumstances to the Division of Building Regulatory Services ~~of the Department of Housing and Community Development. His~~ *The* report shall include : a list of uncorrected violations, all information pertinent to identification and manufacture of the ~~mobile~~ home contained on the label and the data plate ~~thereof~~ , the destination of the ~~subject mobile~~ home *if known* , and the name of the party responsible for moving it.

SECTION ~~1104.0~~ *1103.0.* RESTRICTIONS ON DISTRIBUTORS AND DEALERS.

~~1104.1~~ *1103.1.* Alterations: No distributor or dealer shall perform or cause to be performed any alteration affecting one or more requirements set forth in the federal standards, ~~except pursuant to approval obtained from~~ *except those alterations approved by* the Division of Building Regulatory Services.

~~1104.1.1~~ *1103.1.1.* Assistance from local building officials: In handling and approving dealer requests for alterations, the division may be assisted by local building officials ~~, and such local~~ . *The building* officials shall report ~~to the Division~~ violations of this section and failures to conform to the terms of ~~his~~ *their* approval *to the division* .

~~1104.2~~ *1103.2.* Prohibited resale: No distributor or dealer shall offer for resale any ~~mobile~~ *manufactured* home possessing a serious defect or imminent safety hazard.

SECTION ~~1105.0~~ *1104.0.* CONTINUING ENFORCEMENT.

~~1105.1~~ *1104.1.* Inspections: At any time when a ~~mobile~~ *manufactured* home is located within the State of Virginia, and is not then occupied and used as a dwelling, the division shall have authority to inspect for violations of the federal standards, and to order the correction of any serious defect or imminent safety hazard found. Nothing ~~herein shall be construed to~~ *contained in these regulations shall* limit the authority *granted local building officials* to inspect occupied ~~mobile~~ *manufactured* homes ~~which otherwise may be conferred upon local building officials~~ .

Article 12.
Definitions.

SECTION ~~1100.0~~ *1200.0.* DEFINITIONS.

~~1100.1~~ *1200.1.* Definitions from Part One: Terms defined in Part One (~~Section~~ ~~100.0~~ *Article 2*) shall have the same meaning ~~herein~~ *in Part Two,* unless otherwise specifically indicated. Terms defined within the Federal Manufactured Home Construction and Safety Standards and the Federal Manufactured Home Procedural and Enforcement Regulations, as adopted by the United States Department of Housing and Urban Development, shall have ~~herein~~ the same meanings ~~assigned~~ ~~them~~ ~~there~~ *in these regulations* .

~~1100.2~~ *1200.2.* Additional definitions:

"Act" or *"The Act"* means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401, et seq.).

NOTE: The Act was originally entitled the National Mobile Home Construction and Safety Standards Act of 1974, but was ~~recently~~ amended as noted above. For this reason, ~~the~~ ~~use~~ ~~of~~ the term mobile home in the federal standards ~~may~~ ~~be~~ ~~phased~~ ~~out~~ ~~in~~ ~~the~~ ~~future~~ ~~in~~ ~~favor~~ ~~of~~ *has been replaced by* the term manufactured home.

"Administrator" means the person designated by the board to enforce ~~this~~ ~~Part.~~ *Part Two.*

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

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

"Division" means the Division of Building Regulatory Services of the Department of Housing and Community Development.

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal ~~mobile~~ *manufactured* home construction or safety standard.

"Label" or *"Certification label"* means the approved form of certification by the manufacturer that, under Section 3282.362(c)(2)(i) of the Act, is permanently affixed to each transportable section of each ~~mobile~~ *manufactured* home manufactured for sale to a purchaser in the United States.

~~"MOBILE"~~ *"Manufactured Home"* ; ~~as~~ ~~used~~ ~~within~~ ~~PART TWO~~ means a structure ~~(~~ subject to federal regulation ~~),~~ *which is* transportable in one or more sections ; ; ~~which~~ is [~~8~~ *eight*] bodyfeet or more in width and ~~is~~ ~~32~~ *40* body feet or more in length *in the traveling mode, or is 320 or more square feet when erected on site* ; ~~and~~ ~~which~~ ; is built on a permanent chassis ; ; ~~and~~ *is* designed to be used as *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 ~~therein~~ *in the structure* .

NOTE: The term Manufactured Home, as noted earlier, replaces the term Mobile Home in the federal regulations and in Part Two.

"Serious defect" means any failure to comply with an applicable federal ~~mobile~~ *manufactured* home construction and safety standard that renders the ~~mobile~~ *manufactured* home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected ~~mobile~~ *manufactured* home.

"Standards" or *"Federal standards"* means the Federal Manufactured Home Construction and Safety Standards adopted by HUD, ~~pursuant~~ ~~to~~ *in accordance with* authority in the Act. Said standards were ~~promulgated~~ *enacted* December 18, 1975 , and amended May 11, 1976 , to become effective June 15, 1976.

"State administrative agency" (SAA) means an agency of a state which has been approved or conditionally approved to carry out the state plan for enforcement of the standards pursuant to Section 623 of the Act, 42 U.S.C. 5422, and subpart G of the Federal Procedural and Enforcement Regulations.

Article ~~12~~ *13.*
Safety Standards.

SECTION ~~1200.0~~ *1300.0.* FEDERAL STANDARDS.

~~1200.1~~ *1300.1.* Compliance required: ~~Mobile~~ *Manufactured* homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as ~~they may~~ ~~thereafter~~ ~~be~~ amended.

SECTION ~~1201.0~~ *1301.0.* MOUNTING AND ANCHORING.

~~1201.1~~ *1301.1.* Reference to Uniform Statewide Building Code: Mounting and anchoring of ~~mobile~~ *manufactured* homes shall be in accordance with the applicable reequirements of the ~~1981~~ *1984* Edition of the Virginia Uniform Statewide Building Code. The manufacturer's printed instructions shall supersede the requirements of the ~~1981~~ *1984* Edition of the Uniform Statewide Building Code where there are differences.

~~1981~~ *1984* EDITION.

VIRGINIA INDUSTRIALIZED BUILDING AND MOBILE HOME SAFETY REGULATIONS.
ADDENDA.

ADDENDUM 1.
REQUIREMENTS FOR MOUNTING AND ANCHORING

MOBILE HOMES.

The following requirements are from the ~~1981~~ *1984* Edition of the Virginia Uniform Statewide Building Code:

SECTION ~~623.0~~ *613.0.* MOBILE HOMES.

~~623.1~~ *613.1.* Anchorage and tiedown: Mobile homes may be mounted on and anchored to permanent foundations specifically designed for each such mobile home. When the mobile home is not mounted on and anchored to a permanent foundation, a system of stabilizing devices conforming to accepted engineering practices shall be used. The manufacturer shall provide printed instructions with each mobile home specifying the location, required capacity and other details of stabilizing devices (tiedowns, piers, blocking, footings, etc.) on which the design of the mobile home is based. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost line.

~~623.2~~ *613.2.* Required Anchorage:

~~(a)~~ *1.* Mobile homes installed or relocated in the hurricane zone on or after October 15, 1974, and mobile homes installed or relocated outside of the hurricane zone on or after April 15, 1975, shall be anchored in accordance with this section.

~~(b)~~ *2.* The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof: Accomack, Charles City, Essex, Gloucester, Greensville, Isle of Wight, James City, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Northampton, New Kent, Prince George, Richmond, Surry, Sussex, Southampton, Westmoreland, York.

~~(c)~~ *3.* Mobile homes equipped by the manufacturer with a system of tiedowns ~~,~~ ~~designed in accordance with one of the reference standards listed in Section 623.3,~~ shall be attached vertically and diagonally to a system of ground anchors in a manner adequate to resist wind overturning and sliding as imposed by the design loads. Mobile homes hereafter installed in the hurricane zone shall be of hurricane and windstorm resistive design . ~~as defined by the applicable reference standards listed in Section 623.3.~~ Mobile homes not equipped by the manufacturer with a system of tiedowns shall be anchored in a manner deemed adequate by the local building official to resist wind overturning and sliding. ~~as imposed by the design loads of the applicable reference standards listed in Section 623.3.~~

~~623.2 Applicable reference standards. The applicable standards to be used in determining compliance with the anchorage requirements of this section are:~~

~~a. ANSI A119.1 (NFPA NO. 501B), STANDARD FOR MOBILE HOMES BODY AND FRAME DESIGN AND CONSTRUCTION REQUIREMENTS AND THE INSTALLATION OF PLUMBING, HEATING AND ELECTRICAL SYSTEMS~~

~~Published by: American National Standards Institute 1430 Broadway, New York, New York 10018~~

~~Either the 1974 or 1975 Edition, until superseded by the Federal Manufactured Home Construction and Safety Standards, with the following amendment to Part C, Section 11.2.1 Water Connection, add the following sentence. A master, cold water shut off, full flow valve shall be installed on the main feeder line in an accessible area.~~

~~623.3.1 Optional standard: The following standard may be used as an option to the standard listed above:~~

~~a. FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS~~

~~Published by: U. S. Department of Housing and Urban Development, Federal Register, Volume 40, Number 244, December 18, 1975 (Part 280, Code of Federal Regulations)~~

~~No time limit.~~

~~623.4~~ *613.3.* Placement of ground anchors: Unless the entire tiedown system, including ground anchors, is designed by a professional engineer or architect, ground anchors shall be placed as follows:

1. Hurricane zones: Not more than 12 feet on centers beginning from the front ~~line~~ *wall* of the mobile home ~~stand (congruent with the front wall of the mobile home)~~ . Not more than [~~6~~ *six*] feet open-end spacing shall be provided at the rear line of the mobile home ~~stand~~ unless additional tiedowns are installed.

2. Nonhurricane zones: Not more than 24 feet on centers beginning from the front ~~line~~ *wall* of the mobile home ~~stand (congruent with the front wall of the mobile home)~~ . Not more than [~~6~~ *six*] feet open-end spacing shall be provided at the rear ~~line~~ *wall* of the mobile home ~~stand~~ unless additional tiedowns are installed.

3. Load capacity: Each ground anchor shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds applied in the direction of the tiedown. In addition, each ground anchor shall be capable of withstanding a 50 [~~percent~~ %] overload without failure.

4. Weather resistance: Ground anchors shall be resistant to weathering deterioration at least equivalent to that provided by a coating of zinc on steel strapping of not less than 0.30 ounces per square foot of surface coated.

ADDENDUM 2.
PREVIOUS ADOPTIONS AND AMENDMENTS.

The Virginia Industrialized Building Unit and Mobile Home Safety Regulations were first adopted in 1971 by the State Coporation Commission and became effective on January 1, 1972. Subsequent editions and amendments were adopted by the commission to update the reference standards or reflect changes in state and federal legislation. On July 1, 1978, responsibility for the regulations passed to the State Board of Housing and Community Development. The board has also amended the regulations to incorporate later editions of the reference standards and legislative changes.

The Office of Industrialized Building Code has compiled a list of the successive editions of the Regulations and amendments. This list includes the effective dates and a summary of the major changes incorporated in each edition or amendment. A copy may be obtained without charge upon request to:

Office of Industrialized Building Code
Department of Housing and
Community Development
205 North Fourth Street
Richmond, Virginia 23219
Telephone (804) 786-4846

ADDENDUM 3.
VIRGINIA INDUSTRIALIZED BUILDING UNIT AND MOBILE HOME SAFETY LAW.

This law is designated as Chapter 4 of Title 36 of the Code of Virginia, and contains §§ 36-70 through 36-85.1 of the Code of Virginia. It provides authority for adoption of these regulations and establishes penalties for violations. A copy may be obtained without charge upon request to:

Office of Industrialized Building Code
Department of Housing and
Community Development
205 North Fourth Street
Richmond, Virginia 23219
Telephone (804) 786-4846

* * * * * * * *

Title of Regulation: **VR 394-01-41. Virginia Public Building Safety Regulations.**

Statutory Authority: Article 2, Chapter 6, Title 27 of the Code of Virginia.

Effective Date: April 1, 1986

NOTICE

Due to its length the final **1984 Edition** of the **Virginia Public Building Safety Regulations,** filed by the Division of Building Regulatory Services, Department of Housing and Community Development, is not being published. However in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

The 1984 edition of the Virginia Public Building Safety Regulations (VPBSR) replaces the 1981 edition. The Board of Housing and Community Development has made changes to improve clarity and to update certain obsolescent requirements. Other changes have been made to ensure better coordination with the Virginia Uniform Statewide Building Code and to reflect changes made necessary by the transfer of the State Fire Marshal's Office from the State Corporation Commission to the Department of Housing and Community Development in 1978. The format of the 1984 edition has been rearranged to more clearly reflect the application of the Virginia Public Building Safety Regulations according to the date of construction.

The Virginia Public Building Safety Regulations (VPBSR) is a mandatory, statewide, uniform regulation that must be complied with in all buildings used by 10 or more persons. Its purpose is to afford a reasonable minimum level of protection for the occupants and the building from fire hazards arising from improper design, maintenance or use. Requirements for buildings erected after the initial effective date of the Uniform Statewide Building Code in 1973 are identical to the fire safety requirements of the Virginia Uniform Statewide Building Code (USBC). Enforcement is by the State Fire Marshal with provision for optional, supplemental enforcement by local governments.

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Title of Regulation: **VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations/1984.**

Statutory Authority: §§ 27-87 of the Code of Virginia.

Effective Date: April 1, 1986

Summary:

The Virginia Liquefied Petroleum Gas Regulations, 1984 Edition, is a mandatory, statewide, uniform regulation that must be complied with in the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and utilizing L-P gases for fuel purposes, and for odorization of L-P gases. The purpose of the regulations is to require the safe use

and storage of L-P gases in order to protect individuals and property from fire and explosion hazards. All law-enforcement officers are empowered to enforce the regulations.

VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations/1984.

SECTION 100.0. GENERAL.

~~1.~~ *100.1. Title:* The title of these regulations shall be the Virginia Liquefied Petroleum Gas Regulations. Except as otherwise indicated, regulations shall mean the ~~1981~~ *1984* Edition of the Virginia Liquefied Petroleum Gas Regulations.

~~2.~~ *100.2. Authority:* These regulations are adopted ~~pursuant~~ *according* to ~~regulatory~~ authority ~~conferred on~~ *granted* theBoard of Housing and Community Development by the Liquefied Petroleum Gases Law, Chapter 7, Title 27, Code of Virginia.

~~3.~~ *100.3. Adoption:* These regulations were adopted by *order of* the Board of Housing and Community Development on ~~July 16, 1982,~~ [*November 18, 1985*]. ~~pursuant to a signed instrument which~~ *This order was prepared according to the requirements of the Administrative Process Act. The order* is maintained as part of the records of the Department of Housing and Community Development, and ~~which~~ is available for public inspection.

~~4.~~ *100.4. Effective date:* The ~~1981~~ *1984* Edition of the Virginia Liquefied Petroleum Gas Regulations shall become effective on ~~July 16, 1982~~ [*April 1, 1986*].

~~5.~~ *100.5. Minimum standards for equipment:* The design, construction, location, installation and operation of equipment for ~~storing, handling, transporting by tank truck, tank trailer and utilizing~~ *the storage, handling, odorization, transportation and use of* liquefied petroleum gases ~~and requiring the odorization of said gases and the degree thereof~~ shall conform to the minimum ~~general~~ standards established by the regulations.

~~6.~~ *100.6. Model Codes:* ~~These Regulations shall consist of:~~ *The following model codes, and all portions of other model codes and standards that are referenced therein, are adopted and incorporated in these regulations:*

~~a.~~ *A.* Standard for Storage and Handling of Liquefied Petroleum Gases - NFPA 58 (~~1979~~ *1983* Edition)

~~b.~~ *B.* National Fuel Gas Code - NFPA 54 (~~1974~~ [~~1980~~ *1984*] Edition) (ANSI Z223.1[~~1980~~ *1984*])

~~7.~~ *100.7.* Exception: Where the Uniform Statewide Building Code is applicable, it shall take precedence over these regulations.

BOARD OF HEALTH

Title of Regulation: **VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.**

Statutory Authority: § 32.1-102 of the Code of Virginia.

Effective Date: January 22, 1986

Summary:

Under the Certificate of Public Need Law, one of the criteria for the review of projects is the conformance to certain capital and operating expenditure limits. These final regulations establish a capital expenditure limit of $700,000 and an operating expenditure limit of $300,000 for the COPN program.

PART I.
DEFINITIONS.

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

"Acquisition" (medical care facility) ~~a capital~~ means an expenditure of ~~$600,000~~ *$700,000* or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. An acquisition shall not include a capital expenditure involving the purchase of stock.

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in § ~~2.36~~ [~~*this section*~~ *these regulations*]. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See ~~Section~~ ~~2.34~~ *definition of person.*

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See *§§* ~~6.08 and 7.05~~ 5.1 and 6.8.

"Construction" means the building of a new medical facility and/or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Formal evidentiary hearing" means a hearing held pursuant to § 9-6.14:12 of the Code *of Virginia* .

"Health maintenance organization (HMO)" means a public or private organization established under § 38.1-863 *et seq.* of the Code of Virginia and which (i) is a qualified health maintenance organization under § 1310(d) of the U. S. Public Health Services Act or (ii) provides or otherwise makes available to enrollees health care services, including at least the following: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage, and (iii) is compensated (except for co-payments) for the provision of the basic health care services listed in item (2) of this definition to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and (iv) provides physicians' services primarily (a) directly through physicians who are either employees or partners of the organization, or (b) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"Health service area" means a geographic area of the state designated by the Secretary of the United States Department of Health and Human Services pursuant to § 1511 of United States Public Law 93-641 or its successor.

"Health systems agency" means an entity organized, operated and designated as a health systems agency pursuant to Title XV of the United States Public Health Service Act or, in the absence of such an agency, a local, district or regional health planning body established under the laws of the Commonwealth.

"Health systems plan" means a regional health plan developed by a designated health systems agency in accordance with § 1513(b)(2) of United States Public Law 93-641, or its successor, which sets forth in detail the goals of a healthful environment and the health systems in the geographical area it serves.

"Informal, fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code *of Virginia* .

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facilities" means any institution, place, building, or agency, whether ~~or not~~ licensed or required to be licensed by the board or the State Mental Health and Mental Retardation Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated

persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans.

"Medical care facility classifications" means that the term medical care facility includes, but is not limited to ~~the following~~ :

1. General hospitals.

2. Sanatoriums.

3. Sanitariums.

4. Nursing homes.

5. Intermediate care facilities.

6. Extended care facilities.

7. Mental hospitals.

8. Mental retardation facilities.

9. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

10. Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery, renal dialysis therapy, radiation therapy, computerized tomography (CT) scanning or other medical or surgical treatments requiring the utilization of equipment not usually associated with the provision of primary health services.

11. Hospices.

"Exclusions" means that the following shall not be included in the definition of a medical care facility:

1. A physician's office except when equipment generally and customarily associated with the provision of health services in an inpatient setting and the cost of which exceeds $400,000 per unit of equipment, is purchased or leased by such physician.

2. A clinical laboratory, if the clinical laboratory is independent of a physician's office or a hospital and has been determined to meet the requirements of paragraphs (10) and (11) of § 1861 (s) of Title XVIII of the Social Security Act, as they existed on the effective date of the enactment of §§ 32.1-102.1 through § 32.1-102.11 of the Code *of Virginia* .

3. A hospital that uses up to 10% of its beds as skilled nursing home beds for a maximum of 30 days for any one patient. Such activity must qualify for certification under § 1883 of Title XVIII and § 1913 of the Title XIX of the Social Security Act in order to receive reimbursement from Medicaid for the use of such beds.

"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. ~~See Section 2.10~~ *See definition of "construction".*

"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. ~~See Section 2.289~~ *See definition of "owner"*

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Other plans" means any plan(s) which is formally adopted by an official state agency or health systems agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

"Owner" means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the health systems agency for the health service area in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) which is located in the health service area in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health services area in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office. ~~See also 2.223.02.a.~~ *See definition of "Medical care facility".*

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-14.02 of the Code of Virginia.

"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. *See § ~~8.00~~ 8.3 on Progress.*

"Project" means:

A. A capital expenditure by or on behalf of a medical care facility, regardless of when made, including but not limited to any studies, surveys, designs, plans, working drawings and specifications, which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (i) exceeds ~~$600,000~~ *$700,000* and does not involve the purchase of equipment identified in this provision of the regulation. Such expenditure shall also include a series of capital expenditures made during a 12-month period or an obligation or series of obligations made during a 12-month period of time by a medical care facility or sponsor of a medical care facility which exceed ~~$600,000~~ *$700,000* and which would require review if made as a single expenditure; (ii) increases the total number of beds; or (iii) relocates 10 beds or 10% of the beds, whichever is less, from one physical facility to another in any two-year period.

B. The acquisition by a medical care facility, through donation or lease, of equipment or facilities which, if purchased by the medical care facility, would require an expenditure described in ~~Section~~ *subsection A* ~~of~~ § ~~2.345.01~~ or *subsection E* of § ~~2.345.05~~ ~~these regulations~~ *this provision of the regulations.*

C. The acquisition by a medical care facility of equipment or facilities through a transfer at less than fair market value if the transfer at fair market value would require an expenditure described in ~~2.34.01A or 2.34.05~~ *subsection E of § ~~2.345.05~~ ~~these regulations.~~ this provision of the regulations.*

D. The introduction by a medical care facility of a clinical health service ~~described in 2.37~~ which the facility has never provided or has not provided in the previous 12 months. *See definition of "service (clinical health)."*

E. The acquisition, by purchase, lease, gift or bequest, by or on behalf of a medical care facility or, if the unit of equipment is generally and customarily associated with the provision of health services in an inpatient setting, by or on behalf of a physician's office, of equipment the fair market value of which, including the value of studies, surveys, designs, plans, working drawings, specificiations and other activities essential to the acquisition of the equipment, exceeds $400,000 and which is used for the provision of medical and other health services.

"Public hearing" means a proceeding conducted by the health systems agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See ~~Sections 6. 7.06.02~~ *subsection A of § 6.4 or subsection B of § 7.6.*

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Service" (clinical health) means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Significant change" means any alteration, modification or adjustment to a project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;

2. Increases the capital expenditure amount approved for the project by 10% or more;

3. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long term care except when such reclassification is allowable as provided for in ~~Section 2.223.02 (c) of~~ *these regulations. See exclusions under definition of "medical care facility;"*

4. Changes the service(s) proposed to be offered; or

5. Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner.

"Statewide Health Coordinating Council" means the

council established pursuant to § 1514 of United States Public Law 93-641, and pursuant to § 32.1-118, *of the* Code of Virginia.

"State health plan" means a document prepared by the Statewide Health Coordinating Council in accordance with § 1524(c)(2)(A) of United States Public Law 93-641, and § 32.1-120 *of the Code of Virginia.*

"State medical facilities plan" means a plan adopted by the Statewide Health Coordinating Council pursuant to § 32.1-120 of the Code of Virginia for use in the Virginia Medical Care Facilities Certificate of Public Need Program.

"Suspension of certificate" means a written order which is issued to the owner of an approved project by the commissioner upon the department's receipt of a request for an administrative hearing or appeal of the decision on such project or the competing application(s). Such order serves as notification to the owner of an approved project to cease temporarily project development, relieves the owner of all performance requirements for development and terminates upon notification by the commissioner that the suspended certificate has been reinstated or revoked.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 ~~to~~ *through* 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules and regulations as are deemed necessary to effectuate the purposes of this statute.

§ 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations to set forth an orderly administrative process for making public need *decisions* .

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.

§ 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act *(§ 2.1-340 et seq.) of the* Code of Virginia.

§ 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

§ 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act *(§ 9-6.14:1, et seq.) of the* Code of Virginia apply to their promulgation.

§ 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective [*January 22, 1986.*]

§ 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 32.1-102.1 *et seq.* of the Code of Virginia.

§ 2.9. Annual report.

The department shall prepare and shall distribute upon request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending initial determination, an analysis of the consistency of the decisions with the recommendation made by the health systems agency and an analysis of the costs of authorized projects.

PART III.
MANDATORY REQUIREMENTS.

§ 3.1. Requirements for medical care facilities providers.

Prior to initiating a project as ~~defined in Section 2.34~~ *set forth in the definition section* of these regulations, the owner or sponsor of a medical care facility shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in § ~~3.03~~ *3.3* of these regulations shall be met.

§ 3.2. Requirements for noninstitutional providers.

Any physician or group of physicians or physician practice, of whatever legal form, shall obtain a certificate of public need prior to the purchase or lease of a unit of equipment, the cost of which exceeds $400,000 ~~as set forth in Section 2.35.05~~ or the establishment of a medical care facility. ~~as defined in Section 2.20.01 of these regulations.~~ *See definitions of "project" and "medical care facility."*

§ 3.3. Requirement for notification of proposed acquisition.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is ~~$600,000~~ *$700,000* or more, that person shall provide written notification to the commissioner and the health systems agency that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate review procedure which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3.4. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate health systems agency. The written request shall identify the nature and purpose of the change. The health systems agency shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the health systems agency. Failure of the health systems agency to notify the commissioner within the 30-day period shall constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner.

§ 3.5. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. ~~as defined in Section 2.345 regulations.~~ Such HMO must also adhere to the requirements for the acquisiton of medical care facilities if appropriate. *See definition of "project."*

PART IV.
DETERMINATION OF PUBLIC NEED
(REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

A. The recommendation and the reasons therefor of the appropriate health systems agency.

B. The relationship of the project to the applicable health plans of the health systems agency and the Statewide Health Coordinating Council.

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availablility of the services to be provided by the project in the particular part of the health service area in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health services area in which the project is to be located.

N. The need and the availability in the health services area for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations of the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

PART V.
PROCESS FOR EXEMPTING MEDICAL CARE FACILITY PROJECTS FROM REVIEW PROCEDURES.

§ 5.1. Applicability.

Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be exempt from certificate of public need review procedures and issued a certificate of public need.

A. New clinical health services of a medical care facility involving a capital expenditure of less than ~~$600,000~~ *$700,000* and an annual operating expenditure of ~~$250,000~~ *$300,000* or less during the first two years of operation except when such service is a medical care facility ~~as defined in Section 2.20~~ or is determined by the commissioner to be of a specialized nature such as CT scanning, open heart surgery, cardiac catheterization and radiation therapy that requires review under a procedure set forth in Part VI and VII of these regulations.

B. Capital expenditures that do not exceed ~~$600,000~~ *$700,000* involving the purchase of replacement equipment unless such equipment will cause the introduction of a new clinical health service and such clinical health service has not otherwise been determined exempt from these regulations.

C. Capital expenditures that do not exceed $1.5 million involving the replacement or addition of equipment and technology for undertakings such as those associated with nurse call systems, materials handling and management information systems, heating and air conditioning systems and parking lots, provided such use does not constitute a clinical health service.

D. A capital expenditure in any amount involving an emergency which interrupts the immediate safe operation of a medical care facility or which poses an immediate threat to the health and safety of patients and staff and recognized as such in writing by the commissioner.

§ 5.2. Consideration of applications for exemptions.

The State Health Commissioner shall exempt any project which is determined to meet the criteria set forth in § 5.01 of the regulations and provide written notification to the applicant within 15 days of receipt of such written request by the department and the health systems agency. Such written request shall identify the name and the ownership by type of control and status of the medical care facility; the operator of the medical care facility; a brief description of the project; the capital and financing costs of the project; the method of financing, the impact of the project on charges; the projected revenue and expenses (direct and indirect) for the first two years of project operation and a schedule for completion of the project. Such schedule should include the expected date to (i) initiate work, (ii) complete the financing, (iii) purchase equipment, (iv) initiate renovation or construction and (v) complete the project. If the commissioner determines that such request does not qualify for exemption from review procedures, the applicant shall be notified in writing of the reasons therefore in accordance with the aforementioned time frame including the legal remedies that are available to the applicant.

PART VI.
ADMINISTRATIVE REVIEW PROCESS.

§ 6.1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of ~~$600,000~~ *$700,000* but not more than $3 million which does not change bed capacity or replace existing beds of relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the commissioner, or (ii) a capital expenditure of less than ~~$600,000~~ *$700,000* and which does change bed capacity or replace existing beds or ~~relocates~~ *relocate* 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the commissioner and these regulations, and (iii) the establishment of a new end stage renal disease, [~~home health~~] or hospice service.

§ 6.2. Preconsultation.

Each health systems agency, in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the health systems agency or the commissioner.

§ 6.3. Application forms.

A. Obtaining application forms.

Applications forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate health systems agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate health systems agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate health systems agency.

§ 6.4. Review of application.

A. Review cycle.

The health system agency shall within 30 days of receipt of the application and following the public hearing conducted in accordance with subsection B of § 7.6 of these regulations, notify the commissioner of its recommendation. Failure of the health systems agency to notify the commissioner within the 30 day time period shall constitute a recommendation of approval.

B. Ex parte contact.

After commencement of a public hearing and before a final decision is made there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided ~~as set forth in Section 2.14~~ . *See definition of "ex parte" contact.*

§ 6.5. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate health systems agency and the commissioner at appropriate times for consideration prior to their final action.

§ 6.6. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment ~~as defined in Section 2.02~~ which is made to an applicant following the public hearing specified in ~~7.06.02~~ *subsection A of § 6.4* and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part VII of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § ~~3.04~~ *3.4.* of these regulations.

§ 6.7. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the commissioner.

§ 6.8. Consideration of applications.

All competing applications shall be considered at the same time by the health systems agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate health systems agency.

§ 6.9. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications

or a portion thereof for certificate of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make an initial determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the health systems agency by the 35th day of the review cycle unless an extension is agreed to by the applicant. Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to ~~Section 2.14~~ *the ex parte provision* of these regulations, between the commissioner and the applicant. *See definition of "ex parte."*

PART VII.
STANDARD REVIEW PROCESS.

§ 7.1. Preconsultation.

Each health systems agency and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the health systems agency or the commissioner.

§ 7.2. Application forms.

A. Obtaining application forms.

Application forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should also be submitted by the applicant to the appropriate health systems agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate health systems agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate health systems agency.

§ 7.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed unitl the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable. Additional information required to complete an application should be submitted to the department and the appropriate health systems agency five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in the event that the 10th day falls on the weekend, the next work day. See ~~section 7.02.02~~ *subsection A of § 7.6.*

§ 7.4. One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. ~~See Section 7.037~~ [*See*] *subsection A of § 7.6.*

§ 7.5. Consideration of applications.

All competing applications shall be considered at the same time by the health systems agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate health systems agency.

§ 7.6. Review of complete application.

A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications. The health systems agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the board of the health systems agency or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the health systems agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall notify the applicant(s) and other parties of the date, time

and place of the informal, fact-finding conference. *See § 9-6.14:11 of the Code of Virginia.* The commissioner shall render an initial determination by the 120th day of the review cycle. Unless agreed to by the applicant, the review schedule shall not be extended.

B. Health systems agency required notifications.

Upon notification of the acceptance date of a complete application as set forth in § 7.3 of these regulations, the health systems agency shall provide written notification of its review schedule to the applicant. The health systems agency shall notify health care providers and specifically indentifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the health systems agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the health systems agency shall be made. The health systems agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. ~~See Section 2.356.~~ *See definition of "public hearing."*

C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided ~~as set forth in Section 2.14~~ . *See definition of "ex parte."*

§ 7.7. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate health systems agency and the commissioner for consideration prior to their final action.

§ 7.8. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment ~~as defined in Section 2.02~~ which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part VII of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § ~~3.04~~ *3.4* of the regulations.

§ 7.9. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ 7.10. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make an initial determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the health systems agency by the 120th day of the review cycles unless an extension is agreed to by the applicant. Such written notification shall also reference the factors and basis considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

PART VIII.
DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

§ 8.1. Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of the relationship, under any circumstances.

§ 8.2. Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for

additional time periods which shall be specified at the time of the extension.

A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in § 8.3 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate health systems agency at least 30 days prior to the expiration date of the certificate or period of extension.

B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate health systems agency at least 30 days prior to the expiration date of the certificate of period of extension.

C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in ~~8.02.04~~ *subsection C of § 8.3.*

D. Health systems agency review.

All requests for an extension of a certificate of public need shall be reviewed by the appropriate health systems agency within 30 days of receipt by the department and the health systems agency. The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the health systems agency. Failure of the health systems agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such health systems agency.

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate health systems agency and shall become part of the official project file.

§ 8.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

A. Twelve months following issuance:

Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects;

B. Twenty-four months following issuance:

Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

C. Upon completion of a project.

Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes.

§ 8.4. Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in ~~8.03~~ *§ 8.3.* shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in ~~8.02.02~~ *subsection A and C of § 8.3.*

B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with ~~8.03~~ *§ 8.3* of these regulations shall be cause for revocation, unless due to extenuating circumstances the commissioner, in his sole discretion, extends the certificate upon written request of the applicant.

C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with ~~2.36.02 shall be cause for revocation~~ *the schedule of completion. See definition of "significant change" and "schedule of completion."*

D. Failure to initiate construction.

Failure to initiate construcion of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with ~~8.02.02~~ *subsection B of § 8.2* of these regulations.

E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

PART IX.
ADMINISTRATIVE HEARINGS AND APPEALS.

§ 9.1. Reconsideration of initial determination.

A. Formal evidentiary hearing.

Formal proceedings provided for in § 9-6.14:12 of the Code *of Virginia* shall be held upon request when filed with the commissioner within 15 days after the initial determination by the applicant, or any third party payor providing health care insurance or prepaid coverage to 5% or more of the patients in the applicant's service area, the health systems agency or any person showing good cause or, in the case of revocation, by the person whose certificate is being revoked. Such proceedings shall be public proceedings and commence within 30 days of the receipt of such request.

B. Good cause.

For purposes of this section, "good cause" shall mean that (i) there is significant, relevant information not previously considered, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the health systems agency.

C. Notification and suspensions.

Upon receipt of a request for a formal evidentiary hearing, the department shall notify the applicant, health systems agency, competing applicant and other appropriate persons and suspend the certificate(s) of public need, if applicable.

D. Establishing time, date, place.

Within seven days following receipt of a request for a formal evidentiary hearing the commissioner shall set a time, date and place for a formal hearing which shall be held within 30 days of receipt of the request.

E. Notification of decision.

Not later than 30 days following completion of the hearing record, the commissioner shall set forth the final decision, in writing, including the reasons therefore, and shall provide copies of the decision to all parties.

§ 9.2. Court Review.

A. Appeal to circuit court.

Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5% or more of the patients in the applicant's service area, a health systems agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 9-6.14:17 of the Code *of Virginia* by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review.

B. Designation of judge.

The judge of the court referred to in § 10.2 of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located or undertaken.

C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending

the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

D. Appeal to supreme court.

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

PART X.
SANCTIONS.

§ 10.1. Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

§ 10.2. Injunctive relief.

On petition of the commissioner, the board or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

PART XI.
SEVERABILITY CLAUSE.

§ 11.1. If any clause, sentence, paragraph, subdivision, section or part of these rules and regulations, shall be adjudged by any court of competent jurisdiction to be invalid, the judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgement shall have been rendered.

VIRGINIA MARINE RESOURCES COMMISSION

Title of Regulation: **VR 450-01-0036. Pertaining to Crab Dredging on Saturdays.**

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: December 1, 1985

PREAMBLE

This regulation, requested by industry representatives, prohibits the taking of crabs by dredging on Saturdays during the month of December each year. The purpose of this regulation is to distribute total harvest more evenly throughout the season.

VR 450-01-0036. Pertaining to Crab Dredging on Saturdays.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. Virginia Marine Resources Commission regulations VR 450-01-0007 and VR 450-01-0012 also pertain to crab dredging. These regulations establish crab catch limits and specify areas where crab dredging is prohibited.

C. The effective date of this regulation is December 1, 1985.

§ 2. Saturday prohibition.

It shall be unlawful to take or catch crabs by dredge on Saturdays during the period December 1 through December 31, inclusive, of each year.

§ 3. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class I misdemeanor.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **VR 394-01-21. Virginia Uniform Statewide Building Code/1981.**

Statutory Authority: § 36-89 of the Code of Virginia.

Effective Date: November 29, 1985

Preamble:

The recent floods in Virginia caused damage to a number of buildings housing citizens that rendered the buildings unsafe or unfit for occupancy. There is an urgent and immediate need for housing for persons so displaced which, in some cases, can only be met by the conversion of other buildings or by the installation of temporary, movable structures.

Mr. Robert J. Adamcik, Federal Coordinating Officer of the Federal Emergency Management Agency has requested emergency action by the Board of Housing and Community Development to overcome certain problems in the application of the Virginia Uniform Statewide Building Code to mobile homes to be supplied for temporary housing of displaced persons. Temporary occupancy is considered not to exceed one year. In order to speed occupancy and to prevent unnecessary expense, the Federal Coordinating Officer has requested that the Virginia Uniform Statewide Building Code be amended to require the building official to accept the certification of the Federal Emergency Management Agency that the mobile home and its installation are in compliance with the Virginia Uniform Statewide Building Code.

After careful consideration, the Board of Housing and Community Development has determined that this request is reasonable provided it is restricted to temporary use of mobile homes for disaster relief, and has therefore amended the current edition of the Virginia Uniform Statewide Building Code as requested.

The current flood-caused emergency precludes promulgation under the usual procedures of the Virginia Administrative Process Act, (§ 9-6.14:1 et seq.) of the Code of Virginia, and is permitted as an exclusion to the Act under § 9-6.14:4.1.C.5 of the Code of Virginia.

The order of the board amending the Virginia Uniform Statewide Building Code adopts the following new sections:

VR 394-01-21. Virginia Uniform Statewide Building Code/1981.

109.10. Exception for emergencies. When there is an urgent and immediate need for housing for persons who have been displaced by a natural or man-made disaster, the requirement for a building permit before erection, repair or reconstruction of such housing may be waived by the building official for a period not to exceed 60 days. *In the case of the necessary installation of a mobile home owned by the federal government, the local building official shall accept the Federal Emergency Management Agency's certificate of compliance with the Virginia Uniform Statewide Building Code and with the Virginia Industrialized Building and Mobile Home Safety Regulations as amended by the emergency order of the board of November 27, 1985.*

117.1.1. Exception for emergencies. When there is an urgent and immediate need for housing for persons who have been displaced by a natural or man-made disaster, the requirement for a certificate of use and occupancy before such housing may be occupied may be waived by the building official for a period not to exceed 60 days. *In the case of the necessary installation of a mobile home owned by the federal government, the local building official shall accept the Federal Emergency Management Agency's certificate of compliance with the Virginia Uniform Statewide Building Code and with the Virginia Industrialized Building and Mobile Home Safety Regulations as amended by the emergency order of the board of November 27, 1985.*

The Board of Housing and Community Development will receive, consider, and respond to petitions at any time for reconsideration or revision of these emergency regulations.

11/27/85 /s/ Neal J. Barber, Director
Department of Housing and Community Development

Approval of emergency regulation

12/3/85 /s/ Charles S. Robb, Governor

Filed: 12/4/85 - 11:33 a.m.
Joan W. Smith, Registrar of Regulations

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Title of Regulation: VR 394-01-31. Virginia Industrialized Building and Mobile Home Safety Regulations/1981.

Statutory Authority: § 36-70 of the Code of Virginia.

Effective Date: November 29, 1985

Preamble:

The recent floods in Virginia caused damage to a number of buildings housing citizens that rendered the buildings unsafe or unfit for occupancy. There is an urgent and immediate need for housing for persons so displaced which, in some cases, can only be met by the conversion of other buildings or by the installation of temporary, movable structures.

Mr. Robert J. Adamcik, Federal Coordinating Officer of the Federal Emergency Management Agency has requested emergency action by the Board of Housing and Community Development to overcome certain problems in the application of the Virginia Industrialized Building and Mobile Home Safety Regulations to mobile homes to be supplied for temporary housing of displaced persons. Temporary occupancy is considered not to exceed one year. In order to speed occupancy and to prevent unnecessary expense, the Federal Coordinating Officer has requested:

1. That the pier bases not be required to be carried below ground level to frost level.

2. That the entrance steps not be required to include a platform at the doorway.

3. That the steps be acceptable with one guard rail rather than two guardrails.

After careful consideration, the Board of Housing and Community Development has determined that these requests are reasonable provided the waiver is restricted to temporary use of mobile homes for disaster relief, and has therefore amended the current edition of the Virginia Industrialized Building and Mobile Home Safety Regulations to waive the application of the requirements in question under these conditions.

The current flood-caused emergency precludes promulgation under the usual procedures of the Virginia Administrative Process Act, (§ 9-6.14:1 et seq.) of the Code of Virginia, and is permitted as an exclusion to the Act under § 9-6.14:4.1.C.5 of the Code of Virginia.

The order of the board amending the Virginia Industrialized Building and Mobile Home Safety Regulations adopts the following new sections:

VR 394-01-31. Virginia Industrialized Building and Mobile Home Safety Regulations/1981.

102.6. Emergency housing. When there is an urgent and immediate need for housing for persons who have been displaced by a natural or man-made disaster, the requirements of these regulations, or of the Uniform Statewide Building Code and other standards referenced herein that require footings to be carried below ground to the frost level, that require a platform greater than 34 inches in depth at door openings to entrance stairs, or that require a second guardrail on entrance stairs, shall be waived in their application to mobile homes intended for temporary occupancy provided the period of use does not exceed 12 months.

1102.3. Emergency housing. When there is an urgent and immediate need for housing for persons who have been displaced by a natural or man-made disaster, the requirements of these regulations, or of the Uniform Statewide Building Code and other standards referenced herein that require footings to be carried below ground to the frost level, that require a platform greater than 34 inches in depth at door openings to entrance stairs, or that require a second guardrail on entrance stairs, shall be waived in their application to mobile homes intended for temporary occupancy provided the period of use does not exceed 12 months.

The Board of Housing and Community Development will receive, consider, and respond to petitions at any time for reconsideration or revision of these emergency regulations.

11/27/85 /s/ Neal J. Barber, Director
Department of Housing and Community Development

Approval of emergency regulation

12/3/85 /s/ Charles S. Robb, Governor

Filed: 12/4/85 - 11:33 a.m.
/s/ Joan W. Smith, Registrar of Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **VR 460-03-2.6152. Regulations Governing Eligibility Determination Definition of Contiguous Property.**

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

Effective Date: December 3, 1985

A home means the house and lot used as the principal residence and contiguous property as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. The lot occupied by the house shall be a measure of land as designated on a plat or survey or whatever the locality sets as a minimum size for a building lot, whichever is less. In localities where no minimum building lot requirement exists, a lot shall be a measure of land designated on a plat or survey or one acre, whichever is less.

11/29/85 /s/ Ray T. Sorrell, Director
Department of Medical Assistance Services

Approval of emergency regulation:

11/30/85 /s/ Charles S. Robb, Governor

Filed: 12/03/85 2:10 p.m.
/s/ Joan W. Smith, Registrar of Regulations

STATE BOARD OF MEDICINE

Title of Regulation: **VR 465-02-1. Regulations Governing the Practice of the Healing Arts.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective Date: December 2, 1985

PART VII.
FEES REQUIRED BY THE BOARD.

§ 7.1. Fees required by the board are: (Reference § 54-291).

A. Examination Fee for Medicine and/or Osteopathy: The fee for the Federation Licensing Examination (FLEX) for Part I is $250 and for Part II is $250. A processing fee of $100 shall be retained for any applicant withdrawing from Part I or Part II of the examination prior to two weeks of the date of the examination. Failure to appear for the examination without the applicant's providing written notification to the board two weeks' prior to the date of the examination will result in forfeiture of the entire examination fee. (Reference §§ 54-297 and 54-300.2)

B. Examination Fee for Podiatry: The fee for the Podiatry examination shall be $250. A processing fee of $100 will be retained for any applicant withdrawing from the podiatry examination. Failure to appear for the examination without two weeks' written notification to the board office will mean forfeiture of the entire examination fee.

C. Examination Fee for Chiropractic: The fee for the Chiropractic examination shall be $250. A processing fee of $100 will be retained for any applicant withdrawing from the chiropractic examination. Failure to appear for the examination without two weeks' written notification to the board office will mean automatic forfeiture of the entire examination fee.

D. Certification of Licensure: The fee for certification of licensure of another state or the District of Columbia by the board shall be $25. The fee is due and payable upon submitting the form to the board.

E. The fee for a limited license issued pursuant to §§ 54-311.1 and 54-311.2 of the Code of Virginia shall be $125.

F. Duplicate Certificate: A licensed practitioner of the board who has lost or misplaced a certificate granted by the board may obtain a duplicate certificate for a fee of $25. (Reference § 54-312)

G. Biennial Renewal of License: The fee for renewal is $80 and shall be due in the licensee's birth month. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be $25 for each renewal cycle.

H. A practitioner requesting reinstatement of licensure pursuant to § 54-321 of the Code shall submit a fee of $80.

I. Any physician requesting a temporary permit to practice Medicine in conjunction with a summer camp or recreational activities pursuant to § 54-276.5-B of the Code of Virginia shall submit a fee of $20 with his application, at which time approval may be granted by the secretary of the board.

J. The fee for licensure by endorsement for Medicine, Osteopathy, Chiropractic, and Podiatry shall be $250. A processing fee of $100 shall be retained for any applicant withdrawing his application for licensure while in process or upon completion of the application.

K. The fee for licensure to practice acupuncture shall be $100. The biennial renewal fee shall be $80.

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Title of Regulation: **VR 465-03-1. Regulations Governing the Practice of Physical Therapy.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective Date: December 2, 1985

PART IX.
FEES.

§ 9.1. The following fees have been established by the board:

The fee for physical therapist examination shall be $200.

The fee for the physical therapist assistant examination shall be $200.

The fee for licensure by endorsement for the physical therapist shall be $200.

The fee for licensure by endorsement for the physical therapist assistant shall be $200.

Any applicant for licensure by examination or endorsement whose application is withdrawn prior to being granted licensure shall forfeit $100 of the original fee.

The fee for renewal is $80 and shall be due in licensee's birth month. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be $25 for each renewal cycle.

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Title of Regulation: **VR 465-05-1. Regulations Governing the Practice of Physicians' Assistants.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective Date: December 2, 1985

PART V.
FEES.

§ 5.1. The following fees are required.

A. The application fee, payable at the time application is filed shall be $100.

B. The annual fee for renewal or registration, payable on or before July 1, shall be $25.

C. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be $10 for each renewal cycle.

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Title of Regulation: **VR 465-06-1. Regulations Governing the Practice of Correctional Health Assistants.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective: December 2, 1985

PART VI.
FEES.

§ 6.1. The following fees are required:

A. The application fee, payable at the time the application is filed, shall be $50.

B. The annual fee for renewal of registration, payable on or before July 1, shall be $10.

C. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be $10 for each renewal cycle.

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Title of Regulation: **VR 465-04-1. Regulations Governing the Practice of Respiratory Therapy Practitioner.**

Statutory Authority: § 54-291 as further defined in §§ 54-281.10 through 54-281.13 of the Code of Virginia.

Effective Date: December 2, 1985

Summary:

These regulations establish the first standards for the certification of respiratory therapists to practice in Virginia. The regulations implement state legislation enacted in 1985 authorizing the certification of respiratory therapists.

The regulations prescribe that respiratory therapists are to render services to patients upon referral by and under the direction of a doctor of medicine, osteopathy, podiatry or dental surgery.

Certification is made contingent upon the applicant's passing the examination for entry level practice administered by the National Board of Respiratory Therapy Care, Inc. or other examinations approved by the Virginia State Board of Medicine.

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:

"Board" means the Virginia State Board of Medicine.

"Certified respiratory therapy practitioner" means a person who has passed the certification examination for the entry level practice of respiratory therapy administered by the National Board of Respiratory Care, Inc., or other examination approved by the board, who has complied with such rules and regulations pertaining to certification as shall be prescribed by the board, and who has been issued a certificate by the board.

"Committee" means the Advisory Committee on Respiratory Therapy to the board.

"NBRC" means the National Board of Respiratory Care, Inc.

"Referral and Direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, podiatry or dental surgery to a respiratory therapy practitioner for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor.

PART II.
REQUIREMENTS FOR PRACTICE AS A CERTIFIED RESPIRATORY THERAPY PRACTITIONER.

§ 2.1. Requirements, general.

A. No person shall practice as a certified respiratory therapy practitioner in the Commonwealth of Virginia except as provided in these regulations.

B. All services rendered by a certified respiratory therapy practitioner shall be performed only upon referral and direction or a doctor of medicine, osteopathy, podiatry or dental surgery licensed to practice in the Commonwealth of Virginia.

§ 2.2. Certification.

An applicant for a certificate to practice as a respiratory therapy practitioner shall:

A. Submit to the board written evidence, verified by affidavit, that the applicant has passed the NBRC entry level examination for respiratory therapy, or its equivalent;

B. Make application on forms supplied by the board and completed in every detail; and

C. Pay at the time of filing the application, the application fee prescribed in § 4.1 of these regulations.

§ 2.3. Renewal of certificate.

Every certified respiratory therapy practitioner intending to continue his certification shall annually on or before July 1:

A. Register with the board for renewal of his certificate; and

B. Pay the prescribed renewal fee at the time he files for renewal.

PART III.
SCOPE OF PRACTICE.

§ 3.1. Individual responsibilities.

Practice as a respiratory therapy practitioner means, upon medical referral and direction, the evaluation, care and treatment of patients with deficiencies and anomalies associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory therapy shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

PART IV.
FEES.

§ 4.1. The following fees are required:

A. The application fee, payable at the time the application is filed, shall be $100.

B. The annual fee for renewal of registration, payable on or before July 1, shall be $25.

C. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be $10 for each renewal cycle.

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Title of Regulation: **VR 465-02-1. Regulations Governing the Practice of the Healing Arts.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective Date: December 2, 1985

PART II.

Licensure: General Requirements and Licensure by Examination.

3. Educational requirements: Graduates and former students of foreign institutions.

These regulations are promulgated pursuant to § 54-306.1:2 of the Code of Virginia and shall not be deemed to apply to graduates of foreign medical schools who matriculated before July 1, 1985. By resolution adopted at a public meeting on November 20, 1982, the board voted to promulgate the following regulations to be effective July 1, 1985, thereby placing potential foreign medical students on notice that such regulations would become effective on said date. Foreign medical students matriculating on and after July 1, 1985, should take care to determine whether their school satisfies these regulations before applying for licensure in Virginia. Inquiries may be directed to the Board Office at 517 West Grace Street, Richmond, Virginia 23261, (804) 786-0575.

a. No person who studied at or graduated from a foreign institution shall be eligible for board examination unless that institution has been granted approval by the board according to the provisions of VR 465-02-2 Regulations for Granting Approval of Foreign Medical Schools and Other Foreign Institutions that Teach the Healing Arts.

b. A graduate of an approved foreign institution applying for board examination for licensure shall also present documentary evidence that he:

(1) Was enrolled at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled at the institution's principal site.

(2) Received a degree from the institution; and

(3) Has fulfilled the appropriate requirements of § 54-305(d) of the Code of Virginia.

c. A graduate of an approved foreign institution applying for examination for licensure in Medicine or Osteopathy shall also possess a standard

Educational Council of Foreign Medical Graduates certificate (ECFMG), or its equivalent. Proof of licensure by the board of another State or Territory of the United States or a Province of Canada may be accepted in lieu of ECFMG certification.

d. An applicant for examination for licensure in Medicine who completed all degree requirements except social services and postgraduate internship at an approved foreign institution shall be admitted to examination provided that he:

(1) Was enrolled at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled at the institution's principal site;

(2) Has qualified for and completed an appropriate supervised clinical training program as established by the American Medical Association;

(3) Has completed the postgraduate hospital training required of all applicants for licensure as defined in § 54-305(d) of the Code of Virginia; and

(4) Presents a document issued by the approved foreign institution certifying that he has met all the formal requirements of the institution for a degree except social services and postgraduate internship.

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Title of Regulation: **VR 465-02-2. Requirements for Approval of Foreign Medical Schools and Other Foreign Institutions that Teach the Healing Arts.**

Statutory Authority: § 54-305 of the Code of Virginia.

Effective Date: December 2, 1985

Summary:

These regulations establish for the first time a specific set of requirements that foreign medical schools and other foreign institutions that teach the healing arts must meet in order to be approved by the Virginia State Board of Medicine. The regulations implement a 1985 emergency enactment of the state legislation making such approval a prerequisite to licensure of students from the foreign institutions to practice in Virginia.

A series of 27 standards is established as the minimums to be met in terms of programs, faculty qualifications and size, physical facilities, libraries, revenues, and other aspects of the institutions. A set of detailed forms is provided which the institutions are to use in filing for board approval.

The regulations incorporate by reference the related board regulations governing licensure to practice Medicine, Osteopathy, Podiatry, Chiropractic, and Clinical Psychology in Virginia.

VR 465-02-2. Requirements for Approval of Foreign Medical Schools and Other Foreign Institutions that Teach the Healing Arts.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

A. The following words and terms, when used in these regulations, shall have the meanings ascribed to them in Title 54, Chapter 12, Medicine and Other Healing Arts, § 54-273. Definitions, Code of Virginia:

Board
Clinical psychologist
Practice of medicine or osteopathy
Practice of chiropractic
Practice of podiatry
The healing arts.

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

"Affiliation agreement" means any contract or other legally-binding agreement executed and maintained by a foreign institution with a hospital, health-care center, or other clinical facility, that provides appropriate settings for clinical experiences for the students of the institution.

"Approved foreign institution" means any foreign institution that is approved by the Virginia State Board of Medicine under the provisions of these regulations.

"Clinical experience" means any instruction given to a student of a foreign institution through direct patient contact for the purpose of history taking, physical examination, data gathering, performance of procedures, formulation of a differential diagnosis, establishing a plan for diagnosis, developing a plan for management, and observation of clinical progress. A student may receive instruction through:

(1) A "Group clinical experience," which includes any instruction at the principal site offered in a clinical setting to a class of two or more students on a scheduled basis throughout a semester or other academic term; or

(2) An "Individual clinical experience," which includes any activity, whether at the principal site or a site established by affiliation agreement, of an individual student practitioner who is under the supervision of a full-time or part-time faculty member of the foreign institution teaching at that site.

"Degree" means any earned award at the graduate or

first professional level which represents satisfactory completion of the requirements of a program or course of study or instruction beyond the baccalaureate level and includes certificates and specialist degrees when such awards represent a level of educational attainment above that of the baccalaureate level.

"Degree program" means a curriculum or course of study in a discipline specialty that leads to a degree.

"Educational and General (E & G) Budget expenditures" means those expenditures allocated to instruction, research, public service, academic support, libraries, student services, institutional support, operation and maintenance of plant, and scholarships and followships. Excluded are the Mandatory Transfer Accounts (that is, those that must be made in order to fulfill a binding legal obligation of the institution) and Auxiliary Enterprise Accounts.

"Foreign institution" means any medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical psychology, located elsewhere than in the United States, its territories, or Canada.

"Home country" means the country in which a foreign institution's principal teaching and clinical facilities are located.

"Institution of higher education" means any person, firm, corporation, association, agency, institute, trust, or other entity of any nature whatsoever offering education beyond the secondary level that:

(1) Offers courses or programs of study or instruction that lead to, or that may reasonable be understood to be applicable toward, a degree; or

(2) Operates a facility as a college or university or other entity of whatsoever kind that offers degrees or other indicia of a level of educational attainment beyond the secondary school level.

"Instructional faculty" means all persons engaged in teaching, clinical supervision, research, or related activities.

"Full-time faculty member" means a person who is designated as "full-time" in an official contract, appointment, or agreement with the institution, whose principal professional affiliation is with the institution, and who teaches, provides clinical supervision, or conducts research at the principal site or an affiliated site on a regular schedule. A full-time administrator who teaches classes incidental to administrative duties is not a full-time faculty member.

"One full-time equivalent (1.0 FTE) faculty member" is a statistical unit equal to nine semester-credit hours of courses taught at the master's first professional or doctoral level. Courses taught by administrators, as well as those taught by instructional faculty, shall be included in calculating this statistical unit.

"One full-time equivalent (1.0 FTE) student" is a statistical unit equal to 12 semester-hours of degree credit at the master's, first professional, or doctoral level.

"Part-time faculty member" means a faculty member who is designated "part-time" in an official contract, appointment, or agreement with the institution.

"Principal site" means the site in the home country where a foreign institution's principal teaching and clinical facilities are located.

§ 1.2. A separate board document, VR 465-02-1 Regulations Governing the Practice of the Healing Arts prescribes the requirements for licensure of individual applicants to practice the healing arts in the Commonwealth of Virginia. Prospective applicants for licensure in Virginia who studied at a foreign institution should refer to that document in addition to the regulations contained here.

§ 1.3. The board publication, "Guidelines for Completing Application for Status as an Approved Foreign Institution," is a necessary part of and is incorporated by reference in these regulations.

PART II.
REQUIREMENTS FOR APPROVAL.

§ 2.1. Prerequisite to foreign student licensure.

A. When any person who studied at a foreign institution applies for licensure to practice the healing arts in the Commonwealth of Virginia, a condition for his licensure shall be that such institution has been approved by this board.

B. In order to be approved by the board a foreign institution that teaches the healing arts shall meet the requirements prescribed in these regulations.

§ 2.2. Requirements for the approval of foreign institutions, general.

A. A foreign institution that is fully licensed and approved by the appropriate regulatory board(s) of the home country to offer first professional degree programs and to award degrees in Medicine, Osteopathy, Chiropractic, or Podiatry, or to offer doctoral programs and award doctoral degrees in Clinical Psychology at its principal site may seek approval from the board.

B. A foreign institution may receive approval from the board by presenting documentary evidence that either:

1. It has been fully licensed or approved as required in subsection A of this section for the 15 consecutive years immediately prior to the year of seeking approval from the board, and during such 15

consecutive years has conferred an annual average of 30 or more degrees in one or more particular branches of the healing arts; or

2. It has been fully licensed or approved as required in subsection A of this section for the 10 consecutive years immediately prior to the year of seeking approval from the board, and during each of those 10 years the institution's graduates (or students who have completed all formal degree requirements) have been admitted to and passed appropriate licensure examinations and have been fully licensed by at least five state boards, other than this board, in the United States, its Territories, the District of Columbia, or the Provinces of Canada.

§ 2.3. Alternative route to approval.

A foreign institution that does not meet the requirements of § 2.2 of these regulations may receive approval from the board, provided that:

A. The institution demonstrates compliance with the board's standards for approval of foreign institutions, as stated in § 3.4. of these regulations; and

B. The institution's compliance with the board's standards is verified by a Site Visit Committee appointed by the board. The committee shall visit the institution at the institution's expense and shall provide a written report of its findings and conclusions to the board and to the institution within 90 days following the visit.

§ 2.4. Time period of approval; renewal.

In granting approval to a foreign institution, the board may:

A. Establish the term or period of time for which such approval is granted and may specify certain conditions under which such approval is granted.

B. Establish the procedure whereby an institution that has been granted approval for a term or period of time shall apply for a renewal of its approval.

§ 2.5. Refusal and suspension of approval.

A. The board, on its own motion, may refuse to grant or may suspend the approval of a foreign institution if the board determines that any one of the following has occurred:

1. The institution knowingly submits any material information to the board in connection with its request for approval that is misleading or untrue;

2. The institution fails to meet or maintain the board's standards for approval as stated in § 3.4 of these regulations;

3. The institution publicly makes or causes any false or misleading representation that it has complied with any of the requirements of these regulations;

4. The institution violates any of these regulations;

5. The institution willfully refuses to furnish the board with any requested information or records demonstrably necessary for the board to carry out its responsibilities under the Code of Virginia.

B. Notice to institution. A foreign institution whose request for approval is denied or whose approval is suspended by the board shall receive written notification of the reasons therefor and shall have an opportunity for informal proceedings before the board in accordance with § 9-6.14:11 of the Administrative Process Act of the Code of Virginia, or, upon written request of the institution, for formal proceedings before the board in accordance with § 9-6.14:12 of such Act.

C. Requests for reconsideration.

A. A foreign institution wishing to have an opportunity for formal or informal proceedings before the board shall make a written request to the executive secretary of the board within 10 days of receiving notification of the board's denial of the institution's request or suspension of the institution's approval. No extension beyond the 10-day period shall be granted except for good cause shown.

2. A foreign institution that elects formal proceedings in accordance with § 9-6.14:12 of the Code of Virginia shall bear the cost of such proceedings, including the expenses of any court reporter and the normal site visitation committee and its testimony deemed necessary by the board, and for the preparation of a transcript.

D. Final board determination. Following the opportunity for proceedings provided for in subsection C of this section, the board shall make its determination as to whether an approval shall be granted or, in the case of a suspension, whether approval shall be reinstated or revoked.

1. The board may revoke its approval only if there is clear and convincing evidence that an institution once approved meets one of the conditions prescribed in subsection A of this section for suspension of approval or refusal to grant approval of an institution.

2. The board shall transmit its decision to the foreign institution in writing.

E. Making new application. An institution whose application for approval has been denied or whose approval has been revoked may not make new application for approval to the board for a period of one year following the board's action in accordance with subsection D of this section.

PART III.
STANDARDS FOR THE APPROVAL OF FOREIGN INSTITUTIONS.

§ 3.1. Purpose.

The "Standards for the Approval of Foreign Institutions" prescribed in § 3.4 of these regulations are designed to ensure that an institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth of Virginia.

§ 3.2. Verification of compliance.

The Site Visit Committee of the board shall use the board's standards to evaluate those components of degree program(s) offered by a foreign institution through affiliation arrangements with off-site providers of settings for clinical experiences.

A. If off-site providers(s) be located in the Commonwealth of Virginia, the institution shall demonstrate that its agreement(s) with the Virginia provider(s) are in compliance with the provisions of § 54-276.7:2 of the Code of Virginia.

B. In its review of an institution having arrangements such as in § 3.2.A, the Site Visit Committee shall apply all relevant standards to the activities of the off-site providers and shall include in its report an assessment of their compliance with the standards.

C. The Site Visit Committee shall identify and describe in its report any noncompliance of the applicant institution with the board's standards.

D. If the Site Visit Committee finds that the institution does not comply fully with one or more of the board's standards, the committee shall include in its report:

1. The specific actions that must be taken by the institution to come into full compliance with the standard(s).

2. The committee's conclusion as to whether:

a. The institution demonstrates academic excellence that directly compensates for failure to meet certain of the standards; and

b. The historical trend of the institution indicates that it is capable of compliance with the standards within a reasonable time.

§ 3.3 Documentation by the foreign institution.

A foreign institution seeking approval from the board shall provide documentary evidence, in such formats and according to such guidelines as the board may direct, to demonstrate compliance with the following standards.

§ 3.4. Standards for the approval of foreign institutions.

A. Mission.

An institution providing education in one or more of the branches of the healing arts must have a coherent sense of purpose that includes a clear definition of its educational goals and objectives. The institution's mission must recognize and address the needs of both the prospective practitioner and the community or geographic area it seeks to serve. Although the mission should reflect institutional aspirations and evolutions in the philosophy and practice of the healing arts, it must recognize the limitations of the finite resources available to support institutional activities.

Standard No. 1: The institution shall have a clear, accurate, and comprehensive written statement of its mission. The mission statement shall be included in the institution's catalog and available to the public upon request. The statement of mission minimally shall include the following items:

a. The history and development of the institution;

b. An identification of any persons, entities, or institutions that have a controlling ownership or interest in the institution;

c. The purpose of the institution, including a statement of the relative degree of emphasis on instruction, research, public service, and continuing professional education;

d. A description of the institution's activities away from its principal site, including a list of all program areas in which courses or clinical experiences are offered away from the principal site;

e. The institution's long-range plan (minimally for five years) in the areas of subparagraphs c and d of this standard.

B. Organization and administration.

An institution providing education in one or more of the branches of the healing arts, through its system governance, must provide mechanisms to assure both appropriate process and adequate support for instruction, research, and community service. The responsibility for the governance of the institution must be vested in persons who have broad knowledge and perspective of the institution's mission and relationship with other health education entities, government, and the public. The policies of the institution must be implemented by officials who have appropriate experience in scientific, academic, clinical, and administrative positions. The organization of the institution must reflect its mission and support the instructional and clinical curriculum and interdisciplinary research. The participation of faculty in institutional

governance through a well-defined committee structure is essential. Student participation in institutional governance can provide a valuable perspective and advice concerning institutional policies and can enhance both student morale and professionalization.

Standard No. 2: The institution shall have a current, written document accurately stating the powers, duties, and responsibilities of:

a. The governing board or owners of the institution;

b. The chief executive officer of the institution; and

c. The vice president for health affairs similary designated official, if the institution has several structured administrative units offering education in different health fields.

Standard No. 3: The institution shall have a current, written document accurately stating the powers, duties, and responsibilities of the principal administrators, including:

a. The chief academic officer;

b. The chief financial officer;

c. The chief student affairs officer;

d. The chief development officer; and

e. The chief government relations officer.

Standard No. 4: The institution shall have a current, written document accurately describing the powers, duties, and responsibilities of the faculty, including:

a. The faculty senate or other collective deliberative body;

b. Each faculty committee, whether administrative or advisory;

c. The chairperson of each instructional and clinical department; and

d. The preceptors or supervisors of individual clinical experiences at each location where these experiences are offered.

Standard No. 5: The institution shall have a current, written document accurately stating the powers, duties, and responsibilities of students, if students participate in institutional governance.

C. Financial stability.

An institution providing education in one or more of the branches of the healing arts must have sufficient financial resources to provide adequate support for all aspects of the institution's mission. Fiscal stability is best attained through seeking financial support from diverse sources and through the careful and continuous administration of revenue and expenditures. The institution's budgeting process must identify the extent of support for educational programs, research, and public service, and must include adequate provision for student financial aid.

Standard No. 6: The institution shall provide evidence of its planning to maintain fiscal stability in the form of an itemized budget of past, current, and projected revenues and expenditures for the total institution. Each budget, listing sources of income and Educational and General (E and G) Budget expenditures, shall specify the amounts and percentages for each component of the budget for the preceding two fiscal years, the current fiscal year and the next three fiscal years. If the projected revenue budgets for the next three fiscal years indicate that more than 10% of total revenues will be derived from grants and contracts or that more than 20% of the total revenues will be derived from governmental appropriations, the institution shall demonstrate that alternate sources of funds will be available if the anticipated revenues from grants and contracts or governmental appropriations be reduced significantly.

Standard No. 7: The institution shall demonstrate sound business and financial management by having all of the following:

a. An internal organizational arrangement for the administration and management of its financial resources;

b. An institutional budget planning process; and

c. Periodic audits performed by independent auditors who are conversant with sound academic accounting and auditing procedures.

Standard No. 8: The institution shall demonstrate that the amount of its Educational and General (E and G) budget which is allocated to "Instruction" is at least 20 percent of the total E and G budget. (For the components of the "Instruction" program of the E and G budget, see the board's "Guidelines for Completing Application for Status as an Approved Foreign Institution.")

Standard No. 9: The institution shall demonstrate that it has sufficient resources to provide refund of tuition and fees to all enrolled students in the event of institutional closure, by providing evidence of at least one of the following:

a. Either a line of credit or real (including capital) assets of value equal to the amount of total projected revenues from tuition and fees for any given year;

b. Either an endowment of reserve funds that are adequate to provide refunds to students; or

c. A surety bond (issued by a surety company authorized to transact business in the institution's home country) adequate to provide refunds to students.

D. Instructional support services.

An institution providing education in one or more of the branches of the healing arts must have instructional support services, including instructional and clinical facilities and library services, that are adequate to support the goals and objectives of the institution. Appropriate buildings and equipment to support all instructional and research activities must be available and accessible to both students and faculty. The facilities must provide sufficient classroom, laboratory, and office space to support the instructional programs, and adequate laboratories and animal facilities to support both instruction and research. Clinical facilities, in appropriate proximity to the other instructional facilities of the institution, must be capable of supporting all the various group clinical experiences that may be included in the curriculum. Additional clinical facilities to support individual clinical experiences must be provided either by the institution or through affiliation agreements with other hospitals and health care centers. Appropriate learning resources must be available to students and faculty in an organized library served by professional staff.

Standard No. 10: The institution shall have a master plan of the current and projected instructional facilities at its principal site. The plan shall provide for:

a. Classroom and laboratory space, library space, and faculty and administrative offices that are adequate to support all the educational activities of the institution; and

b. Appropriate animal facilities, whose design, capacity, and operation shall be:

(1) Related to the needs of the institution; and

(2) In compliance with pertinent laws and regulations.

Standard No. 11: The institution shall have a master plan of the current and projected clinical facilities necessary to support the appropriate curriculum requirements of Standard No. 21 of this section. The plan shall include:

a. Facilities at the principal site necessary to provide an appropriate variety of group experiences in a clinical setting. These clinical facilities must be in proximity to the instructional facilities of the institution, accessible to both students and teaching faculty, and may either be owned and operated by the institution or made available through a long-term affiliation agreement with an appropriate licensed primary care facility.

b. Clinical facilities necessary to support individual clinical experiences. These facilities may be provided either by the institution or through affiliation agreements with appropriately licensed hospitals and health care centers.

Standard No. 12: The institution shall provide library services at its principal site that are adequate to support the instructional, research, and public service activities of the institution.

a. The institution shall ensure that the library is accessible to students and faculty a sufficient number of hours, including stated times outside regularly scheduled class hours, and throughout the daily period when classroom laboratory, or clinical instruction is offered.

b. The institution's policy on accessibility to the library shall be current, written, and made available to students and faculty.

Standard No. 13: The institution shall employ sufficient professional library staff so that, at a minimum, one professionally-trained health sciences librarian is accessible to library users during all stated hours of instruction and during at least half of all other hours when the library is open. In addition, the institution shall provide at least 1.0 full-time equivalent (FTE) clerical or other support staff, including student assistants, for each 1.0 FTE professional librarian. (1.0 FTE is a statistical calculation based on a 40 hour-per-week work schedule.)

Standard No. 14: The institution shall have an organized library collection containing volumes sufficient to meet the instructional and research needs of the projected full-time equivalent (FTE) students, FTE faculty, and degree programs being offered. The minimal number of volumes to be included in the library collection shall be calculated according to the following cumulative formula:

Basic Collection	50,750 volumes
For each FTE Faculty Member	100 volumes
For each FTE Student	12 volumes
For each First Professional Program in the Health Arts	12,250 volumes
For each Field of Concentration at the Master's Level	3,050 volumes
For each Field of Concentration at the Doctoral Level	24,500 volumes

a. A library "volume" is a physical unit of any printed or typewritten work that is contained in one binding or portfolio, or in microformat, that has been catalogued, classified, or otherwise prepared for use. Textbooks and other materials regularly used in classroom instruction shall not be considered library "volumes" for the purposes of this standard. Nonprint multi-media items that are included in the organized library collection may be counted as "volumes" according to the ratio of five nonprint to

one print item.

b. Institutions that provide electronic bibliographic search and retrieval services in the basic sciences and medicine to faculty and students at no charge may substitute these services for up to 50 percent of the required minimum number of volumes if the electronic services provide full text copy within 24 hours of initiation of the request for the document.

Standard No. 15: The institution shall include funds for library services in its annual operation budget. The minimal annual expenditure for the library shall be sufficient to provide adequate staffing and annual increases in the number of library volumes through current acquisitions. This expenditure shall be either:

a. An amount sufficient to support the staffing requirements of Standard No. 10 and to purchase materials resulting in at least a five percent annual increase in the number of library volumes before withdrawals; or

b. At least five percent of the institution's total Educational and General (E and G) budget.

E. Faculty.

An institution providing education in one or more of the branches of the healing arts must provide a sufficient number of faculty who are either full-time or have made a finite commitment of time to teaching to ensure that the institution's mission in instruction, research, and public service is fulfulled. Although the number of faculty in each discipline is somewhat dependent upon the institution's mission and student enrollments, the institution must sustain a critical mass of qualified faculty in the biological, behavorial, and clinical sciences who have demonstrable teaching and research records, and, in the clinical sciences, have met national standards for competence in their specific clinical specialties. The institution must establish and maintain policies relating to faculty selection, retention, and development that encourage and support effective teaching, scholarly activities, and community service.

Standard No. 16: The institution shall maintain a minimal critical mass of instructional faculty holding full-time appointments by ensuring that:

a. No less than 50 percent of the instructional faculty who teach in the basic biomedical disciplines at the institution's principal site hold full-time appointments;

b. No less than 10 percent of the instructional faculty who teach in the clinical sciences at the institution's principal site hold full-time appointments;

c. At least one clinical supervisor or preceptor, at each location where one or more students of the institution are placed in individual clinical experiences, holds a full-time appointment; and

d. At least 25 percent of the total instructional faculty hold full-time appointments.

Standard No. 17: The institution shall ensure a well-qualified instructional faculty by requiring that:

a. Each full-time or part-time faculty member who teaches in a discipline of the clinical sciences or who supervises group or individual clinical experiences shall hold the first professional degree with the licenses, diplomas, or certificates earned through national examination, as may be appropriate to the disciplines;

b. Each full-time or part-time faculty member who teaches in a discipline of the basic or physiological sciences shall hold the terminal degree in that discipline. As an alternative to the terminal degree, the faculty member may demonstrate competence by virtue of prior experience or academic training, or both, that are related to the discipline being taught.

Standard No. 18: The institution shall have sufficient instructional faculty, whether holding full-time or part-time appointments, to ensure that the student-faculty ratio does not exceed 6.0 full-time equivalent (FTE) students per 1.0 FTE faculty.

Standard No. 19: The institution shall maintain and disclose to the faculty its policies regarding:

a. The recruitment and selection of faculty;

b. Faculty salaries;

c. Tenure, promotion, and termination;

d. Faculty evaluation;

e. Faculty development;

f. Academic freedom; and

g. The rights, privileges, and responsibilities of the faculty.

This standard may be satisfied by inclusion of the institution's policies regarding subparagraphs a through g, immediately preceding, in a faculty handbook or other publication.

F. Curriculum.

An institution providing education in one or more of the branches of the healing arts must ensure that the curriculum and course of study of each degree program is

consistent with its mission and meets the current and projected needs of the public it seeks to serve. The curriculum and degree requirements must be evaluated continuously by the faculty and by consultants as appropriate, and must provide students with the educational, clinical, and intellectual qualifications necessary to enter successfully into patient care responsibility in a variety of settings or into advanced training in various specialized health care disciplines. The curriculum should include a variety of basic and advanced offerings in classroom, laboratory, and clinical settings and provide for appropriate specializations through advanced required and elective courses. The institution must provide informed advisors to guide and monitor the students' progress through programs that match their interests and abilities.

Standard No. 20: The institution shall have a written plan for curriculum development and evaluation. This plan shall:

a. Explain how the total curriculum, and the curriculum of each degree program, are consistent with the mission of the institution; and

b. Specify the process for evaluating the total curriculum and the curriculum of each degree program.

The institution shall provide evidence that full-time faculty with training in appropriate fields (and consultants as appropriate) are involved in curricular planning, development, and evaluation.

Standard No. 21: The institution shall state the minimum requirements for satisfactory completion of each degree program offered. These requirements, which shall appear in the institutional catalogs and other appropriate institutional publications, shall be consistent with those generally expected for the completion of a program at a particular degree level.

a. An institution operating as a Medical School shall offer a first professional degree program that describes the principles and procedures used in the observation, diagnosis, care, and treatment of illness, disease, injury, deformity, or other abnormalities in humans, and includes instruction in the principles and procedures associated with various established, specialized fields of medicine. The institution shall include in its curriculum the following minimal requirements:

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of medicine, including: Anesthesiology; Dermatology; Family Medicine; Internal Medicine; Neurology; Obstetrics and Gynecology; Ophthalmology; Otolaryngology; Pediatrics; Physical Medicine; Preventive Medicine; Psychiatry; Public Health; Radiology; Surgery; Urology; and

(3) Appropriate group and individual clinical experiences in the various departments of medicine, including: Family Medicine; Internal Medicine; Obstetrics and Gynecology; Pediatrics; Psychiatry; and Surgery.

b. An institution operating as a College of Osteopathic Medicine shall offer a first professional degree program that describes the principles and procedures used in the observation, diagnosis, care, and treatment of illness, disease, injury, deformity, or other anomalies in humans, and includes instruction in the principles and procedures associated with various established, specialized fields of medicine, and emphasizes the interrelationship of body systems and the importance of normal body structure and mechanics in detecting and correcting body function. The institution shall include in its curriculum the following minimal requirements:

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of osteopathic medicine, including: Anesthesiology; Dermatology: Family/General Practice Medicine; Internal Medicine; Neurology; Obstetrics and Gynecology; Osteopahtic Principles and Practice; Ophthalmology; Otolaryngology; Pediatrics; Preventive Medicine; Psychiatry; Public Health; Radiology; Surgery; Urology; and

(3) Appropriate group of individual clinical experiences in the various departments of osteopathic practice, including: Family Medicine; Internal Medicine; Obstetrics and Gynecology; Pediatrics; Psychiatry; and Surgery.

c. An institution operating as a School of Podiatry shall offer a first professional degree program that describes the anatomy, physiology, disorders, diseases, and care and treatment of the feet. The institution shall include in its curriculum the following minimal requirements:

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Biostatistics; Embryology; Epidemiology; Histology; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various procedures and systems of podiatric medicine, including: General Diagnostic Procedures; Physical and Pharmacological Therapeutic

Procedures; Orthotic and Prosthetic Procedures; Surgical Procedures and Anesthesia; the General Dermatological, Integumentary, Musculoskeletal, Nervous and Vascular Systems; and

(3) Appropriate group and individual clinical experiences in the various procedures and systems of podiatric medicine specified in subparagraph c (2) of this standard.

d. An institution operating as a Chiropractic College shall offer a first professional degree program that describes the principles and techniques for relieving disorders believed due to abnormal function of the nervous system by manipulation and treatment of the structures of the body, especially those of the spinal column. The institution shall include in its curriculum the following minimal requirements:

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of medicine and chiropractic, including: Dermatology; Dietetics; Geriatrics; Obstetrics and Gynecology; Orthopedics; Otolaryngology; Pediatrics; Public Health; Roentgenology; Principles and Practices of Chiropractic; Adjustive Technique; Physical Therapy; Spinal Analysis; and

(3) Appropriate group and individual clinical experiences in the various departments of chiropractic practice and treatment, including: the General Practice of Chiropractic; Physical, Clinical, and Laboratory Diagnosis; Adjustive Technique; Physical Therapy; and Spinal Analysis.

e. An institution of higher education offering Doctoral Programs in Clinical Psychology shall offer a doctoral degree program that describes the application of appropriate methods, theories, and procedures selected from psychology and allied fields as they relate to dealing specifically with the diagnosis and treatment of the mental and nervous disorders. The institution shall include in its clinical psychology doctoral curriculum an integrated, systematic plan and supervised program of graduate study reflecting the following minimal requirements:

(1) Appropriate full semester graduate foundation courses in the discipline of Psychology, including: the History and Systems of Psychology; Theories of Learning, Cognition, Motivation, and Personality; Social Psychology and Group Processes; Statistics and Research Design; Human Development and Genetics and Scientific and Professional Ethics and Standards.

(2) Appropriate full semester basic and advanced courses within the discipline of Psychology, including: Psychological Measurement; Neuropsychology; specific objective and projective clinical assessment; the diagnosis of psychopathology; Psychotherapy and related intervention strategies used in the treatment of mental and nervous disorders; supervised professional research procedures and activity; and

(3) Appropriate full-semester group and individual clinical experiences, followed by a one-year full-time internship in approved mental health settings. All didactic and clinical training shall be provided in an organized sequence of activities by an identifiable appropriately credentialed faculty, and shall be integrated to provide and demonstrate a comprehensive exposure to the various aspects involved in the general practice of clinical psychology which are utilized in the diagnosis and treatment of mental and nervous disorders.

Standard No. 22: The institution shall ensure that instructional faculty are accessible to students for academic advising at stated times outside regularly scheduled class hours and throughout the period during which any students are enrolled. The institution's policy on accessibility of faculty shall be current, written, and distributed to students.

Students.

An institution providing education in one or more of the branches of the healing arts must ensure that its instructional programs are sustained by the continued presence of well-qualified students. Policies consistent with the institution's mission must address student recruitment, selection, and academic performance, and the institution's expectations for student qualifications, conduct, and performance must be clearly defined and publicized. A strong financial aid program, equitably apportioned according to the needs of individual students, can assist in attracting a broad-based socio-economic mix of qualified students. An efficient system for the maintenance of student records is necessary in order to monitor students' academic progress and to support effective academic and career counseling.

Standard No. 23: The institution shall have and maintain, and shall provide to all applicants upon request, a policy document that accurately defines:

a. The minimal requirements for eligibility for admission to the institution and for acceptance into specific academic programs;

b. The institution's standards for academic credit given for experience;

c. The criteria for transfer credit;

d. The minimal requirements for academic and

clinical performance necessary for graduation;

e. The criteria for refunds of tuition and fees; and

f. The rights, privileges, and responsibilities of students.

This standard can be met by publication of the required information in the institution's catalog(s)

Standard No. 24: The institution shall provide to prospective students and applicants for admission basic information about required individual clinical experiences whether at or away from the institution's principal site. This information shall include:

a. The required individual clinical experiences for each degree program;

b. The respective responsibilities of the institution and the student in securing appointment to the required individual clinical experiences;

c. The financial obligations incurred by the student during the required individual clinical experience, including tuition, fees, and living expenses; and

d. The duration and performance expectations of required individual clinical experience.

This standard can be met by publication of the required information in the institution's catalog(s) or student handbooks.

Standard No. 25: The institution shall provide to prospective students and applicants for admission basic information about opportunities for student financial aid. This information shall include, but not be limited to:

a. The institution's policies regarding student financial aid;

b. The financial aid programs currently available at the institution; and

c. The eligibility requirements and student obligations for the receipt of financial aid.

This standard can be met by publication of the required information in the institution's catalog(s) or student handbook.

Standard No. 26: The institution shall maintain records on all enrolled students.

a. These records shall include as a minimum:

(1) Each student's application for admission, to be retained for seven years or until the student's graduation; and

(2) A transcipt of the student's academic work, to be retained permanently.

b. In addition, the institution shall have a written plan for the preservation of students' transcripts by another institution or agency, as well as for access to the transcripts, in the event of institutional closure.

H. Clinical Affiliations.

An institution providing education in one or more of the branches of the healing arts must ensure the continuing availability and use of the clinical resources necessary for the teaching of students and the attainment of the research and public service goals of the institution. Regardless of the ownership of these clinical facilities, precise affiliation agreements which define the quality, scope, and administration of the facilities are necessary.

Standard No. 27: The institution shall have and maintain an affiliation agreement with each clinical facility in which any matriculated student is receiving clinical instruction through either a group or an individual clinical experience. The affiliation agreement shall include at least the following items:

a. A description of the clinical facility;

b. The disciplines or fields of instruction supported by the clinical facility;

c. The identification of all persons employed by or affiliated with the clinical facility who hold instructional faculty appointments in the institution and who acted as supervisors or preceptors for students at the clinical facility;

d. The administrative and financial obligations of the institution and the clinical facility for the clinical education of the students; and

e. The duration of the affiliation agreement.

§ 3.5. Procedures for making application for approval.

A. A foreign institution seeking approval from the board under the provisions of these regulations shall submit an application for approval. This application shall conform to the specifications contained in the board publication entitled "Guidelines for Completing Application for Status as an Approved Foreign Institution."

B. Each application for approval shall commit the applicant institution to comply with the regulations of the board. A foreign institution applying for approval in accordance with these regulations shall permit the board to inspect the institution and shall make available to the board, upon request, all pertinent information and records of the institution required by the board to carry out its responsibilities under these regulations.

C. The mailing of applications, forms, letters, or other papers shall not constitute receipt of the same by the board unless sent by registered or certified mail, return receipt requested.

D. Such materials should be sent to the President, State Board of Medicine, 517 West Grace Street, Post Office Box 27708, Richmond, Virginia 23261, USA, or to such other member of the board or its staff at this address as is authorized to receive such materials.

* * * * * * * *

Title of Regulation: **VR 465-02-2. Guidelines for Completing Application.**

Statutory Authority: § 54-291 of the Code of Virginia.

Effective Date: December 2, 1985

Guidelines for Completing Application for Status as an Approved Foreign Institution.

These guidelines describe the process by which a foreign institution may apply for approval from the Virginia State Board of Medicine and specify the minimum information required by the board in order for it to act upon an application for approval.

An application for approval from the board will consist of three parts. Each application must include Parts I and II, and must also include either Part III, Part IV, or Part V depending upon the method the applicant institution selects as most appropriate according to the list below. In order for an application to be considered by the board, it must contain all the information specified by the applicable parts of these guidelines, must present the information according to the several formats specified in the guidelines, and must be accurate and timely.

PART – Pages – Who Must Submit

I. – – All institutions
II. – – All institutions
III. – – An institution that seeks approval by virtue of degree productivity
IV – – An institution that seeks approval by virtue of licensure of graduates
V. – – An institution that seeks approval by demonstration of compliance with the board's standards for the approval of foreign institutions

An applicant institution should submit 10 copies of the information and supporting documentation specified in these guidelines. The Board of Medicine cannot act upon an institution's request for status as an approved foreign institution until all required materials relevant to the application has been receiveed.

APPLICATION FOR INSTITUTIONAL APPROVAL

PART I. INFORMATION SHEET

1. Name of Institution:

2. Mailing Address: 3. Telephone Number:

4. Date institution was chartered or authorized to transact business in the country in which its principal teaching and clinical facilities are located. (Attach a copy of the institution's charter or authorization to transact business.):

5. Type of Control:

Public

Private Non-Profit

Private For-Profit

6. List all degree programs in the various branches of the healing arts now offered by the institution and the date each program was licensed or approved by the appropriate governmental regulatory body in the country where the institution's principal teaching and clinical facilities are located:

7. Name of the regulatory board(s) of the country where the principal teaching and clinical facilities of the institution are located that now license or approve the institution to confer degrees:

8. Name, mailing address, and telephone number of the institutional representative(s) who may be contacted in connection with this application:

9. Name and title of Chief Executive Officer:

(Signature of Chief Executive Officer) (Date)

Application for Institutional Approval.
PART II. CERTIFICATE OF COMPLIANCE.

A foreign institution seeking approval from the Virginia State Board of Medicine under the provisions of the board document, VR 465-05-1 Regulations for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, shall provide a signed copy of the following Certificate of Compliance (VSBM Form FI-2) as a part of its application to the board.

The institution named below and designated in Part I, item #1 of this application hereby unconditionally certifies to the Virginia State Board of Medicine:

1. That its chief executive officer has reviewed the Board document, §465-05-1 Regulations for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, including the minimum standards required to be met in order to receive approval by the Board;

2. That it will seek to comply with all of the Board's regulations relating to the approval of foreign institutions; and

3. That it will provide evidence to the Board, in such manner and form as the Board may direct, to demonstrate full compliance with the minimum standards required to be met in order to receive approval by the Board as a foreign institution

_____ Medical School

_____ College of Osteopathic Medicine

_____ School of Podiatry

_____ Chiropractic College

_____ Institution of Higher Education Offering Doctoral Program in Clinical Psychology

_____
(Name of the Institution)

_____
(Signature of chief executive officer) _____ (Date)

Application for Institutional Approval.
PART III. EVIDENCE OF DEGREE PRODUCTIVITY.

Under § 2.2B.1 of the Virginia State Board of Medicine document, VR 465-05-1 Regulations for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, a foreign institution may receive approval from the board by presenting documentary evidence that (i) it has been fully licensed and approved for the last 15 consecutive years prior to the year of application to the board, and (ii) during those 15 consecutive years has conferred an annual average of 30 or more degrees in one or more particular branches of the healing arts.

In order to be considered for approval by virtue of degree productivity, the applicant institution shall provide to the board the following:

(1) A letter from the appropriate regulatory board(s) in the country where the institution's principal teaching and clinical facilities are located, (i) stating that the institution for the last 15 consecutive years has been licensed or approved to award first professional degrees in medicine, osteopathy, chiropractic, or podiatry, or to award doctoral degrees in clinical psychology, and (ii) certifying that the degree productivity data provided under Item 2, below, is complete and correct.

(2) The following table (VSBM Form FI-3), listing the number of degrees conferred in one or more particular branches of the healing arts during each of the 15 consecutive years immediately prior to the current year.

VR465-02-2 GUIDELINES
FOR COMPLETING APPLICATION
DEGREE PRODUCTIVITY IN BRANCHES OF THE HEALING ARTS; 19___ THROUGH 19__

(Name of Institution)

Year	Discipline and Degree (e.g., Medicine M.D.)	Discipline and Degree	Discipline and Degree
19			
19			
19			
19			
19			
19			
19			
19			
19			
19			
19			
19			
19			
19			
Total			
15-yr. Avg.			

Application for Institutional Approval.
PART IV. EVIDENCE OF LICENSURE OF GRADUATES.

Under § 2.2B.2 of the Virginia State Board of Medicine document, VR 465-05-1 Regulations for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, a foreign institution may receive approval from the board by presenting documentary evidence that (i) it has been fully licensed or approved for the last 10 consecutive years prior to the year of application to the board, and (ii) during each of those 10 consecutive years the institution's graduates (or students who have completed all formal degree requirements) have been admitted to and passed appropriate licensure examinations and have been licensed by at least five boards (other than the Virginia Board) in the United States, its Territories, the District of Columbia, or the Provinces of Canada.

In order to be considered for approval by virtue of licensure of graduates, the applicant institution shall present to the board the following:

(1) A letter from the appropriate regulatory board(s) in the country where the institution's principal teaching and clinical facilities are located, stating that the institution for the last 10 consecutive years has been licensed or approved to award first professional degrees in medicine, osteopathy, chiropractic, or podiatry, or to award doctoral degrees in clinical psychology.

(2) The following table (VSBM Form FI-4), listing for each of the 10 consecutive years immediately prior to the current year (i) the five jurisdictions in which licenses were granted, (ii) the five respective boards that have licensed the institution's graduates (or students who have completed all degree requirements), and (iii) the names of the graduates or students so licensed.

LICENSURE OF GRADUATES OR STUDENTS WHO HAVE COMPLETED ALL DEGREE REQUIREMENTS,

19 THROUGH 19

(Name of Institution)		
Year Licensing Jurisdiction	Licensing Board	Name of Licensee
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		

(Continued next page)

19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		
19 1.		
2.		
3.		
4.		
5.		

Application for Institutional Approval.
PART V. EVIDENCE OF COMPLIANCE WITH BOARD STANDARDS.

Under § 2.3 of the Virginia State Board of Medicine document, VR 465-05-1, Regulations for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, a foreign institution may receive approval from the board by demonstrating compliance with the board's standards for approval of foreign institutions, as stated in § 3.4 of the regulations, subject to verification by a Site Visit Committee appointed by the board. Each foreign institution that seeks approval from the board must submit the information specified below in order to demonstrate compliance with the board's standards for approval of foreign institutions (§ 3.4 of the regulations). The following specifications describe the minimum information required by the board. The applicant institution, at its discretion, may submit any additional information it deems pertinent to its demonstration of compliance with the standards. The board reserves the right, as provided by § 3.5 B of the regulations, to request additional information that the board believes would clarify the application.

The application for approval shall include, at a minimum, the following information. If the information exists in a printed document such as a catalog, bulletin, or institutional handbook, the printed document should be provided with the application and appropriate page references cited in the application.

Mission.

Standard No. 1: The institution shall have a clear, accurate, and comprehensive written statement of its mission. The mission statement shall be included in the institution's catalog and shall minimally include the following:

a. The history and development of the institution;

b. An identification of any persons, entities, or institutions that have a controlling ownership or interest in the institution;

c. The purpose of the institution, including a statement of the relative degree of emphasis on instruction, research, public service, and continuing professional education;

d. A description of the institution's activities away from its principal site, including a list of all program areas in which courses or clinical experiences are offered away from the principal site; and

e. The institution's long-range plan (minimally for five years) in areas c and d of this standard.

Organization and Administration.

Standard No. 2: Provide a current, written document (including an organizational chart) accurately stating the powers, duties, and responsibilities of:

a. The governing board of owners of the institution;

b. The chief executive officer of the institution; and

c. The vice president for health affairs or similarly designated individual, if the institution has several structured administrative units offering education in different health fields.

Standard No. 3: Provide a current, written document (including an organizational chart) accurately stating the powers, duties, and responsibilities of the principal administrators, including:

a. The chief administrative officer;

b. The chief financial officer;

c. The chief student affairs officer;

d. The chief development officer; and

e. The chief government relations officer.

Standard No. 4: Provide a current, written document (including an organizational chart) accurately stating the powers, duties, and responsibilities of the faculty, including:

a. The faculty senate or other collective deliberative body;

b. Each faculty committee, whether administrative or advisory;

c. The chairperson of each instructional and clinical department; and

d. The preceptors or supervisors of individual clinical experiences at each location where these experiences are offered.

Standard No. 5: Provide a current, written document accurately stating the powers, duties, and responsibilities of the students, if students participate in institutional governance.

Financial Resources.

Standard No. 6:

a. Provide a statement, using VSBM Forms FI-Std 6a. Curr. and FI-Std 6a. Proj., of the total revenues of the institution for the preceding two fiscal years and the current fiscal year and of the projected total revenues for the next three fiscal years. If more than ten percent of the projected total

revenues for any of the next three years will be derived from grants and contracts or more than 20 percent will be derived from governmental appropriations, demonstrate that alternate sources of revenue will be available if the anticipated revenues from grants and contracts or governmental appropriations be reduced significantly.

Current Funds Revenues by Source--

Last Two Preceding Fiscal Years and Current Fiscal Year

(Name of Institution)

Fiscal Year Ending , 19 Through 19

Source	Last Two Fiscal Years				Current Fiscal Year	
	Fiscal Year 19		Fiscal Year 19		19	
	Dollar Amount	% of Total	Dollar Amount	% of Total	Dollar Amount	% of Total
Tuition and Fees						
Governmental Appropriations						
Governmental Grants and Contracts						
Private Grants and Contracts						
Endowment						
Sales and Services of Educational Activities						
Sales and Services of Auxiliary Enterprises						
Sales and Services of Hospitals						
Borrowed Funds						
Other Sources (Specify)						
Total Current Funds Revenues						

Projected Total Revenues by Source--

Next Three Fiscal Years

(Name of Institution)

Fiscal Year Ending 19 Through 19

Source	Fiscal Year 19		Fiscal Year 19		Fiscal Year 19	
	Dollar Amount	% of Total	Dollar Amount	% of Total	Dollar Amount	% of Total
Tuition and Fees						
Governmental Appropriations						
Governmental Grants and Contracts						
Private Grants and Contracts						
Endowment						
Sales and Services of Educational Activities						
Sales and Services of Auxiliary Enterprises						
Sales and Services of Hospitals						
Borrowed Funds						
Other Sources (Specify)						
Total Current Funds Revenues						

"Sales and Services of Educational Activities" includes revenues derived from the sales of goods and services that are incidental to the conduct of instruction, research, or public service. Examples include film rentals, scientific and literary publications, testing services, and university presses.

"Sales and Services of Auxiliary Enterprises" includes revenues generated by the auxiliary enterprise operations of the institution. Auxiliary enterprises are managed as essentially self-supporting activities. Examples include residence halls, food services, student health services, college stores, etc.

"Sales and Services of Hospitals" includes revenues (net of discounts and allowances) of a hospital operated by the institution. Include revenues of health clinics that are part of the hospital unless such clinics are part of the student health services program.

b. Provide a statement, using VSBM Forms FI-Std 6b. Curr. and FI-Std 6b. Proj., of the total expenditures of the institution for the preceding two fiscal years and the current fiscal year and of the total projected expenditures for the next three fiscal years.

The "Instruction" category of the E and G budget includes expenditures for both credit and noncredit activities in all administrative divisions of the institution. Expenditures for academic administration (for example, the office of the Chief Academic Officer) are excluded. The "Instruction" program includes the following subprograms: general academic instruction; community education; continuing professional education; clinical supervision (but not the costs of clinical facilities); and remedial and tutorial instruction conducted by the teaching faculty for the institution's students.

The "Academic Support, Excluding Libraries" category includes the contractual charges for access to clinical facilities not owned by the institution.

The "Operation and Maintenance of Plant" category includes the costs of clinical facilities owned by the institution.

The "Auxiliary Enterprises" program includes those essentially self-supporting operations that exist to furnish a service to students, faculty, or staff, and that charge a fee that is directly related to, although not necessarily equal to, the cost of the service. Examples are residence halls, food services, college stores, and intercollegiate athletics.

The "Mandatory Transfers" are transfers from current funds that must be made in order to fulfill a binding legal obligation of the institution. These include debt-service provisions relating to academic and administrative buildings (such as amounts set aside for debt retirement and interest, and required provisions for renewal and replacements to the extent not financed from other sources) and maintenance reserves.

"Current" Educational and General (E & G) Expenditures--
Last Two Preceding Fiscal Years and Current Fiscal Year

(Name of Institution)

Fiscal Year Ending , 19 Through 19

Expenditure Program	Last Two Fiscal Years Fiscal Year 19		Fiscal Year 19		Current Fiscal Year 19	
	Dollar Amount	% of Total	Dollar Amount	% of Total	Dollar Amount	% of Total
Instruction						
Research						
Public Service						
Academic Support, Excluding Libraries						
Student Services						
Institutional Support						
Operation and Maintenance of Plant						
Scholarships and Fellowships						
Total E & G Expenditure						
Auxiliary Enterprises		XXXX		XXXX		XXXX
Mandatory Transfers		XXXX		XXXX		XXXX

Projected Educational and General (E & G) Expenditures--

Next Three Fiscal Years

(Name of Institution)

Fiscal Year Ending , 19 Through 19

Expenditure Program	Fiscal Year 19		Fiscal Year 19		Fiscal Year 19	
	Dollar Amount	% of Total	Dollar Amount	% of Total	Dollar Amount	% of Total
Instruction						
Research						
Public Service						
Academic Support, Excluding Libraries						
Libraries						
Student Services						
Institutional Support						
Operation and Maintenance of Plant						
Scholarships and Fellowships						
Total E & G Expenditure						
Auxiliary Enterprises		XXXX		XXXX		XXXX
Mandatory Transfers		XXXX		XXXX		XXXX

Standard No. 7: Provide the following information concerning the institution's business and financial management:

a. The internal organizational arrangement for the administration and management of its financial resources;

b. The institutional budget planning process; and

c. The most recent auditing report and management letter provided by an independent auditor.

Standard No. 8: Information in support of this standard appears under Standard No. 6.

Standard No. 9: How has the institution made provision for the refund of tuition and fees to all enrolled students in the event of institutional closure by the means of at least one of the following?

a. Either a line of credit or real (including capital) assets of value equal to the amount of total projected revenues from tuition and fees for any given year;

b. Either an endowment or reserve funds that are adequate to provide refunds to students; or

c. A surety bond (issued by a surety company authorized to transact business in the country where the institution's principal facilities are located) adequate to provide refunds to students.

Instructional Support Services.

Standard No. 10: Provide a copy of the institution's master plan for the current and projected instructional facilities at its principal site. At a minimum, the plan should include:

a. An inventory of: current classroom laboratory, and library space; administrative and faculty office space; and animal facilities. (If the operations of the institution's animal facilities are regulated by the government of the country where the facilities are located, attach a copy of the appropriate licensure for operation of the animal facilities.)

b. A projection of additional needs for facilities during the next three years.

c. A description of the process used to monitor the adequacy of current facilities and to project the need for additional facilities.

Standard No. 11: Provide a copy of the institution's master plan for the current and projected clinical facilities necessary to support the appropriate curriculum requirements of Standard No. 21. At a minimum, the plan should include:

a. The location, licensure status, and description of those clinical facilities at the principal site which provide an appropriate variety of group experiences in a clinical setting in support of the curriculum requirements specified in Standard No. 21. If these facilities are not owned and operated by the institution, attach one copy of the affiliation agreement with each separate facility in response to Standard No. 27.

b. The location, licensure status, and description of those clinical facilities which support the individual clinical experiences required in the curriculum specifications listed in Standard No. 21. If these facilities are not owned and operated by the institution, attach one copy of the affiliation agreement with each separate facility in response to Standard No. 27. (If a clinical facility which supports individual clinical experiences is located within the Commonwealth of Virginia, the institution shall provide evidence that the Virginia facility is in compliance with the provisions of § 54-276.7:2 of the Code of Virginia.)

Standard No. 12: Provide the following information about library service hours:

a. What is the schedule of service hours for the library?

b. How many hours per week is the library open when classes, laboratory sessions, or group clinical experiences are scheduled?

c. How many hours per week is the library open when no classes, laboratory sessions, or group clinical experiences are scheduled?

Attach a copy of the institution's written policy on accessibility to the library.

Standard No. 13: Complete the following summary (VSBM Form FI-Std 13) of headcount and full-time equivalent (FTE) library staff (1.0 FTE professional librarian or clerical and support staff is understood to be working 40 hours per week; 1 FTE student assistant is understood to be working 1,896 hours per fiscal year, that is, 52 weeks at 40 hours per week less 23 vacation days at eight hours each):

(Name of Institution)			
Current Library Staff			
Staff	Headcount		FTE
	Full-Time	Part-Time	
Professional Librarians			
Clerical/Support Staff			
Student Assistants			
Total			

Standard No. 14: Complete the following VSBM Form FI-Std 14 showing the number of library volumes (as defined in Standard No. 14) contained in the institution's library collections during the two preceding and current fiscal years:

(Name of Institution)

Library Volumes

(Last two fiscal years and current fiscal year)

	Fiscal Year 19	Fiscal Year 19	Fiscal Year 19
Number of volumes at beginning of fiscal year			
Number of volumes added during fiscal year			
Number of volumes withdrawn during fiscal yr.			
Total number of volumes at end of fiscal year			

Describe any electronic bibliographic search and retrieval services in the basic sciences and medicine that are available to faculty and students. Include the following information about each service:

a. Name of date base, vendor, and communications medium (telex, on-line computer, video);

c. How costs for the service are recovered (charge to students, charge to faculty, paid by institution).

Standard No. 15: Information in support of this standard appears under Standards No. 6, 13 and 14.

..... *Faculty.*

Standard No. 16: Complete the following VSBM Form FI-Std 16 showing the headcount number of each category of instructional faculty by type of appointment.

(Name of Institution)

Number of Faculty

Category of Instruction	Type of Appointment	
	Full-Time	Part-Time
Basic Biomedical Sciences		
Clinical Sciences		
Clinical Supervisors or Preceptors		
Total Headcount		

Standard No. 17: Using the following VSBM Form-Std 17, provide a roster of the instructional faculty (including all clinical supervisors or preceptors at all sites where students are enrolled in clinical experiences):

(Name of Institution)

Faculty Roster

Name of Faculty Member (Grouped by Department or Discipline)	Full-Time or Part-Time	Most Advanced Degree and Field of Degree	Appropriate Licensures or Diplomas	Discipline Taught at Institution

Standard No. 18:

a. Using the following VSBM Form FI-Std 18a., compute the number of full-time equivalent (FTE) faculty who are employed during the Fall term of the current academic year:

(Name of Institution)				
	Full-time Faculty		Part-Time Faculty	
Degree Level	Hours Taught	FTE	Hours Taught	FTE
First Professional and Graduate		XXXXXX		XXXXXX
Divide this number by 9	XXXXXXXXXXX		XXXXXXXXXXX	
Total				

b. Using the following VSBM Form FI-Std 18b., compute the number of full-time equivalent (FTE) students who are enrolled during the Fall term of the current academic year.

(Name of Institution)			
	Student	Number of	Number of
Degree Level	Credit Hours	FTE	Headcount
	Generated	Students	Enrollments
First Professional and Graduate		XXXXXXXXXXXXXX	
Divide this number by 12	XXXXXXXXXXXX		XXXXXXXXXXX
Total			

Standard No. 19: State the institution's policies relating to instructional faculty for each of the following:

a. Recruitment and selection;

b. Salaries;

c. Tenure, promotion, and termination;

d. Faculty evaluation;

e. Faculty development;

g. The rights, privileges, and responsibilities of the faculty.

This standard may be met by furnishing the institution's faculty handbook or other publication(s) containing the above policies and by giving the page references for the information requested.

Curriculum.

Standard No. 20: Provide the institution's written plan for curriculum development and evaluation, including:

a. An explanation of how the total curriculum, and the curriculum of each degree program, are consistent with the mission of the institution;

b. The process for evaluating the total curriculum and the curriculum of each degree program; and

c. Evidence that full-time faculty with training in appropriate fields (and consultants as appropriate) are involved in curricular planning, development, and evaluation.

Standard No. 21: What are the minimum requirements for satisfactory completion of each degree program offered? (Include page references to catalogs and other institutional publications containing this information.) These minimum requirements should include the following, according to the type of institution:

a. Medical School.

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of medicine, including: Anesthesiology; Dermatology; Family Medicine; Internal Medicine; Neurology; Obstetrics and Gynecology; Ophthalmology; Otolaryngology; Pediatrics; Physical Medicine; Preventive Medicine; Psychiatry; Public Health; Radiology; Surgery; Urology; and

(3) Appropriate group and individual clinical experiences in the various department of medicine, including: Family Medicine; Internal Medicine;

Obstetrics and Gynecology; Pediatrics; Psychiatry; and Surgery.

b. College of Osteopathic Medicine.

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of Osteopathic medicine, including: Anesthesiology; Dermatology; Family/General Practice Medicine; Internal Medicine; Neurology; Obstetrics and Gynecology; Osteopathic Principles and Practice; Ophthalmology; Otolaryngology; Pediatrics; Preventive Medicine; Psychiatry; Public Health; Radiology; Surgery; Urology; and

(3) Appropriate group and individual clinical experiences in the various departments of osteopathic practice, including: Family Medicine; Internal Medicine; Obstetrics and Gynecology; Pediatrics; Psychiatry; and Surgery.

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Biostatistics; Embryology; Epidemiology; Histology; Microbiology; Pathology; Pharmacology; Physiology;

(2) Appropriate basic and advanced courses in the various procedures and systems of podiatric medicine, including: General Diagnostic Procedures; Physical and Pharmacological Therapeutic Procedures; Orthotic and Prosthetic Procedures; Surgical Procedures and Anesthesia; the General Dermatological, Integumentary, Musculoskeletal, Nervous and Vascular Systems; and

(3) Appropriate group and individual clinical experiences in the various procedures and systems of podiatric medicine specified in item c (2) above.

d. Chiropractic College.

(1) Appropriate basic courses in the bio-medical sciences, including: Anatomy; Biochemistry; Microbiology; Pathology; Physiology;

(2) Appropriate basic and advanced courses in the various departments of medicine and chiropractic, including: Dermatology; Dietetics; Geriatrics; Obstetrics and Gynecology; Orthopedics; Otolaryngology; Pediatrics; Public Health; Roentgenology; Principles and Practices of Chiropractic; Adjustive Technique; Physical Therapy; Spinal Analysis; and

(3) Appropriate group and individual clinical experiences in the various departments of chiropractic practice and treatment, including: the General Practice of Chiropractic; Physical, Clinical, and Laboratory Diagnosis; Adjustive Technique; Physical Therapy, and Spinal Analysis.

e. Institution of higher education offering doctoral programs in Clinical Psychology.

(1) Appropriate full semester graduate foundation courses in the discipline of Psychology, including: the History and Systems of Psychology; theories of Learning, Cognition, Motivation, and Personality; Social Psychology and Group Processes; Statistics and Research Design; Human Development and Genetics; Scientific and Professional Ethics and Standards;

(2) Appropriate full semester basic and advanced courses within the discipline of Psychology, including: Psychological Measurement; Neuropsychology; specific objective and projective clinical assessment; the diagnosis of Psychopathology; Psychotherapy and related intervention strategies used in the treatment of mental and nervous disorders; supervised professional research procedures and activity; and

(3) Appropriate full-semester group and individual clinical experiences, followed by a one-year full-time internship in approved mental health settings. All didactic and clinical training must be provided in an organized sequence of activities by an identifiable appropriately credentialed faculty, and must be integrated to provide and demonstrate a comprehensive exposure to the various aspects involved in the general practice of clinical psychology which are utilized in the diagnosis and treatment of mental and nervous disorders.

Standard No. 22: Provide the institution's current document concerning academic advising. This document should explain:

a. How the institution ensures that instructional faculty are accessible to students for academic advising at stated times outside regularly scheduled class hours and throughout the period in which any students are enrolled; and

b. How the institution's policy on accessibility of faculty is kept current; and

c. How the institution's policy on accessibility of faculty is distributed to students.

Students.

Standard No. 23: Provide a policy document that accurately defines:

a. The minimum requirements for eligibility for admission to the institution and for acceptance into specific degree programs;

b. The institution's standards for academic credit given for experience;

c. The criteria for transfer credit;

d. The minimal requirements for academic and clinical performance necessary for graduation;

e. The criteria for refunds of tuition and fees; and

f. The rights, privileges and responsibilities of students.

This standard may be met by furnishing the institution's catalog(s) and other relevant publications and by giving page references to the information specified above.

Standard No. 24: Does the institution require students to participate in individual clinical experiences away from the institution's principal site? Include the following information:

a. The requirements of each degree program for individual clinical experiences;

b. The respective responsibilities of the institution and student in securing appointment to the individual clinical experience;

c. The financial obligations incurred by the student during the required individual clinical experience, including tuition, fees, and living expenses; and

d. The duration and performance expectations of the required individual clinical experience.

This standard may be met by furnishing the institution's publications relating to required individual clinical experiences away from the institution's principal location and by giving page references to the information specified above.

Standard No. 25: What opportunities for student financial aid does the institution offer? Include the following information:

a. The institution's policies regarding student financial aid;

b. The financial aid programs currently available at the institution; and

c. The eligibility requirements and student obligations for the receipt of financial aid.

This standard may be met by furnishing the institution's publications relating to student financial aid and by giving page references to the information specified above.

Standard No. 26: Provide documents that state the institution's:

a. Policy for maintaining records on enrolled students; and

b. Plan for the preservation of students' transcripts by another institution or agency, as well as for access to the transcripts, in the event of institutional closure.

Clinical Affiliations.

Standard No. 27: Provide a current affiliation agreement with each clinical facility in which any matriculated student is receiving clinical instruction through a group or an individual clinical experience. Each agreement should include:

a. A description of the clinical facility, including name, location, number of beds, and average annual numbers of outpatient visits and emergency room visits;

b. The disciplines or fields of instruction supported by the facility;

c. The identification of all persons employed by, or affiliated with the clinical facility who hold instructional faculty appointments in the institution and who act as supervisors or preceptors for students at the clinical facility;

d. The administrative and financial obligations of the institution and the clinical facilities for the clinical education of students; and

e. The duration of the affiliation agreement.

If the clinical facility is located in the Commonwealth of Virignia, attach to the affiliation agreement evidence of compliance with § 54-276.7:2 of the Code of Virginia.

11/26/85 /s/ Eugenia K. Dorson, Executive Secretary
Board of Medicine

Emergency Regulation

Approval of emergency regulation

11/30/85 /s/ Charles S. Robb, Governor

Filed: 12/02/85 - 9:21 a.m.
/s/ Joan W. Smith, Registrar of Regulations

EXECUTIVE ORDER NUMBER 66 (85)

USE OF SAFETY BELTS BY STATE EMPLOYEES

Virginia state government has a responsibility to protect the health, welfare and safety of its state employees during the conduct of state business. Virginia state employees operate more than 14,000 state-owned vehicles during the course of their work in service to the Commonwealth.

The Virginia State Police reports that state employees were involved in 1801 accidents while operating state-owned motor vehicles in 1984. These accidents injured 138 state employees. Total property damage to state vehicles resulting from these accidents exceeded $900,000.

State employees who are injured or the families of employees killed in a motor vehicle accident while operating a vehicle on official state buisness utilize the state's Worker's Compensation Program for claims resulting from these accidents. The Commonwealth has incurred approximately $200,000 in Worker's Compensation claims per year over the last five years as a result of state employee motor vehicle accidents, including four fatalities.

State employee injuries resulting from motor vehicle accidents also often result in a loss of productivity, delays in the delivery of government services, extensive sick leave and increased cost required to train replacement personnel. Each of these factors hinder the effective operation of Virginia state government. The Department of Motor Vehicles reports that motor vehicle accidents are the number one cause of lost work time and on-the-job fatalities in the nation.

Twenty-two states, the District of Columbia and numerous private corporations within Virginia and across the nation have adopted policies requiring their employees to wear safety belts on-the-job in an effort to prevent avoidable death and injury of their employees and avoid the significant costs associated with motor vehicle accidents. The Department of Motor Vehicles reports it has been conclusively shown that the proper use of safety belts can reduce the number of serious injuries and fatalities by more than fifty percent.

Now, therefore; by virtue of the authority vested in me as Governor, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby require the following:

1. All state employees who drive or occupy the front seat of state vehicles or a privately-owned vehicle on official state business shall wear their safety belts at all times, whenever the vehicle is in motion and equipped with safety belt systems. This policy shall not apply to:

a. Law enforcement personnel actively engaged in transporting persons in custody or when circumstances, according to guidance issued by the appropriate law enforcement state agency head, would render the wearing of a seat belt impractical; and

b. Employees who have a physical condition or other bona fide medical reason, determined in writing by a licensed physician and presented to the employee's supervisor, which would make wearing a safety belt impractical;

2. State agency heads shall publicize the requirements of this executive order and ensure compliance in accordance with the Employee Standards of Conduct and Performance; and

3. The Department of Motor Vehicles in consultation with the Department of Personnel and Training shall assist state agencies in publicizing the requirements of this order and the benefits of the use of safety belts.

This order shall become effective November 22, 1985, and will remain in full force until amended or rescinded by further executive order.

Given under my hand and the seal of the Commonwealth of Virginia, this 18th day of November, 1985.

/s/ Charles S. Robb

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

STATE BOARD OF ACCOUNTANCY

Title of Regulation: **VR 105-01-2. Rules and Regulations of the State Board of Accountancy.**

COMMONWEALTH OF VIRGINIA

Office of the Governor

November 26, 1985

Bernard L. Henderson, Jr.
Department of Commerce

As established in previous correspondence, my office has reviewed the proposed final regulations of the Virginia State Board of Accountancy. I want to take this opportunity to commend the Board of Accountancy for the work they have put into the proposed final revisions of their existing regulations. I know the regulatory review process has been lengthy and at times somewhat painful to all who have participated, and I want the Board and your

staff to know that their efforts have been appreciated.

As established in Executive Orders 51 and 52 (84), I authorize the Board to proceed with final adoption of the proposed final regulations taking into consideration the comments that follow. I recognize that after the lengthy regulatory review process it is important to all parties affected that final regulations for the Board of Accountancy be adopted as soon as possible under the procedures of the Administrative Process Act, and I encourage the Board to take the necessary steps to do so.

I recommend that the proposed final regulations be modified to permit non-certified accountants to prepare standard compilation reports and that those provisions of the proposed final regulations that serve as obstacles to their preparation by non-certified accountants be modified where appropriate.

In addition, I recommend that the Board in adopting final regulations consider and modify the proposed final regulations with respect to rules governing administration of the exam which impact on interstate mobility as brought to my office's attention by Mr. Terry L. Palmer in his attached letter of October 22, 1985.

Finally, it is my hope that the Board of Accountancy will not view regulatory reform as a one-time effort but, as established in its public participation guidelines as well as Executive Order 52 (84), the Board should engage in periodic review of its existing regulations and continue to take those steps which are appropriate to address concerns with its existing regulations that may be brought to the Board's attention.

Once again, I want to commend the Virginia State Board of Accountancy for a job well done and hope that it will give careful consideration to adopting the recommendations I've provided in this letter.

Many thanks.

/s/ Charles S. Robb

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **Real Property Disposition Period in the Aid to Dependent Children (ADC) Program (VR 615-01-8).**

Governor's Comments:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: November 25, 1985

GENERAL NOTICES/ERRATA

Symbol Key †
† Indicates entries since last publication of the Virginia Register

NOTICES OF INTENDED REGULATORY ACTION

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations Governing Brucellosis Calfhood Vaccination.** The purpose of the proposed regulations is to require brucellosis calfhood vaccination of all female cattle four months of age or older which enter the Commonwealth of Virginia for feeding and breeding purposes, and to require the same vaccination for female cattle of similar age that are sold at Virginia livestock markets for placement on Virginia farms. Such vaccinations will enhance the prevention, control and eradication of brucellosis from the cattle population within Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

Contact: Dr. A. J. Roth, Chief, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations Governing the Transportation of Companion Animals and Horses.** The purpose of the proposed regulations is to specify those requirements to be met when transporting live companion animals and horses that will preclude the inhumane treatment of these animals and foster handling and care practices that will enhance their well-being during periods of transit within the state.

Statutory Authority: § 29-213.37 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

Contact: Dr. Tonya Higgins, Animal Welfare Officer, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Polygraph Examiners Regulations.** The purpose of the proposed amendments is to amend the license examination procedure and fees charged for license and license renewal in accordance with § 54-1.28:1 of the Code of Virginia, and other changes which may be necessary.

Statutory Authority: § 54-917 of the Code of Virginia.

Written comments may be submitted until January 10, 1986.

Contact: David E. Dick, Assistant Director, Commonwealth of Virginia, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515 (toll-free number 1-800 552-3016 - VA only).

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Private Security Services Business Regulations.** The purpose of the proposed amendments is to revise the fees charged for license, license renewal and registration in accordance with § 54-1.28:1 of the Code of Virginia, and other changes which may be necessary.

Statutory Authority: § 54-729.30 of the Code of Virginia.

Written comments may be submitted until January 10, 1985.

Contact: David E. Dick, Assistant Director, Commonwealth of Virginia, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515 (toll-free number 1-800 552-3016 - VA only).

BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Regulations Prohibiting the Taking of Finfish in Designated Portions of the James River and Its Tributaries.** The purpose of the proposed amendments is to simplify the language, and to make it more understandable, and to extend the commercial fishing ban on certain species for another two years because of Kepone contamination.

Statutory Authority: § 32.1-248 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

Contact: William F. Gilley, P. E., Director, Division of Solid and Hazardous Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667.

BOARD OF MENTAL HEALTH AND MENTAL RETARDATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mental Health and Mental Retardation intends to consider promulgating regulations entitled: **Rules and Regulations for the Licensure of Private Psychiatric Hospitals, Mental Health, Mental Retardation, and Substance Abuse Treatment and Rehabilitative Facilities.** The purpose of the proposed regulations is to replace existing licensure regulations for private psychiatric hospitals, group homes, halfway houses and substance abuse facilities; and to revise existing regulations pursuant to regulatory review.

Statutory Authority: Title 37.1, Chapter 8 (§ 37.1-179.1) and Chapter 11

Written comments may be submitted until January 20, 1986.

Contact: Mary Dunn Conover, Director, Quality Assurance Support, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-0070.

DEPARTMENT OF SOCIAL SERVICES

The notice printed below was inadvertently omitted from publication in a previous issue.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to amend regulations entitled: **Child Protective Services Client Name Information.** The purpose of this amendment is to alter the procedures which determine the maintenance of name information in child protective services cases.

Statutory Authority: § 63.1-248.1 et seq. of the Code of Virginia.

Written comments may be submitted until December 24, 1985.

Contact: Janine Tondrowski, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9081 (toll-free number 1-800 552-7097).

GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

ANNOUNCING THE AVAILABILITY OF GRANT FUNDS FOR CRIMINAL JUSTICE ASSISTANCE

The Department of Criminal Justice Services announces the availability of grant funds to assist state agencies and local units of government in carrying out programs which offer a high probability of improving the functioning of the criminal justice system.

In accord with statutory requirements which apply to these funds, and priorities determined by the Criminal Justice Services Board, the following program categories are eligible for funding:

(1) Community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

(2) Programs which provide assistance to victims, jurors and witnesses;

(3) Programs which provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

(4) Programs which alleviate jail and prison overcrowding, and programs which indentify existing state and federal buildings suitable for prison use;

(5) Programs which provide prison industry projects designed to place inmates in a realistic working and training environment in which they will be enabled to acquire marketable skills and to make financial payments for restitution to their victims, for support to their families and for support of themselves in the institution;

(6) Programs which provide training, management, and technical assistance to criminal justice personnel and determining appropriate prosecutorial and judicial personnel needs;

(7) Programs which disrupt illicit commerce in stolen goods and property.

Grant applications for continuation funding, or for new programs, must be received by the department by the close of business on Friday, February 7, 1986.

Successful applicants will receive funding for the period July 1, 1986 through June 30, 1987. Priority will be given to continuing those programs now receiving funds and demonstrating satisfactory performance.

A guide describing the eligible programs, funding sources, matching requirements, application procedures and administrative requirements is available. It also contains the necessary grant application forms and detailed instructions for completing them. For a copy, write or call R. L. Bell, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

NOTICE TO STATE AGENCIES

RE: Forms for filing material on dates for publication in The Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

NOTICE TO TRADE ASSOCIATIONS AND ORGANIZATIONS

The 1985-1986 listing of major meetings of certain organizations and associations is being updated. If you would like your organization's annual or semi-annual meeting listed, please advise the office of the Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591.

CALENDAR OF EVENTS

Symbol Key †
† Indicates entries since last publication of the Virginia Register

NOTICE: Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

THE VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† **February 25, 1985 - 2 p.m.** – Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, Board Room 204, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to adopt regulations entitled: **Rules and Regulations Governing Retail Food Store Sanitation and Operations.** This regulation establishes requirements for Retail Food Store Sanitation and Operations.

STATEMENT

Basis: Virginia Department of Agriculture and Consumer Services, Bureau of Food Inspection, has for some time been considering the need to formalize retail food store inspection criteria that are currently contained in the Food Inspection Field Operations Manual. In addition, new technology and innovations in the retail food industry such as food services and salad bars have increased attention being given to sanitation and food safety by the public and some members of the General Assembly.

Purpose: The proposed regulation will formalize the inspection procedures for retail food stores currently utilized by the Virginia Department of Agriculture and Consumer Services, Bureau of Food Inspection.

Impact: The expense to regulatory agencies for the implementation and enforcement of the proposed regulation will be limited to printing costs.

Statutory Authority: §§ 3.1-364 and 3.1-398 of the Code of Virginia.

Written comments may be submitted until February 7, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Contact: Don O'Connell, Chief, Bureau of Food Inspection, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3520

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February 26, 1986 - 10 a.m. – Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

The Department will hear comments on all of the proposed regulations listed below.

Written comments on all proposed regulations may be submitted until February 25, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend the following regulations:

Title: **Rules and Regulations for Enforcement of the Virginia Pesticide Law.** This regulation ensures that pesticides sold and used in Virginia are effective and can be used without causing unreasonable adverse effects to humans and the environment.

STATEMENT

Statement of Basis: 1. The original rules and regulations were written to regulate the manufacture, sale, and transportation of economic poisons (pesticides) and devices, including insecticides, fungicides, rodenticides, herbicides, disinfectants, pest repellents, lures, wood

preservatives, and mildew controls.

In 1975 the rules and regulations were amended to provide for enforcement of the Virginia Pesticide Use and Application Act of 1975. This act provided for the certification and licensing of both private and commercial applicators using restricted use pesticides in Virginia. In addition, this act provides for monitoring use or conducting misuse investigations on the use of any pesticide or container inconsistent with the label directions or regulations of the board.

2. The rules and regulations adopted under the Virginia Pesticide Law were considered in accordance with the Governor's Regulation Review Process to determine if the requirements were needed and to assure that they were clearly and simply stated as well as requirements not needed.

3. The continued economic production of food and fiber in Virginia is, in a large measure, dependent on the effective control of the various pests e.g. insects, diseases, weeds etc. affecting these commodities. Chemical pesticides are expected to continue playing a major role in effective pest control. In addition, it is equally essential that these materials be applied in such a manner as to assure a minimum adverse impact on humans and the environment. An effective program of regulating these important chemicals is essential to this effort.

Purpose: The primary purpose of this regulation is to aid in assuring the continued availability of pesticide chemicals essential to the production of food and fiber and the protection of health and property in Virginia. It also provides assurance that these products are adequately labeled to ensure that they are effective for their intended use and can be used without unreasonable adverse effects to the applicator, the public or to the environment.

Impact: Number or types of regulated entities or persons affected. All citizens of Virginia have a vested interest in the effective regulation of pesticide chemicals. The entities include 13,000 farmers, 400 dealers, homeowners, 3,000 commercial applicators, 898 manufacturers and others.

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

Contact: Donald H. Kludy, State Entomologist, Bureau Chief, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * * * * *

† Title: **Rules and Regulations for the Enforcement of Virginia Fertilizer Law.**

STATEMENT

Statement of basis: This regulation is essential to assure consumers that commercial fertilizers are plainly and conspiciously labeled and that such products contain the amount of nutrients declared on the label. It prescribes how plant nutrients must be expressed on the product label; it provides for minimum guarantees for nutrients other than nitrogen, phosphorus and potassium; it prescribes how slowly available plant nutrients may be guaranteed; it provides the requirements for registering and labeling "Soil Conditioners"; it provides investigational allowances to be used in determining when a product is deficient; it provides for monetary penalty assessments for nitrate and water insoluble nitrogen, secondary and minor elements and for excessive chlorine in tobacco fertilizers; it provides maximum chlorine guarantees for tobacco fertilizers and it provides for a minimum percentage of primary plant nutrients (Nitrogen, Phosphate and Potash) in mixed fertilizers.

Statement of purpose and impact: The regulation is necessary to prescribe uniform labeling of plant nutrients so that the consumer can compare one product with another; to provide investigational allowances to be used in determining when a product is deficient; to provide for monetary penalty assessments for deficiencies in certain plant nutrients and to provide minimum percentages of plant nutrients to be included in mixed fertilizers.

Impact: The regulation affects 350 fertilizer manufacturers doing business in Virginia. The new provision will likely reduce violations and monetary penalty assessments.

Statutory Authority: § 3.1-104 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

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Title: **Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law.** The regulation establishes industry-wide rules to provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses. The regulation prescribes sales records to be kept, identifies persons that can alter records or reject a sale, and provides authorization from consignor for licensee to buy tobacco for his own account.

STATEMENT

Statement of Basis: The Virginia Commission Merchants Law provides for licensing Commission Merchants and sets forth certain requirements for record keeping for the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses. Section 3.1-921 of the Code of Virginia provides for the State Board of Agriculture and Consumer Services to adopt needed rules and regulations for the enforcement of this chapter. Regulations have been adopted to further assure the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses.

Nontechnical changes were made to improve sentence structure and clarity to the rules.

The regulation specifies information required on a "Ticket", "Tobacco Sale Bill", and "Buyers Bill". It further specifies what records must be kept and made available for inspection and who is authorized to make changes to the required documents.

Purpose: To provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses.

Impact: This regulation affects 44 tobacco warehouses licensed under the Commission Merchants Law and all companies/persons buying tobacco at these licensed warehouses.

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

Contact: J. F. Lyles, Chief, Virginia Department of Agriculture and Consumer Services, Weights and Measures Bureau, Washington Bldg., Room 402, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2476

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† Title: **Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.**

STATEMENT

Statement of Basis: The Virginia Weights and Measures Law (Ch. 35 of Title 3.1 of the Code of Virginia) provides consumer protection at the point of sale in all commercial transactions. Section 3.1-926 of the Code of Virginia states in part, that the board may issue regulations for the enforcement of this chapter. Regulations have been developed to establish operating guidelines for specific weights and measures activities. The regulations were developed to:

1. Specify commodity labeling requirements to assure truthful information in labeling of consumer and nonconsumer commodities. The labeling requirements are compatible with the Federal Fair Packaging and Labeling act and Uniform Packaging and Labeling Regulation as passed by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

2. Specify method of sale for certain consumer commodities. The method of sale is compatible with the Uniform Method of Sale Regulation as adopted by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

3. Exempt from sealing or marking and/or annual retesting of certain weights and measures.

4. Establish guidelines for the accurate weighing of producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years.

5. Require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Purpose: To prescribe how consumer and nonconsumer packages must be labeled to enhance value comparison and reduce fraud and misrepresentation; to prescribe method of sale for certain consumer commodities; to exempt from annual sealing or marking and/or annual retesting of certain weights and measures; to establish guidelines for the accurate weighing of producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years; and to require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Impact: This regulation affects the following firms or persons doing business in Virginia: (i) packers and processors preparing prepackaged commodities, (ii) retailers selling bulk commodities by weight, (iii) vending machine owners or operators, (iv) railroads, (v) tobacco auction warehouses, and (vi) sellers of agricultural products or specified bulk commodities by weight.

This regulation also affects the following firms or persons doing business in Virginia: (i) sellers advertising the sale of fireplace or stove wood, (ii) manufacturers or sellers of prefabricated utility buildings or polyethylene products, (iii) packagers or installers of insulating materials, (iv) retailers or wholesalers of soft wood lumber, and (v) owners or operators filling liquified petroleum gas cylinders.

Also, the regulation affects each owner or operator of milk tanks, vehicle tanks, dry or liquid measure containers when used as a standard of measure.

Statutory Authority: §§ 3.1-926 and 3.1-943 of the Code of Virginia.

Contact: J. F. Lyles, Chief, Weights and Measures Bureau, Washington Bldg., 1100 Bank St., P. O. Box 1163, Room 402, Richmond, Va. 23209, telephone (804) 786-2476

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Title: **Rules and Regulations Governing the Virginia Animal Remedies Law.** These regulations establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

STATEMENT

Statement of basis: The health programs for livestock and

poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Purpose: To establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

The health programs for livestock and poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect all firms or persons who manufacture and offer for sale or purchase and use animal remedies in the production of meat, milk and eggs for human consumption.

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

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, 1100 Bank St., Room 403, Richmond, Va. 23209, telephone (804) 786-3514

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Title: **Rules and Regulations for Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law.** This regulation (i) requires the licensee to declare the conditions under which he intends to operate; (ii) requires the license to be conspicuously posted in the licensee's place of business; (iii) requires "Conditional Buyers" to provide additional information to the producer when shipment is rejected; (iv) requires proper accounting for receipt and delivery of products; (v) requires all contracts be filed with the Department of Agriculture and Consumer Services; and (vi) prescribes rules for filing complaints of violations of §§ 3 and 4 of the regulation.

STATEMENT

Basis: During the early 1960's, it was determined that some Virginia produce growers were not receiving proper accounting of and prompt payment for produce sold to produce dealers located in state as well as out of state. Thus, the Virginia Agricultural Products Dealers Licensing and Bonding Law was enacted in 1966 and the Rules and Regulations for the Enforcement of the Law were adopted in April of 1977.

Preventing misunderstanding between produce growers and produce buyers is essential in maintaining a wholesome marketing atmosphere. These regulations are essential in ensuring Virginia's agricultural producers that sales of produce will be properly accounted for and that they will receive prompt payment.

Purpose: The purpose of this regulation is to require the licensee to declare, at the time application is made for a license, the conditions under which the licensee intends to operate; require the license to be conspicuously posted in the licensee' place of business; require "Conditional Buyers" to provide additional information to the producer when shipment is rejected; require proper accounting of receipt and delivery of products; require all contracts be filed with the Department of Agriculture and Consumer Services; and prescribe rules for filing complaints of violations of §§ 3 and 4 of the regulation. Changes were made to improve sentence structure and clarity.

Impact: This regulation affects 58 (number of 1985 licensees) persons or firms purchasing Virginia agricultural produce directly from the producer and not exempted in the Dealers in Agricultural Products Law § 3.1-722.1 of the Code of Virginia.

Projected cost to regulated entities for implementation and compliance – None.

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

Contact: J. Bentley Crichton, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, 1100 Bank St., Room 403, Richmond, Va. 23219, telephone (804) 786-3542

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Title: **Rules and Regulations for Enforcement of the Virginia Agricultural Liming Materials Law.**

STATEMENT

Statement of basis and purpose: This regulation is essential to assure consumers that agricultural liming materials are accurately and conspiciously labeled. The regulation prescribes minimum standards and classification of liming materials by fineness; minimum calcium carbonate equivalents for Burnt Lime, Hydrated Lime, Limestone, Shells and Burnt Shells. The regulation prescribes investigational allowance and penalties for deficiencies in neutralizing value, fineness; calcium, magnesium and potash in lime potash mixtures. It establishes test methods by reference to those published in the "Book of Methods" by the Association of Official Analytical Chemist. It requires that the results of official samples be reported annually to all registrants of agricultural liming materials.

Impact: The regulation affects 62 registrants doing business in Virginia. No new burden is imposed by these regulations.

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

Contact: W. P. Zentmeyer, Supervisor, Fertilizer Section,

Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

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Title: **Rules and Regulations for Enforcement of the Virginia Gasoline and Motor Fuels Law.**

STATEMENT

Statement of basis and purpose: This regulation is essential to ensure that all motor fuel offered for sale is accurately labeled and meets established minimum specifications. It (i) prescribes minimum specification for distillation, reid vapor pressure, water and sediment and gum in gasoline; flash point, water and sediment, sulfur cetane, distillation and corrosion in diesel fuel; (ii) provides the requirement for registration and labeling of gasoline and diesel fuel; (iii) prescribes the regulatory action to be taken when motor fuels are found not to conform to minimum specifications and (iv) requires the publication of information filed in connection with registration and results of tests of official samples.

Impact: The regulation affect approximately 600 motor fuel registrants and 14,400 retail outlets in Virginia.

Cost to industry will be minimal since current requirements are that the kind of alcohol blended must be posted on retail pumps, this regulation requires that the percentage be added.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

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Title: **Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act.**

STATEMENT

Statement of basis: This regulation is necessary to clearly define the requirements and conditions under which a permit may be issued; to (i) prescribe record keeping requirements for permittees; (ii) production reporting requirements; (iii) security measures to deter unauthorized use of equipment or removal of ethanol; to clarify denaturing requirements for industrial ethanol; to prescribe (i) warning statements for denatured ethanol; (ii) minimum size containers; (iii) conditions for transporting undenatured ethanol; and to require an indentifying mark on any distilling apparatus existing under the authority of the Virginia Industrial Ethanol Act.

Statement of purpose: This regulation is necessary to preclude the diversion of fuel alcohol to beverage use and to create a climate that will foster the growth and development of the industry.

Impact: This regulation affects 66 firms producing ethanol in Virginia. No new burden is imposed by the regulation.

Statutory Authority: § 3.1-1052 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505 Richmond, Va. 23219, telephone (804) 786-3511

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Title: **Rules and Regulations for Enforcement of the Virginia Petroleum Products Franchise Act.**

STATEMENT

Statement of basis: Rules and Regulations are mandated by § 59.1-21.16:2 of the Code of Virginia. The regulation is necessary to clearly define the conditions and terms under which a produce/refiner may operate a retail outlet which was operated by a franchised dealer; to establish and define the conditions and terms under which a producer/refiner may rebuild or relocate a retail outlet operated by the producer/refiner prior to July 1, 1979; and, to establish requirements for reporting locations of retail outlets.

Statement of purpose: This regulation is necessary for the enforcement of § 59.1-21.16:2 of the Code of Virginia, the Petroleum Products Franchise Act. It establishes conditions under which a producer/refiner may temporarily operate a franchised retail outlet, rebuild or relocate retail outlets and outlines the criteria for reporting the locations of retail outlets.

Impact: The regulation affects 358 producer/refiner outlets and 1,073 franchised dealers operating retail outlets in Virginia. No new burden is imposed by these regulations.

Statutory Authority: § 59.1-21.16:2 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

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Title: **Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law.**

STATEMENT

Statement of basis: Virginia is a producer of Narcissus plants and bulbs and vegetable transplants for shipment to

other states and countries. Some importing states and countries legally require pest-free certification of Narcissus plants, Narcissus bulbs and vegetable transplants for importation. For this reason, it is necessary to declare these articles as nursery stock and provide procedures to make them eligible for pest-free certification. No change in this portion of the regulation is necessary.

White pines are widely grown throughout Virginia as an ornamental and as an agricultural commodity for Christmas trees. White pine blister rust, Cronartium ribicola, is a destructive disease of white pines. European black currant, Ribes nigrum, serves as the alternate host to this rust and may harbor and disseminate this disease.

Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Purpose: To declare Narcissus plants, Narcissus bulbs, and vegetable transplants as nursery stock and make them eligible for certification as pest-free for export. It also prohibits the importation of European black currant plants, Ribes nigrum, the alternate host of white pine blister ruts, Cronartium ribicola. Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Impact: Section 1 affects no more than 100 nurseries having more than one sales location.

Section 2 affects 10 growers producing 15 acres of Narcissus bulbs.

Section 3 affects 3 growers producing 150 acres of vegetable transplants.

Section 4 (European Black Currant Plants) affects all persons in the state in that it prohibits anyone from importing or bringing these plants into Virginia.

Statutory Authority: § 3.1-188.25 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Title: **Rules and Regulations for Enforcement of the Virginia Commercial Feed Law.** The regulations define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels.

STATEMENT

Statement of basis: Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Purpose: To define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels. Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect 603 firms or persons who process or manufacture commercial feed ingredients or manufacturers and sell commercial feed and 79,000 livestock and poultry producers who purchase and use commercial feeds in the production of meat, milk and eggs for human consumption in Virginia.

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

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, Room 403, Richmond, Va. 23209, telephone (804) 786-3514

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Title: **Rules and Regulations for Enforcement of the Virginia Seed Law.** This regulation prescribes the method of inspecting, sampling, and testing of seed; provides applicable tolerances in testing, and prescribes specifications and requirements for labeling.

STATEMENT

Statement of Basis: To ensure that all seed sold, offered for sale, exposed or advertised is truthfully labeled with information taken from a laboratory analysis of a test conducted from a representative sample of a lot. Protect agricultural land from the introduction of prohibited noxious weed seed, and inform the purchaser of seed if any restricted noxious weed seed are present and their rate of occurrence. Restrict the sale of seed that contain weed seed in excess of 1.0%. Inform the purchaser if seed have been treated and identify the treatment substance.

For these reasons it is necessary to maintain an inspection, sampling and testing program that will monitor seed that is sold in order that the purchaser of the seed and other agricultural interest will be protected.

Statement of purpose and impact: This regulation is to ensure that all seeds are truthfully labeled within tolerance of the label guarantee and meet established minimum specifications according to standard procedures of inspecting, sampling, testing and the application of tolerance. Also, to name those weed seed which are classified as prohibited noxious (no tolerance permitted) and restricted noxious with limitation as to rate of occurrence. This regulation also establishes the maximum percentage of (common) weed seed and inert matter, and the minimum germination standards of vegetable, flower and peanut seed. Changes were made to improve the sentence structure and clarify. Seven agricultural kinds were added to the existing list. The requirement for labeling the component of lawn and turf seed mixtures under the heading of fine textured and coarse kinds was deleted to conform to the requirement of the Federal Seed Act and the Recommended Uniform State Seed Law.

Impact: This regulation affects all persons in Virginia who label or purchase seed to include 58,000 farmers, 165 seed labelers, 1.1 million home owners, 30 sod producers, 240 golf courses, 800 schools, 80 colleges, 65 federal parks, 31 state parks, and other state agencies.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Contact: D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3797

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Title: **Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.**

STATEMENT

Statement of Basis: Preventing the artificial (long distance) spread of the gypsy moth is dependent upon regulating the movement of articles capable of transporting any life stage of the gypsy moth. For this reason, it is necessary to establish regulated (infested) areas from which articles capable of moving gypsy moth may not be moved without first being certified free of all life stages.

Purpose: To prevent the artificial spread of gypsy moth from regulated (infested) areas to nonregulated (noninfested) areas by requiring that articles capable of transporting life stages of the gypsy moth be inspected and certified free of gypsy moth.

Impact: This regulation affects any person moving regulated articles from the regulated (infested) areas into the nonregulated (noninfested) areas.

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

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to REPEAL the following regulations:

Title: **Rules and Regulations for Enforcement of the Barberry and Black Stem Rust Quarantine.**

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In order to prevent the spread of a destructive disease from certain species of barberry, mahonia and Mahoberberis plants to small grain corps, this regulation was enacted. This regulation was enacted to: (i) declare all rust-susceptible species of these plants as a public nuisance; (ii) authorize the State Entomologist to destroy all rust-susceptible species of these plants found in Virginia; (iii) prohibit the movement, planting, and/or growing of any rust-susceptible species of these plants; and (iv) allow movement, planting and/or growing of nonsusceptible species of these plants, if labeled properly. This was determined to be the only means of control, since no practical chemical controls were available. Also, this regulation was enacted to enable VDAS to cooperate with the USDA quarantine for the same organism. However, the USDA has not enforced their quarantine for several years, like Virginia, since rust-susceptible varieties of these plants are no longer commercially available. This lack of availability has resulted in minimal hazard disease spread to grain crops in the Commonwealth. Therefore, this regulation is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Title: **Rules and Regulations for Enforcement of the Noxious Weed Law.**

STATEMENT

Brief statement of subject, substance, issues, basis and

purpose: During the past 10 years it has been demonstrated that the weed (Salpichroa origanifolia) can be effectively controlled by readily available herbicides, but eradication is not likely since the plant reproduces vegetatively as well as by seed. Also, this weed has not become a serious problem in Virginia over the last 10 years. The need for the regulation has passed and the regulation should be repealed.

Statutory Authority: §§ 3.1-296.13 - 3.1-296.14 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Title: **Rules and Regulations Providing for the White Pine Blister Rust Quarantine.**

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: Many years ago, several species of gooseberries and currant plants that are capable of spreading the disease white pine blister rust, were shipped to Virginia and other states. During this period of time, it was felt that the best way to protect commercial stands of which pines in certain areas of the state would be to restrict the movement into those areas of certain disease susceptible varieties of currants and gooseberries. Therefore, 33 counties were described as having the largest stands of white pines, and would be protected from the entrance of disease carrying currants and gooseberries. Over the years, requests for shipment into these protected counties have dwindled. Also, commercial nurseries stopped shipping varieties of the plants capable of spreading white pine blister rust. The regulation is no longer necessary to protect commercial stands of white pines and should be repealed. The complete prohibition of European black currants (the most destructive variety) section of this quarantine is recommended to be added to the regulations under the Virginia Plants and Plant Products Inspection Law under this review process.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

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Title: **Rules and Regulations for Enforcement of the Tomato Plant Disease Quarantine.**

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In the past, commercial tomato growers in eight Virginia counties have purchased transplants from Southern states infected with several diseases. This regulation was adopted to assure a continuous supply of healthy tomato transplants for planting. The regulation was desinged to: (i) prohibit the movement of plants into or between the protected eight counties unless such plants were accompanied by a certificate of inspection; (ii) allow plants accompanied by an approved certificate to move into or between the counties; (iii) allow tomato growers in the protected counties to call for an inspection by VDACS personnel on any imported plants; (iv) assure that all plants moving into or between the protected counties were subject to inspection by VDACS personnel; and (v) allow plants not accompanied by a valid certificate or found to be infected with any of the listed diseases to be stop saled, seized, destroyed, or returned to the shipper.

Over the last several years, the primary exporting states have employed a good transplant inspection program to assure relative freedom from disease. Also, commercial tomato growers in Virginia have not called for inspection of tomato plants suspected of having a disease problem for two years. In addition, the Virginia Plant and Plant Products Inspection Law would allow VDACS to take action to rectify any disease problems detected on tomato transplants. This regulation has served its purpose and is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-3515

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

January 13-14, 1986 - 9:30 a.m. – Open Meeting
January 28, 1986 - 9:30 a.m. – Open Meeting
February 10-11, 1986 - 9:30 a.m. – Open Meeting
February 25, 1986 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

Calendar of Events

VIRGINIA APPRENTICESHIP COUNCIL

† **January 16, 1986 - 10 a.m.** – Open Meeting
Fourth Street Office Building, 205 North 4th Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A regular quarterly meeting.

Contact: R. S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

† **January 7, 1986 - 10:30 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct an informal fact-finding proceeding regarding Ralph P. Hines.

† **January 13, 1986 - 10 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct an informal fact-finding conference in reference to Robert D. Murphy.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

VIRGINIA AUCTIONEERS BOARD

January 9, 1986 - 10 a.m. – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A board meeting to consider (i) up-date on expenditures and revenue; (ii) discussion of escrow policy; and (iii) discussion of proposed action on regulations.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508

VIRGINIA AVIATION BOARD

† **January 14, 1986 - 10 a.m.** – Open Meeting
Byrd International Airport, Airport Manager's Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss current aviation matters.

Contact: Kenneth A. Rowe, Director, Department of Aviation, 4508 S. Laburnum Ave., P. O. Box 7716, Richmond, Va. 23231, telephone (804) 786-6284

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† **January 7, 1986 - 10 a.m.** – Open Meeting
Regency Square Shopping Center, 1420 Parham Road, The Community Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The council will receive reports from the State Boards of the Departments of Corrections, Education and Social Services; plan future council activities and initiate the appropriate response to the training of hearing officers pursuant to § 2.1-703 D of the Code of Virginia.

Contact: Nancy Bockes, P. O. Box 434, Independence, Va. 23348, telephone (703) 773-2452

COORDINATING COMMITTEE FOR INTERDEPARTMENT LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

† **January 10, 1986 - 8:30 a.m.** – Open Meeting
Blair Building, 8007 Discovery Drive, Conference Room C, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to consider (i) progress report on Core Standards Adoption; (ii) appointment of advisory committee, and to (iii) discuss the Training Plan.

Contact: Barry P. Craig, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Soil and Water Conservation Board

January 16, 1986 - 9 a.m. – Open Meeting
Farm Credit Office, 6526 Mechanicsville Turnpike,

Mechanicsville, Virginia

A regular bi-monthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219-2094, telephone (804) 786-2064

STATE BOARD FOR CONTRACTORS

† **January 23, 1986 - 10 a.m.** – Open Meeting
City Hall, 22 Lincoln Street, Council Chambers, Hampton, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal fact-finding hearing regarding the State Board for Contractors v. R. A. Staples Contracting Company.

† **February 6, 1986 - 10 a.m.** – Open Meeting
Southeastern Virginia Training Center, 2100 Steppingston Square, Building 3, Conference Room, Chesapeake, Virginia

The board will meet to conduct a formal fact-finding hearing regarding the State Board for Contractors v. James D. Cooke.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF CORRECTIONS

January 15, 1986 - 10 a.m. – Open Meeting
February 12, 1986 - 10 a.m. – Open Meeting
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

CRIMINAL JUSTICE SERVICES BOARD

January 8, 1986 - 1:30 p.m. – Open Meeting
Division of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Committee on Training

January 8, 1986 - 10 a.m. – Open Meeting
Division of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730

Committee on Criminal Justice Information Systems

January 7, 1986 - 3 p.m. – Public Hearing
805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.** The purpose of this amendment is to ensure the completeness, accuracy, privacy, and security of criminal history record information, and to allow criminal justice agencies to establish reasonable fees for search and copying of criminal records.

STATEMENT

Basis and Purpose: The purpose of the proposed amendment is to allow criminal justice agencies to charge a reasonable fee for copying and research time expended in disseminating criminal history record information to noncriminal justice agencies/individuals.

Subject and Substance: Criminal history record information is exempt from the Freedom of Information Act and the Privacy Protection Act. This amendment will provide criminal justice agencies with authority to charge for their record searches, as those agencies whose records are subject to FOIA and PPA now have.

Impact: An estimated 288 state and local criminal justice agencies will be authorized by regulations to establish reasonable fees for search time expended and copying when criminal history record information is requested by noncriminal justice agencies/individuals.

Compliance Cost: It is anticipated that there will be no compliance cost to those agencies who establish reasonable fees for search time expended and copying costs.

Implementation Costs: None.

Statutory Authority: §§ 9-170(1); 9-170 (20); 9-182 through

9-192 of the Code of Virginia

Written comments may be submitted until January 3, 1986 to J. W. Matthews, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219

Contact: J. R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730

BOARD OF EDUCATION

January 16, 1986 - 8 a.m. – Open Meeting
January 17, 1986 - 9 a.m. – Open Meeting
† **February 25, 1986 - 8 a.m.** – Open Meeting
† **February 26, 1986 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, 1st Floor, Richmond, Virginia. (Location accessible to handicapped.)

A regularly scheduled business meeting of the board. Business will be conducted according to items listed on the agenda which is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2540

VIRGINIA FIRE BOARD AND THE DEPARTMENT OF FIRE PROGRAMS

January 31, 1986 - 9:30 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Fire Board and the Department of Fire Programs intends to adopt regulations entitled: **Guidelines for Public Participation in Regulation Development and Promulgation.** This regulation sets forth the manner in which the Virginia Fire Board and the Department of Fire Programs will obtain public input and participation in developing regulations. This regulation will affect training and services provided volunteer and paid fire departments in the state.

STATEMENT

Statement of Purpose: This regulation sets forth the manner in which the Virginia Fire Board and the Department of Fire Programs will obtain public participation and solicit the input of interested parties in the formation and development of its regulations.

Estimated Impact:

A. Numbers and types of entities or person affected:

This regulation will impact the 600 (approximate) fire departments/companies - paid, volunteer and combination - which exist in the state and the 25,000 firefighters who are members of those departments/companies.

B. Projected cost to regulated entities:

This regulation imposes no mandated costs on regulated entities or the public. If affected entities or persons comment or respond to this published regulation, there will be postage, telephone or travel costs depending on the method the individual elects to use to communicate comments. This agency received no response to its notice of intent to promulgate public participation guidelines. Little response is anticipated to the publication of the regulation for public review and comment.

C. Projected cost to agency:

Printing of regulations	copies	$333.00
Mailing of regulations		$266.00
Advertising		$215.00

D. Source of funds:

Agency's general budget.

Need for proposed regulation:

To permit interested and affected parties to participate in developing regulations relative to fire service activities in the state.

Statutory Authority: § 9-155 of the Code of Virginia.

Written comments may be submitted until February 7, 1986.

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681

COMMISSION OF GAME AND INLAND FISHERIES

† **January 17, 1986 - 9:30 a.m.** – Open Meeting
Game Commission Offices, 4010 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) consider proposed amendments to boating regulations, pertaining to boating safety equipment, applicable to all recreational boats as required by federal law; and (ii) general administrative matters.

Contact: Norma G. Adams, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 257-1000

STATE BOARD OF HEALTH

January 15, 1986 - 7 p.m. – Public Hearings
The Warren/Green Building, 10 Hotel Street, Meeting Room, Warrenton, Virginia
January 16, 1986 - 7 p.m. – Public Hearing
Harrisonburg Electric Commission, 89 West Bruce Street, Community Room, Harrisonburg, Virginia
January 20, 1986 - 7 p.m. – Public Hearing
Central Virginia Community College, Wards Road South (Route 29), Lynchburg, Virginia
January 21, 1986 - 7 p.m. – Public Hearing
Circuit Court Room, Park and Main Streets, 1st Floor, Marion, Virginia
January 23, 1986 - 7 p.m. – Public Hearing
Suffolk Council Chambers, 411 Market Street, Suffolk, Virginia
January 27, 1986 - 7 p.m. – Public Hearing
Henrico Government Center, Parham & Hungary Springs Roads, Henrico County Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Sewage Handling and Disposal Regulations** The Sewage Handling and Disposal Regulations specifies criteria by which sewage is handled and disposed of in a safe and sanitary manner.

STATEMENT

Basis and Authority: Section 32.1-164B of the Code of Virginia, authorizes the board to promulgate regulations governing sewage disposal. Sections 32.1-164.2 through 32.1-164.4 specifically authorize regulation of septage disposal.

Purpose: The purpose of these regulations is to ensure that all sewage is handled and disposed of in a safe and sanitary manner; to guide the State Health Commissioner in his determination of whether a permit for handling or disposing of sewage should be issued or denied; and to guide the owner in the requirements necessary to receive a permit for handling and disposing of sewage.

Summary and Analysis: The amendments are proposed to implement House Bill 1385 (Ch. 391 of the 1985 Acts of Assembly): Land Disposal of Septage in Certain Counties. The proposed amendments expand the options available for the proper handling and disposal of septage.

Namely, stabilization of septage through lime stabilizations will become an option which can then be followed by the application of the stabilized septage to suitable land. Another option outlined in the proposed amendments includes the shallow injection of septage into suitable land.

Impact: There are approximately 280 septage handlers in Virginia. Current regulations require septage handlers to be permitted to handle septage and before permitting they must demonstrate that they have an approved site for the disposal of septage. Septage disposal sites currently approved include the use of sewage treatment plants and anaerobic lagoons. There are situations where the above options are not available and the proposed amendments were developed to allow other methods by which septage may be disposed.

Statutory Authority: § 32.1-164B of the Code of Virginia.

Written comments may be submitted until January 27, 1986.

Contact: Robert W. Hicks, Director, Division of Sanitarian Services, 522 James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3559

Bureau of Pharmacy Services

January 16, 1986 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health, Bureau of Pharmacy Services intends to amend regulations entitled: **Virginia Voluntary Formulary.** The purpose of the proposed amendment is to add and delete a list of drugs of accepted therapeutic value, commonly prescribed and available from more than one source of supply.

STATEMENT

Statement of Subject, Substance, Issues, Basis and Purpose: The purpose of the Virginia Voluntary Formulary is to provide a list of drugs of accepted therapeutic value, commonly prescribed within the state which are available from more than one source of supply, and a list of chemically and therapeutically equivalent drug products which have been determined to be interchangeable. Utilization of the Formulary by practitioners and pharmacists enables citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards.

The proposed revised Virginia Voluntary Formulary adds and deletes drugs and drug products to the Formulary that became effective August 1, 1985. These additions and deletions are based upon recommendations of the Virginia Voluntary Formulary Council following its review of scientific data submitted by pharmaceutical manufacturers. The council makes its recommendations to the State Board of Health.

The Virginia Voluntary Formulary is needed to enable citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards. Without the Formulary physicians, dentists, and pharmacists in Virginia would not have the assurance that

those generic drug products that may be substituted for brand name products have been evaluated and judged to be interchangeable with the brand name products.

Statutory Authority: §§ 32.1-12 and 32.1-79 et seq. of the Code of Virginia.

Written comments may be submitted no later than 5 p.m., January 16, 1986.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

Division of Solid and Hazardous Waste Management

December 27, 1985 - 10 a.m. – Public Hearing
Monroe Building, 101 North 14th Street, Meeting Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Regulations Governing the Transportation of Hazardous Materials.**

STATEMENT

Amendment 5 to the Regulations Governing the Transportation of Hazardous Materials.

Basis and Authority: Regulations Governing the Transportation of Hazardous Materials in the Commonwealth are based on the requirements of § 18.2-278.2 of the Code of Virginia. These statutory requirements reflect federal requirements contained in the Hazardous Materials Transportation Act of 1975 (PL 93-633, 49 USC 1801 et seq.) , Federal Motor Carrier Safety Regulations contained in 49 USC 304, Interstate Commerce Act and 49 USC 1655, Department of Transportation Act. The proposed amendment is consistent with the Virginia statute and with the implementing federal regulations contained in Title 49, Code of Federal Regulation, Part 107, Subpart B, Parts 171-179 and Parts 390-397.

Purpose: The purpose of this amendment is to adopt changes made during 1984 in the federal regulations governing all modes of transportation of hazardous materials in commerce.

Summary and Analysis: This amendment revises the regulations adopted on May 4, 1981 governing the manner and method by which hazardous materials are loaded, unloaded, packed, identified, marked, placarded, stored, and transported in Virginia. Changes reflected in this amendment deal with simplifying and clarifying requirements, correcting editorial errors and omissions, and extending dates for compliance with various sections of the regulations.

The major proposed changes include:

A clarification of § 1.04 to include all hazardous materials, hazardous substances and hazardous wastes transported in the Commonwealth as subject to the regulations.

An authorization that certain types of small arms ammunition used in rifles, shotguns and pistols be classed and offered for shipment as an ORM-D, a "consumer commodity," rather than a Class C Explosive. (49 FR No. 102 May 24, 1984, pp. 21933-21936).

A revision concerning the transportation of certain cryogenic liquids (49 FR No. 114 June 12, 1984, pp. 24306-24318).

An amendment to driver qualifications rules and the driving rules to prohibit the transportation, possession and use of drugs and other substances, such as opiates, hallucinogens, depressants, and stimulants (49 FR No. 215 November 5, 1984, pp. 44210-44216).

These proposed changes represent changes to U.S. Department of Transportation regulations proposed during 1984.

The amendment is necessary because compliance with federal regulations is accepted under the applicable Virginia statute (§ 18.278.7). Failure to maintain consistency with federal regulations would: (i) promote confusion in the regulated community, especially with regard to those persons engaged in interstate commerce; (ii) require enforcement officials to maintain provisions in two sets of regulations and (iii) undermine the development of standards for the safe transportation of hazardous materials, a situation which would have an adverse impact on emergency response activities.

Contact: Dr. Wladimir Gulevich, Director, Bureau of Hazardous Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 (toll-free number 1-800-552-2075)

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December 27, 1985 - 10 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Meeting Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Virginia Hazardous Waste Management Regulations.**

STATEMENT

Amendment 7 to the Virginia Hazardous Waste Management Regulations

Basis and Authority: Section 32.1-178 of the Code of

Virginia directs the Board of Health to promulgate regulations as may be necessary. Extensive changes in the federal regulations promulgated in 1984 necessitate an amendment which keeps the Virginia Hazardous Waste Management program consistent with federal requirements, thus preserving the final authorization granted to the Virginia program, and maintaining its independent authority to enforce the Resource Conservation and Recovery Act (RCRA) provisions here in the Commonwealth.

Purpose: The State Board of Health and the State Health Commissioner promulgate these amended regulations in order to effectively monitor the generation, treatment, storage, transportation and disposal of hazardous waste in the Commonwealth. By regulating these activities, the Commonwealth protects life, health, property, and Virginia's environment.

Summary and Analysis: Amendment 7 proposes to incorporate changes in the federal regulations promulgated up to April 30, 1985. Other minor revisions, including editorial changes, additions of reference materials, or clarifying language, have been included for the convenience of the regulated community, and to maintain equivalence with the federal requirements for a hazardous waste management program.

The major changes in Amendment 7 are as follows:

1. Redefinition of what constitutes "solid waste" and "hazardous waste", in §§ 2 and 3.

2. Dioxin becomes a hazardous waste, in § 3.

3. Satellite hazardous waste accumulation points on a generator facility site are exempted from permitting requirements in § 6.

4. Special regulations are specified for certain kinds of hazardous waste.

5. Section 14 establishes special rulemaking and procedures for applying for variances of the regulations.

Contact: Dr. Wladimir Gulevich, Director, Bureau of Hazardous Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 (toll-free number 1-800-552-2075)

BOARD ON HEALTH REGULATORY BOARDS

† **January 21, 1986 - 1 p.m.** – Open Meeting
VCU Meeting Center, 101 North Harrison Street (at Floyd Avenue), Richmond, Virginia. (Location accessible to handicapped.)

This is a regular quarterly meeting to consider reports of committees and staff and discuss the recommendations of the Secretary's Task Force on Roles and Responsibilities in the Health Professional Regulatory System.

Contact: Richard D. Morrison, Policy Analyst, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0822

VIRGINIA BOARD FOR HEARING AID DEALERS AND FITTERS

January 6, 1986 - 8:30 a.m. – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Rooms 1, 2 & 3, Richmond, Virginia. (Location accessible to handicapped.)

A board meeting to consider (i) administering of examination; (ii) complaints; and (iii) an up-date on revenue and expenditures.

Contact: Geralde W. Morgan, Assistant Director, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230-4917, telephone (804) 257-8508

COUNCIL OF HIGHER EDUCATION

† **January 8, 1986 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A monthly council meeting covering higher education issues. An agenda may be obtained by calling the council.

Contact: Grace Lessner, Council of Higher Education, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2638

COMMISSION ON LOCAL GOVERNMENT

January 14, 1986 - 10 a.m. – Open Meeting
Ninth Street Office Building, Commission on Local Government offices, Room 901, Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting to (i) elect officers for 1986; (ii) review of mediation resources; (iii) recognition of past commission members, and (iv) other general agenda items.

Contact: Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

BOARD OF MEDICINE

January 16, 1986 - 1 p.m. – Public Hearing
Holiday Inn, I-64 West, 6531 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Boards of Medicine and Nursing intend to adopt regulations entitled: **Regulations Governing the Certification of Nurse Practitioners (VR 465-07-1 and VR 495-02-1).**

NOTICE: Please refer to the Notice of Comment Period listed under the Board of Nursing.

Credentials Committee

† **Janaury 17-18, 1986 - 8 a.m.** – Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review applications of applicants applying for licensure by endorsement and examination.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

VIRGINIA DEPARTMENT OF MOTOR VEHICLES

February 7, 1986 - 10 a.m. – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Motor Vehicles intends to adopt regulations entitled: **Regulations for Titling and Registering Foreign Market Vehicles.** The proposed regulations provide a formal standardized method of processing title and registration applications for foreign market vehicles imported into Virginia.

STATEMENT

Statement of basis, purpose and impact: Pursuant to §§ 46.1-26 of and 46.1-56 of the Code of Virginia, the Department of Motor Vehicles proposes new regulations.

The purpose of these regulations is to provide for a standardized formal method of processing titling and registration applications for foreign market vehicles originally manufactured outside the United States, and not manufactured in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. § 1381 et seq.) and the regulations and policies adopted pursuant to that Act.

Foreign market vehicles are being imported into Virginia and the United States by private citizens, importers, brokers and dealers. Regulations affect owners of all foreign market vehicles and the operation of such vehicles in Virginia poses a threat to the safety of the driving public if the vehicles are not modified to meet accepted U. S. safety standards. The volume of these imports is increasing.

DMV does not currently have formal, standardized policies or procedures for evaluating the safety features of those vehicles and for processing titling and registration applications for foreign market vehicles. The commissioner finds that proof of compliance with applicable federal safety standards is the best available means to ensure that such vehicles do not endanger the public health and safety, and that proof of such compliance is a reasonable prerequisite to titling and registration.

Statutory Authority: §§ 46.1-26 and 46.1-56 of the Code of Virginia

Written comments may be submitted until February 6, 1986.

Contact: Jerome L. Stein, Manager, Titles and Registration Division, Department of Motor Vehicles, P. O. Box 27412, Richmond, Va. 23269-0001, telephone (804) 257-0510

VIRGINIA MUSEUM OF FINE ARTS

Board of Trustees

January 16, 1986 - 11:30 a.m. – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Museum Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

A general board meeting of the full board of trustees to receive (i) committee reports; (ii) staff reports; and (iii) review budget.

Finance Committee

January 16, 1986 - 10:30 a.m. – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Payne Room, Members' Suite, Richmond, Virginia. (Location accessible to handicapped.)

A general meeting to discuss financial matters and review budget.

Contact: Mrs. Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Blvd. and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553/327-0553 SCATS

STATE BOARD OF NURSING

January 16, 1986 - 1 p.m. – Public Hearing
Holiday Inn, I-64 West, 6531 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Boards of Medicine and Nursing intend to adopt regulations entitled: **Regulations Governing the Certification of Nurse Practitioners (VR 645-07-1 and VR 495-02-1).**

STATEMENT

Purpose: The purpose of these regulations is to regulate the practice of certified nurse practitioners by establishing the requirements for certification of and practice by nurse practitioners and to provide for the Committee of the Joint Boards of Medicine and Nursing to administer the regulations. The regulations also establish and Advisory Committee on the Certification of Nurse Practitioners and establish the fees for certification. In addition, these regulations set the criteria for approval of nurse practitioner education programs and make provision for disciplinary action against those certified who are found to be in violation of the regulations. The regulations establish the basis for the Boards of Medicine and Nursing to fulfill their responsibility to protect the health, safety and welfare of the citizens of the Commonwealth through the certification of nurse practitioners.

Basis: §§ 45.367.11 and 54-274.1 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 1400 certified nurse practitioners. Fees collected from those certified and applying for certification allow the two boards to administer the regulations as required by law. Fees proposed in these regulations will provide the funds necessary to fulfill this duty.

Written comments may be submitted until January 16, 1986.

Contact: Corinne F. Dorsey, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

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January 28, 1986 - 1 p.m. – Public Hearing
Holiday Inn, I-64 West, 6531 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)
February 12, 1986 - 1 p.m. – Public Hearing
Hotel Roanoke, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Nursing intends to adopt regulations entitled: **Board of Nursing Regulations.**

STATEMENT

Purpose: These proposed regulations establish the requirements for nursing education programs preparing persons for licensure as registered or licensed practical nurses in Virginia, to regulate the licensure of nurses and discharge the duties required of the board by § 54-367.11 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

Basis: § 54-367.11 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 70,000 registered and licensed practical nurses, 88 nursing education programs and approximately 7,000 annual applicants for licensure. The Board of Nursing depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

Written comments may be submitted until February 12, 1986.

Contact: Corinne F. Dorsey, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

VIRGINIA BOARD OF OPTOMETRY

January 20, 1986 - 8:30 a.m. – Open Meeting
Holiday Inn (Downtown), 301 West Franklin Street, Board Room, 3rd Floor, Richmond, Virginia. (Location accessible to handicapped.)

A general business meeting and a review of the State Board Examination.

January 21, 1986 - 8 a.m. – Open Meeting
Egyptian Building, 1223 East Marshall Street, Baruch Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

The Optometry State Practical Examination and the Diagnostic Pharmaceutical Agents Examination will be administered.

Contact: Charles S. Weiden, Acting Executive Director, Board of Optometry, P. O. Box 27708, Richmond, Va. 23261

VIRGINIA STATE BOARD OF PHARMACY

† **March 12, 1986 - 10 a.m.** – Public Hearing
Holiday Inn, 6531 West Broad Street, Ball Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Pharmacy intends adopt regulations entitled: **Board of Pharmacy Regulations.**

STATEMENT

Subject: This proprosed regulation addresses licensure requirements for pharmacists and pharmacies, drug security, recordkeeping, prescription orders and methods of dispensing of drugs in pharmacies serving various prescription drug needs.

Basis and purpose: This regulation is based on requirements set forth in The Drug Control Act and the necessity for the board to advise the pharmacist and others directly affected by the act of the latitude which the licensees may practice and stay within the requirements of law as they engage in various aspects of drug distribution.

Further, this regulation has been the subject of intense review for clarification and represents a reduction of existing regulations and a rewriting of a large numbers of the present regulations. With the exception of regulations dealing with good manufacturing practices, all regulations will be repealed and these proposals adopted.

Estimated Impact: This regulation will directly affect the same number of licensees as do the existing regulations, i. e. 1,325 pharmacies, 5,100 pharmacists, 65 drug distributors and 14,000 controlled substances registrants.

Statutory Authority: § 54-524.16 of the Code of Virginia.

Written comments may be submitted until March 12, 1986.

Contact: Jack B. Carson, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0239

VIRGINIA REAL ESTATE BOARD

† **January 8, 1986 - 10 a.m.** – Open Meeting
City Hall, 801 Crawford Street, Council Chambers, 6th Floor, Portsmouth, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. George C. Norris, Sr.

† **January 16, 1986 - 10 a.m.** – Open Meeting
John C. Wood Municipal Complex, 3730 Old Lee Highway, Building C, Room 7, Fairfax, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. Sheryl R. Ezell.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

DEPARTMENT OF SOCIAL SERVICES

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **Grant Diversion.** This regulation provides a mechanism by which moneys paid to persons receiving public assistance may be converted into subsidies to employers who hire these persons.

STATEMENT

Basis: This regulation is issued under authority granted by § 63.1-25 of the Code of Virginia and P.L. 98-369 of the Deficit Reduction Act of 1984 which amended § 414 of the Social Security Act.

Subject: Grant diversion is a mechanism by which the moneys paid to persons receiving Aid to Dependent Children (ADC) assistance may be used to provide subsidies to employers who hire those ADC recipients.

Substance: Grant diversion will be a component of the Department of Social Services' Employment Services Program (ESP). The employer subsidies will be funded by the moneys already appropriated for the ADC grants. The administrative costs of the program will require additional state general fund dollars which will be matched by additional federal dollars.

Issues: The employer community will need to be willing to enter into contractual agreements with local welfare/social service agencies to hire ADC recipients they would not otherwise hire in return for cash subsidies.

Purpose: The purpose of the program is to provide time-limited subsidized employment opportunities for ADC recipients who have been unable to obtain subsidized employment.

Statutory Authority: § 63.1-25 of the Code of Virginia and the Deficit Reduction Act of 1984 (P.L. 98-369), § 414 of the Social Security Act.

Written comments may be submitted until January 23, 1986.

Contact: Penelope Boyd Pellow, Assistant State Employment Services Supervisor, Department of Social Services, 8007 Discovery Dr., Blair Bldg., Richmond, Va. 23229-8699, telephone (804) 281-9032 (toll-free number 1-800-552-7091)

Division of Licensing Programs

† Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs intends to adopt regulations entitled: **Regulations for Criminal Record Checks: Licensed Child Care**

Centers and Child Caring Institutions. The purpose of this regulation is to provide guidelines and clarification for the requirement that all persons involved in the operation of a licensed child care center or child caring institution secure a criminal record check; and to protect children in licensed facilities from persons previously convicted of specified crimes.

STATEMENT

Basis: The Department of Social Services has implemented procedures for criminal record checks because of the passage of S.B. 618 during the 1985 Session of the General Assembly. Sections 19.2-389, 63.1-199 of the Code of Virginia, were changed by adding §§ 63.1-198.1 and 63.1-198.2 and amending § 63.1-199.

This statutory change required that all compensated employees and volunteers as well as applicants/licensees of child care centers and child caring institutions secure a criminal records clearance and be issued a certificate by the Commissioner of Social Services. In consultation with the state police and the staff of the office of the Attorney General, the department devised procedures to implement the law and has been processing the required certificates since July 1, 1985.

Effective September 20, 1985, the Emergency Regulation for Criminal Record Checks, pursuant to § 9-6.14:6 of the Code of Virginia, was approved by Governor Charles S. Robb. The department is currently operating under this regulation which became effective September 1, 1985.

The Department of Social Services, acting under the authority of § 63.1-202 of the Code of Virginia, is authorized to promulgate regulations.

Purpose: The basic intent of the statute is to protect children in licensed child care centers and child caring institutions from predatory persons already convicted of crimes against children.

Impact: A. Regulated entities as of November 1, 1985, include 761 licensed child care centers and 36 licensed child caring institutions. The following is a breakdown of the total licensed capacity:

761 Child Care Centers	58,241 Children
36 Child Caring Institutions	918 Children
TOTAL	59,159

B. The approximate number of individuals requiring criminal record checks during the period of one year was estimated on the required staffing in the current child care center and child caring institution standards with some consideration of staff turnover and volunteers. The initial estimate was 10,000 individuals but as of November 25, 1985, over 11,000 record checks have been received. Therefore, the estimated total for one year has been revised to approximately 15,000.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until February 24, 1986.

Contact: Sheila B. Rich, Supervisor of Children and Adult Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free number 1-800-552-7091)

DEPARTMENT OF TAXATION

January 10, 1986 - 10 a.m. – Public Hearing
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. (Location accessilbe to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **Cigarette Sales Below Wholesale Cost Act: Public Policy; Prohibited Activities; Violation; Enforcement (VR 630-27-286), Definitions (VR 630-27-287), Combination Sales and Concessions (VR 630-27-288), Unfair Method of Competition (VR 630-27-289), Injunction Relief and Damages (VR 630-27-290), Revocation or Suspension of License or Permits for Violations (VR 630-27-291), Exemption or Suspension of Licenses or Permits for Violations (VR 630-27-292), and Special Cost Provisions; Cash and Carry (VR 630-27-293).**

STATEMENT

Purpose: These regulations set forth the policies and procedures relating to the enforcement upon wholesalers of the Cigarette Sales Below Wholesale Cost Act.

Estimated Impact:

Numbers and Type of Regulated Entities: These regulations will affect 175 licensed tobacco wholesalers.

Projected Cost to Regulated Entities: Any cost incurred by the tobacco wholesalers affected by the regulations will be minimal.

Projected Cost to Agency: Cost to the Agency will be affected by the number of complaints filed by tobacco wholesalers and hearings conducted by the department. Total cost should be minimal.

Statutory Authority: §§ 58.1-203 and 59.1-291 of the Code of Virginia.

Written comments may be submitted until January 10, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804)

257-8010

BOARD OF THE VIRGINIA DEPARTMENT FOR THE VISUALLY HANDICAPPED

January 13, 1986 - 1 p.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped, and to review and approve the department's budget, executive agreement, and operating plan.

Contact: Diane E. Allen, Acting Confidential Secretary, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145

CHRONOLOGICAL LIST OPEN MEETINGS

January 6, 1986
Hearing Aid Dealers and Fitters, Virginia Board for

January 7
Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
Children's Facilities, Interdepartmental Council on Rate-Setting for

January 8
Criminal Justice Services Board
Criminal Justice Services Board
Committee on Training
Higher Education, Council of
Real Estate Board, Virginia

January 9
Auctioneers Board, Virginia

January 10
Children's Residental Facilities, Coordinating Committee for Interdepartmental License and Certification of

January 13
Alcoholic Beverage Control Board, Virginia
Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
Visually Handicapped, Board of Virginia
Department for the

January 14
Alcoholic Beverage Control Board, Virginia
Aviation Board, Virginia
Local Government, Commission on

January 15
Corrections, Board of

January 16
Apprenticeship Council, Virginia
Conservation and Historic Resources, Department of
Virginia Soil and Water Conservations Board
Education, Board of
Museum of Fine Arts, Virginia
Finance Committee
Real Estate Board, Virginia

January 17
Education, Board of
Game and Inland Fisheries, Commission of
Medicine, Board of
Credentials Committee

January 18
Medicine, Board of
Credential Committee

January 20
Optometry, Virginia Board

January 21
Health Regulatory Boards, Board on
Optometry, Virginia Board of

January 23
Contractors, State Board of

January 28
Alcoholic Beverage Control Board, Virginia

February 6
Contractors, State Board of

February 10
Alcoholic Beverage Control Board, Virginia

February 11
Alcoholic Beverage Control Board, Virginia

February 12
Corrections, Board of

February 25
Alcoholic Beverage Control Board, Virginia
Education, Board of

February 26
Education, Board of

PUBLIC HEARINGS

December 27, 1985
Health, Virginia Department of

January 7, 1986
Criminal Justice Services Board

January 10
Taxation, Department of

January 15
Health, Board of

January 16
Health, Board of
Health, Department of
Bureau of Pharmacy Services
Medicine, Board of
Nursing, State Board of

January 20
Health, Board of

January 21
Health, Board of

January 23
Health, Board of

January 27
Health, Board of

January 31
Fire Board, Virginia and Fire Programs, Department of

February 7
Motor Vehicles, Virginia Department of

February 25
Agriculture and Consumer Services, Virginia Department of

February 26
Agriculture and Consumer Services, Virginia Department of

March 12
Pharmacy, Virginia State Board of