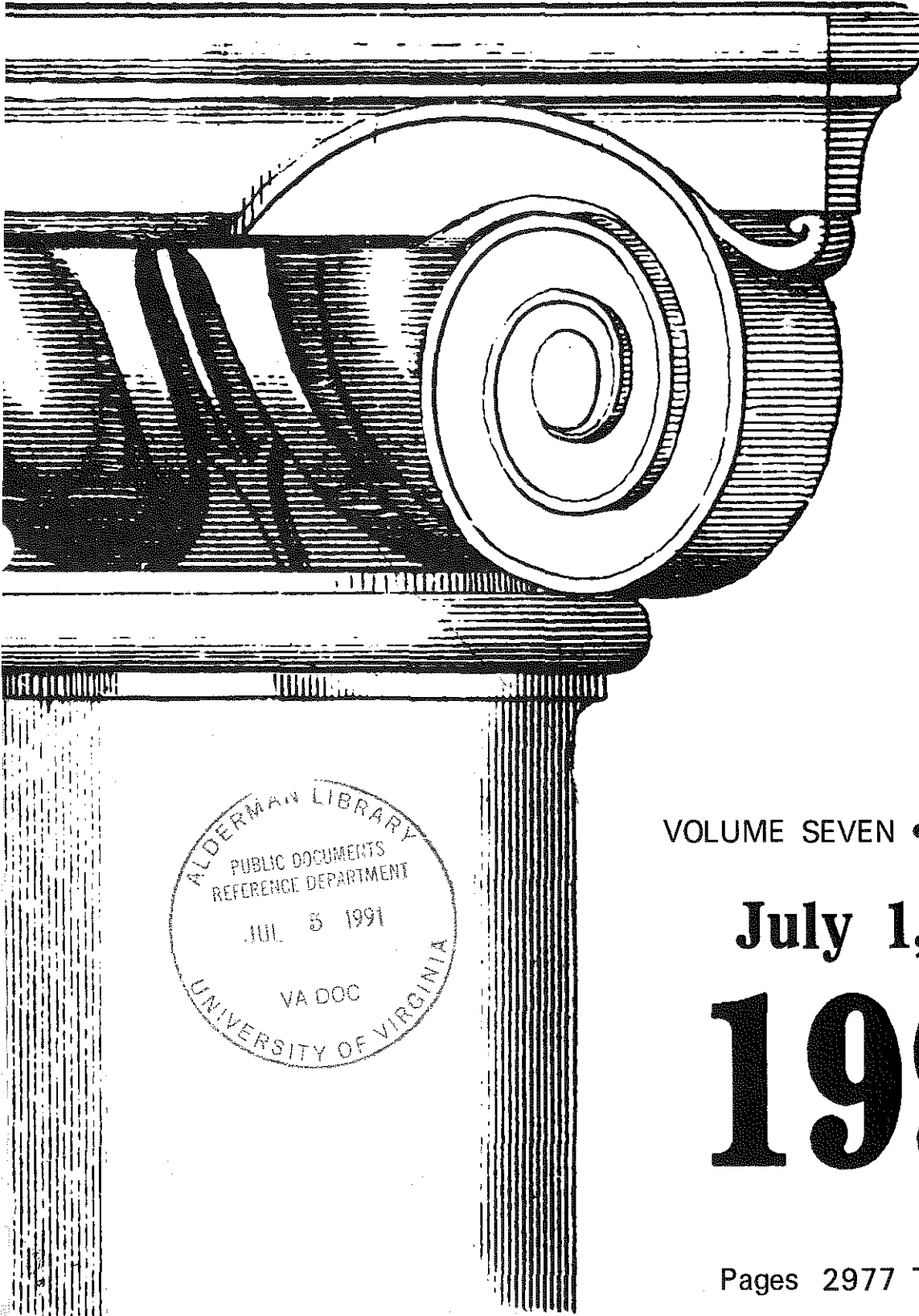


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# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME SEVEN • ISSUE TWENTY

July 1, 1991

# 1991

Pages 2977 Through 3110

## VIRGINIA REGISTER

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

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

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

### ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

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

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

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to the *Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

The *Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the Virginia Code Commission: Dudley J. Emick, Jr., Chairman, J. Samuel Glasscock, Vice Chairman; Russell M. Carneal; Joseph V. Gartlan, Jr.; John Wingo Knowles; Gail S. Marshall; E. M. Miller, Jr.; Theodore V. Morrison; William F. Parkerson, Jr.; A. L. Philpott.

Staff of the Virginia Register: Joan W. Smith, Registrar of Regulations; Ann M. Brown, Deputy Registrar of Regulations.

**VIRGINIA REGISTER OF REGULATIONS**

**PUBLICATION DEADLINES AND SCHEDULES**

**July 1991 through September 1992**

**MATERIAL SUBMITTED BY      PUBLICATION DATE**  
**Noon Wednesday**

June 26	July 15
July 10	July 29
July 24	Aug. 12
Aug. 8	Aug. 26
Aug. 21	Sept. 9
Sept. 4	Sept. 23
Final Index - Volume 7	

**Volume 8 - 1991-92**

Sept. 18	Oct. 7
Oct. 2	Oct. 21
Oct. 16	Nov. 4
Oct. 30	Nov. 18
Nov. 13	Dec. 2
Nov. 27	Dec. 16
Dec. 11	Dec. 30
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Dec. 24 (Tuesday)	Jan. 13, 1992
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Jan. 22	Feb. 10
Feb. 5	Feb. 24
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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 HOUSING DEVELOPMENT AUTHORITY

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

**Title of Regulation:** VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

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

**Public Hearing Date:** N/A – Written comments may be submitted until July 10, 1991.

(See Calendar of Events section for additional information)

**NOTE:** Documents and forms referred to herein as exhibits have not been adopted by the authority as a part of the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to the foregoing Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

### Summary:

*The proposed amendments to the authority's rules and regulations applicable to its single family mortgage loan program (i) will provide for implementation of the Farmers Home Administration Guarantee and Interest Assistance programs, (ii) allow certain applicants for mortgage loans to borrow funds from their employers for downpayment assistance and clarify the extent to which downpayment funds may be borrowed by other applicants, (iii) require certain documents to be included in application and closing packages to conform the authority's requirements to recent changes in federal law, and (iv) make certain typographical and stylistic revisions.*

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

### PART I. GENERAL.

### § 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include

# Proposed Regulations

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all actions involved or required in the originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

## § 1.2. Originating and servicing agents.

### A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of

mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

### B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other

persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

## 5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

## C. Originating guide and servicing guide.

The originating guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. All exhibits and other documents referenced in the originating guide are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide and the servicing guide.

## D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

## E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select



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those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

## F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the processing guide, the applicable originating agreement, the Act or these rules and regulations, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

## PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING GUIDE.

### Article I. Eligibility Requirements.

#### § 2.1. Eligible persons and families.

##### A. Person.

A one-person household is eligible.

##### B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping

unit.

##### C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

#### § 2.2.1. Eligible borrowers.

##### A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible

dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions) ; and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

## B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

## C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a

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principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres : (i) if the land is owned free and clear and is not being financed by the loan, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed , and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the originating agent shall review the appraiser report (Exhibit H) of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the originating agent shall certify to the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1)) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

## D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible

dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the originating agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

#### E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

#### § 2.2.2. Eligible dwellings.

##### A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

##### B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority see § 2.10 below.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

##### a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

##### b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

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4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The originating agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct completion of the worksheet. The originating agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below). Also, as part of its review, the originating agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

## § 2.2.3. Targeted areas.

### A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The

amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

### B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1.B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

#### 1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

#### § 2.3. Sales price limits.

A. For reservations made on or after March 1, 1989.

The authority's maximum allowable sales price for new loans for which reservations are taken by the authority on or after March 1, 1989, shall be as follows:

#### MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989

AREA	NEW CONSTRUCTION/ EXISTING/ SUBSTANTIAL REHABILITATION
Washington, DC-MD-VA MSA (Virginia Portion)	\$120,000

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1/

Norfolk-Virginia Beach-  
Newport News MSA \$ 81,500

2/

Richmond-Petersburg MSA \$ 79,500

3/

Charlottesville MSA \$ 77,000

4/

Fauquier County \$ 77,000

Spotsylvania and  
King George Counties \$ 75,500

Balance of State \$ 75,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

## B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

## § 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining

whether this net worth limitation has been violated.

## § 2.5. Income requirements.

### A. Maximum gross income.

As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

For reservations made on or after March 1, 1989, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

### (1) MAXIMUM GROSS FAMILY INCOME

Applicable only to loans for which reservations are taken by the authority on or after March 1, 1989 ,  
*except loans to be guaranteed by the Farmers Home Administration ("FmHA") .*

The maximum gross family income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended (the "Median Family Income"), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 persons	85%
3 or more persons	100%

The authority shall from time to time inform its

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originating agents and servicing agents by written notification thereto of the foregoing maximum gross family income limits expressed in dollar amounts for each area of the state and each family size. The effective dates of such limits shall be determined by the executive director.

## (2) *FmHA* MAXIMUM GROSS FAMILY INCOME

*Applicable only to loans to be guaranteed by FmHA.*

*The maximum gross family income for each borrower shall be the lesser of the amount determined in accordance with 2.5 A (1) or FmHA income limits in effect at the time of the application.*

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration or the Veterans Administration or *FmHA* (hereinafter referred to as "FHA , VA or *FmHA* loans").

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest, tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements.

## § 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA or , VA or *FmHA* loan, such other percentage as may be permitted by FHA or , VA or *FmHA* ) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA or , VA or *FmHA* loan, such other percentage as may be permitted by FHA or , VA or *FmHA* ) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA or , VA or *FmHA* loan, the FHA or , VA or *FmHA* insurance fees or guarantee fees charged in connection with such loan (and, if a FHA loan,

the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and , VA or *FmHA* requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

## § 2.7. Mortgage insurance requirements.

Unless the loan is an FHA or , VA or *FmHA* loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA or , VA or *FmHA* insurance or guarantee , the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance or , VA Guaranty or *FmHA* Guarantee has been obtained. In the event that the authority purchases an FHA or , VA or *FmHA* loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA and , VA or *FmHA* loans), full private mortgage insurance as described above is required unless waived by the authority.

## § 2.8. Underwriting.

### A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

#### 1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of

self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

- (1) Federal income tax returns for the two most recent tax years.
- (2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

## 2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be

rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

## B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

## C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.



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2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

## D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. 1.0% FmHA guarantee fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

## E. FmHA Interest Assistance Program.

Borrowers with low income, as determined by FmHA, are eligible for interest assistance payments. FmHA will make monthly payments to the authority to reduce the effective interest rate, depending on the borrower's income. However, no borrower will pay less than 20% of adjusted income, as determined by FmHA, for principal, interest, taxes, and insurance. Interest assistance payments will be recalculated by the authority at such times as are required by FmHA. All interest assistance by FmHA is subject to recapture by FmHA at the time the property is sold. In the event the authority intends to sell the FmHA Interest Assistance Program loans to the Federal National Mortgage Association ("FNMA"), each such loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.

## D. F. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

## E. G. Interest rate buydown program.

Unlike the program described in subsection D above which permits a direct buydown of the borrower's monthly

payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

## § 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA or VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds from their employer with the approval of the private mortgage insurer and the applicant pays in cash from their own funds or amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

## B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

## C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

## § 2.10. Loan assumptions.

### A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for those assuming a loan shall be 100% of the applicable Median Family Income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable Median Family Income (140% for a residence in a targeted area) and if assumed by a household of less than three persons, the maximum gross family income

shall be 100% of the applicable Median Family Income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for those assuming loans shall be as set forth in § 2.5 A of these regulations. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

## 1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1.B (Three-year requirement)
- (5) § 2.2.2.B (Acquisition cost requirements)
- (6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1.C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

## 2. Assumptions of FHA ~~or~~, VA or *FmHA* loans.

a. For assumptions of FHA ~~or~~, VA or *FmHA* loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

- (1) Maximum gross family income requirement in this § 2.10.A
- § 2.2.1.C (Principal residence requirement)
- (3) § 2.2.1.B (Three-year requirement)
  - (4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA ~~or~~, VA or *FmHA* underwriting requirements, if any, must be met.

b. For assumptions of FHA ~~or~~, VA or *FmHA* loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA ~~or~~, VA or *FmHA* underwriting requirements, if any, must be met.

B. Authorization to process assumptions/Requirement that the authority to be contacted.

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive responsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the originating agent or servicing agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

## C. Application package for assumptions.

Once the originating agent or servicing agent has contacted the authority and it has been determined which of the categories described in subsection A above applies to the loan, the originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

### 1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's report (Exhibit H).
- (5) Three year's tax returns.
- (6) Originating agent's checklist (Exhibit A(1)).

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- (7) 4506 form (Exhibit Q).
- (8) Originating agent's loan submission cover letter (Exhibit 0(1)).
- (9) Authority's completed application (Exhibit D).
- (10) Verification of employment (VOE's) (and other income related information).
- (11) Verification of deposit (VOD's).
- (12) Credit report.
- (13) Sales contract.
- (14) Truth-in-Lending (Exhibit K) and estimate of charges.
- (15) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).
- (16) Authority underwriting qualification sheet (Exhibit B(1)).
- (17) All other requirements of state and federal law must be met.*

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

- (1) Authority's completed application (Exhibit D).
- (2) Verification of employment (VOE's) (and other income related information).
- (3) Verification of deposit (VOD's).
- (4) Credit report.
- (5) Sales contract.
- (6) Truth-in-Lending (Exhibit K) and estimate of charges.
- (7) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).
- (8) Authority underwriting qualification sheet (Exhibit B(2)).
- (9) All other requirements of state and federal law must be met.*

2. Assumption package for FHA ~~or~~ , VA or FmHA loans.

a. FHA ~~or~~ , VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
  - (2) Affidavit of seller (Exhibit F).
  - (3) Acquisition cost worksheet (Exhibit G).
  - (4) Appraiser's Report (Exhibit H).
  - (5) Three ~~year's~~ years' tax returns.
  - (6) Originating agent's checklist (Exhibit A(1)).
  - (7) 4506 form (Exhibit Q).
  - (8) Originating agent's loan submission cover letter (Exhibit 0(2) or (3)).
  - (9) Authority's completed application (Exhibit D).
  - (10) Sales contract.
  - (11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.
  - (12) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).*
  - (13) Truth-in-Lending (Exhibit K) and estimate of charges if original borrowers are to be released from liability.*
  - (14) A copy of the FHA Notice to Homeowner, if the original borrowers will not be released from liability.*
  - ~~(12)~~ *(15) In addition, all applicable requirements, if any, of FHA ~~or~~ , VA or FmHA and those under state and federal law must also be met.*
- b. FHA ~~or~~ , VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981: ~~Only the~~ *The* applicable requirements, if any, of FHA ~~or~~ , VA or FmHA and those under state and federal law must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty

including, if applicable, pool insurance ~~and~~, submission of an escrow transfer letter *and execution of a Recapture Requirement Notice (VHDA Doc. R-1)*.

## § 2.11. Leasing, loan term, and owner occupancy.

### A. Leasing.

The owner may not lease the property without first contacting the authority.

### B. Loan term.

Loan terms may not exceed 30 years.

### C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

## § 2.12. Reservations/fees.

### A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the originating agent shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.
2. Collect a \$100 nonrefundable reservation fee (or such other amount as the authority may require).
3. Determine what type of mortgage insurance or *guarantee* will be required; specifically, whether the loan will be a conventional loan, an FHA loan or , a VA loan or an *FmHA* loan .
4. Complete a reservation sheet (Exhibit C(1)).
5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the originating agent gives to the authority the following information:

- a. Name of primary applicant
- b. Social security number of applicant

### c. Estimated loan amount

### d. PDS agent's servicer number

### e. Gross family income of applicant and family, if any

### f. Location of property (city or county)

### g. Verification of receipt of the reservation fee

### h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F"; ~~and~~; if VA, it will be "V" ; and if *FmHA*, it will be "*FM*" ).

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the originating agent may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation). Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

### B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

### C. The reservation fee.

Under no circumstances is this fee refundable. If the loan closes, it will be retained by the originating agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, this reservation fee must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the originating agent shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

### D. Other fees.

1. Commitment fee. The originating agent must collect

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at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the originating agent at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the originating agent retains such 1.0% fee as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then the collected commitment fee less the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The originating agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the originating agent.

## § 2.13. Preparation of application package for new loans.

### A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following original documents:

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - the application must be made on the authority's approved application form. (Exhibit D)
3. Preliminary underwriting form. (Exhibit B)
4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal

Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).

11. Loan submission cover letter. (Exhibit O(1))
12. Appraiser's report. (Exhibit H)
13. Acquisition cost worksheet. (Exhibit G)
14. Affidavit of seller. (Exhibit F)
15. Affidavit of borrower. (Exhibit E)
16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.  
  
(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
17. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
18. Signed request for copy of tax returns. (Exhibit Q)
19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
20. Equal Credit Opportunity Act ("ECOA") /*Recapture Tax/RESPA* notice statement to borrower of provisions of the ECOA, with borrower's acknowledgement of receipt. (Exhibit I)
21. Truth-in-Lending Disclosure. (Exhibit K)
22. *RESPA disclosure Statement (Exhibit AA).*
23. *Quality Control Disclosure and Authorization (Exhibit Y).*

### B. FHA loans.

The application package submitted to the authority for

approval of an FHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the HUD application (FHA form 92900).
4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).
5. Copy of the credit report.
6. Copy of verification of employment and current pay stubs.
7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Assignment letter - this must reference the case number, name of applicant.
12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.
13. FHA Notice to Buyers (Document F-9)
14. Loan submission cover letter. (Exhibit O(2))
15. Appraiser's report. (Exhibit H)
16. Acquisition cost worksheet. (Exhibit G)
17. Affidavit of seller. (Exhibit F)
18. Affidavit of borrower. (Exhibit E)
19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.  
  
(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /*Recapture Tax/RESPA* notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. *RESPA Disclosure Statement. (Exhibit AA)*

26. *Quality Control Disclosure and Authorization. (Exhibit Y)*

## C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items (please note that items 15 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the VA application (VA form 26-1802A).
4. Copy of the Loan Analysis Worksheet (VA form 6393).
5. Copy of VA certificate of eligibility.
6. Copy of VA benefits and related indebtedness letter.
7. Copy of the credit report.
8. Copy of verification of employment (if active duty, include current LES form).
9. Copy of verification of other income.
10. Copy of verification of deposits.
11. Copy of gift letters (and verification).
12. Copy of sales contract.

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13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

14. Loan submission cover letter. (Exhibit O(3))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /Recapture Tax/RESPA notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

## D. FmHA loans.

The application package submitted to the authority for approval of an FmHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - must be on the authority's form and can be handwritten if legible. (Exhibit D)

3. Copy of the HUD application (FHA form 92900).

4. Copy of the credit report.

5. Copy of verification of employment and current pay stubs.

6. Copy of verification of other income.

7. Copy of verification of deposits.

8. Copy of gift letters (and verification).

9. Copy of sales contracts.

10. Copy of appraisal - this must be on a form acceptable to FmHA and must contain all supporting documentation necessary for valuation.

11. Privacy Act Statement (Form FmHA 410-9).

12. Loan submission cover letter. (Exhibit O(2))

13. Appraiser's report. (Exhibit H)

14. Acquisition cost worksheet. (Exhibit G)

15. Affidavit of seller. (Exhibit F)

16. Affidavit of borrower. (Exhibit E)

17. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof. (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to § 2.2.1.B.3 hereof, such letter must be enclosed instead).

18. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

19. Signed request for copy of tax returns. (Exhibit Q)

20. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day

application is made.

21. *Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)*

22. *Truth-in-Lending Disclosure. (Exhibit K)*

23. *RESPA Disclosure Statement. (Exhibit AA)*

24. *Quality Control Disclosure and Authorization. (Exhibit Y)*

25. *Other items which FmHA requires. The authority will advise you of such additional requirements, if any.*

#### D. E. Delivery of package to authority.

After the application package has been completed, it should be forwarded to:

Single Family Division  
Originations Department  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 5206  
Richmond, VA. 23220-8206

#### § 2.14. Commitment. (Exhibit J)

##### A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. Also enclosed in this package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2.D.1. above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2.D.1. above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will

be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

##### B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

#### § 2.15. Loan settlement.

##### A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the originating agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The originating agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the originating agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division  
Pre-Closing Section  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 4593  
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the originating agent in the case of an FHA or VA or FmHA loan that all applicable FHA or VA or FmHA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the title insurance commitment or binder as approved under the issuing company's insured closing service, along with



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additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the originating agent. It is the originating agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8.D above and the interest rate buydown program described in § 2.8.E). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

## B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Division  
Post-Closing Section  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 5427  
Richmond, VA 23220-8427

Within five 10 days after the closing of the loan, the originating agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within 45 90 days after loan closing, the originating agent shall forward to the authority the original recorded deed of trust and "final mortgage title insurance policy and FHA certification of insurance, VA guaranty or FmHA

*guarantee*. Within 55 days after loan closing the originating agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the originating agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event that the originating agent receives information at any time that any item noted on the originating agent's checklist for certain requirements of the tax code may not be correct or proper, the originating agent shall immediately notify the authority.

## § 2.16. Property guidelines.

### A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes) may be financed only if it is new construction and insured 100% by FHA (see subsection C). Existing manufactured housing is not eligible for authority financing.

### B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

## C. FHA or VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA or VA or FmHA loan must meet all applicable requirements imposed by FHA or VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

## § 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority

will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

## § 2.18. Condominium requirements.

### A. Conventional loans.

1. The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S, providing basic information about the condominium, must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The

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authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

## B. FHA or , VA or FmHA loans.

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, or by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan .

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with (i) § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority; (ii) § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors; and (iii) § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Air Pollution Control will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 120-01. Regulations for the Control and Abatement of Air Pollution (§§ 120-01-01, 120-01-02 and 120-04-4104 through 120-04-4106).

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

**Effective Date:** August 1, 1991.

### Summary:

The regulation amendments concern provisions covering general definitions, emission standards for mobile sources, air quality control regions, and delegation of authority. The amendments (i) revise certain definitions to conform to form and style requirements and changes to the Code (Part I); (ii) delete provisions referring to emissions inspection of motor vehicles (Rule 4-41); and (iii) delete the geographic delineation of the department's administrative regions (Appendix B).

VR 120-01. Regulations for the Control and Abatement of Air Pollution.

## PART I. GENERAL DEFINITIONS.

### § 120-01-01. General.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in § 120-01-02.

B. Unless specifically defined in the Virginia Air

Pollution Control Law or in these regulations, terms used shall have the meanings commonly ascribed to them by recognized authorities.

C. In addition to the definitions given in this part, some other major divisions (i.e. parts, rules, etc.) of these regulations have within them definitions for use with that specific major division.

### § 120-01-02. Terms defined.

"*Actual emissions rate*" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

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

"*Administrator*" means the administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

"*Affected facility*" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated.

"*Air pollution*" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"*Air quality*" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"*Air quality control region*" means any area designated as such in Appendix B.

"*Air quality maintenance area*" means any area which, due to current air quality or projected growth rate or both, may have the potential for exceeding any ambient air

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quality standard set forth in Part III within a subsequent 10-year period and designated as such in Appendix H.

*Alternative method* means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

*Ambient air* means that portion of the atmosphere, external to buildings, to which the general public has access.

*Ambient air quality standard* means any primary or secondary standard designated as such in Part III.

*Board* means the State Air Pollution Control Board or its designated representative.

*Class I area* means any prevention of significant deterioration area designated as such in Appendix L.

*Class II area* means any prevention of significant deterioration area designated as such in Appendix L.

*Class III area* means any prevention of significant deterioration area designated as such in Appendix L.

*Consent agreement* means an agreement that the owner or any other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with these regulations, by mutual agreement of the owner or any other person and the board.

*Consent order* means a consent agreement issued as an order. Such orders may be issued without a hearing.

*Continuous monitoring system* means the total equipment used to sample and condition (if applicable), to analyze, and to provide a permanent continuous record of emissions or process parameters.

*Control program* means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.

2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.

3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.

4. The date by which final compliance is to be achieved.

*Criteria pollutant* means any pollutant for which an ambient air quality standard is established under Part III.

*Day* means a 24-hour period beginning at midnight.

*Delayed compliance order* means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable State Implementation Plan.

*Department* means any employee or other representative of the Virginia Department of Air Pollution Control, as designated by the executive director.

*Dispersion technique*

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

- a. Using that portion of a stack which exceeds good engineering practice stack height;

- b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

- c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The preceding sentence does not include:

- a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

- b. The merging of exhaust gas streams where:

- (1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

- (2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the

installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

*"Emergency"* means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

*"Emergency special order"* means any order of the board issued in under the provisions of § 10.1-1309 B, after declaring a state of emergency and without a hearing, to owners who are permitting or causing air pollution, to cease such pollution. Such orders shall become invalid if an appropriate hearing is not held within 10 days after the effective date.

*"Emission limitation"* means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

*"Emission standard"* means any provision of Parts IV, V or VI which prescribes an emission limitation, or other

requirements that control air pollution emissions.

*"Emissions unit"* means any part of a stationary source which emits or would have the potential to emit any air pollutant.

*"Equivalent method"* means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a consistent and quantitative relationship to the reference method under specified conditions.

*"Excess emissions"* means emissions of air pollutant in excess of an emission standard.

*"Excessive concentration"* is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of § 120-08-02, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined

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by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

*“Executive director”* means the executive director of the Virginia Department of Air Pollution Control or his designated representative.

*“Existing source”* means any stationary source other than a new source or modified source.

*“Facility”* means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

*“Federal Clean Air Act”* means 42 USC 7401 et seq., 91 Stat 685.

*“Good engineering practice”* (GEP) stack height means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;
2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under Part VIII,

$$H_g = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emission limitation;

- b. For all other stacks,

$$H_g = H + 1.5L,$$

where:

$H_g$  = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

$L$  = lesser dimension, height or projected width, of nearby structure(s) provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

*“Hazardous air pollutant”* means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

*“Isokinetic sampling”* means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

*“Locality”* means a city, town, county or other public body created by or pursuant to state law.

*“Malfunction”* means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person.

*“Metropolitan statistical area”* means any area designated as such in Appendix G.

*“Monitoring device”* means the total equipment used to measure and record (if applicable) process parameters.

*“Nearby”* as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieves a height (Ht) 0.8 km from the stack that is

at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

*"Nitrogen oxides"* means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

*"Nonattainment area"* means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in Appendix K.

*"One hour"* means any period of 60 consecutive minutes.

*"One-hour period"* means any period of 60 consecutive minutes commencing on the hour.

*"Order"* means any decision or directive of the board, including special orders, emergency special orders and orders of all types, rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of these regulations. Unless specified otherwise in these regulations, orders shall only be issued after the appropriate hearing.

*"Organic compound"* means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

*"Owner"* means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

*"Particulate matter"* means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

*"Particulate matter emissions"* means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

*"PM<sub>10</sub>"* means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

*"PM<sub>10</sub> emissions"* means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air

as measured by the applicable reference method, or an equivalent or alternative method.

*"Performance test"* means a test for determining emissions from new or modified sources.

*"Person"* as used in these regulations, shall have no connotation other than that customarily assigned to the term "person," but shall include bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

*"Pollutant"* means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

*"Prevention of significant deterioration area"* means any area not designated as a nonattainment area in Appendix K for a particular pollutant and designated as such in Appendix L.

*"Proportional sampling"* means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

*"Reference method"* means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in Part III: the applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been cancelled in accordance with 40 CFR 53.11 or 40 CFR 53.16.
2. For emission standards in Parts IV and V: Appendix A of 40 CFR Part 60.
3. For emission standards in Part VI: Appendix B of 40 CFR Part 61.

*"Regional director"* means the regional director of an administrative region of the Department of Air Pollution Control or his designated representative.

*"Reid vapor pressure"* means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Standard D323-82, Test Method for Vapor Pressure of Petroleum Products (Reid Method) (see Appendix M).

*"Run"* means the net period of time during which an emission sampling is collected. Unless otherwise specified,



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a run may be either intermittent or continuous within the limits of good engineering practice.

“Shutdown” means the cessation of operation of an affected facility for any purpose.

“Source” means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or chemicals.

“Special order” means any order of the board issued after an appropriate hearing :

1. Under the provisions of § 10.1-1309:

1. a. To owners who are permitting or causing air pollution to cease and desist from such pollution;

2. b. To owners who have failed to construct facilities in accordance with or have failed to comply with plans for the control of air pollution submitted by them to, and approved by the board, to construct such facilities in accordance with or otherwise comply with such approved plan;

3. c. To owners who have violated or failed to comply with the terms and provisions of any order or directive issued by the board to comply with such terms and provisions;

4. d. To owners who have contravened duly adopted and promulgated air quality standards and policies to cease and desist from such contravention and to comply with such air quality standards and policies; and

5. e. To require any owner to comply with the provisions of this chapter and any decision of the board ; or

2. Under the provisions of § 10.1-1309.1 requiring that an owner file with the board a plan to abate, control, prevent, remove, or contain any substantial and imminent threat to public health or the environment that is reasonably likely to occur if such source ceases operations .

“Stack” means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

“Stack in existence” means that the owner had:

1. Begun, or caused to begin, a continuous program of

physical on site construction of the stack; or

2. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

“Standard conditions” means a temperature of 20° C (68° F) and a pressure of 760 mm of Hg (29.92 in. of Hg).

“Standard of performance” means any provision of Part V which prescribes an emission limitation or other requirements that control air pollution emissions.

“Startup” means the setting in operation of an affected facility for any purpose.

“State Implementation Plan” means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under Section 110 of the federal Clean Air Act, and which implements the requirements of Section 110.

“Stationary source” means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M).

“Total suspended particulate” (TSP) means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

“True vapor pressure” means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

“Urban area” means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in Appendix C.

“Vapor pressure,” except where specific test methods are specified, means true vapor pressure, whether

measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in API Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M).

"*Variance*" means the temporary exemption of an owner or other person from these regulations, or a temporary change in these regulations as they apply to an owner or other person.

"*Virginia Air Pollution Control Law*" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1; Chapter 13 of the Code of Virginia.

"*Virginia Register Act*" means Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia.

"*Volatile organic compound*" means any organic compound which participates in atmospheric photochemical reactions and is measured by the applicable reference method. The following compounds are exempted from this definition:

1. Methane
2. Ethane
3. 1,1,1-trichloroethane (methyl chloroform)
4. Methylene chloride
5. Trichlorofluoromethane (CFC-11)
6. Dichlorodifluoromethane (CFC-12)
7. Chlorodifluoromethane (CFC-22)
8. Trifluoromethane (FC-23)
9. 1,1,2-trichlorotrifluoroethane (CFC-113)
10. 1,2-dichlorotetrafluoroethane (CFC-114)
11. Chloropentafluoroethane (CFC-115)
12. Dichlorotrifluoroethane (HCFC-123)
13. Tetrafluoroethane (HFC-134a)
14. Dichlorofluoroethane (HCFC-141b)
15. Chlorodifluoroethane (HCFC-142b)

Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and

limitation of their use in accordance with requirements of the federal Clean Air Act.

"*Welfare*" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well being.

## PART IV.

### EMISSION STANDARDS FOR MOBILE SOURCES. (RULE 4-41)

§ 120-04-4101. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this rule apply is each mobile source.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to mobile sources used solely for ceremonial purposes, antiques and others of historical significance.

§ 120-04-4102. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"*Mobile sources*" means any vehicle, including, but not limited to, any motor vehicle (automobile, truck, bus, etc.) or other landcraft; airplane or other aircraft; locomotive or other rail vehicle; ship, boat or other watercraft, which emits or may emit any air pollutant.

"*Motor vehicle*" means any powered conveyance of a type normally licensed by the Virginia Department of Motor Vehicles.

§ 120-04-4103. Motor vehicles.

A. Emission control systems.

1. No owner or other person shall cause or permit the removal, disconnection or disabling of a crankcase emission control system or device, exhaust emission control system or device, fuel evaporative emission

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control system or device, or other air pollution control system or device which has been installed on a motor vehicle in accordance with federal laws and regulations while such motor vehicle is operating in the Commonwealth of Virginia.

2. No owner or other person shall attempt to defeat the purpose of any such motor vehicle pollution control system or device by installing any part or component which is not a standard factory replacement part or component of the device.

3. No motor vehicle or engine shall be operated with the motor vehicle pollution control system or device removed or otherwise rendered inoperable.

4. The provisions of this section shall not prohibit or prevent shop adjustments or replacement of equipment for maintenance or repair, or the conversion of engines to low polluting fuels such as, but not limited to, natural gas or propane.

## B. Visible emissions.

1. No owner or other person shall cause or permit the emission of visible air pollutants from gasoline-powered motor vehicles for longer than five consecutive seconds after the engine has been brought up to operating temperature.

2. No owner or other person shall cause or permit the emission of visible air pollutants from diesel-powered motor vehicles of a density equal to or greater than 20% opacity for longer than 10 consecutive seconds after the engine has been brought up to operating temperature.

C. In commercial or residential urban areas, propulsion engines of motor vehicles licensed for commercial or public service use shall not be left running for more than three minutes when the vehicle is parked, unless the propulsion engine is providing auxiliary power for other than heating or air conditioning; except that:

1. Four buses may idle for up to 10 minutes during hot weather in order to maintain power to the air conditioning system, and

2. Diesel powered vehicles may idle for up to 10 minutes to minimize restart problems.

## § 120-04-4104. Other mobile sources.

### A. General.

All mobile sources operating within Virginia, including the air space over this Commonwealth, shall control their emissions in strict accordance with the applicable federal laws and regulations.

### B. Visible emissions.

The provisions of § 120-04-0103 shall apply to the discharge of visible emissions from all mobile sources, unless specified otherwise in subsection C of this section.

### C. Exceptions.

1. Aircraft. Subsection B of this section shall not apply to aircraft.

2. Diesel locomotives. Visible emissions from operating diesel-powered locomotives shall not exceed a density greater than 30% opacity unless the locomotive is *operating under any of the following conditions*:

a. Accelerating under load, and then only for a maximum of 40 consecutive seconds for stabilization of the new operating condition.

b. Being loaded after a period of idle, and then only for a maximum period of four consecutive minutes after the changed condition.

c. Started cold, and then only for a maximum of 30 consecutive minutes after such a start.

d. Being tested, adjusted, or broken in after rebuilding or repair, and then only for maximum periods of 3 consecutive minutes for an aggregate of no more than 10 minutes in any 60-minute period.

3. Ships and other watercraft. Visible emissions in excess of subsection B of this section are authorized when not at dock and for brief periods when at dock under the following conditions:

a. During dock trials as required to test and calibrate the ship's machinery control systems.

b. When lighting off a cold machinery plant and getting under way.

c. When used on shore to simulate dock or sea trials.

d. When soot blowing. Soot blowing shall be limited to once in each 24-hour period and shall be allowed only when wind conditions and direction are such as to prevent a public nuisance or hazard to the health and safety of persons and property both ashore and afloat.

4. Other diesel-powered mobile sources. Visible emissions from diesel-powered mobile sources which are not otherwise governed by these regulations shall not exceed 20% opacity for longer than 10 consecutive seconds after the engine has been brought up to operating temperature.

## § 120-04-4105. Export/import of motor vehicles.

A. Any person may remove the catalyst and restrictive

filler inlet from used motor vehicles scheduled for shipment overseas provided that:

1. The export/import of the motor vehicle meets the provisions of subsection B of this section; and
2. The removal of the emission control devices does not take place prior to 10 days before the vehicle is turned in to the port authorities and the reinstallation of the emission control devices takes place within 10 days after receipt of the vehicle by the owner from the port authorities.

B. To be exempted under the provisions of subsection A of this section, the motor vehicle must:

1. Be exported/imported under an U.S. Environmental Protection Agency (EPA) approved catalyst control program; or
2. If not under an EPA program, upon reimportation to the United States must be entered through U.S. Customs under cash bond and formal entry procedures (19 CFR Part 12 - Special classes of merchandise) and must be modified to bring it into conformity with applicable federal motor vehicle emission standards (40 CFR Part 86 - Control of air pollution from new motor vehicle engines: Certification and test procedures).

**§ 120-04-4106 Emissions inspection of motor vehicles.**

A. The provisions of this section apply to any motor vehicle with a liquid-cooled internal combustion engine (other than a vehicle powered by diesel engine) which is subject to registration in this state and is designed for the transportation of persons or property, and which has a registered gross weight of six thousand pounds or less.

B. Any motor vehicle which is subject to emissions inspection in accordance with the provisions of Title 46.1, Chapter 4, Article 10.1 of the Code of Virginia (1950), as amended, as a condition of compliance with the inspection, shall not discharge carbon monoxide (CO) and hydrocarbons (HC) in its exhaust emissions in excess of standards set forth in Table 4-41A when measured with an exhaust gas analyzer approved by the Virginia Department of State Police and by the inspection procedure prescribed by the Virginia Department of State Police.

TABLE 4-41A

**EXHAUST EMISSION STANDARDS**

Model Year of Vehicle	CO (%)	HC (ppm)
1975	6.0	600
1976	6.0	600
1977	6.0	600
1978	6.0	600
1979	6.0	600
1980	4.0	400

1981 and later    3.0    300

NOTE: All measurements shall be made in the idle mode after the engine has been operating for a sufficient period to attain normal operating temperature and the engine has been purged if it has been operating at an idle for more than five (5) minutes.

C. From time to time, the board may adjust the exhaust emission standards in Table 4-41A, + 2% for CO and + 200 ppm for HC, if it finds the motor vehicle failure rate too high or too low to obtain the desired emission reduction required by the State Implementation Plan.

NOTE: On June 4, 1984, the board exercised its authority under § 120-04-4106 C and adjusted the exhaust emission standards. The adjusted standards are set forth in Table 4-41B and shall be effective January 1, 1985.

TABLE 4-41B

**ADJUSTED EXHAUST EMISSION STANDARDS**

Model Year	CO (%)	HC (ppm)
1975	4.0	400
1976	4.0	400
1977	4.0	400
1978	4.0	400
1979	4.0	400
1980	2.0	220
1981 and later	1.2	220

**APPENDIX B**

**AIR QUALITY CONTROL REGIONS**

Region 1 - Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region (Virginia)

The Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region (Virginia portion) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe

Cities: Bristol, Galax, Norton

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## Region 2 - Valley of Virginia Intrastate Air Quality Control Region

The Valley of Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Alleghany, Augusta, Bath, Botetourt, + Clarke, Craig, Floyd, + Frederick, Giles, Highland, Montgomery, + Page, Pulaski, Roanoke, Rockbridge, Rockingham, + Shenandoah, + Warren

Cities: Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Radford, Roanoke, Salem, Staunton, Waynesboro, + Winchester

+These localities are administratively under Region 7.

## Region 3 - Central Virginia Intrastate Air Quality Control Region

The Central Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward

Cities: Bedford, Danville, Lynchburg, Martinsville, South Boston

## Region 4 - Northeastern Virginia Intrastate Air Quality Control Region

The Northeastern Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Accomack, Albemarle, Caroline, Culpeper, Essex, Fauquier, Fluvanna, Gloucester, Greene, King and Queen, King George, King William, Lancaster, Louisa, Madison, Mathews, Middlesex, Nelson, Northampton, Northumberland, Orange, Rappahannock, Richmond, Spotsylvania, Stafford, Westmoreland

Cities: Charlottesville, Fredericksburg

**NOTE:** All localities in this region are administratively under other regional offices.

## Region 5 - State Capital Intrastate Air Quality Control Region

The State Capital Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Charles City, Chesterfield, Dinwiddie, Goochland, Greensville, Hanover, Henrico, New Kent, Powhatan, Prince George, Surry, Sussex

Cities: Colonial Heights, Emporia, Hopewell, Petersburg, Richmond

## Region 6 - Hampton Roads Intrastate Air Quality Control Region

The Hampton Roads Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Isle of Wight, James City, Southampton, York

Cities: Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg

## Region 7 - National Capital Interstate Air Quality Control Region (Virginia)

The National Capital Interstate Air Quality Control Region (Virginia portion) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

Counties: Arlington, Fairfax, Loudoun, Prince William

Cities: Alexandria, Fairfax, Falls Church, Manassas, Manassas Park

**NOTE:** In addition to the air quality control regions delineated herein which form the geographic basis for the legal applicability of the regulations and air quality programs, there are administrative regions for all types of administrative actions (such as permit processing and responding to public inquiries). This is done because for administrative purposes it is necessary for administrative purposes that certain counties, and the localities within, be in regions other than those listed above. This administrative delineation in no way alters the applicability of the regulations. For administrative purposes the regional offices shown below shall be responsible for the localities noted. Maps showing boundaries for both air

quality control regions and administrative regions, followed by lists showing the assignment of localities for both, may be found in the preface to these regulations.

**Region 3** - Albemarle County, City of Charlottesville, Fluvanna County, Greene County, Louisa County, and Nelson County.

**Region 5** - Essex County, Gloucester County, King and Queen County, King William County, Lancaster County, Mathews County, Middlesex County, Northumberland County, Richmond County, and Westmoreland County.

**Region 6** - Accomack County and Northampton County.

**Region 7** - Caroline County, Clarke County, Culpeper County, Fauquier County, Frederick County, City of Fredericksburg, King George County, Madison County, Orange County, Page County, Rappahannock County, Shenandoah County, Spotsylvania County, Stafford County, Warren County, and City of Winchester.

\* \* \* \* \*

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Air Pollution Control will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 120-01. Regulations for the Control and Abatement of Air Pollution.

**VR 120-08-02. Permits: Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas.**

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

**Effective Date:** August 1, 1991.

**Summary:**

The regulation amendments concern provisions covering permits for major stationary sources and major modifications locating in prevention of significant deterioration areas. The amendments (i) revise the definitions for "baseline area," "baseline concentration," "baseline date," "federally enforceable," and "net emissions increase"; and add a definition for "volatile organic compounds"; (ii) add nitrogen dioxide ambient air increments for Class I, II, and III areas; (iii) add exemptions for sources and modifications for which applications were deemed complete prior to the effective date of the nitrogen dioxide increments; (iv) add a maximum allowable increase for nitrogen dioxide emissions for allowing

Class I variances; and (v) revise the requirements for approval of innovative control technology systems.

VR 120-01. Regulations for the Control and Abatement of Air Pollutions.

§ 120-08-02. Permits. Major stationary sources and major modifications locating in prevention of significant deterioration areas.

**A. Applicability.**

1. The provisions of this section apply to the construction of any major stationary source or major modification.

2. The provisions of this rule apply in prevention of significant deterioration areas designated in Appendix L.

3. Unless specified otherwise, the provisions of this section are applicable to various sources as follows:

a. Provisions referring to "sources," "new or modified sources" or "stationary sources" are applicable to the construction of all major stationary sources and major modifications.

b. Any emissions units not subject to the provisions of this section may be subject to the provisions of § 120-08-01 or § 120-08-03.

**B. Definitions.**

1. As used in this section, all words or terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

2. For the purpose of this section, § 120-05-0405 and any related use, the words or terms shall have the meaning given them in subdivision B 3 of this section:

3. Terms defined.

a. "Actual emissions":

(1) Means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subdivisions 3a (2) through 3a (4) of this subsection.

(2) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The board shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates,

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and types of materials processed, stored, or combusted during the selected time period.

(3) The board may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(4) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit of that date.

b. "Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

c. "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the federal class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (i) times of visitor use of the federal class I areas, and (ii) the frequency and timing of natural conditions that reduce visibility.

d. "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally or state enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) The applicable standards as set forth in 40 CFR Parts 60 and 61;

(2) The applicable State Implementation Plan emissions limitation including those with a future compliance date; or

(3) The emissions rate specified as a federally or state enforceable permit condition, including those with a future compliance date.

e. "Baseline area":

(1) Means any intrastate area (and every part thereof) designated as attainment or unclassifiable under § 107(d)(1)(D) or (E) of the federal Clean Air Act in which the major source or major modification establishing the *minor source* baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m<sup>3</sup> (annual average) of the pollutant for which the *minor source* baseline date is established.

(2) Area redesignations under § 107(d)(1)(D) or (E) of the federal Clean Air Act cannot intersect or be smaller than the area of impact of any major

stationary source or major modification which:

(a) Establishes a *minor source* baseline date; or

(b) Is subject to this section or 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

f. "Baseline concentration":

(1) Means that ambient concentration level which exists in the baseline area at the time of the applicable *minor source* baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable *minor source* baseline date, except as provided in subdivision (2);

(b) The allowable emissions of major stationary sources which commenced construction before ~~January 6, 1975~~ the *major source* baseline date, but were not in operation by the applicable *minor source* baseline date.

(2) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) Actual emissions from any major stationary source on which construction commenced after ~~January 6, 1975~~ the *major source* baseline date; and

(b) Actual emissions increases and decreases at any stationary source occurring after the *minor source* baseline date.

g. "Baseline date":

(1) Means the earliest date after August 7, 1977, on which the first complete application under this section or 40 CFR 52.21 is submitted by a major stationary source or major modification subject to the requirements of this section or 40 CFR 52.21. "Major source baseline date" means:

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(b) In the case of nitrogen dioxide, February 8, 1988.

(2) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to this section submits a complete application under this section. The trigger date is:

(a) *In the case of particulate matter and sulfur dioxide, August 7, 1977, and*

(b) *In the case of nitrogen dioxide, February 8, 1988.*

(2) (3) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under § 107(d)(1)(D) or (E) of the federal Clean Air Act for the pollutant on the date of its complete application under this section or 40 CFR 52.21; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

h. "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

i. "Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the federal Clean Air Act which would be emitted from any proposed major stationary source or major modification which the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60 and 61. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to

the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

j. "Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two-digit code) as described in the Standard Industrial Classification Manual, as amended by the Supplement (see Appendix M).

k. "Commence" as applied to construction of a major stationary source or major modification, means that the owner has all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner, to undertake a program of actual construction of the source, to be completed within a reasonable time.

l. "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

m. "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

n. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the federal Clean Air Act.

o. "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

p. "Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or Part VIII, including operating permits issued under an EPA-approved program that



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*is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program .*

q. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

r. "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

s. "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

t. "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

u. "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

v. "Low terrain" means any area other than high terrain.

w. "Major modification":

(1) Means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the federal Clean Air Act.

(2) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(3) A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under Section 125 of the federal Clean Air Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

1 The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally or state enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or Part VIII; or

2 The source is approved to use under any permit issued under 40 CFR 52.21 or Part VIII;

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally or state enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or Part VIII;

(g) Any change in ownership at a stationary source.

x. "Major stationary source":

(1) Means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the federal Clean Air Act:

1 Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

2 Coal cleaning plants (with thermal dryers).

3 Kraft pulp mills.

4 Portland cement plants.

5 Primary zinc smelters.

6 Iron and steel mill plants.

7 Primary aluminum ore reduction plants.

8 Primary copper smelters.

9 Municipal incinerators capable of charging more than 250 tons of refuse per day.

10 Hydrofluoric acid plants.

11 Sulfuric acid plants.

12 Nitric acid plants.

13 Petroleum refineries.

14 Lime plants.

15 Phosphate rock processing plants.

16 Coke oven batteries.

17 Sulfur recovery plants.

18 Carbon black plants (furnace process).

19 Primary lead smelters.

20 Fuel conversion plants.

21 Sintering plants.

22 Secondary metal production plants.

23 Chemical process plants.

24 Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input.

25 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

26 Taconite ore processing plants.

27 Glass fiber processing plants.

28 Charcoal production plants.

(b) Notwithstanding the stationary source size specified in subdivision (1)(a), stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the federal Clean Air Act; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under subdivision (1)(a) or (1)(b) as a major stationary source, if the change would constitute a major stationary source by itself.

(2) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(3) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers).

(b) Kraft pulp mills.

(c) Portland cement plants.

(d) Primary zinc smelters.

(e) Iron and steel mills.

(f) Primary aluminum ore reduction plants.

(g) Primary copper smelters.

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(i) Hydrofluoric, sulfuric, or nitric acid plants.

(j) Petroleum refineries.

(k) Lime plants.

(l) Phosphate rock processing plants.

(m) Coke oven batteries.

(n) Sulfur recovery plants.

(o) Carbon black plants (furnace process).

(p) Primary lead smelters.

(q) Fuel conversion plants.

(r) Sintering plants.

(s) Secondary metal production plants.

(t) Chemical process plants.

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(w) Taconite ore processing plants.

(x) Glass fiber processing plants.

(y) Charcoal production plants.

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the federal Clean Air Act.

y. "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and

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those air quality control laws and regulations which are part of the applicable State Implementation Plan.

z. "Net emissions increase":

(1) Means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(a) The date five years before construction on the particular change commences; and

(b) The date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the board has not relied on it in issuing a permit for the source under this section (or the administrator under 40 CFR 52.21), which permit is in effect when the increase in actual emissions from the particular change occurs.

(4) An increase or decrease in actual emissions of sulfur dioxide or , particulate matter , or nitrogen oxides which occurs before the applicable *minor source* baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(5) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(6) A decrease in actual emission is creditable only to the extent that:

(a) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(b) It is federally or state enforceable at and after the time that actual construction on the particular change begins; and

(c) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular

change.

(7) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

aa. "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally or state enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

bb. "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable; and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

cc. "Significant":

(1) Means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter (TSP)	25 tpy
PM10	15 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Asbestos	0.007 tpy
Beryllium	0.0004 tpy
Mercury	0.1 tpy
Vinyl Chloride	1 tpy

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Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H <sub>2</sub> S)	10 tpy
Total Reduced Sulfur (including H <sub>2</sub> S)	10 tpy
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10 tpy

(2) Means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the federal Clean Air Act that subdivision (1) does not list, any emissions rate.

(3) Notwithstanding subdivision (1), any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 ug/m<sup>3</sup> (24-hour average).

dd. "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.

ee. "Volatile organic compounds" excludes each of the following compounds, unless the compound is subject to an emissions standard under Sections 111 or 112 of the federal Clean Air Act: methane; ethane; methylene chloride; 1,1,1 trichloroethane (methyl chloroform); trichlorotrifluoroethane (CFC-113) (Freon 113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); dichlorotetrafluoroethane (CFC-114); and chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); diclororfluoroethane (HCFC-141b); and chlorodifluoroethane (HCFC-142b).

## C. General.

1. No owner or other person shall begin actual construction of any major stationary source or major modification without first obtaining from the board a permit to construct and operate such source.
2. No owner or other person shall relocate any emissions unit subject to the provisions of § 120-02-31 without first obtaining a permit from the board to relocate the unit.
3. Prior to the decision of the board, all permit applications will be subject to a public comment period, a public hearing will be held as provided in subsection R of this section.

## D. Ambient air increments.

In areas designated as class I, II or III, increases in pollutant concentration over the baseline concentration

shall be limited to the following:

### MAXIMUM ALLOWABLE INCREASE (micrograms per cubic meter)

#### Class I

Particulate matter:	
TSP, annual geometric mean	5
TSP, 24-hour maximum	10
Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
Three-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5

#### Class II

Particulate matter:	
TSP, annual geometric mean	19
TSP, 24-hour maximum	37
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
Three-hour maximum	V8 512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III	
Particulate matter:	
TSP, annual geometric mean	37
TSP, 24-hour maximum	75
Sulfur dioxide:	
Annual arithmetic mean	40
Twenty-four hour maximum	182
Three-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

## E. Ambient air ceilings.

No concentration of a pollutant shall exceed:

1. The concentration permitted under the national secondary ambient air quality standard, or
2. The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

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## F. Applications.

1. Application for a permit shall be made in the following manner. If the applicant is a partnership, a general partner shall sign the application. If the applicant is a corporation, association or cooperative, an officer shall sign the application. If the applicant is a sole proprietorship, the proprietor shall sign the application.

2. A single application is required, identifying each emission unit subject to this section. The application shall be submitted according to procedures approved by the board. However, where several units are included in one project, a single application covering all units in the project may be submitted. A separate application is required for each location.

3. For projects with phased development, a single application may be submitted covering the entire project.

## G. Compliance with local zoning requirements.

The owner shall comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located or proposes to be located; provided, however, that such compliance does not relieve the board of its duty under § 120-02-14 of these regulations and § 10-17.18(e) and (f) of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

## H. Compliance determination and verification by performance testing.

1. For stationary sources other than those specified in subdivision H 2 of this section, compliance with standards of performance shall be determined in accordance with the provisions of § 120-05-02 and shall be verified by performance tests in accordance with the provisions of § 120-05-03.

2. For stationary sources of hazardous air pollutants, compliance with emission standards shall be determined in accordance with the provisions of § 120-06-02 and shall be verified by emission tests in accordance with the provisions of § 120-06-03.

3. Testing required by subdivisions H 1 and 2 of this section shall be conducted within 60 days after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided with two or, upon request, more copies of a written report of the results of the tests.

4. For sources subject to the provisions of Rule 5-5 or 6-1, the requirements of subdivisions H 1 through 3 of this section shall be met in all cases.

5. For sources other than those specified in subdivision H 4 of this section, the requirements of subdivisions H 1 through 3 of this section shall be met unless the board:

a. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

b. Approves the use of an equivalent method;

c. Approves the use of an alternative method, the results of which the board has determined to be adequate for indicating whether a specific source is in compliance;

d. Waives the requirement for testing because, based upon a technical evaluation of the past performance of similar source types, using similar control methods, the board reasonably expects the new or modified source to perform in compliance with applicable standards; or

e. Waives the requirement for testing because the owner of the source has demonstrated by other means to the board's satisfaction that the source is in compliance with the applicable standard.

6. The provisions for the granting of waivers under subdivision H 5 of this section are intended for use in determining the initial compliance status of a source, and the granting of a waiver does not obligate the board to do so for determining compliance once the source has been in operation for more than one year beyond the initial startup date.

## I. Stack heights.

1. The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by:

a. So much of the stack height of any source as exceeds good engineering practice, or

b. Any other dispersion technique.

2. Subdivision I 1 of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

## J. Review of major stationary sources and major modifications; source applicability and exemptions.

1. No stationary source or modification to which the requirements of subsections K through S of this section apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements. The board has authority to issue any such permit.

2. The requirements of subsections K through S of this section shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the federal Clean Air Act that it would emit, except as this section otherwise provides.

3. The requirements of subsections K through S of this section apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable under § 107(d)(1)(D) or (E) of the federal Clean Air Act.

4. The requirements of subsections K through S of this section shall not apply to a particular major stationary source or major modification; if:

a. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor submits a request to the administrator that it be exempt from those requirements; or

b. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- (1) Coal cleaning plants (with thermal dryers).
- (2) Kraft pulp mills.
- (3) Portland cement plants.
- (4) Primary zinc smelters.
- (5) Iron and steel mills.
- (6) Primary aluminum ore reduction plants.
- (7) Primary copper smelters.
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (9) Hydrofluoric acid plants.
- (10) Sulfuric acid plants.
- (11) Nitric acid plants.
- (12) Petroleum refineries.
- (13) Lime plants.
- (14) Phosphate rock processing plants.
- (15) Coke oven batteries.

(16) Sulfur recovery plants.

(17) Carbon black plants (furnace process).

(18) Primary lead smelters.

(19) Fuel conversion plants.

(20) Sintering plants.

(21) Secondary metal production plants.

(22) Chemical process plants.

(23) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.

(24) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(25) Taconite ore processing plants.

(26) Glass fiber processing plants.

(27) Charcoal production plants.

(28) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

(29) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Federal Clean Air Act; or

c. The source is a portable stationary source which has previously received a permit under this section, and

(1) The owner proposes to relocate the source and emissions of the source at the new location would be temporary; and

(2) The emissions from the source would not exceed its allowable emissions; and

(3) The emissions from the source would impact no class I area and no area where an applicable increment is known to be violated; and

(4) Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the board; or

d. The source or modification was not subject to this section, with respect to particulate matter, as in effect before July 31, 1987, and the owner:

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(1) Obtained all final federal, state and local preconstruction approvals or permits necessary under Part VIII before July 31, 1987;

(2) Commenced construction within 18 months after July 31, 1987, or any earlier time required under Part VIII; and

(3) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable period of time; or

e. The source or modification was subject to this section or 40 CFR 52.21, with respect to particulate matter, as in effect before July 31, 1987, and the owner submitted an application for a permit under this section before that date, and the board subsequently determined that the application as submitted was complete with respect to the particulate matter requirements then in effect in this section. Instead, the requirements of subsections K through S of this section that were in effect before July 31, 1987, shall apply to such source or modification.

5. The requirements of subsections K through S of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the federal Clean Air Act.

6. The requirements of subsections L, N and P of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

a. Would impact no class I area and no area where an applicable increment is known to be violated, and

b. Would be temporary.

7. The requirements of subsections L, N and P of this section as they relate to any maximum allowable increase for a class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the federal Clean Air Act from the modification after the application of best available control technology would be less than 50 tons per year.

8. The board may exempt a stationary source or modification from the requirements of subsection N of this section with respect to monitoring for a particular pollutant if:

a. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

- Carbon monoxide - 575 ug/m<sup>3</sup>, 8-hour average
- Nitrogen dioxide - 14 ug/m<sup>3</sup>, annual average
- Total suspended particulate - 10 ug/m<sup>3</sup>, 24-hour average
- PM10 - 10 ug/m<sup>3</sup>, 24-hour average
- Sulfur dioxide - 13 ug/m<sup>3</sup>, 24-hour average
- Ozone<sup>1</sup>
- Lead - 0.1 ug/m<sup>3</sup>, 3-month average
- Mercury - 0.25 ug/m<sup>3</sup>, 24-hour average
- Beryllium - 0.001 ug/m<sup>3</sup>, 24-hour average
- Fluorides - 0.25 ug/m<sup>3</sup>, 24-hour average
- Vinyl chloride - 15 ug/m<sup>3</sup>, 24-hour average
- Total reduced sulfur - 10 ug/m<sup>3</sup>, 1-hour average
- Hydrogen sulfide - 0.2 ug/m<sup>3</sup>, 1-hour average
- Reduced sulfur compounds - 10 ug/m<sup>3</sup>, 1-hour average; or

.....  
<sup>1</sup> No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD ~~this section~~ would be required to perform an ambient impact analysis including the gathering of ambient air quality data.  
.....

b. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subdivision J 8 a of this section, or the pollutant is not listed in subdivision J 8 a of this section.

9. a. At the discretion of the board, the requirements for air quality monitoring of PM10 in subdivisions N 1 a through N 1 d of this section may not apply to a particular source or modification when the owner submits an application for a permit under this section on or before June 1, 1988, and the board subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring particulate matter in subdivisions N 1 a through N 1 d.

b. The requirements for air quality monitoring of PM10 in subdivisions N 1 c and d and N 3 of this section shall apply to a particular source or modification if the owner submits an application for a permit under this section after June 1, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988, to the date the application becomes otherwise complete in accordance with the provisions set forth under subdivision N 1 h of this section, except that if the board determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data

that subdivision N 1 c requires shall have been gathered over that shorter period.

*10. The requirements of subdivision L 2 of this section shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increase took effect as part of the applicable State Implementation Plan and the board subsequently determined that the application as submitted before that date was complete.*

#### K. Control technology review.

1. A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard and standard of performance under 40 CFR Parts 60 and 61.

2. A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act that it would have the potential to emit in significant amounts.

3. A major modification shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

4. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

#### L. Source impact analysis.

The owner of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

1. Any national ambient air quality standard in any air quality control region; or

2. Any applicable maximum allowable increase over the baseline concentration in any area.

#### M. Air quality models.

1. All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data bases, and other requirements specified in the U.S. Environmental Protection Agency Guideline, EPA-450/2-78-027R, Guideline on Air Quality Models (see Appendix M).

2. Where an air quality impact model specified in the Guideline on Air Quality Models is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis, or, where appropriate, on a generic basis for a specific state program. Written approval of the administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with subsection R of this section.

#### N. Air quality analysis.

##### 1. Preapplication analysis.

a. Any application for a permit under this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(1) For the source, each pollutant that it would have the potential to emit in a significant amount;

(2) For the modification, each pollutant for which it would result in a significant net emissions increase.

b. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the board determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would effect.

c. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

d. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the board determines that a complete



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and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

e. For any application which becomes complete, except as to the requirements of subdivision N 1 c and d of this section, between June 8, 1981, and February 9, 1982, the data that subdivision N 1 c of this section requires shall have been gathered over at least the period from February 9, 1981 to the date the application becomes otherwise complete, except that:

(1) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations.

(2) If the board determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not less than four months), the data that subdivision N 1 c of this section requires shall have been gathered over at least that shorter period.

(3) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the board may waive the otherwise applicable requirements of this subsection W to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

f. The owner of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of Section IV of Appendix S to 40 CFR Part 51 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subdivision N 1 of this section.

g. For any application that becomes complete, except as to the requirements of subdivision N 1 e and d pertaining to PM10, after December 1, 1988, and no later than August 1, 1989, the data that subdivision N 1 c requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the board determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that subdivision N 1 c requires shall have been gathered over that shorter period.

h. With respect to any requirements for air quality monitoring of PM10 under subdivisions J 9 a and b, the owner shall use a monitoring method approved

by the board and shall estimate the ambient concentrations of PM10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the board.

2. Post-construction monitoring. The owner of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the board determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

3. Operation of monitoring stations. The owner of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR Part 58 during the operation of monitoring stations for purposes of satisfying subsection N of this section.

## O. Source information.

The owner of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this section.

1. With respect to a source or modification to which subsections K, L, N and P of this section apply, such information shall include:

a. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

b. A detailed schedule for construction of the source or modification;

c. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

2. Upon request of the board, the owner shall also provide information on:

a. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

b. The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since the baseline date in the area the source or modification would affect.

## P. Additional impact analyses.

1. The owner shall provide an analysis of the impairment to visibility, soils and vegetation that

would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

2. The owner shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

3. The board may require monitoring of visibility in any federal class I area near the proposed new stationary source ~~for~~ or major modification for such purposes and by such means as the board deems necessary and appropriate.

**Q. Sources impacting federal class I areas - additional requirements.**

1. Notice to federal land managers. The board shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal class I area. The board shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under subsection R of this section, and shall make available to them any materials used in making that determination, promptly after the board makes such determination. Finally, the board shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

2. Federal land manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the board, whether a proposed source or modification will have an adverse impact on such values.

3. Visibility analysis. The board shall consider any analysis performed by the federal land manager, provided within 30 days of the notification required by subdivision Q 1 of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal class I area. Where the board finds

that such an analysis does not demonstrate to the satisfaction of the board that an adverse impact on visibility will result in the federal class I area, the board must, in the notice of public hearing on the permit application, either explain this decision or give notice as to where the explanation can be obtained.

4. Denial; impact on air quality related values. The federal land manager of any such lands may demonstrate to the board that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a class I area. If the board concurs with such demonstration, then it shall not issue the permit.

5. Class I variances. The owner of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a class I area. If the federal land manager concurs with such demonstration and he so certifies, the board may, provided that the applicable requirements of this section are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over *minor source* baseline concentration for such pollutants:

**MAXIMUM ALLOWABLE INCREASE**  
(micrograms per cubic meter)

**Particulate matter:**

TSP, annual geometric mean .....	19
TSP, 24-hour maximum .....	37
<b>Sulfur dioxide:</b>	
Annual arithmetic mean .....	20
24-hour maximum .....	91
Three-hour maximum .....	325

**Nitrogen dioxide:**

<i>Annual arithmetic mean</i> .....	25
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6. Sulfur dioxide variance by governor with federal land manager's concurrence. The owner of a proposed source or modification which cannot be approved under subdivision Q 5 of this section may demonstrate to the governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less

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applicable to any class I area and, in the case of federal mandatory class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the board shall issue a permit to such source or modification pursuant to the requirements of subdivision Q 8, provided that the applicable requirements of this section are otherwise met.

7. Variance by the governor with the president's concurrence. In any case whether the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the president. The president may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the board shall issue a permit pursuant to the requirements of subdivision Q 8 of this section, provided that the applicable requirements of this section are otherwise met.

8. Emission limitations for presidential or gubernatorial variance. In the case of a permit issued pursuant to subdivision Q 6 or 7 of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE  
(micrograms per cubic meter)

Period of exposure	Low terrain areas	High terrain areas
24-hour maximum	36	62
3-hour maximum	130	221

## R. Public participation.

1. Within 30 days after receipt of an application to construct, or any addition to such application, the board shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the board received all required

information.

2. Within one year after receipt of a complete application, the board shall make a final determination on the application. This involves performing the following actions in a timely manner:

a. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

b. Make available in at least one location in each air quality control region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

c. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The notification shall be at least 30 days prior to the day of the hearing.

d. Send a copy of the notice of public comment to the applicant, the administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: state and local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any state, federal land manager, or indian governing body whose lands may be affected by emissions from the source or modification.

e. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

f. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The board shall consider the applicant's response in making a final decision. The board shall make all comments available for public inspection in the same locations where the board made available preconstruction information

relating to the proposed source or modification.

g. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

h. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the board made available preconstruction information and public comments relating to the source or modification.

## S. Source obligation.

1. Any owner who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

2. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The board may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

3. Approval to construct shall not relieve any owner of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law.

4. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of subsections K through S of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

## T. Environmental impact statements.

Whenever any proposed source or modification is subject to action by a federal agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321),

review conducted pursuant to this section shall be coordinated by the administrator with the broad environmental reviews under that Act and under Section 309 of the federal Clean Air Act to the maximum extent feasible and reasonable.

## U. Disputed permits.

If a permit is proposed to be issued for any major stationary source or major modification proposed for construction in any state which the governor of an affected state or indian governing body of an affected tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected state or indian reservation, the governor or indian governing body may request the administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any state or indian governing body involved, the administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the parties involved do not reach agreement, the administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable state implementation plan and shall be enforceable as part of such plan.

## V. Interstate pollution abatement.

1. The owner of each source or modification, which may significantly contribute to levels of air pollution in excess of an ambient air quality standard in any air quality control region outside the Commonwealth, shall provide written notice to all nearby states of the air pollution levels which may be affected by such source at least 60 days prior to the date of commencement of construction.

2. Any state or political subdivision may petition the administrator for a finding that any source or modification emits or would emit any air pollutant in amounts which will prevent attainment or maintenance of any ambient air quality standard or interfere with measures for the prevention of significant deterioration or the protection of visibility in the state implementation plan for such state. Within 60 days after receipt of such petition and after a public hearing, the administrator will make such a finding or deny the petition.

3. Notwithstanding any permit granted pursuant to this section, no owner or other person shall commence construction or modification or begin operation of a source to which a finding has been made under the provisions of subdivision V 2 of this section.

## W. Innovative control technology.

1. An owner of a proposed major stationary source or major modification may request the board in writing no later than the close of the public comment period

# Final Regulations

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under subsection R to approve a system of innovative control technology.

2. The board shall determine that the source or modification may employ a system of innovative control technology, if:

a. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

b. The owner agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under subdivision K 2 of this section by a date specified by the board. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

c. The source or modification would meet the requirements of subsections K and L of this section based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the board;

d. The source or modification would not, before the date specified by the board:

(1) Cause or contribute to a violation of an applicable national ambient air quality standard; or

~~(2) Impact any class I area; or~~

~~(3) (2) Impact any area where an applicable increment is known to be violated; and~~

e. All other applicable requirements including those for public participation have been met ; ; *and*

*f. The provisions of subsection Q of this section (relating to class I areas) have been satisfied with respect to all periods during the life of the source or modification.*

3. The board shall withdraw any approval to employ a system of innovative control technology made under this section, if:

a. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

b. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

c. The board decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

4. If a source or modification fails to meet the requirement level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subdivision W 3 of this section, the board may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

June 11, 1991

Mr. Wallace N. Davis  
Executive Director  
Department of Air Pollution Control  
Room 801, Ninth Street Office Building  
Richmond, Virginia 23219

Re: VR 120-01 Regulations for the Control and Abatement of  
Air Pollution. (Permits for Major Stationary Sources and  
Major Modifications Locating in Prevention of Significant  
Deterioration Areas.)

Dear Mr. Davis:

This will acknowledge receipt of the above-referenced regulations  
from the Department of Air Pollution Control.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I  
have determined that these regulations are exempt from the operation of  
Article 2 of the Administrative Process Act, since they do not differ  
materially from those required by federal law.

Sincerely,

*Joan W. Smith*  
Joan W. Smith  
Registrar of Regulations

JWS:jbc

# Final Regulations

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## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with (i) § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and (ii) § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Education will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

*surrounding a party's receipt of an electronic verbatim record of the hearing, and a change concerning the right of a party to a due process hearing to compel the attendance of witnesses.*

\* \* \* \* \*

Due to its length, the regulation entitled "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia" filed by the Department of Education is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, is being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Education.

**Title of Regulation:** VR 270-01-0007. **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.**

**Statutory Authority:** §§ 22.1-214 and 22.1-216 of the Code of Virginia.

**Effective Date:** July 31, 1991.

### **Summary:**

*These amendments bring the regulations into compliance with P.L. 94-142, the federal law mandating that handicapped children and youth receive a free and appropriate public education.*

*In September 1990, the United States Department of Education Office of Special Education Programs notified the Virginia Department of Education that amendments must be made to the Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia prior to July 1, 1991, or Virginia would not receive federal special education funding. The amendments include a clarification of the definition of "initial placement," deletion of the time limit for filing special education civil suits in federal court, a clarification of the definition and qualifications of impartial hearing officers, a clarification of the definition of "reevaluation" and requirements for reevaluation, a clarification of a school division's responsibility when a parent wishes to terminate services or refuses to consent to services, a clarification of the child's status at initial placement, a change in the circumstances*



COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

June 17, 1991

Dr. Joseph A. Spagnolo, Jr.  
Superintendent of Public Instruction  
Department of Education  
Monroe Building, 101 North 14th Street  
Richmond, Virginia 23219

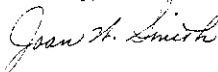
Re: Amendments to the Regulations Governing Special Education  
Programs for Handicapped Children and Youth in Virginia.

Dear Dr. Spagnolo:

This will acknowledge receipt of the above-referenced regulations  
from the Department of Education.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I  
have determined that these regulations are exempt from the operation of  
Article 2 of the Administrative Process Act, since they do not differ  
materially from those required by federal law.

Sincerely,

  
Joan W. Smith  
Registrar of Regulations

JWS:jbc

cc: Robin L. Hegner  
Associate Policy Analyst



# Final Regulations

## DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Publication: 7:18 VA.R 2652-2660 June 3, 1991.

Effective Date: July 1, 1991.

**NOTICE:** Section 3 of the Waterfowl and Waterfowl Blinds regulation (VR 325-02-24) was inadvertently omitted from final publication in the June 3, 1991, issue of the Virginia Register. The following text should be added on page 2660, column 1, after line 5:

### VR 325-02-24. WATERFOWL AND WATERFOWL BLINDS.

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

A violation of federal statute or a regulation based thereunder as relates to the taking, capturing, killing or attempting to take, capture or kill any migratory game bird shall constitute a violation of this section. Provided, however, it shall not be a violation of this section to shoot a crippled duck, goose, or other migratory bird upon open public waters from a motorboat while it is being propelled by a motor, nor shall it be a violation of this section to hunt migratory waterfowl with lead shot anywhere within the Commonwealth of Virginia when and where such hunting is permitted.



## DEPARTMENT OF HEALTH (STATE BOARD OF)

**NOTICE:** Due to its length, the Waterworks Regulation filed by the State Board of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, explaining the amendments is being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Health.

Title of Regulation: VR [ ~~355-08-01~~ 355-18-000 ]. Waterworks Regulation.

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

Effective Date: August 1, 1991.

Summary:

*These amendments to the Waterworks Regulation incorporate requirements from the federal Primary Drinking Water Regulations. Included are new standards for eight Volatile Organic Chemicals (VOCs), a revised standard for fluoride, monitoring requirements for 36 unregulated contaminants, a restructuring of public notification requirements, and special public notification requirements for lead. Also included are significant revisions to sections involving the use of unconventional or innovative technology, local review of plans and specifications, and cross connection control. Numerous editorial revisions and an entirely new organizational format (now standard for all Virginia regulations) are also incorporated in these amendments.*

\* \* \* \* \*

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services (Schedule of Charges Only).

Statutory Authority: § 32.1-12 of the Code of Virginia.

Effective Date: August 1, 1991.

Summary:

*This regulation change is being sought to modify the Virginia Department of Health's schedule of charges. The family planning initial/yearly exam is being increased because of the increased costs of oral contraceptives to the department. The increased charges for colposcopies and the pharmacy professional fee will allow billing for this service at maximum Medicaid reimbursement rates. Home health services are being added as part of the official charge schedule. One new charge for copying medical records is being added. For the Northern Virginia charge schedule, a general medical follow-up problem visit is being corrected from the current \$22.75 to the correct charge of \$26.25.*

# Final Regulations

STATE HEALTH DEPARTMENT  
 CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS  
 EFFECTIVE APRIL 28 AUGUST 1, 1991  
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

MEDICAL CARE SERVICES <sup>(1)</sup>	MAXIMUM CHARGES PER VISIT/SERVICE <sup>(2)</sup>	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
<b>MATERNITY/GYNECOLOGY<sup>(3)</sup></b>							
Post-Partum Visit	\$25.75	\$ .00	\$ 2.50	\$ 6.50	\$12.75	\$19.25	\$25.75
	\$28.00	\$ .00	\$ 2.75	\$ 7.00	\$14.00	\$21.00	\$28.00
<b>Maternity Care Coordination<sup>(4)</sup></b>							
Risk Screening	\$10.00	\$ .00	\$ 1.00	\$ 2.50	\$ 5.00	\$ 7.50	\$10.00
Maternity Assessment	\$25.00	\$ .00	\$ 2.50	\$ 6.25	\$12.50	\$18.75	\$25.00
Maternity Follow-up	\$40.00/month x 11 months	\$ .00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$40.00
<b>Nutritional Services</b>							
Original Assessment	\$20.00	\$ .00	\$ .00	\$ .00	\$ .00	\$15.00	\$20.00
Follow-up	\$10.00/encounter	\$ .00	\$ .00	\$ .00	\$ .00	\$ 7.50	\$10.00
<b>Group Education</b>							
	\$ 6.00 per class or session	\$ .00	\$ .60	\$ 1.50	\$ 3.00	\$ 4.50	\$ 6.00
<b>Homemaker Services</b>							
	\$36.00 maximum	\$ .00	\$ 3.30	\$ 8.25	\$16.50	\$24.75	\$33.00
	\$33.00 per visit or \$ 8.00 per hour, not to exceed 4 hrs.	\$ .00	\$ .80	\$ 2.00	\$ 4.00	\$ 6.00	\$ 8.00
<b>PEDIATRIC/WEEL BABY<sup>(5)</sup></b>							
New Patient, Comprehensive Visit	\$37.00	\$ .00	\$ 3.75	\$ 9.25	\$18.50	\$27.75	\$37.00
Established Patient, Comprehensive Visit	\$36.75	\$ .00	\$ 3.50	\$ 9.25	\$18.25	\$27.50	\$36.75
Follow-up/Problem Visit	\$23.00	\$ .00	\$ 2.25	\$ 5.75	\$11.50	\$17.25	\$23.00
Brief Visit	\$15.00	\$ .00	\$ 1.50	\$ 3.75	\$ 7.50	\$11.25	\$15.00
<b>EPSDT Visits<sup>(6)</sup></b>							
<b>Infant Care Coordination<sup>(4)</sup></b>							
Risk Screening	\$10.00	\$ .00	\$ 1.00	\$ 2.50	\$ 5.00	\$ 7.50	\$10.00
Infant Assessment	\$25.00	\$ .00	\$ 2.50	\$ 6.25	\$12.50	\$18.75	\$25.00
Follow-up	\$40.00/month x 24 months	\$ .00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$40.00

EXCEPT FOR NORTHERN VIRGINIA - CHART I

MEDICAL CARE SERVICES <sup>(1)</sup>	MAXIMUM CHARGES PER VISIT/SERVICE <sup>(2)</sup>	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
<b>FAMILY PLANNING<sup>(7)</sup></b>							
Initial/Annual Visit	\$43.00	\$1.00	\$4.00	\$10.00	\$20.00	\$30.00	\$43.00
	\$50.00	\$ .00	\$ 5.00	\$12.50	\$25.00	\$37.50	\$50.00
Follow-up/Problem	\$20.00	\$ .00	\$ 2.00	\$ 5.00	\$10.00	\$15.00	\$20.00
<b>GENERAL MEDICAL (includes gynecology)<sup>(8)</sup></b>							
New Patient, Comprehensive Visit	\$37.00	\$ .00	\$ 3.75	\$ 9.25	\$18.50	\$27.75	\$37.00
Established Patient, Comprehensive Visit	\$36.75	\$ .00	\$ 3.50	\$ 9.25	\$18.25	\$27.50	\$36.75
Follow-up/Problem Visit	\$23.00	\$ .00	\$ 2.25	\$ 5.75	\$11.50	\$17.25	\$23.00
Brief Visit	\$15.00	\$ .00	\$ 1.50	\$ 3.75	\$ 7.50	\$11.25	\$15.00
<b>Colposcopy Services</b>							
Colposcopy WITH/Biopsy	\$88.00	\$1.00	\$8.00	\$20.00	\$40.00	\$60.00	\$88.00
	\$90.00	\$ .00	\$ 9.00	\$22.50	\$45.00	\$67.50	\$90.00
Colposcopy With Biopsy and/Cytology	\$130.00	\$ .00	\$13.00	\$32.50	\$65.00	\$97.50	\$130.00
	\$138.00	\$1.00	\$10.00	\$26.25	\$52.50	\$78.75	\$138.00
<b>SPECIAL SERVICES WITHOUT ELIGIBILITY<sup>(10)</sup></b>							
Veripuncture	\$ 7.00	-----FLAT RATE CHARGE <sup>(8)</sup> -----					
Pregnancy Testing	FREE	-----SERVICE PROVIDED FREE STATEWIDE-----					
Administration of Prescribed Medication and/or Nonroutine Immunizations	\$ 3.50	-----FLAT RATE CHARGE-----					
PLUS: Cost of Vaccine when furnished by Health Department		-----SERVICE PROVIDED FREE STATEWIDE-----					
Blood Pressure Check	FREE	-----SERVICE PROVIDED FREE STATEWIDE-----					
EPD/Tuberculin Testing	\$ 3.15	-----FLAT RATE CHARGE-----					
Radiological Examination (Chest)	\$18.00	-----FLAT RATE CHARGE-----					
Activities of Daily Living <sup>(11)</sup>	\$ 8.00 per hour	-----FLAT RATE CHARGE-----					
Cholesterol Screening and Counseling	\$ 5.00	-----FLAT RATE CHARGE-----					
Medical Record Copying	\$ .50 per page	-----FLAT RATE CHARGE-----					
<b>ELIGIBILITY IS REQUIRED ON THE FOLLOWING:</b>							
Pharmacy Professional Fee	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
	\$ 4.40	\$ .00	\$ .50	\$ 1.00	\$ 2.25	\$ 3.25	\$ 4.40
PLUS: Cost of Drugs or Vaccine		0%	10%	25%	50%	75%	100%
Other X-ray Services <sup>(12)</sup>	MEDICAID RATES	MEDICAID RATES					
Other Laboratory Services <sup>(13)</sup>	MEDICAID RATES	MEDICAID RATES					

# Final Regulations

## EXCEPT FOR NORTHERN VIRGINIA - CHART I

MEDICAL CARE SERVICES <sup>(1)</sup>	MAXIMUM CHARGES PER VISIT/SERVICE <sup>(2)</sup>	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
<b>OTHER SERVICES</b>							
Children's Specialty Services (Annual)	\$120.00	\$ .00	\$12.00	\$30.00	\$60.00	\$90.00	\$120.00
<i>60% of Medicaid Charges</i>							
<b>HOME HEALTH SERVICES<sup>(14)</sup></b>							
<b>CHILD DEVELOPMENT SERVICES</b> (according to Physicians' Current Procedural Terminology)							
<b>Medical Services</b>							
Limited, new patient	\$22.00	\$ .00	\$ 2.20	\$ 5.50	\$11.00	\$16.50	\$22.00
est. patient	\$17.00	\$ .00	\$ 1.70	\$ 4.25	\$ 8.50	\$12.75	\$17.00
Intermediate, new	\$23.00	\$ .00	\$ 2.30	\$ 5.75	\$11.50	\$17.25	\$23.00
est.	\$19.00	\$ .00	\$ 1.90	\$ 4.75	\$ 9.50	\$14.25	\$19.00
Comprehensive, new	\$37.00	\$ .00	\$ 3.70	\$ 9.25	\$18.50	\$27.75	\$37.00
est.	\$20.00	\$ .00	\$ 2.00	\$ 5.00	\$10.00	\$15.00	\$20.00
Initial Consultation, Intern.	\$21.00	\$ .00	\$ 2.10	\$ 5.25	\$10.50	\$15.75	\$21.00
Follow-up Consultation, Intern.	\$10.50	\$ .00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$10.50
Pharmacological Management	\$ 8.50	\$ .00	\$ .85	\$ 2.10	\$ 4.25	\$ 6.35	\$ 8.50
Developmental Screening	\$ 8.50	\$ .00	\$ .85	\$ 2.10	\$ 4.25	\$ 6.35	\$ 8.50
Health Education	\$10.50	\$ .00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$10.50
<b>Mental Health Services</b>							
Psychological Evaluation per hr.	\$105.00	\$ .00	\$10.50	\$21.25	\$52.50	\$78.75	\$105.00
Psycho-social Assessment	\$30.00	\$ .00	\$ 3.00	\$ 7.50	\$15.00	\$22.50	\$30.00
Individual Psychotherapy per 1/2 hour	\$15.75	\$ .00	\$ 1.60	\$ 3.95	\$ 7.90	\$11.85	\$15.75
Family Psychotherapy	\$10.50	\$ .00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$10.50
Group Psychotherapy	\$10.50	\$ .00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$10.50
Multifamily Psychotherapy	\$10.50	\$ .00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$10.50
<b>Educational Services</b>							
Educational Diagnostic Evaluation	-NC-				SERVICE PROVIDED FREE STATEWIDE		
School Visit/Consultation	-NC-				SERVICE PROVIDED FREE STATEWIDE		
Classroom Observation	-NC-				SERVICE PROVIDED FREE STATEWIDE		
<b>Case Management Services</b>							
Interdisciplinary Medical Conference	\$26.00	\$ .00	\$ 2.60	\$ 6.50	\$13.00	\$19.50	\$26.00
Medical Conference with Patient and/or Family	\$27.00	\$ .00	\$ 2.70	\$ 6.75	\$13.50	\$20.25	\$27.00
Other Case Management Activity	-NC-				SERVICE PROVIDED FREE STATEWIDE		
Progress Review	-NC-				SERVICE PROVIDED FREE STATEWIDE		

## STATE HEALTH DEPARTMENT CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS EFFECTIVE APRIL/25 AUGUST 1, 1991

### NORTHERN VIRGINIA - CHART II

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

MEDICAL CARE SERVICES <sup>(1)</sup>	MAXIMUM CHARGES PER VISIT/SERVICE <sup>(2)</sup>	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
<b>MATERNITY/GYNECOLOGY<sup>(3)</sup></b>							
POST-PARTUM VISIT	\$29.25	\$ .00	\$ 3.00	\$ 7.25	\$14.50	\$21.75	\$29.25
	\$32.00	\$ .00	\$ 3.25	\$ 8.00	\$16.00	\$24.00	\$32.00
<b>MATERNITY CARE COORDINATION<sup>(4)</sup></b>							
RISK SCREENING	\$11.50	\$ .00	\$1.25	\$ 3.00	\$ 5.75	\$ 8.75	\$11.50
MATERNITY ASSESSMENT	\$28.50	\$ .00	\$2.85	\$ 7.25	\$14.25	\$21.50	\$28.50
MATERNITY FOLLOW-UP	\$45.00/MO. x 11 MONTHS	\$ .00	\$4.55	\$11.50	\$22.75	\$34.25	\$45.50
<b>NUTRITIONAL SERVICES</b>							
ORIGINAL ASSESSMENT	\$22.75	\$ .00	\$2.50	\$ 5.75	\$11.50	\$17.00	\$22.75
FOLLOW-UP	\$11.50/ENCOUNTER	\$ .00	\$1.25	\$ 3.00	\$ 5.75	\$ 8.75	\$11.50
GROUP EDUCATION	\$ 7.00 PER CLASS/SESSION	\$ .00	\$ .75	\$ 1.75	\$ 3.50	\$ 5.25	\$ 7.00
	\$41.00 MAXIMUM						
<b>HOME MAKER SERVICES</b>							
	\$37.50 PER VISIT OR	\$ .00	\$ 3.75	\$ 9.50	\$18.75	\$28.25	\$37.50
	\$ 9.25 PER HOUR, NOT TO EXCEED 4 HOURS	\$ .00	\$ .95	\$ 1.85	\$ 4.75	\$ 6.95	\$ 9.25
<b>PEDIATRIC/WEEL BABY<sup>(5)</sup></b>							
NEW PATIENT, COMPREHENSIVE EXAM	\$42.00	\$ .00	\$ 4.20	\$10.50	\$21.00	\$31.50	\$42.00
ESTABLISHED PATIENT, COMPREHENSIVE EXAM	\$42.00	\$ .00	\$ 4.25	\$10.50	\$21.00	\$31.50	\$42.00
FOLLOW-UP/PROBLEM VISIT	\$26.25	\$ .00	\$ 2.50	\$ 6.50	\$13.00	\$19.50	\$26.25
BRIEF VISIT	\$17.00	\$ .00	\$ 1.70	\$ 4.25	\$ 8.50	\$12.75	\$17.00
<b>ERSPT VISITS<sup>(6)</sup></b>							
<b>INFANT CARE COORDINATION<sup>(4)</sup></b>							
RISK SCREENING	\$11.50	\$ .00	\$1.85	\$ 3.00	\$ 5.75	\$ 8.75	\$11.50
INFANT ASSESSMENT	\$28.50	\$ .00	\$ 2.85	\$ 7.25	\$14.25	\$21.50	\$28.50
FOLLOW-UP	\$45.00 PER MONTH x 24 MONTHS	\$ .00	\$ 4.60	\$11.25	\$22.55	\$33.75	\$45.00

# Final Regulations

## NORTHERN VIRGINIA - CHART II

MEDICAL CARE SERVICES (1)	MAXIMUM CHARGES PER VISIT/SERVICE (2)	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
		LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
<b>FAMILY PLANNING (7)</b>							
INITIAL/ANNUAL VISIT	\$48.75	\$/100	\$/4.75	\$/2.25	\$/24.50	\$/36.50	\$/48.75
FOLLOW-UP/PROBLEM VISIT	\$22.75	\$ .00	\$ 2.25	\$ 5.75	\$11.25	\$17.00	\$22.75
<b>GENERAL MEDICAL (INCLUDES GYNECOLOGY) (8)</b>							
NEW PATIENT, COMPREHENSIVE VISIT	\$42.00	\$ .00	\$ 4.25	\$10.50	\$21.00	\$31.50	\$42.00
ESTABLISHED PATIENT, COMPREHENSIVE VISIT	\$42.00	\$ .00	\$ 4.25	\$10.50	\$21.00	\$31.50	\$42.00
FOLLOW-UP/PROBLEM VISIT	\$22.75	\$/100	\$/2.25	\$/5.75	\$/11.25	\$/17.00	\$/22.75
BRIEF VISIT	\$17.00	\$ .00	\$ 2.50	\$ 6.50	\$13.00	\$19.50	\$26.25
<b>COLONOSCOPY SERVICES</b>							
COLONOSCOPY WITH BIOPSY	\$97.50	\$/100	\$/9.75	\$/24.50	\$/48.75	\$/73.25	\$/97.50
COLONOSCOPY WITH BIOPSY AND/CYTOSURGERY	\$145.00	\$ .00	\$14.50	\$36.25	\$72.50	\$98.75	\$145.00
	\$119.25	\$/100	\$/11.925	\$/29.75	\$/59.50	\$/89.25	\$/119.25
<b>DENTAL SERVICES (9)</b>							
MEDICAID RATE							
<b>SPECIAL SERVICES WITHOUT ELIGIBILITY (10)</b>							
VENIPUNCTURE	\$ 8.00	FLAT RATE CHARGE (6)					
PREGNANCY TESTING	FREE	SERVICE PROVIDED FREE STATEWIDE					
ADMIN OF PRESC MED/NONROUTINE IMM (PLUS COST OF VACCINE WHEN FURNISHED BY HEALTH DEPT)	\$ 4.00	FLAT RATE CHARGE					
BLOOD PRESSURE CHECK	FREE	SERVICE PROVIDED FREE STATEWIDE					
PPD/TUBERCULIN TESTING	\$ 3.55	FLAT RATE CHARGE					
RADIOLOGICAL EXAM (CHEST)	\$20.50	FLAT RATE CHARGE					
ACTIVITIES OF DAILY LIVING	\$ 9.00 PER HOUR	FLAT RATE CHARGE					
CHOLESTEROL SCREENING AND COUNSELING	\$ 6.00	FLAT RATE CHARGE					
MEDICAL RECORDS COPYING	\$ .50 PER PAGE	FLAT RATE CHARGE					
<b>ELIGIBILITY IS REQUIRED ON THE FOLLOWING:</b>							
PHARMACY PROFESSIONAL FEE	\$/4.00	\$/100	\$/1.00	\$/1.00	\$/2.00	\$/3.00	\$/4.00
(PLUS COST OF DRUGS OR VACCINE)	\$ 4.40	\$ .00	\$ .50	\$ 1.00	\$ 2.25	\$ 3.25	\$ 4.40
OTHER X-RAY SERVICES (11)		MEDICAID RATES					
OTHER LAB SERVICES (13)		MEDICAID RATES					

## NORTHERN VIRGINIA - CHART II

MEDICAL CARE SERVICES (1)	MAXIMUM CHARGES PER VISIT/SERVICE (2)	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
		LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
<b>OTHER SERVICES</b>							
CHILD SPECIALTY SERVICES (ANNUAL)	\$136.00	\$ .00	\$13.50	\$34.00	\$68.00	\$102.00	\$136.00
<b>HOME HEALTH SERVICES (14)</b>							
60% OF MEDICAID CHARGES							
<b>CHILD DEVELOPMENT SERVICES</b> (according to Physicians' Current Procedural Terminology)							
<b>Medical Services</b>							
Limited, new patient	\$25.00	\$ .00	\$ 2.50	\$ 6.25	\$12.50	\$18.75	\$25.00
est. patient	\$19.30	\$ .00	\$ 1.95	\$ 4.85	\$ 9.65	\$14.50	\$19.30
Intermediate, new patient	\$26.00	\$ .00	\$ 2.60	\$ 6.50	\$13.00	\$19.50	\$26.00
est. patient	\$21.60	\$ .00	\$ 2.15	\$ 5.40	\$10.80	\$16.20	\$21.60
Comprehensive, new patient	\$42.00	\$ .00	\$ 4.20	\$10.50	\$21.00	\$31.50	\$42.00
est. patient	\$22.75	\$ .00	\$ 2.25	\$ 5.75	\$11.50	\$17.00	\$22.75
Initial Consultation, Intern.	\$24.00	\$ .00	\$ 2.40	\$ 6.00	\$12.00	\$18.00	\$24.00
Follow-up Consultation, Intern.	\$12.00	\$ .00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$12.00
Pharmacological Management	\$ 9.50	\$ .00	\$ .95	\$ 2.40	\$ 4.75	\$ 7.15	\$ 9.50
Developmental Screening	\$ 9.50	\$ .00	\$ .95	\$ 2.40	\$ 4.75	\$ 7.15	\$ 9.50
Health Education	\$12.00	\$ .00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$12.00
<b>Mental Health Services</b>							
Psychological Evaluation per hr.	\$120.00	\$ .00	\$12.00	\$30.00	\$60.00	\$90.00	\$120.00
Psycho-social Assessment	\$34.00	\$ .00	\$ 3.40	\$ 8.50	\$17.00	\$25.50	\$34.00
Individual Psychotherapy per 1/2 hour	\$18.00	\$ .00	\$ 1.80	\$ 4.50	\$ 9.00	\$13.50	\$18.00
Family Psychotherapy	\$12.00	\$ .00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$12.00
Group Psychotherapy	\$12.00	\$ .00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$12.00
Multifamily Psychotherapy	\$12.00	\$ .00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$12.00
<b>Educational Services</b>							
Educational Diagnostic Evaluation	-NC-	SERVICE PROVIDED FREE STATEWIDE					
School Visit/Consultation	-NC-	SERVICE PROVIDED FREE STATEWIDE					
Classroom Observation	-NC-	SERVICE PROVIDED FREE STATEWIDE					
<b>Case Management Services</b>							
Interdisciplinary Medical Conference	\$29.50	\$ .00	\$ 2.95	\$ 7.35	\$14.75	\$22.10	\$29.50
Medical Conference with Patient and/or Family	\$30.50	\$ .00	\$ 3.05	\$ 7.65	\$15.25	\$22.90	\$30.50
Other Case Management Activity	-NC-	SERVICE PROVIDED FREE STATEWIDE					
Progress Review	-NC-	SERVICE PROVIDED FREE STATEWIDE					

ALL FOOTNOTES FOR STATEWIDE CHARGES STILL APPLY TO NORTHERN VIRGINIA CHARGES

Charges and Payments by Income Levels  
August 1, 1991  
FOOTNOTES

1. For any service not specifically listed, the maximum medicaid reimbursement level will be the charge. If medicaid does not reimburse for a particular service, a charge may be established through the Office of Community Health Services.
2. Maximum Charges per Visit:
  - a. If the service is obtained through contracts with providers of the Department, charges will be those charged the Department as stated in the contract or the set charges, whichever is more.
  - b. The listed charges include all procedures such as routine lab work or x-ray as required in each program protocol for all patients.
  - c. Health Department maximum charges shall be: Income A-Free; Income B-10% of charges; Income C-25% charges; Income D-50% of charges; Income E-75% of charges; Income F-100% of charges. See Income Levels Schedules in the Eligibility Section of the CHS manual for more details.
3. Maternity
  - a. Maternity patients covered by medicaid will be charged one clinic fee per month regardless of the number of visits incurred during the month. The proper billing code for this is 29900.  
  
Maternity patients covered by private insurance will be billed on a global basis. At the end of the pregnancy, the insurance company is to be billed \$232.00 for antenatal care. The billing code is 59420.  
  
Maternity patients not covered by medicaid or private insurance will be charged one clinic fee per month regardless of the number of visits made during the month.
  - b. All women making a postpartum visit are to be charged for the visit. To bill as a postpartum visit, use CPT code 59430. If family planning services are provided, this visit may be billed as a family planning visit (CPT code 09007 for medicaid; appropriate office visit code for private insurances).
4. Maternal and Infant Care Coordination  
  
Services must meet medicaid's guidelines before charging the patient for the services.  
  
Charges may be deferred if the determination is made that the patient needs the services, but cannot pay for them at the time of service. Documentation of the waiver for deferral

must be on file in the patient's medical folder. Refer to "Waiver of Payments" section of Regulations Governing Eligibility Standards and Charges for Medical Care Services.

5. Pediatric/Well Baby

New patient/Comprehensive Visit is defined as the first time an individual is seen, when a patient record is established, and a comprehensive evaluation is done by the provider. The correct CPT code is 90020.

Established patient/Comprehensive Visit is the description to be used anytime a patient who already has an established medical record receives a comprehensive evaluation from a provider. The correct CPT code is 90080.

Follow-up/problem visit is to be charged whenever services less than a comprehensive evaluation are provided. Examples would include, but not be limited to, on-going care for chronic conditions, acute care, and more detailed follow-up to a comprehensive exam. For billing purposes, this is an intermediate visit, established patient. The CPT code is 90060.

A brief service is defined as an encounter with a patient who is required to return for specific follow-up of a medical condition. This can be used in conjunction with all clinics except maternity. For billing, this is a brief visit, established patient (CPT=90040).

6. EPSDT Visits

These are to be used for well child exams for children on medicaid. Correct codes and charges for the exam are as follows:

	New Patient		Established Patient	
	Code	Charge	Code	Charge
Age 18 to 20	90750	\$37.00	90760	\$25.00
Age 12 to 17	90751	37.00	90761	25.00
Age 5 to 11	90752	37.00	90762	28.00
Age 1 to 4	90753	37.00	90763	31.00
Under 1 year	90754	37.00	90764	30.00

7. Family Planning

For non-medicaid patients, the contraceptive method selected is included in the cost of the initial and yearly visits.

If the patient has medicaid and is given contraceptives at the clinic visit, bill for two procedures: one for the clinic visit and one for the contraceptives. Districts with pharmacies are to bill the prescription filling fee.

Billing codes for medicaid are 09007 for the initial/yearly

exam and 09009 for the follow-up/problem visits. If private insurance is to be billed, use the appropriate visit and code as described in #4 above.

- 8. General Medical including Gynecology  
See #4 above for description of visit levels and CPT codes.  
All visits for gynecological problems are to use the CPT codes. Do not use codes related to maternity.
- 9. Dental  
The charges for dental services are to be the same as the maximum rates that medicaid allows for dental charges.
- 10. Special Services  
Service charges are to be applied Statewide except when indicated as free. Flat rate services must be paid at the time the services are provided.
- 11. ADL Services  
ADL services are provided to patients who do not qualify for medicaid benefits. All ADL service collections are to be charged to the General Medical subprogram activity.
- 12. Other X-Ray Services  
The charges for other x-ray services are to be the same as the maximum charges allowed by medicaid. These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.
- 13. Other Lab Services  
The charges for other lab services are to be the same as the maximum charges allowed by medicaid. These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.  
  
Contract Lab Work: When lab work is sent to contract labs and the patient is covered by medicaid, a handling fee of \$3.00 (CPT code 99000) should be charged. (Medicare will pay a handling fee if CPT code 36415 is used.) For all other patients, the charges for the lab work should be the medicaid rate for the test(s) ordered.  
  
If a ventipuncture was needed to draw the sample, you may bill for the venipuncture.
- 14. Home Health Services  
Current Charges are as follows:  

Skilled Nursing Visit	\$48.90
Physical Therapy	43.00
Occupational Therapy	44.27
Speech Therapy	46.48
Home Health Aide	25.73
Medical Social Work*	61.60

\*Medicaid does not pay for medical social work. This charge is based on 60% of medicare's cost cap.

Home health charges are subject to the sliding fee scale.

STATE HEALTH DEPARTMENT  
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVEL  
EFFECTIVE AUGUST 1, 1991

EXCEPT FOR NORTHERN VIRGINIA (SHEET 1)

In the provisions of the Regulations Governing Eligibility Standards and Criteria for Medicaid Services, promulgated by the Board of Health in accordance with Section 32.1-11 of the Code of Virginia, as listed below are the charges for medical care services, stating the minimum amount payments to be made by patients toward their charges, according to income levels.

MEDICAL CARE SERVICES(1)	MAXIMUM CHARGE PER VISIT/ SERVICE(2)	INCOME LEVEL					
		A (0%)	B (10%)	C (25%)	D (50%)	E (75%)	F (100%)
MATERNITY(3) POST-PARTUM VISIT	\$5.75 \$28.00	.00	2.50	6.50	12.75	19.25	25.75
MATERNITY CARE COORDINATION(4) RISK SCREENING MATERNITY ASSESSMENT MATERNITY FOLLOW-UP X 12 MOS.	\$10.00 \$25.00 \$40.00/MO	.00	1.00 2.50 4.00	2.50 6.25 10.00	5.00 12.00 20.00	7.50 18.75 30.00	10.00 25.00 40.00
NUTRITIONAL SERVICES ORIGINAL ASSESSMENT FOLLOW-UP GROUP EDUCATION SESSION OR \$35.00 MAXIMUM	\$20.00 \$10.00/COUNTER \$5.00/CLASS/SESSION OR \$35.00 MAXIMUM	.00	.00 .00 .60	.00 .00 1.50	.00 .00 3.00	15.00 7.50 4.50	20.00 10.00 6.00
HOMEWORK SERVICES	\$33.00/VISIT OR \$1.00/HOUR; NOT TO EXCEED 4 HOURS	.00	3.30	8.25	16.50	24.75	33.00
PERINATAL/NEWBORN(5) NEW PATIENT/COMPREHENSIVE VISIT ESTABLISHED PATIENT/COMPREHENSIVE VISIT FOLLOW-UP/PROBLEM VISIT BRIEF VISIT EPISODE VISIT(S)	\$37.00 \$37.00 \$23.00 \$15.00	.00	3.75 3.75 2.25 1.50	9.25 9.25 5.75 3.75	18.50 18.50 11.50 7.50	27.75 27.75 17.25 11.25	37.00 37.00 23.00 15.00
INFANT CARE COORDINATION(4) RISK SCREENING INFANT ASSESSMENT FOLLOW-UP UP TO 24 MONTHS	\$10.00 \$25.00 \$40.00/MO. FOR UP TO 24 MONTHS	.00	1.00 2.50 4.00	2.50 6.25 10.00	5.00 12.50 20.00	7.50 18.75 30.00	10.00 25.00 40.00
FAMILY PLANNING(7) INITIAL/YEARLY FOLLOW-UP/PROBLEM	\$50.00 \$5.00 \$20.00	.00	5.00 2.00	12.50 5.00	25.00 10.00	37.50 15.00	50.00 20.00

STATE HEALTH DEPARTMENT  
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS  
EFFECTIVE AUGUST 1, 1991

NORTHERN VIRGINIA/ CHART II

MEDICAL CARE SERVICES(1)	MAXIMUM CHARGE PER VISIT/ SERVICE(2)	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
		LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
MATERNITY(3)	\$22.75	.00	3.00	7.25	14.50	21.75	29.25
POST-PARTUM VISIT	\$12.50	.00	3.25	8.00	16.00	24.00	32.00
MATERNITY CARE COORDINATION(4)							
RISK SCREENING	\$11.50	.00	1.25	3.00	5.75	8.75	11.50
MATERNITY ASSESSMENT	\$28.50	.00	2.85	7.25	14.25	21.25	28.50
MATERNITY FOLLOW-UP X 11 MRS.	\$45.00	.00	4.50	11.50	22.75	34.25	45.50
NUTRITIONAL SERVICES							
ORIGINAL ASSESSMENT	\$22.75	.00	.00	.00	11.50	17.50	22.75
FOLLOW-UP \$11.50/ENCOUNTER		.00	.00	.00	5.75	8.75	11.50
GROUP EDUCATION \$7.00/CLASS/SESSION OR \$41.00 MAXIMUM		.00	.70	1.75	3.50	5.25	7.00
HOMEKEEPER SERVICES \$37.50/VISIT OR \$9.00/HOUR; NOT TO EXCEED 4 HOURS		.00	3.75	9.40	18.75	28.00	37.50
PAEDIATRIC/HELL BABY(5)							
NEW PATIENT/COMPREHENSIVE(42.00)		.00	4.20	10.50	21.00	31.50	42.00
ESTABLISHED PATIENT/COMPREHENSIVE EXAM	\$42.00	.00	4.20	10.50	21.00	31.50	42.00
FOLLOW-UP/PROBLEM VISIT	\$26.25	.00	2.90	6.50	13.00	19.50	26.25
BRIEF VISIT (PROB VISIT)(6)	\$17.00	.00	1.70	4.25	8.50	12.75	17.00
INFANT CARE COORDINATION(4)							
RISK SCREENING	\$11.50	.00	1.85	3.00	5.75	8.75	11.50
INFANT ASSESSMENT	\$28.50	.00	2.85	7.25	14.25	21.50	29.50
FOLLOW-UP \$40.00/MO. X UP TO 24 MONTHS		.00	4.00	10.00	20.00	30.00	40.00
FAMILY PLANNING(7)	\$56.00	.00	5.60	14.00	28.00	42.00	56.00
INITIAL/YEARLY	\$48.75	.00	4.75	12.25	24.50	36.75	48.75
FOLLOW-UP/PROBLEM	\$22.75	.00	2.25	5.75	11.25	17.00	22.75

GENERAL MEDICAL  
INCLUDES GYNECOLOGY(8)

NEW PATIENT/COMPREHENSIVE(8)(7.00)		.00	3.75	9.25	18.50	27.75	37.00
ESTABLISHED PATIENT/COMPREHENSIVE VISIT	\$37.00	.00	3.75	7.25	14.50	21.75	29.00
FOLLOW-UP/PROBLEM VISIT	\$27.00	.00	2.75	5.75	11.50	17.25	23.00
BRIEF VISIT	\$15.00	.00	1.50	3.75	7.50	11.25	15.00
COLPOSCOPY SERVICES	\$120.00	.00	9.00	22.50	45.00	67.50	90.00
COLPOSCOPY/BIOPSY	\$85.00	.00	6.50	16.25	32.50	48.75	65.00
COLPOSCOPY/BIOPSY AND ENDOSCOPY	\$130.00	.00	13.00	32.50	65.00	97.50	130.00
	\$145.00	.00	10.50	26.25	52.50	78.75	105.00

DENTAL SERVICES(9) MEDICAID RATES

SPECIAL SERVICES WITHOUT ELIGIBILITY(10)						
VENTRICTURE	\$7.00					FLAT RATE CHARGE
PREGNANCY TESTING	NO CHARGE					SERVICES PROVIDED FREE STATEWIDE
AGENCY PRESCRIBED MEDICATION-ROUTINE DRUG PLUS COST OF VACCINE WHEN FURNISHED BY HEALTH DEPARTMENT						SERVICES PROVIDED FREE STATEWIDE
BLOOD PRESSURE CHECK	NO CHARGE					SERVICES PROVIDED FREE STATEWIDE
PPD/TUBERCULIN TESTING	\$3.15					FLAT RATE CHARGE
RADIOLOGICAL EXAM CHEST	\$18.00					FLAT RATE CHARGE
ACTIVITIES OF DAILY LIVING(11)	\$9.00/HOUR					FLAT RATE SERVICE
CHOLESTEROL SCREENING AND COUNSELING	\$5.00					FLAT RATE CHARGE
Medical Record	\$0.50/page					Flat Rate Charge

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ELIGIBILITY IS REQUIRED ON THE FOLLOWING:

PHARMACY							
PROFESSIONAL FEE	\$4.40	.00	.50	1.00	2.25	3.25	4.40
PLUS COST OF DRUGS OR VACCINE	\$3.50	.00	.50	1.00	1.75	2.50	3.50

OTHER X-RAY SERVICES(12) MEDICAID RATES

OTHER LAB SERVICES(13) MEDICAID RATES

OTHER SERVICES

CHILD SPECIALTY SERVICES(ANNUAL)							
CHILD DEVELOPMENT CLINICS - SEE NEXT PAGE	\$120.00	.00	12.00	30.00	60.00	90.00	120.00

Home Health Services (14) 60% of Medicaid Charges

PHYSICIAN  
FEE SCHEDULE

WARRANTY EXAMINATION \$40.00	.00	4.00	7.00	10.00	13.00	16.00
PHYSICIAN FEE	\$1.00	.00	1.00	2.00	3.00	4.00
PHYSICIAN VISIT	\$26.25	.00	2.50	6.50	13.00	26.25
<hr/>						
PHYSICIAN FEE	\$1.00	.00	1.00	2.00	3.00	4.00
<hr/>						
COLPOSCOPY SERVICES	\$100.00	.00	10.00	25.00	50.00	75.00
COLPOSCOPY/BIOPSY	<del>\$75.00</del>					
COLPOSCOPY/BIOPSY	\$145.00	.00	14.50	36.25	72.50	108.75
COLPOSCOPY/BIOPSY	<del>\$125.00</del>					

DENTAL SERVICES(9) MEDICAID RATES

SPECIAL SERVICES

WITHOUT ELIGIBILITY(10) -

VENTILATOR	\$5.00	-----	FLAT RATE CHARGE
PREGNANCY TESTING	NO CHARGE	-----	SERVICES PROVIDED FREE STATEWIDE
ADMIN OF PRESCRIBED	\$4.00	-----	FLAT RATE CHARGE
MED/NON-ROUTINE DM			
PLUS COST OF VACCINE			
WHEN FURNISHED BY HEALTH DEPARTMENT			
BLOOD PRESSURE CHECK	NO CHARGE	-----	SERVICES PROVIDED FREE STATEWIDE
PTD/TUBERCULIN TESTING	\$3.55	-----	FLAT RATE CHARGE
RADIOLOGICAL EXAM			
CHEST	\$20.50	-----	FLAT RATE CHARGE
ACTIVITIES OF DAILY			
LIVING(11)	\$9.00/HOUR	-----	FLAT RATE SERVICE
CHOLESTEROL SCREENING			
AND COUNSELING	\$5.00	-----	FLAT RATE CHARGE
Medical Records	\$0.50/page	-----	Flat Rate Charge

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ELIGIBILITY IS REQUIRED ON THE FOLLOWING:

PHARMACY	\$4.40	.00	.50	1.00	2.25	3.25	4.40
PROFESSIONAL FEE	\$4.00	.00	.50	1.00	2.00	3.00	4.00
PLUS COST OF DRUGS							
OR VACCINE							
OTHER X-RAY SERVICES(12)							
OTHER LAB SERVICES(13)							

OTHER SERVICES

CHILD SPECIALTY							
SERVICES(ANNUAL)	\$136.00	.00	13.50	34.00	68.00	102.00	136.00
CHILD DEVELOPMENT							
CLINICS - SEE NEXT PAGE							

Home Health Services(14) 60% of Medicaid Charges



# Final Regulations

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DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
(BOARD OF)

Title of Regulation: State Plan for Medical Assistance  
Relating to Cost Management Initiatives for PIRS and  
Occupational/Speech-Language Services.

VR 460-03.3.1100. Amount, Duration and Scope of  
Services.

VR 460-03-4.1940:1. Nursing Home Payment System.

VR 460-03-4.1943. Cost Reimbursement Limitations.

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

Effective Date: August 1, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of  
Virginia, this regulation is not being republished. The  
regulation was adopted as it was proposed in 7:13 V.A.R.  
1918-1945 March 25, 1991.

# EMERGENCY REGULATIONS

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Pesticide Control Board

**Title of Regulation:** VR 115-04-24. Emergency Regulations Governing the Sale and Use of Granular Formulations of Carbofuran.

**Statutory Authority:** § 3.1-249.31 of the Code of Virginia.

**Effective Dates:** June 1, 1991 through May 31, 1992.

#### Preamble:

§ 3.1-249.31 of the Code of Virginia (1950), as amended, authorizes the Pesticide Control Board "to prescribe regulations to restrict or prohibit the sale or use ... of any pesticide ... which:

1. Undesirably persists in the environment or increases due to biological amplification or unreasonable adverse effects on the environment;
2. Because of toxicity or inordinate hazard to man, animal, bird or plant may be contrary to the public interest."

Because of carbofuran's toxicity or inordinate hazard to man, animal, bird or plant its use and sale may be contrary to the public interest.

The Pesticide Control Board hereby determines that carbofuran is a pesticide that should be subject to regulation pursuant to § 3.1-249.31 of the Code, as discussed below:

The Board determines first that carbofuran has killed birds in Virginia and elsewhere. (See Carbofuran: Special Review Technical Support Document (hereinafter "Document"), United States Environmental Protection Agency, Office of Pesticides and Toxic Substances; Washington, D.C. 20560; January, 1989. See also testimony of Dr. William E. Hymans, Manager, Product Registration, FMC Corporation, a producer of carbofuran, p. 50, transcript, public hearing, "Granular Carbofuran Use in Virginia," August 27, 1990 (hereinafter "Transcript"). Their contaminated carcasses serve as sources of food for (and also further chemical poisoning of) other animals, including but not limited to the bald eagle, an endangered species. See testimony of Don R. Patterson, special agent, U. S. Fish and Wildlife Service, pp. 255-265, Transcript, regarding death of birds by carbofuran poisoning in Virginia. See also testimony of Mitchell A. Byrd, Professor of Biology, College of William and Mary, pp. 268-275, Transcript. This further chemical contamination from one species to another is secondary poisoning.

Carbofuran's toxicity to birds generally is contrary to

the public interest.

Carbofuran's toxicity to birds generally is contrary to the public interest. Carbofuran's toxicity to birds, endangered and otherwise, is an undesired and unintended, though known, characteristic of this pesticide. The killing of birds commonly associated with this pesticide is not a reasonable environmental consequence of protecting crops, particularly when the purpose of the pesticide is solely to kill insects and nematodes, not birds. There are several currently registered alternative insecticide and nematocide products of comparable cost and effectiveness available for most Virginia crop uses that are not known to possess the demonstrated adverse effects of carbofuran on avians.

Although for a number of years carbofuran has a label that contains warnings of the harm that it can cause to birds, including a number of federally designated endangered or threatened birds, the warning does not provide the environmental protection needed in Virginia. Last year in Virginia there were two premises at which the death of birds was documented as having been caused by carbofuran; on one of these premises at least 200 birds died as a result of carbofuran poisoning. In 1991, as a result of the avian risk reduction plan proposed by FMC Corporation and approved by the Pesticide Control Board on December 5, 1990, corn fields where carbofuran has been used have been monitored for possible bird kills. So far, for premises treated between April 5 and April 28, 1991, surveys have been conducted at nine premises where carbofuran has been applied; bird carcasses have been found on eight, and the feather remains of six birds, taken by predator, found on the ninth. So far, the mortality on four of these nine premises, involving thirty-one birds, has been confirmed as resulting from carbofuran poisoning. In the remaining four instances in which carcasses were found, involving at least an additional fifteen birds, carbofuran is highly suspected of causing the birds' deaths, and the laboratory results of these deaths are pending. (It is not possible to test for carbofuran poisoning where there are only the feather remains of birds.)

Carbofuran's toxicity to endangered birds is contrary to the public interest.

According to the document:

"Six known or potential secondary poisoning incidents occurring from 1985 through 1987 were reported from the population of bald eagles along the floodplain farms of the lower James and Rappahannock Rivers in Virginia. These areas are planted in corn, soybeans, peanuts, and other crops treated with carbofuran. Both immature and adult eagles have been poisoned by feeding on birds and/or mammals in or near fields treated with

# Emergency Regulations

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granular carbofuran. The risk of exposure of bald eagles is greatest during the nesting season because this time coincides with spring at-planting applications of carbofuran. Several documented cases have been reported . . . [p. II-49]"

As clearly indicated in § 29-230 of the Code of Virginia, the public interest in protecting endangered species is a matter of grave concern to the Commonwealth. The Board has therefore determined that continued registration of carbofuran is contrary to the public's interest in preserving the bald eagle, an endangered species. This decision is based on the provision of § 3.1-249.31, which grants to the Board the power to address matters in the public interest beyond those contemplated by the registrant as shown on the product's label.

The bald eagle, an endangered species, deserves protection, and it is in the public interest to prohibit the sale and use of a pesticide that can harm the bald eagle. In Virginia, bald eagles have been killed as a result of carbofuran poisoning.

VR 115-04-24. Emergency Regulations Governing the Sale and Use of Granular Formulations of Carbofuran.

## § 1. Definitions.

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

"Carbofuran" means  
2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate.

## § 2. Use or sale of granular formulations of carbofuran prohibited.

No person may sell or use any granular formulation of carbofuran in Virginia on or after June 1, 1991.

## § 3. Effective dates.

The provisions of these regulations shall be in effect from June 1, 1991 through May 31, 1992.

## § 4. Petition.

The Pesticide Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of these regulations.

Adopted by the Pesticide Control Board on May 10, 1991. This is a full, true, and correctly dated regulation.

/s/ George H. Gilliam, Chairman  
Pesticide Control Board  
Date: May 16, 1991

Teste:

/s/ Marvin A. Lawson, Secretary  
Pesticide Control Board  
Date: May 17, 1991

/s/ Clinton V. Turner, Commissioner  
Virginia Department of Agriculture and Consumer Services  
Date: May 20, 1991

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: May 21, 1991

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 29, 1991

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: May 31, 1991

## DEPARTMENT OF COMMERCE

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

Statutory Authority: §§ 54.1-201 and 9-6.14:1 of the Code of Virginia.

Effective Dates: June 17, 1991 through June 16, 1992.

## Preamble:

The Department of Commerce is promulgating emergency revisions to regulations as detailed in § 9-6.14:5, Code of Virginia, governing Private Security Services Businesses.

The emergency revision is required by revisions through H.B. 1749, 1991, to sections 54.1-1902 and 54.1-1903, Code of Virginia, which will become effective on the date of the Governor's signature [effective June 17, 1991]. The bill's effective date does not allow ample time to comply with the Administrative Process Act (Section 9-6.14:1). The Department is currently in the process of promulgating permanent regulations and will receive, consider and respond to comments by any interested parties.

The emergency regulation will be in effect for 12 months or until the effective date of the permanent regulation now under promulgation, whichever occurs first. The estimated effective date of the permanent regulation is January 1, 1992.

Approved:

/s/ Milton K. Brown, Jr.

# Emergency Regulations

Department of Commerce  
Date: April 3, 1991

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: April 5, 1991

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 8, 1991

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 17, 1991

## Nature of Emergency:

*Amendments to section 54.1-1902 and 54.1-1903, Code of Virginia, approved by the 1991 session of the General Assembly, to be in effect on the date of the Governor's signature, for the licensure and regulation of private security services businesses personnel and firms within the private security industry. These regulations are promulgated as emergency regulations because there is insufficient time to promulgate pursuant to the Administrative Process Act (Section 9-6.14:1). The Department will proceed immediately to promulgate permanent regulations, and will receive, consider, and respond to comments by any interested party with respect to reconsideration or review.*

*These regulations are promulgated pursuant to the authority granted in section 54.1-201, Code of Virginia.*

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

## PART I. GENERAL.

### § 1.1. Definitions.

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

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

*"Code"* means the Code of Virginia.

*"Date of application"* means the date on which a person first performs functions as an employee of a licensed private security services business in a registration category.

*"Handgun certification"* means the method of regulation used by the department to acknowledge a registrant's successful completion of all handgun-related firearms

training and retraining requirements established by the regulations of the Department of Criminal Justice Services.

*"Licensee"* means a licensed private security services business.

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

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

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

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

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

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

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

*"Unarmed private security services personnel"* means a registrant who has not complied with the firearms training and firearms retraining requirements of these regulations and the regulations of the Department of Criminal Justice Services.

### § 1.2. Application fee for licensing.

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

### § 1.3. Renewal of license.

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

### § 1.4. Renewal fee.

The fee for renewal of a private security services business license shall be \$150. Failure to receive notice of

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renewal shall not relieve the licensee of the responsibility to renew.

## § 1.5. Penalty for late renewal.

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

## § 1.6. Failure to renew.

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

## § 1.7. Fee nonrefundable.

All fees shall be nonrefundable.

## PART II. ENTRY REQUIREMENTS FOR BUSINESSES.

### § 2.1. License application.

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

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

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

### § 2.3. Irrevocable consent.

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

### § 2.4. Compliance agent required.

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

### § 2.5. Qualifications for compliance agents.

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

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

### § 2.6. Fingerprints required.

Upon application of the firm, ~~at each~~ compliance ~~agents~~ agent, ~~directors~~ director, ~~officers~~ officer, and ~~proprietors~~ proprietor of a private security services business shall submit ~~their~~ his fingerprints and a \$36 fee to the department.

### § 2.7. Compliance agent examination fee.

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

## PART III. REQUIREMENTS FOR INDIVIDUAL REGISTRATION.

### § 3.1. Registration application.

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

### § 3.2. Fees.

The application fee for registration shall be ~~\$30~~ \$66. The fee for any training certification not submitted with an application for registration shall be \$15.

### § 3.3. Background investigation of registrants.

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

### § 3.4. Fingerprint cards required.

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

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

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

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

B. Registration in additional categories shall be issued to those already granted registration upon receipt by the department of training certification in at least one

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additional registration category (as defined in § 1.1) and the training certification fee (§ 3.2).

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

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

§ 3.6. Minimum age.

Applicants for registration must be at least 18 years old.

§ 3.7. Firearms training.

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

§ 3.8. Registration denial.

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

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

§ 3.9. Expiration and renewal of registration.

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

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

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

Registration ..... Amount of

Expiration Date .....	Renewal Fee
1. July 31, 1987 .....	\$7
2. August 31, 1987 .....	\$8
3. September 30, 1987 .....	\$9
4. October 31, 1987 .....	\$10
5. November 30, 1987 .....	\$11
6. December 31, 1987 .....	\$13
7. January 31, 1988 .....	\$14
8. February 28, 1988 .....	\$15
9. March 31, 1988 .....	\$16
10. April 30, 1988 .....	\$17
11. May 31, 1988 .....	\$18
12. June 30, 1988 .....	\$19
13. July 31, 1988 .....	\$20
14. August 31, 1988 .....	\$21
15. September 30, 1988 .....	\$22
16. October 31, 1988 .....	\$23
17. November 30, 1988 .....	\$24
18. December 31, 1988 .....	\$25
19. January 31, 1989 .....	\$26
20. February 28, 1989 .....	\$27
21. March 31, 1989 .....	\$28
22. April 30, 1989 .....	\$29
23. May 31, 1989 .....	\$30
24. June 30, 1989 .....	\$31

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

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

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

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

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

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

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for good cause.

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

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

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

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

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

## PART IV. STANDARDS OF PRACTICE.

§ 4.1. Registration of employees required.

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

§ 4.2. Records.

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

§ 4.3. Responsibilities of compliance agents.

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

§ 4.4. Termination of employment of compliance agent.

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

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

§ 4.5. Change of owner, partners or officers.

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

§ 4.6. Licenses nontransferable.

Private security services business licenses shall not be transferable.

§ 4.7. Registration cards, property of department.

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

§ 4.8. Registration card, carried on duty.

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

§ 4.9. Registration card, replacement.

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

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

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

§ 4.11. Grounds to refuse issuance, suspend, revoke or

# Emergency Regulations

modify a license or registration or to deny renewal of a license or registration.

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

1. The applicant, registrant, compliance agent, director, officer, proprietor, partner or associate of any licensed firm has had his license or registration suspended, revoked, or denied renewal in any jurisdiction of the United States, or has been convicted of a felony or misdemeanor directly related to the occupation or has violated any regulation directly related to the occupation;
2. There has been any fraud or material misrepresentation by the applicant, licensee or registrant in obtaining a license, license renewal, registration or registration renewal;
3. The applicant, licensee or registrant has failed to provide information requested by the department within a reasonable period of time;
4. The applicant, licensee or registrant has violated, or aided or abetted others in violating §§ 54-729.27 through 54-729.34 of the Code of Virginia, regulations adopted by the Department of Criminal Justice Services, or these regulations;
5. The applicant, compliance agent, licensee or registrant has performed an act resulting in loss, injury or death to any person when such loss, injury or death has resulted from negligent or improper conduct.

## DEPARTMENT OF LABOR AND INDUSTRY

**Title of Regulation:** VR 415-01-81. Emergency Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.

**Statutory Authority:** §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114 of the Code of Virginia.

**Effective Dates:** July 1, 1991, through June 30, 1992, or the effective date of the permanent regulation, whichever date occurs first.

### Summary:

*The 1991 session of the Virginia General Assembly enacted House Bill 1794, effective July 1, 1991, which amended §§ 40.1-78 and 40.1-79 of the Code of Virginia.*

*The 1991 amendments to the above Code Sections remove the exemption for minors employed on farms,*

*in gardens and in orchards. Pursuant to §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114, the Commissioner of the Department of Labor and Industry has the authority and duty, effective July 1, 1991, to regulate such previously exempted areas of child labor.*

### Basis of Emergency:

*The need for protection of Virginia farm children is substantial. Agriculture is generally recognized as one of the most hazardous industries in which children are employed.*

*This standard must be established by regulation in order for the Department of Labor and Industry to administer its regulatory responsibility after July 1, 1991. There is insufficient time to promulgate the regulation through the full APA procedure prior to that date. Therefore, the Department must promulgate this emergency regulation to implement the above Code sections as amended effective July 1, 1991. The attached emergency regulation follows the applicable provisions from existing federal regulation as closely as feasible under Virginia Code.*

*The Department will promulgate the permanent regulation under the APA and the Department's Public Participation Guidelines to replace this emergency regulation. The Notice of Intended Regulatory Action is to be published in the May 20, 1991 issue of the Virginia Register. The Department is establishing a task force to develop the permanent regulation. The Department plans to develop and issue a proposed regulation during July, 1991 and make such draft available for public comment as required by the Administrative Process Act. The final regulation will be effective before the expiration of the emergency regulation on June 30, 1992.*

*This emergency regulation is designated as VR 425-01-81 of the Department of Labor and Industry. The regulation shall expire on June 30, 1992 or upon the effective date of the permanent regulation, whichever occurs first.*

*The Department will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this emergency regulation.*

### IT IS SO ORDERED BY:

/s/ Carol Amato  
Commissioner  
Date: April, 30, 1991

### APPROVED BY:

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: May 6, 1991



# Emergency Regulations

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APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 29, 1991

FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 4, 1991

VR 425-01-81. Emergency Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.

## § 1. Definitions.

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

"Employ" means to put to work, use or service, or to engage the services of, and shall include to permit or suffer to work. "To permit or suffer to work" means to knowingly allow by failure to stop or to protest, as well as to employ by oral or written contract, by any person having authority over a minor in connection with the services being performed. As used in this regulation the term "employ" is broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for the purpose of this regulation.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee. For purposes of this regulation, it shall not include the Government of the United States, the Commonwealth of Virginia or any of its agencies, institutions, or political subdivisions or any public body.

"Farms, gardens, and orchards" means farming in all its branches and includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticulture commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. The child labor provisions shall apply in any of these areas of agriculture regardless of farm size or the

number of man-days of farm labor used on that farm.

"School hours" means those periods when the school attended by a minor is in regular session, and does not include hours before and after school, Saturdays and Sundays, holidays, or school vacations, including summer vacations. If the minor does not attend school, "school hours" shall mean the school hours of the school district in which the minor is currently living.

## § 2. Scope and application.

This regulation is promulgated pursuant to § 40.1-6(3) and § 40.1-100 A (9) of the Code of Virginia, and supplements existing Child Labor Laws (Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code of Virginia) relating to the employment of minors on farms, in gardens and in orchards.

## § 3. Other applicable law.

A. Under § 40.1-78 of the Code of Virginia, no child under age 14 is permitted to work on farms, in gardens or in orchards, with the following exceptions:

1. Any child may be employed by his parent or a person standing in place of his parent on farms, in gardens or in orchards owned or operated by such parent or person. (§ 40.1-79.01 B of the Code of Virginia)

2. A child 12 or 13 years of age may be employed outside school hours on farms, in gardens or in orchards with the consent of his parent or a person standing in place of his parent. (§ 40.1-79.01 A (3) of the Code of Virginia)

B. Children employed on farms, in gardens or in orchards are not required to obtain employment certificates (work permits). (§ 40.1-84 of the Code of Virginia)

C. No person shall employ, suffer, or permit a child to work in any gainful occupation that exposes such child to a recognized hazard capable of causing serious physical harm or death to such child. (§ 40.1-100.1 of the Code of Virginia)

D. Any person who employs, procures, or, permits a child under his control to be employed in violation of the Child Labor Laws is subject to a civil monetary penalty not to exceed \$1000 per violation. (§ 40.1-113 of the Code of Virginia)

E. Section 40.1-103 of the Code of Virginia, pertaining to cruelty and injuries to children, and § 40.1-100.2 of the Code of Virginia, pertaining to sexually explicit visual material, provide for criminal penalties and are applicable to the employment of minors on farms, in gardens and in orchards.

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## § 4. Hazardous occupations.

This section identifies the occupations on farms, in gardens, and in orchards which are particularly hazardous for minors under 16 years of age. No employer shall employ, suffer, or permit a minor under 16 years of age to work in any of the following occupations, deemed to be particularly hazardous, except as provided in § 5 of this regulation:

A. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor;

B. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

1. Corn picker, cotton picker, grain combine, hay mover, forage harvester, hay baler, potato digger, or mobile pea viner;
2. Feed grinder, crop dryer, forage blower, sugar conveyor, or the unloading mechanism of a non-gravity self-unloading wagon or trailer; or
3. Power post-hole digger, power post driver, or non-walking type rotary tiller.

C. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any on the following machines:

1. Trencher or earth moving equipment;
2. Forklift;
3. Potato combine; or
4. Power-driven circular, band, or chain saw.

D. Working on a farm in a yard, pen, or stall occupied by the following:

1. Bull, boar, or stud horse maintained for breeding purposes, or
2. Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

E. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

F. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

G. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or

helper.

H. Working inside the following:

1. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
2. An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;
3. A manure pit; or
4. A horizontal silo while operating a tractor for packing purposes.

I. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals identified by the word "poison" and the "skull and crossbones" on the label; or identified by the word "warning" on the label.

J. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

K. Transporting, transferring, or applying anhydrous ammonia.

## § 5. Exemptions to hazardous occupations.

This section provides exemptions to the restrictions on hazardous occupations on farms, in gardens and in orchards set forth in § 4 of this regulation.

A. A minor employed by a parent or a person standing in place of a parent on farms, in gardens or in orchards owned or operated by such parent or person is exempt from § 4 of this regulation.

B. Minors 14 and 15 years of age are exempted from the occupations listed in subsections A through F of § 4 provided the minor is enrolled in a regular school work-training program pursuant to a written agreement which provides:

1. That the work of the child is incidental to his training, will be intermittent and for short periods of time, and will be under the direct and close supervision of a competent and experienced person;
2. That safety instruction will be given by the school and correlated with on-the-job training given by the employer;
3. That a schedule of organized and progressive work processes to be performed has been prepared.

The written agreement shall state the name of the minor to be employed and must be signed by the

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employer and the coordinator of schools having jurisdiction. Copies of such agreement must be retained by the school and the employer, and a copy must be filed with the Department of Labor and Industry. The written agreement may be revoked by the Commissioner of Labor and Industry at any time that it shall appear that reasonable precautions for the safety of the minor have not been observed.

C. Minors 14 and 15 years of age who are enrolled in the 4-H Federal Extension Service Training Program, and who hold certificates of completion of either the tractor operation or machine operation program, may work in the occupations for which they have been trained. These certificates are valid for hazardous occupations covered by subsections A and B of § 4 of this regulation. Farmers employing minors who have completed this program must keep a copy of the certificates of completion on file with the minor's records.

D. Minors 14 and 15 years of age who hold certificates of completion of either the tractor operation or machine operation program of the U.S. Office of Education Vocational Agricultural Training Program may work in the occupations for which they have been trained. These certificates are valid for hazardous occupations covered by subsections A and B of § 4 of this regulation. Farmers employing minors who have completed this program must keep a copy of the certificate of completion on file with the minor's records.

## § 6. Hours of work.

A. No minor under 16 years of age shall be employed, permitted or suffered to work in any occupation on farms, in gardens or in orchards during the hours that school is in session, except as provided in subsection B of this section.

B. No hours of work restrictions shall apply to a child employed by his parent or a person standing in place of his parent on farms, in gardens or in orchards owned or operated by such parent or person. (§ 40.1-79.01 B of the Code of Virginia)

C. No child under 16 years of age shall be employed or permitted to work on farms, in gardens or in orchards for more than 5 hours continuously without an interval of at least 30 minutes for a lunch period, and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work. (§ 40.1-80.1 B of the Code of Virginia)

## § 7. Record-keeping requirements.

A. Every employer who employs any minor under 16 years of age on farms, in gardens or in orchards shall maintain records containing the following information about each such minor:

1. Full legal name.

2. Date of birth.

3. The minor's residence while employed. If the minor's permanent address is elsewhere, both addresses shall be maintained.

4. A time book or time cards or other appropriate records for such minor employees which shall show the beginning and ending time of work each day together with the amount designated as a free-from-duty meal period. (§ 40.1-81.1 of the Code of Virginia)

B. Every employer who employs a minor 12 or 13 years of age outside of school hours on farms, in gardens or in orchards with the consent of the child's parent or person standing in place of a parent must obtain such consent in writing and retain such documentation on the premises.

C. All records required to be maintained by this section shall be kept on the premises for a period of 36 months from the employee's most recent date of employment.

D. This section shall not apply to a parent, or a person standing in place of a parent, employing his child on farms, in gardens or in orchards owned and operated by such parent or person. (§ 40.1-79.01 B of the Code of Virginia)

## DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-05-22.1. Gas and Oil Regulations.

Statutory Authority: §§ 45.1-1.3 and 45.1-361.27 of the Code of Virginia.

Effective Dates: July 1, 1991, through June 30, 1992, or upon the effective date of permanent regulations, whichever date occurs first.

### Summary:

The 1990 session of the Virginia General Assembly repealed the Virginia Oil and Gas Act of 1982, Chapter 22 of Title 45.1 of the Code of Virginia, and enacted the Virginia Gas and Oil Act of 1990, Chapter 22.1 of Title 45.1 of the Code of Virginia. These provisions replaced the basic law governing gas and oil resources conservation, exploration, development and production in Virginia.

The 1990 Act established:

1. the Virginia Gas and Oil Board's authority over gas and oil resources conservation and authority to hear administrative appeals;
2. the Department of Mines, Minerals and Energy's authority to promulgate regulations and enforce

# Emergency Regulations

provisions to ensure the safe and efficient exploration, development and production of gas and oil resources;

3. the Gas and Oil Plugging and Restoration Fund and the Orphan Well Fund; and

4. civil changes and penalties for violations of the Act.

The 1982 Virginia Oil and Gas Act contained numerous administrative and technical regulatory standards. The 1990 Act provides more general enabling authority to the Department of Mines, Minerals and Energy and to the Virginia Gas and Oil Board to use their technical expertise with gas and oil operations to establish specific regulatory standards.

The Department of Mines, Minerals and Energy issued an emergency regulation, effective July 1, 1990 through June 30, 1991, carrying forward the technical and regulatory standards from the 1982 Act. Due to the nature and extent of the public comments on the proposed regulation, additional time is needed to respond to the comments and prepare the final regulation before the emergency regulation will expire. Therefore, the Department must reissue the emergency regulation to continue its gas and oil regulatory program until the permanent regulation can be promulgated.

## Basis of Emergency:

The Department of Mines, Minerals and Energy must promulgate this emergency regulation to continue its gas and oil regulatory program under the Virginia Gas and Oil Act. Without extending this emergency regulation, many administrative and technical standards of the Department's regulatory program would lapse on June 30, 1991. For example, the emergency regulation contains specific provisions detailing what is to be included in a permit application and sets detailed well casing and plugging standards.

The Department instituted the process to promulgate a permanent gas and oil regulation to replace the emergency regulation in June, 1990. A Notice of Intended Regulatory Action was issued on June 4, 1990 and July 30, 1990. A public meeting on the Department's intent to promulgate the permanent regulation was held on June 21, 1990. The Department formed a regulatory working committee, which met 18 times from June 27, 1990 through October 3, 1990, to develop recommendations for the regulation. The working committee was able to reach consensus on many issues, but drafted conflicting recommendations on many other issues.

The Department issued a proposed regulation on January 28, 1991, held public hearings on March 26,

1991 in Abingdon and on March 27, 1991 in Richmond, and accepted written comments through March 29, 1991. The Department received 361 pages of comments addressing all parts of the regulation.

There has been insufficient time to adequately consider and respond to public comments on the proposed regulation and issue the permanent regulation by July 1, 1991.

The Department will continue the process to promulgate the permanent regulation under the Administrative Process Act and the Department's Public Participation Guidelines to replace this emergency regulation. The Department will carefully consider the public comments, will prepare responses to the comments and amend the regulation as necessary. The final regulation will be effective by no later than June 30, 1992.

This emergency regulation is designated as VR 480-05-22.1 of the Department of Mines, Minerals and Energy. The regulation shall become effective on July 1, 1991 and shall expire on June 30, 1991 or upon the effective date of the permanent regulation, whichever occurs first.

The Department will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this emergency regulation.

## IT IS SO ORDERED BY:

/s/ O. Gene Dishner, Director  
Department of Mines, Minerals and Energy  
Date: May 28, 1991

## APPROVED BY:

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: May 28, 1991

## APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 29, 1991

## FILED WITH

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 4, 1991

VR 480-05-22.1. Gas and Oil Regulations.

## § 1. Definitions.

The following words and terms, when used in these

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regulations, shall have the following meaning, unless the context clearly indicates otherwise:

“Bridge” means an obstruction placed in a well at any specified depth.

“Cased completion” means a coalbed methane gas well in which production casing is set through the productive coalbed or coalbeds.

“Cased/open hole completion” means a coalbed methane gas well in which at least one coalbed is completed through casing and at least one coalbed is completed open hole.

“Casing” means all pipe set in wells except conductor pipe and tubing.

“Cement” means hydraulic cement properly mixed with water.

“Coal protection string” means a string designed to protect a coal seam.

“Combination well” means a well producing both gas and oil.

“Conductor pipe” means the short string of large diameter used primarily to control caving and washing out of unconsolidated surface formations.

“Deviation survey” means any process to determine the deviation, using the surface location of the well as the apex, of the well bore from the true vertical beneath the apex on the same horizontal subsurface plane.

“Directional survey” means any process to determine (i) the angle of deviation, using the surface location of the well as the apex, of the well bore from the true vertical beneath the apex on the same horizontal subsurface plane, and (ii) the direction of an imaginary line from the true vertical beneath the apex to the well bore on the same horizontal subsurface plane.

“Expanding cement” means any cement approved by the Inspector which expands during the hardening process, including but not limited to regular oil field cements with the proper additives.

“Gas-oil ratio test” means a test, by any means generally accepted in the gas and oil industry, to determine the number of cubic feet of gas produced per barrel of oil produced.

“Gas well” means any well which produces or appears capable of producing a ratio of 6,000 cubic feet of gas or more to each barrel of oil on the basis of the initial gas-oil ratio test.

“Gob well” means a coalbed methane gas well which produces coalbed methane gas that is captured from the

de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coal seam.

“Horizontal ventilation hole” means an underground system by which coalbed methane gas is collected from the working face of a mine’s operations and is vented to the atmosphere or produced.

“Initial gas-oil ratio test” means the gas-oil ratio test performed for the purpose of designating a well as a gas well or an oil well.

“Linear foot” means one foot in a straight line on a horizontal plane.

“Mud” or “mud-laden fluid” means any approved mixture of water and clay or other material as the term is commonly used in the industry.

“Oil well” means any well which produces or appears capable of producing a ratio of less than 6,000 cubic feet of gas to each barrel of oil on the basis of the initial gas-oil ratio test.

“Open hole completion” means a coalbed methane gas well in which no production casing is set through the productive coalbed or coalbeds.

“Pillar” means a solid block of coal, ore or other material left unmined to support the overlying strata in a mine.

“Plug” means the stopping of the flow of water, gas or oil from one stratum to another in connection with the abandoning of a well in accordance with the requirements of law.

“Porosity” means a measure of the pore space in a given quantity of bulk rock, expressed as a percentage.

“Produced waters” means water or fluids produced from a gas well, oil well, coalbed methane gas well, gob well, or corehole as a bi-product of drilling, completing and producing gas, oil or coalbed methane gas.

“Red shales” mean the undifferentiated shaly portion of the Bluestone Formation normally found above the Pride Shale Member of the formation, and extending upward to the base of the Pennsylvanian strata, which red shales are predominantly red and green in color but may occasionally be gray, grayish green and grayish red.

“Safe mining through a well” means the mining of coal in a coal seam up to and through a well which penetrates the coal seam but has been plugged pursuant to §§ 23, 24 and 25 of this regulation so that the casing and plug in the well where the well bore penetrated the coal seam is safely severed.

“Shot” or “shooting” means exploding nitroglycerine or

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other high explosive in a hole to shatter the rock and increase the flow of gas or oil.

"Spoil" means any overburden or other material removed from its natural state in the process of preparing or utilizing a well location.

"String of pipe" means the total footage of pipe of uniform size set in a well. The term embraces conductor pipe, casing and tubing. When the casing consists of segments of different size, each segment constitutes a separate string. A string may serve more than one purpose. The classification of a string is based on its primary function. The "surface string" has its upper end at the surface; the "intermediate strings" prevent caving, shut off connate water in strata below the surface string, and protect strata from exposure to lower zone pressures; and the "production string," where used, is the string through which the well is completed and frequently produced and controlled.

"Target formation" means the primary geological formation identified by the well operator in his application for a drilling permit filed under § 45.1-361.29 of the Code of Virginia.

"Tubing" means the small diameter string set after the well has been drilled from the surface to the total depth and through which the gas or oil or other substance is produced or injected.

"Vertical ventilation hole" means a hole, permitted by the Department of Mines, Minerals and Energy, Division of Mines, pursuant to the "Rules and Regulations Governing Vertical Mine Ventilation Holes," VR 480-05-96, drilled from the surface to a coal seam, used only for safety purposes by removing gas from the coal seam and the adjacent strata, thus venting the gas that would normally be in the mine ventilation system.

"Waste disposal well" means a well drilled or converted for the disposal of drilling fluids, produced waters and other wastes associated with the exploration, development, or production of gas or oil.

"Water protection string" means a string designed to protect the fresh water sands.

"Well work" means the drilling, redrilling, deepening, stimulating, pressuring by injection of any fluid, converting from one type of well to another, combining or physically changing to allow the migration of fluid from one formation to another, plugging or replugging of any well.

## § 2. Authority and applicability.

A. The Director of the Department of Mines, Minerals and Energy is authorized to promulgate this regulation pursuant to § 45.1-361.27 of the Code of Virginia.

B. The requirements of this regulation are in addition to

the requirements of the "Rules and Regulations for Conservation of Oil and Gas Resources and Well Spacing," VR 480-05-22, and orders issued by the Virginia Oil and Gas Conservation Board, Virginia Well Review Board, Virginia Gas and Oil Board, or the Department of Mines, Minerals and Energy.

C. The requirements of §§ 35 through 44 of this regulation govern development and production of coalbed methane gas. Where there is a conflict or inconsistency between §§ 35 through 44 of this regulation and §§ 3 through 34 of this regulation or other general regulation or order of the Department, the provisions of §§ 35 through 44 shall prevail.

## § 3. Permit requirements for gas, oil or geophysical operations.

A. It shall be unlawful for any person to commence any gas, oil or ground disturbing geophysical operation, including site preparation work which involves any disturbance of land, without first securing from the Inspector a permit for the operation. An application may propose and a permit or permit modification may approve two or more activities.

B. The application for a permit or permit modification shall be accompanied by a fee pursuant to § 45.1-361.29 of the Code of Virginia, the bond pursuant to § 45.1-361.31 of the Code of Virginia, the fee for the Gas and Oil Plugging and Restoration Fund pursuant to § 45.1-361.32 of the Code of Virginia, and the fee for the Orphaned Well Fund pursuant to § 45.1-361.40 of the Code of Virginia.

C. Every permit or permit modification application filed under this section shall be verified, and shall contain the following:

1. The names and addresses of (i) the gas or oil operator, or geophysical operator, (ii) the agent required to be designated under § 45.1-361.37 of the Code of Virginia, and (iii) every person whom the applicant must notify under § 45.1-361.30 together with the certification required in § 45.1-351.29.E of the Code of Virginia;
2. The number of the well or such other identification of a well, pipeline or other facility as the Inspector may require;
3. The type of well or other gas or oil operation;
4. The work for which a permit is requested;
5. The approximate depth to which a well or corehole is to be drilled or deepened, or the actual depth if a well or corehole has been drilled;
6. Unless submitted in a previous permit application by the applicant, the location and thickness of all known coal seams, known water-bearing strata, and

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other known gas or oil strata between the surface and the depth to which a well or corehole is proposed to be drilled. Information in the possession of the Inspector may be designated by the applicant and need not be resubmitted;

7. If the proposed well or corehole will require casing or tubing to be set, the entire casing program, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

8. If the proposed work is to convert an oil well or a combination well, or to drill a new well for the purpose of introducing pressure for the recovery of oil, or if the proposed work is to convert a gas, oil, combination or coalbed methane gas well into, or drill a new well as a disposal well, specifications of (i) where available, the casing records of the well, (ii) where available, the drilling log of the well, (iii) the maximum pressure to be introduced, (iv) the geological formation into which liquid or pressure is to be introduced, (v) a general description of the liquids to be introduced, and (vi) the location of all known coal seams, water-bearing strata, and other gas or oil strata above and below the geological formation into which such liquid or pressure is to be introduced;

9. If the proposed work is to plug or replug a well or corehole, (i) a statement of the time at which the work of plugging or replugging is proposed to be commenced, which time shall not be less than ten days after the day on which the application is filed, (ii) a copy of all logs in the operator's possession not previously filed with the Inspector, and (iii) a work order showing in detail the proposed manner of plugging or replugging the well or corehole, in order that a representative of the Inspector and any interested persons may be present when the work is done. In the event of an application to drill, redrill or deepen a well, if the well work is unsuccessful so that the well must be plugged and abandoned, and if the well is one on which the well work has been continuously progressing pursuant to a permit, the operator may proceed to plug the well as soon as he has obtained the verbal permission of the Inspector or his designated representative to plug and abandon the well, except that the operator shall make every reasonable effort to notify immediately the royalty owner and the coal owner, if any, of the land at the well location, and shall also timely file the plugging affidavit required under § 27 of this regulation;

10. The operations plan, map and plat required for a permit application;

11. For applications for a permit for a gathering pipeline, the information required under § 6 of this regulation; and

12. Any other relevant information which the Inspector

may require.

## § 4. Operations plans.

An operations plan shall accompany each application for a permit or permit modification, shall state the intended method of spoil placement and shall contain a drainage and stabilization plan including a map of the project area indicating the area to be disturbed. The drainage and stabilization plan shall meet the minimum requirements of the 1980 Virginia Erosion and Sediment Control Handbook, hereby incorporated by reference. The operations plan and map shall become part of the terms and conditions of any permit which is issued and the provisions of the plan shall be carried out where applicable during and after drilling or other installation operations.

## § 5. Plats.

A. When an application for a permit for a well or corehole is filed, the applicant shall also file an accurate well plat prepared by a registered engineer or certified land surveyor on a scale, to be stated thereon, of 1 inch equals 400 feet (1:4800), showing (i) the proposed location and surface elevation of the well or corehole determined by survey, (ii) the proposed location of all new roads, (iii) the courses and distances of the well or corehole location from two permanent points or landmarks on the tract, (iv) the number or proposed number of the well or corehole, or such other identification as the Inspector may require, (v) the royalty owner, the owners of record of the surface, the owners of record of coal and other mineral rights, and any coal operator who has registered an operations plan with the Department for the tract on which the well or corehole is located or is to be located, (vi) the boundaries and acreage of the tract on which the well or corehole is located or is to be located, (vii) the owners of record of surface, coal, and other mineral rights on all tracts within 500 feet of a proposed gas or oil well, or within 750 feet of a proposed coalbed methane gas well, (viii) coal operators who have applied for or obtained a mining or prospecting permit from the Department with respect to all tracts within 500 feet of a proposed gas or oil well, or within 750 feet of a proposed coalbed methane gas well, (ix) any building, highway, railroad, stream, mine, mine opening or working, or quarry within 500 feet of the proposed well or corehole, (x) any other well within 2500 feet of the proposed well, (xi) if the proposed work is to convert an oil well or a combination well, or to drill a new well for the purpose of introducing pressure for the recovery of oil as provided for in § 28 of this regulation, or if the proposed work is to convert a gas, oil, combination or coalbed methane gas well into, or to drill a new well as a disposal well, the location of all other wells, abandoned or otherwise, located within the area to be affected, and (xii) such other data as the Inspector may require.

B. If the well or corehole location is underlain by known coal seams identified by the Chief, the well plat shall locate the well or corehole and two permanent points

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or landmarks with reference to the mine coordinate system if one has been established for the area of the well or corehole location, and shall in any event show all other wells, coreholes, coal mines, mine openings and surface workings within the scope of the plat.

C. Coalbed methane wells shall be shown on plats as follows:

1. New coalbed methane drilling location – O CBM
2. Coalbed methane gas well – O CBM
3. Abandoned coalbed methane gas well – O CBM

D. New plats or updates to existing plats are required as follows.

1. A new plat shall be required for the first well work permitted after July 1, 1982, on any well subject to the requirements of subsection B of this section.
2. After an initial permit has been issued, a subsequent application for any new permit or permit modification involving the same well may be accompanied by an accurate copy of the well plat accepted upon the issuance of the permit pursuant to the most recent previous application, updated as necessary to reflect any changes on the site, newly discovered data or additional data required by statute or regulation. A certification by a registered engineer or certified land surveyor that the original well plat and any updating thereof is accurate shall be required.

## § 6. Gathering pipelines.

A. The following standards shall be met for any work on gathering pipelines, not in existence as of July 1, 1988, involving ground disturbing activities.

1. The operator of each proposed pipeline shall submit an application and plan for installation and operation of gathering pipelines and associated structures for the movement of gas or oil production from the wellhead to a previously permitted gathering line, a transmission or other line regulated by the Federal Energy Regulatory Commission or the State Corporation Commission, or to a first point of sale.
2. General Design Plan Contingencies:
  - a. All gathering pipelines shall be designed and maintained to protect the lands and waters of the Commonwealth from environmental damage.
  - b. All lines shall be installed and maintained to be compatible with other uses of the area.
  - c. All lines shall be maintained in good operating condition at all times and inspected periodically for

indication of leakage. Records of these inspections, including the date, methods and results of each inspection shall be maintained by the operator and made available to the Division of Gas and Oil upon request.

3. Permit Application Requirements:

a. Each application shall be submitted on the gathering pipeline application form and may be part of a permit or permit modification application. The operator may submit one application for his entire system, individual fields, or any other method approved by the Inspector.

b. Each application shall contain an accurate map or maps meeting the following requirements:

- (1) The proposed lines shall be located on maps depicting topography of the area on a scale of not less than 1 inch equals 600 feet (1:7200).
- (2) The total distance and width of the right-of-way and the diameter of the pipelines shall be shown.
- (3) All maps shall be signed and certified by an authorized agent of the well operator as prescribed on the gathering pipeline application form.

c. Each application shall contain an operations plan meeting the following requirements:

- (1) The operations plan shall detail the erosion and sediment control structures and procedures to be used in the construction of the line. The operator may identify the locations of the structures in the operations plan or reference their locations marked on the maps submitted with the permit application.
- (2) The total amount of land to be disturbed to the nearest tenth of an acre shall be identified.
- (3) The plan shall address the applicable general criteria for erosion and sediment control found in the 1980 Virginia Erosion and Sediment Control Handbook.
- (4) The plan shall address post-construction measures to be used to control erosion and sedimentation, as well as all seeding schedules, methods and mixtures to be used in re-vegetating the disturbed area.
- (5) The plan shall include proof of notification of all surface owners of record who have interest in the right-of-way of the proposed pipeline. One form of proof of notification is to provide certified mail return receipts.
- (6) The plan shall include verification of the right of, or permission from, appropriate interests in all



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land included in the right-of-way of the proposed pipeline, which allows the operator to construct the proposed pipeline. Forms of verification may be lease agreements, listings of easements or other instruments of ownership.

B. The following standards shall be met to permit gathering pipelines in existence as of July 1, 1988.

1. The operator of pipelines which have been stabilized shall submit an application meeting the following requirements.

a. The application shall include a map at the scale of 1 inch equals 2000 feet (1:24000) showing the location and size of the pipeline. This map shall be signed and certified by the authorized agent of the well operator as prescribed on the application form for existing gathering pipelines.

b. The application shall include a statement identifying any areas causing erosion and sediment control problems and the plan for correcting those problems.

c. The operator may submit one application for his entire system, individual fields, or any other method approved by the Inspector.

2. The operator of pipelines under construction and not stabilized as of July 1, 1988, shall submit an application consisting of the following.

a. The application shall include a map at the scale of 1 inch equals 600 feet (1:7200) showing the locations and sizes of the pipelines. This map shall be signed and certified by an authorized agent of the well operator as prescribed on the application form for existing gathering pipelines.

b. The application shall include a description of the erosion and sediment control structures and procedures used in the construction of the line. The applicable general criteria of the 1980 Virginia Erosion and Sediment Control Handbook shall be addressed and methods and seed mixtures to be used in re-vegetating shall be listed.

c. The operator may submit one application for his entire system, individual fields, or any other method approved by the Inspector.

## § 7. Bonds and financial security.

A. All applications for a permit or permit modification for gas or oil operations shall be accompanied by a bond or financial security pursuant to § 45.1-361.31 of the Code of Virginia.

B. Prior to July 1, 1991, the following minimum standards for bonding or financial security shall be

required:

1. When a permit application is filed, the applicant shall give bond, payable to the Commonwealth, with surety acceptable to the Inspector, or at the election of the applicant a cash bond, to ensure compliance with all laws and regulations relating to the permitted work and the stabilization of the project area and the furnishing of reports and information required by the Inspector. The bond shall be set by the Inspector in an amount of \$10,000 for plugging of a well plus \$2,000 times the number of acres, to the nearest tenth of an acre, for stabilizing the project area. The bond shall remain in force until released by the Inspector. The Inspector shall release the bond when he is satisfied that the well has been abandoned and plugged, the project area has been properly stabilized in accordance with the operations plan and the reports and information required by Chapters 1 through 14 (§ 45.1-1 et seq.) and Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia have been furnished. The Inspector shall release that portion of the bond covering stabilization of the project area when the area is properly stabilized in accordance with the approved drainage and stabilization plan.

2. When an operator makes or has made application for permits to drill a number of wells or coreholes, or operate a number of gathering pipelines, the Inspector, on request of the operator and in lieu of requiring a separate bond for each operation, may require a blanket bond in such sum as he deems adequate; however, in no event shall the bond be in an amount less than \$25,000.

C. The bonding requirements for gas or oil operations or ground disturbing geophysical operations shall be limited to those set forth in § 45.1-361.31 of the Code of Virginia and this section and the bonding requirements contained within §§ 45.1-1 through 45.1-225 of the Code of Virginia shall not apply to gas or oil operations or ground disturbing geophysical operations.

D. A gas or oil operator or geophysical operator who has forfeited all or a portion of a previously posted bond shall be eligible to receive a subsequent new permit for gas or oil operations or ground disturbing geophysical operations only upon satisfaction of such additional requirements, terms and conditions as may be set forth by the Inspector.

## § 8. Statements of no objection.

A. If an applicant for a gas or oil permit files statements of no objection signed by all persons entitled to notice pursuant to subsections A, B and C of § 45.1-361.30 of the Code of Virginia, the Inspector may issue the permit before the expiration of the fifteen-day notice period provided for under § 45.1-361.35 of the Code of Virginia.

B. If objections are filed by another or found by the Inspector, a person signing a statement of no objection as provided in this section shall nonetheless be entitled to notice of the hearing under § 45.1-361.35 of the Code of Virginia and subsequent notices provided pursuant to Chapter 22.1 of Title 45.1 of the Code of Virginia.

§ 9. Commencement of activity after appeals to the Director.

A. In the case of any gas or oil operation or ground disturbing geophysical operation, the commencement of which is dependent upon a decision of the Director made under § 45.1-361.35 of the Code of Virginia, the operator shall not commence the work during the ten-day appeal period provided in § 45.1-361.36 of the Code of Virginia, nor thereafter until the Inspector informs the operator that the permit has not been stayed by an appeal.

§ 10. Blasting.

All blasting operations conducted as part of a permitted gas or oil operation or a ground disturbing geophysical operation shall be conducted under the direction of a certified blaster. A copy of the blaster's certification shall be filed with the Inspector prior to conducting the blasting. Certification may be obtained from the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation or Division of Mineral Mining, or the Department of Housing and Community Development.

§ 11. Pits.

A. Unless otherwise approved by the Inspector in advance, all fluids from wells and coreholes shall be handled in a properly constructed, lined pit. A permit application for an operation where a pit is to be used shall contain a plan for pit construction and maintenance. The pit shall be constructed of sufficient size and shape to contain all fluids from the well or corehole that accumulate at any time. Pit liners shall be of a minimum thickness of 10 mil (10/1000 of one inch) and be made of a material that will not be degraded by pit or produced fluids.

B. The integrity of lined pits used in drilling must be maintained throughout the drilling and completing process. Upon failure of the lining or pit, the operation shall be shut down until the liner and pit are repaired or rebuilt.

C. Under most circumstances, the pit should not be a major sediment control structure and surface drainage should not be directed into the pit. If the pit is to be used as a sediment control structure, this shall be indicated in the operations plan. The plan shall be accompanied by detailed drawings since pit size and design may need to be altered from that normally used in drilling.

D. Motor oil shall be kept out of the pit. This oil shall be collected and disposed of properly. In addition, litter and other solid waste should be collected and disposed of

properly and not thrown into the pit.

E. At the conclusion of drilling and completion operations, the pit shall be drained in a controlled manner. Any permit application for an operation where a pit is to be used shall contain a plan for draining and reclaiming the pit. However, no disposal of fluids shall be allowed prior to the operator submitting, and DGO approving, the final test results of fluid quality. The preferred procedure to empty the pit is to treat and land-apply the fluids without runoff.

F. The quality of final pit or produced fluids to be land applied shall not exceed the limits for constituents established in the State Water Control Board, "Groundwater Standards," regulation VR 480-21-04. The quality of such fluids shall also not exceed the State Water Control Board, "Water Quality Criteria for Groundwater," regulation VR 480-21-05 unless the natural groundwater quality in the area of the operation exceeds the standards in the Criteria. In this case, the operator shall submit documentation of the level of the constituents of the groundwater which exceed the standards in the Criteria. Upon approval of the Division of Gas and Oil, the higher naturally occurring concentration shall become the standard for that constituent for that operation. However, no addition of that constituent to the naturally occurring concentration shall be made.

G. If the standards for disposal of pit or produced fluids established in an approved permit, or otherwise set by this section, cannot be met, then the Division of Gas and Oil shall be contacted prior to disposal of any fluids.

§ 12. Quality of water used in drilling.

A. To protect the groundwater of the State, the Division of Gas and Oil follows the anti-degradation policy of the State Water Control Board. All water used in drilling shall be of equal or better quality than the existing groundwater in the area of the well or corehole.

B. There are three methods of achieving compliance with this policy:

1. Use water from a source meeting the State Water Control Board, "Groundwater Standards," regulation VR 480-21-04 and "Water Quality Criteria for Groundwater," regulation VR 480-21-05.

2. Use water from a water well at the site; or,

3. Document groundwater quality at the site and use water that equals or exceeds that quality.

C. The operator shall indicate, in the operations plan, how they plan to comply with this requirement. Acceptable documentation shall include:

1. An analysis of water from the closest source (spring or well) within 500 feet of the proposed well or

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corehole;

2. An analysis of the water to be used; or,
3. A plan for the treatment of the drilling water prior to use to a level meeting the standards of this section.

## § 13. Signs.

A. Identification signs at all wells or coreholes, other than plugged wells or coreholes, shall meet the following requirements:

1. All signs shall be a minimum of 18 inches by 14 inches in size.
2. All signs shall state the company name and permit number.
3. Lettering shall be a minimum of 1 1/4 inches high and shall contrast the color of the background.
4. All signs shall be located on the well or on a structure (rig, meter house, pole, etc.) within 15 feet from the well head.
5. All signs shall be maintained or replaced as necessary to be kept in a legible condition.

## § 14. Locating well bores in relation to known coal seams.

A. From the date of publication by the Chief of the Division of Mines of the document specifying the areas of the Commonwealth which are known to be underlain by coal seams, the bore of any new well or corehole drilled in an area so stated to be underlain by coal seams shall be located in relation to the coal seams in the manner set forth in subsections B and C of this section.

B. Vertical location of coal seams shall be determined as follows:

1. Well log. - Within thirty days after the completion of corehole or well work involving any drilling, the well operator shall file with the Inspector an accurate log of the strata drilled. The log shall state the character, depth and thickness of geological formations encountered, including groundwater, coal seams, mineral beds, brine, and gas or oil bearing formations, and such other information as the Inspector may require to effectuate the purposes of Chapter 22.1 of Title 45.1 of the Code of Virginia.
2. Electric log. - The gas, oil or geophysical operator and the affected coal operator or coal owner may contract for an electric log survey to be conducted before the coal protection string is set in order to locate vertically the coal seams with greater accuracy than the driller's log will permit. A gas, oil or geophysical operator shall not unreasonably refuse to afford an affected coal operator or coal owner the

opportunity to obtain such an electric log survey at the coal operator's or coal owner's expense. If such an electric log survey is conducted, the coal operator or coal owner shall furnish a copy to the gas, oil or geophysical operator, to be held and treated by the operator as proprietary data.

3. If a gas, oil or geophysical operator conducts an electric log survey at his own expense on any part of the hole, and if the electric log survey discloses the vertical location of a coal seam, the electric log survey shall be filed with the Inspector at the same time as the driller's log.

4. With reference to a particular well or corehole, if at any time the Inspector finds that the lack of assurance of the vertical location of a coal seam poses a danger to persons engaged in active coal mining, he may require an electric log survey at the gas, oil or geophysical operator's expense, and he may direct the operator to interrupt drilling to conduct an electric log survey.

C. Horizontal location of coal seams shall be determined as follows:

1. The gas, oil or geophysical operator shall conduct deviation surveys beginning 200 feet from the surface and continuing on intervals of 200 feet to the bottom of the lowest published coal seam depth at the well location. Each time the total deviation exceeds a horizontal distance of 18.75 feet from the true vertical at a bore depth of 200 feet, or a horizontal distance of 31 feet from the true vertical at a bore depth of 400 feet, or a horizontal distance of 50 feet from the true vertical at a bore depth of 600 feet or a deeper 200-foot interval, the operator shall (i) immediately cease drilling, (ii) conduct a continuous directional survey to the depth then attained and furnish a copy to the affected coal owner, (iii) notify the affected coal operator or owner, (iv) correct the bore within the specified limits at the request of the affected coal owner made within 24 hours after he receives the notification and (v) file a copy with the Inspector at the same time the driller's log is filed under subsection B of this section.

2. With reference to a particular well or corehole, if at any time the Inspector finds that the lack of assurance of the horizontal location of the bore at a known coal seam poses a danger to persons engaged in active coal mining, he may require that a directional survey be conducted at the gas, oil or geophysical operator's expense, and he may direct the operator to interrupt drilling to conduct the survey.

## § 15. Coal protection strings for a future well.

A. When any well penetrates coal seams that have not been mined out, the gas or oil operator shall, except as provided in subsections B and C of this section, set a coal

protection string as prescribed herein so as to exclude all water, oil, gas, gas pressure, except such water, oil, gas and gas pressure as may be naturally present in each coal seam, injected material or disposed waste from the coal seams. The string of casing shall be set to a point at least thirty feet below the lowest coal seam, or as provided in subsection C of this section, and shall be circulated and cemented in from that point to the surface in a manner as specified by the Inspector.

B. For good cause shown, either before or after the permit is issued, that the procedure specified in subsection A is not practical for the gas or oil operator, the Inspector may approve a casing program involving the cementing of a coal protection string in multiple stages, or the cementing of two or more coal protection strings, or the use of other alternative casing procedures, provided the Inspector is satisfied that the result will be operationally equivalent to compliance with the provisions of subsection A of this section for the purpose of permitting the subsequent safe mining through of the well or otherwise protecting the seam as required by this section. In the use of multiple coal protection strings, each string below the topmost string shall be cemented at least 30 feet into the next higher string and verified by a suitable electric log survey.

#### C. Depth of coal protection strings:

1. A coal protection string shall be set to the top of the red shales in any area underlain by them unless, on a showing by the operator in his permit application, the Inspector has approved the casing point of the coal protection string at some depth less than the top of the red shales. In such event, the operator shall conduct a gamma ray/density compensated log survey on an expanded scale to verify whether the well penetrates any coal seam in the uncased interval between the bottom of the coal protection string as approved and the top of the red shales.

2. If an unanticipated coal seam is discovered in the uncased interval, the operator shall report the discovery to the Inspector and cement the next string of casing, whether a part of the intermediate string or the production string, in the applicable manner provided in this section for coal protection strings, from a point 100 feet below the lowest coal seam so discovered or to the top of the red shales, whichever is shallower.

3. The gamma ray/density compensated log survey shall be filed with the Inspector at the same time the driller's log is filed under § 14 of this regulation.

4. When the Inspector believes that the total drilling in any particular area has verified the deepest coal seam higher than the red shales, so that further gamma ray/density compensated logs on an expanded scale are superfluous for the area, he may waive the

constructing of a coal protection string or the conducting of such surveys deeper than 100 feet below the verified depth of the deepest coal seam.

#### § 16. Coal protection strings of wells drilled prior to July 1, 1982.

In the case of wells drilled prior to July 1, 1982, through coal seams without coal protection strings substantially as prescribed in § 15 of this regulation, the gas or oil operator shall retain such coal protection strings as were set. During the life of the well, the annular spaces between the various strings of casing adjacent to coal seams shall be kept open to the extent possible, and the top ends of all such strings shall be provided with casing heads, or such other suitable devices approved by the Inspector as will permit the free passage of gas or oil and prevent filling of the annular spaces with dirt or debris.

#### § 17. Liner when well or corehole is drilled through mined-out coal seams.

A. When a well or corehole is drilled through a coal seam from which the coal has been removed, the hole shall be drilled at least thirty feet below the mined-out seam and of a size sufficient to permit the placing of a liner which shall start at a point not less than 20 feet beneath the horizon of the mined-out coal seam and extend to a point not less than 20 feet above it. The liner shall be firmly attached to the string of casing used at that point, and the space between the liner and the casing shall be filled with cement as they are lowered into the hole. Cement shall be placed in the bottom of the hole to a height of 10 feet above the bottom of the liner to form a sealed seat for both liner and casing. The annular space shall be cemented to the surface from the top of the liner or shall be cemented back to the bottom of the next largest string of casing that has been cemented into the surface.

B. For good cause shown, the Inspector may approve alternative casing procedures, provided that the Inspector is satisfied that the alternative casing procedures are operationally equivalent to the requirements imposed by subsection A of this section.

C. Except as provided in subsection D of this section, when a well or corehole is drilled through two or more coal seams from which the coal has been removed, and only one coal protection string is planned, the liner shall be started not less than 20 feet below the deepest mined-out coal seam and shall extend to a point not less than 20 feet above the shallowest mined-out coal seam. The annular space shall then be cemented as provided in subsection A of this section.

D. For good cause shown, the Inspector may (i) impose special requirements on the gas, oil or geophysical operator to prevent communication between two or more mined-out coal seams, or (ii) permit a casing program

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which calls for some or all mined-out coal seams to be equipped each with its own liner in the manner required by subsection A of this section.

§ 18. Well or corehole penetrating mine other than coal mine.

In the event that a permit is requested to drill a well or corehole in such a location that it would penetrate any active or abandoned mine other than a coal mine, the Inspector shall establish the safety precautions to be followed by the gas, oil or geophysical operator. The precautions shall conform to standard safety measures generally followed in the industry in such cases, and the Inspector shall require compliance with the precautions as a specific condition of the bond required of the operator.

§ 19. Water protection string.

A. Except as provided in subsection B of this section, the gas or oil operator shall set a water protection string to a point at least 30 feet below the deepest known groundwater horizon, circulated and cemented in to the surface. If the cement does not return to the surface, every reasonable attempt shall be made to fill the annular space by introducing cement from the surface.

B. A coal protection string set pursuant to §§ 15 or 16 of this regulation may also serve as a water protection string for fresh water bearing strata above the lowest coal seam.

§ 20. When a well or corehole is drilled through caverns.

When a well or corehole is drilled through one or more natural or artificial caverns to which the provisions of §§ 17 and 18 of this regulation do not apply, the Inspector shall establish the safety precautions to be followed by the gas, oil or geophysical operator. The precautions shall conform to standard safety measures generally followed in the industry in such cases and the Inspector shall require compliance with the precautions as a specific condition of the bond required of the operator.

§ 21. Plugging a well that does not penetrate a coal seam.

A. When a well does not penetrate a coal seam, it shall be plugged and filled, subject to the exceptions in subsection C of this section, as follows:

1. From the bottom of the well to a point 20 feet above the top of its lowest oil, gas or water-bearing stratum, the well shall either (i) be filled with mud, clay or other nonporous material or (ii) have a permanent bridge anchored 30 feet below its lowest oil, gas or water-bearing stratum, and therefrom be filled with mud, clay or other nonporous material;

2. Twenty feet above the top of its lowest oil, gas or water-bearing stratum, a plug of cement or other suitable material shall be placed which will completely

seal the hole;

3. Between this sealing plug and a point 20 feet above the next higher oil, gas or water-bearing stratum, if any, the hole shall be filled or bridged and filled as first provided, on top of which another plug of cement or other suitable material shall be placed as second provided;

4. If applicable due to the presence of additional oil, gas or water-bearing strata, the hole shall be filled and plugged as third provided through the uppermost plug of cement or other suitable material 20 feet above the highest such stratum;

5. Approximately 10 feet below the bottom of the largest casing left in the well, a final cement plug shall be placed; and

6. Finally, from the final cement plug to the surface, the well shall be filled with mud, clay or other nonporous material.

B. Notwithstanding the prescription in subsection A of this section, whenever two or more gas or oil strata are not widely separated and are free from water, they may be grouped and treated as a single stratum, and the filling and plugging prescribed in subsection A of this section may be performed as though the group of gas or oil strata were a single stratum.

C. If any gas or oil stratum in the well to be plugged has been shot, the well may be filled and plugged as prescribed in subsection A of this section as long as the shooting did not result in cavities which cannot readily be filled. However, if there are shot cavities in any gas or oil stratum which cannot be filled as prescribed in subsection A, then they shall be filled as prescribed in this paragraph, and the remainder of the hole shall be plugged and filled as prescribed in subsection A:

1. If the shot stratum with unfillable cavities is the lowest gas or oil stratum in the well, one of the two following plugging alternatives shall be employed in the following order of preference:

a. If reasonably possible, from a point not less than 20 feet below the stratum with unfillable cavities to a point not less than 20 feet above it, a liner shall be placed and compactly filled with cement, mud, clay or other nonporous sealing material; or

b. Alternatively if need be, at the nearest suitable point not less than 20 feet above the stratum, a plug of cement or other suitable material shall be placed which will completely seal the hole.

2. If the shot stratum with unfillable cavities is above the lowest gas or oil stratum, then one of the two following plugging alternatives shall be employed in the following order of preference:

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a. If reasonably possible, from a point not less than 20 feet below the shot stratum with unfillable cavities to a point not less than 20 feet above it, a liner shall be placed and compactly filled with cement, mud, clay or other nonporous sealing material; or

b. Alternatively if need be, a plug of cement or other suitable material shall be placed not less than 20 feet below the stratum which will completely seal the hole from the lower strata, and a second plug of cement or other suitable material shall be placed not less than 20 feet above the stratum which will completely seal the hole at that point.

§ 22. Plugging a well penetrating a coal seam without a coal protection string as provided in § 15 of this regulation.

A. When a well penetrates a coal seam and does not have a coal protection string installed in the manner required by § 15 of this regulation, it shall be plugged and filled as follows:

1. From the bottom of the well to a point not less than 40 feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 21 of this regulation;

2. At the point not less than 40 feet below the lowest coal seam, a cement plug shall be securely placed in the well;

3. From the cement plug to a point 20 feet above the lowest coal seam, the well shall be filled with cement;

4. From the point not less than 20 feet above the lowest coal seam to a point 40 feet below the next higher coal seam, if any, the well shall be filled with mud, clay or other nonporous material;

5. If applicable due to additional coal seams, the hole shall be filled and plugged as provided in the second, third, and fourth steps through the highest coal seam;

6. From a point 20 feet above the highest coal seam to a point 50 feet below the surface, filling and plugging of the well shall continue in the manner provided in § 21 of this regulation; and

7. Finally, from the point 50 feet below the surface to the surface, a plug of cement shall be installed.

§ 23. Plugging wells with coal protection strings installed as provided in § 15 of this regulation.

A. When a well penetrates a coal seam through which a coal protection string has been installed in the manner required by § 15 of this regulation, the well shall be plugged and filled as follows to facilitate the safe mining through of the well at a later date:

1. From the bottom of the well to a point approximately 100 feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 21 of this regulation, except that expanding cement shall be used instead of regular hydraulic cement;

2. At the point 100 feet below the lowest coal seam, a 100-foot plug of expanding cement shall be placed in the well so that the top of the plug is located at a point just below the coal protection string for the lowest coal seam;

3. After the plug has been securely placed in the well as second provided, the coal protection string, or innermost coal protection string if more than one coal protection string is set from that point to the surface, shall be emptied of liquid from the surface to a point 100 feet below the lowest coal seam or to the bottom of the coal protection string, whichever is closer to the surface; and

4. Finally, a vent or other device approved by the Inspector shall be installed on the top of the coal protection string, or innermost coal protection string, a distance of not less than thirty inches above ground level in the manner that will exclude liquids and solids from the well and that will permit ready access when required to the full internal diameter of the coal protection string, or innermost coal protection string, of the well.

§ 24. Special plugging at the coal owner's request.

A. When a well penetrates a coal seam and does not have a coal protection string installed in the manner required by § 15 of this regulation, in order to facilitate the safe mining through of the well at a later time, a coal owner may request that the well be plugged in the manner provided in this section rather than by the method provided in § 22 of this regulation. The request shall be submitted on a form provided by the Inspector. The request shall state the well number and the name and address of the gas or oil operator and shall certify that the coal owner has mailed a copy of the request by certified mail, return receipt requested, to the gas or oil operator. The request shall be filed with the Inspector prior to the scheduled plugging of the well unless the gas or oil operator has waived this requirement by a writing filed with the coal owner's request. In the event of such a waiver, the cost of undoing any part of the plugging work in order to comply with the coal owner's late-filed request shall be treated as a part of the cost of plugging in accordance with the request for purposes of estimating and subsequently determining the cost of plugging hereunder.

B. Actions upon receipt of a request for special plugging:

1. Upon receipt of such a request, the Inspector shall issue an order staying the plugging of the well and shall promptly determine the cost of plugging the well,

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(i) in the manner provided in this section and (ii) in the manner provided in § 22 of this regulation. In making his determination, the Inspector shall take into consideration any agreement relating to plugging between the gas or oil operator and the coal owner making the request.

2. If the Inspector determines that the cost of plugging the well in the manner provided in § 22 of this regulation exceeds the cost of plugging the well in the manner provided in this section, the Inspector shall grant the request of the coal owner and shall issue an order requiring the gas or oil operator to plug the well in the manner provided in this section.

3. If the Inspector determines that the cost of plugging the well in the manner provided in § 22 of this regulation is less than the cost of plugging the well in the manner provided in this section, the Inspector shall direct the coal owner to pay into escrow the difference between the determined costs. Upon receipt of satisfactory notice of such payment, or upon receipt of notice that the gas or oil operator has waived such payment, the Inspector shall grant the request of the coal owner and shall issue an order requiring the gas or oil operator to plug the well in the manner provided in this section. If neither a satisfactory notice nor a waiver by the gas or oil operator is received by the Inspector within 15 days after the direction for payment into escrow, the Inspector shall order the stay dissolved, and neither the requesting coal owner nor any other person shall be heard to reopen the matter.

4. Copies of all orders entered under this section shall be served on the gas or oil operator and the requesting coal owner in the manner provided by the Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia.

## C. Payment of escrow funds:

1. When the escrow agent has received certification from the Inspector of the satisfactory completion of the plugging work and the reimbursable extra cost thereof defined as the difference between the Inspector's determination of the cost of plugging in the manner provided in § 22 of this regulation and the gas or oil operator's actual cost incurred in plugging in the manner provided in subsection D of this section, he shall pay the reimbursable sum to the gas or oil operator or his nominee from the payment into escrow.

2. The amount by which the payment into escrow and interest thereon exceeds the total of the reimbursable sum and the escrow agent's fee, if any, shall be repaid to the coal owner.

3. If the amount paid to the gas or oil operator or his nominee is less than the actual reimbursable sum, the

escrow agent shall inform the coal owner, who shall pay the deficiency to the gas or oil operator or his nominee within 30 days. If the coal operator breaches this duty to pay the deficiency, the gas or oil operator shall be entitled to recover liquidated damages and his reasonable attorney's fees.

## D. Plugging:

1. Where a request of a coal owner filed pursuant to this section has been granted by the Inspector, the well shall be plugged and filled as follows:

a. First, from the bottom of the well to a point approximately 200 feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 21 of this regulation, except that expanding cement shall be used instead of regular hydraulic cement;

b. Second, at a point 200 feet below the lowest coal seam, a 100-foot plug of expanding cement shall be placed in the well so that the top of the plug is located approximately 100 feet below the lowest coal seam;

c. Third, if necessary to permit setting the casing as fourth provided below, the well shall be drilled out from the surface down to a point approximately 100 feet below the lowest coal seam;

d. Fourth, a string of casing with an outside diameter no less than 4 1/2 inches or, if more than one string is involved, with the innermost string having an outside diameter of no less than 4 1/2 inches shall then be set into the well to a point approximately 100 feet below the lowest coal seam and cemented in as provided in § 15 of this regulation;

e. Fifth, the newly installed string, or innermost string, shall be emptied of liquid from the surface to the bottom of the string; and

f. Finally, a vent or other device approved by the Inspector shall be installed on the top of the newly installed string or strings a distance of not less than 30 inches above ground level in such a manner that will exclude liquids and solids from the well and that will permit ready access when required to the full internal diameter of the newly installed string of casing or, if more than one new string is in place from that point to the surface, the full internal diameter of the innermost new string.

E. Notwithstanding the foregoing provisions of subsection D of this section, if under particular circumstances a different method of plugging is required to obtain the approval of another governmental agency for the safe mining through of a well, the Inspector may approve the different method of plugging if he finds the same to be as

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safe for mining through and otherwise adequate to prevent gas or other fluid migration from the gas or oil reservoirs as the method above specified.

## § 25. Replugging a well previously plugged.

Any person may file an application with the Inspector to replug a previously plugged well in any manner permissible under the provisions of subsection D of § 24 of this regulation, to facilitate the safe mining through of the well at a later date. The application shall be treated in all respects like any other application for a permit under § 45.1-361.29 of the Code of Virginia, except that the gas or oil operator who originally plugged the well shall be entitled to notice of the application and shall have standing to file objections and invoke procedures available to royalty owners who file objections to well work.

## § 26. Plugging a corehole.

A. In accordance with § 3.C.9 of this regulation, a plugging plan shall be submitted or the verbal permission of the Inspector or his designated representative shall be given prior to the plugging of a corehole. A corehole shall be plugged and filled as follows:

1. From the bottom of the corehole to a point not less than 40 feet below the lowest coal, oil, gas, or water-bearing stratum, the hole shall be filled with mud, clay, or other nonporous material.
2. From this point to a point 20 feet above the lowest coal, oil, gas, or water-bearing stratum, the hole shall be filled with cement.
3. From the point not less than 20 feet above the lowest coal, oil, gas, or water-bearing stratum to a point 40 feet below the next higher coal, oil, gas, or water-bearing stratum, the hole shall be filled with mud, clay, or other nonporous material.
4. If applicable due to additional coal, oil, gas, or water-bearing stratum, the hole shall be filled and plugged as provided in the first, second, and third steps through the highest coal, oil, gas, or water-bearing stratum.
5. From a point 20 feet above the highest coal, oil, gas, or water-bearing stratum to a point 50 feet below the surface, the hole shall be filled with mud, clay, or other nonporous material.
6. Finally, from the point 50 feet below the surface to the surface, a plug of cement shall be set.

B. Whenever two or more coal, oil, or gas stratum are not widely separated and are free from water, they may be grouped and treated as a single stratum, and the filling and plugging prescribed in subsection A of this section may be performed as though the group were a single stratum.

C. For a good cause shown, the Inspector may approve alternate procedures provided that the Inspector is satisfied the alternative plans are operationally equivalent to the requirements of subsections A and B of this section.

## § 27. Marker over location of abandoned well or corehole.

A. Upon the completion of the plugging or replugging of an abandoned well or corehole:

1. A permanent marker of concrete or iron and concrete shall be erected over the location. The marker shall extend not less than 30 inches above the surface and enough below the surface to make the marker permanent. The marker shall be cast or stamped indicating the gas, oil or geophysical operator's name, well number and, as a reference point, the permit number and date of plugging. In the case of iron or other acceptable metal, the required data may be bead weld on the plate.

2. The operator shall submit, to the Inspector, a duplicate of their sign or a format which they plan to use.

B. The marker will be accepted by the Inspector as a permanent landmark required to be shown on any plat or map filed under Chapter 22.1 of Title 45.1 of the Code of Virginia and should be used as such in the location of adjacent wells or coreholes.

## § 28. Plugging affidavit.

A. When any well or corehole has been plugged or replugged under the provisions of this regulation, an affidavit in triplicate shall be made, on a form to be furnished by the Inspector, by two experienced persons who participated in the work, setting forth the time and manner in which the well or corehole was plugged and filled and the permanent marker placed as required in § 27 of this regulation. The affidavit shall state with particularity every aspect in which the plugging or replugging work varied from the work order required to be specified in the application under § 45.1-361.29 of the Code of Virginia.

B. If the plugging was done following verbal permission of the Inspector or his designated representative under § 3.C.9 of this regulation, the plugging affidavit shall contain the same description of plugging work done as would be required for a permit to plug a well thereunder.

C. One copy of the plugging affidavit shall be retained by the gas, oil or geophysical operator; one shall be mailed to the coal owner or operator; and one shall be filed with the Inspector.

## § 29. Introducing liquid pressure into oil producing stratum.

A. The introduction of fluid pressure into and upon an



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oil producing stratum for the purpose of recovering the oil contained therein shall be so controlled as to volume and pressure, and shall be through casing or tubing which shall be so set, that no coal seam, water-bearing stratum, or other gas or oil stratum shall be affected, either above or below the producing stratum into and upon which such pressure is introduced.

B. The operator shall be allowed a reasonable period of time prior to the commencement of a pressure injection program, during which time the well operator may allow the well to remain unplugged and not abandoned. A permit authorizing the conversion of an oil well or combination well to a pressure injection well shall be obtained prior to the commencement of a pressure injection program.

## § 30. Storing oil or allowing it to accumulate.

No person shall store oil or allow the same to accumulate in any pit, pocket, hole, or other natural or artificial depression on the surface of the earth from which the oil may seep or migrate into fractures or other openings in the underlying bedrock or into springs or water wells, or into any waters of the Commonwealth or any waters used as a source of public water supply.

## § 31. Escape of crude oil or natural gas prohibited.

It shall be unlawful for any person to permit crude oil or natural gas to escape from any well, pipeline or storage tank when it is reasonably possible to prevent the escape and after the owner or operator of the gas or oil well, pipeline or storage tank has had a reasonable period of time to shut in the gas or oil in the well, or make the necessary repairs, to the well, pipeline or storage tank to prevent the escape.

## § 32. Diligence required when escape necessary.

A. If, in the process of drilling a well for gas or oil, or both, gas is found in the well, and the owner or gas or oil operator thereof desires to continue to search for gas, oil, or both, by drilling deeper in search of lower gas or oil-bearing strata, or if it becomes necessary to make repairs to any well producing gas or oil, commonly known as cleaning out, and if in either event it is necessary for the gas or oil in the well to escape therefrom during the process of drilling or making repairs, as the case may be, then the well operator shall prosecute the drilling or repairs with reasonable diligence, so that the waste of gas or oil from the well shall not continue longer than reasonably necessary. If during the progress of such deeper drilling or repairs any temporary suspension thereof becomes necessary, the operator shall use all reasonable means to shut in the gas or oil and prevent its escape during the temporary suspension.

B. In all cases where both gas and oil are found and produced from the same stratum, the operator shall use all reasonable diligence to conserve and save so much of

the gas as is reasonably possible.

## § 33. Pumping or flowing required.

Unless written permission is granted by the Inspector, no operator of any oil well shall permit the well to stand without diligently pumping or flowing it for a period of more than ninety days.

## § 34. Leaking casing or tubing.

Upon notice of the Inspector to any operator that the casing or tubing in the well is leaking fresh or salt water into the gas or oil-bearing sand or stratum, the gas or oil operator shall immediately repair the casing or tubing or abandon and plug the well according to the provisions of Chapter 22.1 of Title 45.1 of the Code of Virginia.

## § 35. Testing of flow potential: Multiple completions in coalbed methane gas wells.

Testing of flow potential, in the case of multiple zone completions in coalbed methane gas wells where there are differing owners of the coalbed methane gas in the zones, shall be by each zone completed by the operator. In cases where there is one owner or group of owners of all zones to be completed, zones may be combined for the purpose of testing flow potential. The test results shall be promptly submitted to the Inspector and become part of the permanent record of the well.

## § 36. Permit application requirements for coalbed methane gas wells.

A. A permit shall be required to drill any coalbed methane gas well, convert a vertical ventilation hole to a coalbed methane gas well, or convert a conventional well to or from a coalbed methane gas well.

1. Any operator who intends to (i) convert an existing vertical ventilation hole permitted by the Department of Mines, Minerals and Energy, Division of Mines to a coalbed methane gas well, or (ii) convert a permitted conventional gas or oil well to a coalbed methane gas well or coalbed methane gas well to a conventional gas or oil well, shall first obtain a permit from the Division of Gas and Oil. The operator shall be required to submit a new permit application which shall identify how the operator proposes to convert the vertical ventilation hole or well.

2. To convert a permitted coalbed methane gas well to a vertical ventilation hole, the applicant must secure a permit for a vertical ventilation hole from the Department of Mines, Minerals and Energy, Division of Mines and a coal surface mining and reclamation permit from the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation. Obtaining these permits is required prior to cancellation of the coalbed methane gas well operator's permit by the Division of Gas and Oil.

# Emergency Regulations

B. In addition to the requirements of § 3 of this regulation, the applicant for a coalbed methane gas well permit shall submit the following:

1. An explanation of the basis for notification of the entities within the application.
2. A signed consent as required in § 45.1-361.29 of the Code of Virginia.
3. Proof of conformance with any mine development plan within the vicinity of the proposed coalbed methane gas well, when the Virginia Gas and Oil Board has ordered such conformance.
4. Proof of Department of Mines, Minerals and Energy, Division of Mined Land Reclamation's approval as a post mining land use if the proposed wells, pipelines, or associated facilities are located on areas included in a Division of Mined Land Reclamation permit.

C. In addition to the requirements of § 4 of this regulation, the applicant for a coalbed methane gas well permit shall submit the following information with the operations plan:

1. A description of the drilling media to be used and the chemical analysis of the media to be used.
2. A description of the method of handling and disposing of waste, pit or produced fluids. Should the applicant hold a VPDES from the State Water Control Board, or a UIC permit from the U.S. Environmental Protection Agency and a waste disposal well permit from the Division of Gas and Oil, he shall file a copy of the permit or permits with the application.
3. A description of the method and procedure for the handling and removal of solid waste during all phases of the operations.
4. A request for variance from § 6.6 of the "Rules and Regulations for Conservation of Oil and Gas Resources and Well Spacing," VR 480-05-22, if the applicant intends to test the coalbed methane gas well beyond the open flow potential test. If a variance has been requested, a plan of testing must be submitted with the operations plan.
5. An explanation of all safety and environmental procedures for all surface equipment, including tank batteries, to be utilized on site during and after completion of the well. A schematic shall illustrate the proposed equipment and facilities. For the purposes of wellhead installation on any gob well or any coalbed methane gas well subject to the requirements of § 45.1-92.1 of the Code of Virginia addressing mining near or through a well, the well head assembly shall include proper installation of safety equipment, including, but not limited to:

- a. Placement of the flame arrestors;
- b. Placement of the back pressure system;
- c. Placement of the pressure relief system; and
- d. Placement of the vent system a minimum of 20 feet above ground level.

The Inspector may require additional safety equipment to be installed on a case by case basis.

6. An explanation of procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled into active or inactive areas of the mine.

## § 37. Casing requirements for coalbed methane gas wells.

A. The following minimum casing requirements shall be met for casing coalbed methane gas wells.

1. **Surface Casing:** Unless otherwise granted in a variance from the Inspector, all wells drilled in search of coalbed methane gas shall have surface casing set at least 300 feet below the surface or 50 feet below the lowest groundwater supply source, whichever is deeper. The surface casing and cement shall be designed to withstand 300 psig surface pressure and allowed to stand for 12 hours before drilling out from under the casing.
2. **Coal Protection:** Any coal seam not to be produced from shall be cased and cemented pursuant to § 15 of this regulation. When a well is drilled through a mined-out coal seam, a liner shall be installed pursuant to § 17 of this regulation.
3. **Production Casing:** Unless otherwise granted in a variance from the Inspector the following casing and cementing procedures shall be required:
  - a. For cased completions and cased/open hole completions, casing shall be set and cemented in place with a calculated cement volume to fill the annular space to a point not less than 100 feet above the top of the uppermost coalbed which is to be completed.
  - b. For open hole completions, casing shall be set not more than 100 feet above the uppermost coalbed which is to be completed open hole. The casing shall be cemented to fill the calculated annular volume to a point not less than 100 feet above the bottom of the casing.
4. Before drilling out the production casing, the casing shall be tested to 600 psig surface pressure. If after 30 minutes, the pressure has dropped by 10% or more of the test pressure, corrective action is to be taken to

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ensure that the casing is so set and cemented that it will hold 90% of the the test pressure for 30 minutes or more. All test results shall be posted at the well site and shall be reported in the Completion Report pursuant to § 4.06 of the "Rules and Regulations for Conservation of Oil and Gas Resources and Well Spacing," VR 480-05-22.

## § 38. Request for a variance for casing coalbed methane gas wells.

A. Each application for a coalbed methane gas well may contain a request for variance from the casing requirements of §§ 15, 16 and 17 of this regulation. The request shall address the following subjects:

1. The method of wellbore completion, whether cased, open or cased/open hole;
2. Coal seams to be left uncased;
3. Mining activity currently being conducted within 750 feet of the proposed location;
4. Proposed setting depth of the water protection string; and
5. In the case of a coalbed methane gas well drilled through a coal seam from which the coal has been removed, the protection that will be provided to prevent the escape of any gases into the mined out coal seam.

## § 39. Completion report for coalbed methane gas wells.

A. In addition to the requirements set by the "Rules and Regulations for Conservation of Oil and Gas and Well Spacing," VR 480-05-22, for the filing of completion reports on a well, the following information is required to be submitted for a coalbed methane gas well:

1. The total amount of water used in the drilling and completion operations of the coalbed methane gas well; and,
2. Copies of all electric logs run on the well.

## § 40. Monthly reporting requirements for coalbed methane gas wells.

All coalbed methane gas well operators are required to submit monthly reports of total produced waters withdrawn from coalbed methane gas wells on a well by well basis. The report shall be submitted with the monthly production report submitted under § 6.5 of the "Rules and Regulations for Conservation of Oil and Gas Resources and Well Spacing," VR 480-05-22. The report shall contain data showing monthly produced waters withdrawals and cumulative produced waters withdrawals.

## § 41. Testing of coalbed methane gas wells.

For the purposes of testing the potential flow rate of a coalbed methane gas well, if the operator cannot determine the capability of production from the well within 30 days after the completion of the well, the operator may request approval from the Inspector to run a Coalbed Methane Gas Production Test. Such test shall be performed only when the water production and the gas flow rate is stabilized for a period of not less than 10 days prior to the test. The test shall be run for a minimum of 24 hours in a manner approved by the Inspector. Results of the test shall be submitted to the Inspector with the completion report.

## § 42. Venting or flaring coalbed methane gas wells.

A. Venting or flaring of coalbed methane gas wells is prohibited, except under the following conditions:

1. For the safety of mining operations or for the safe and efficient testing or operation of coalbed methane gas wells; or
2. For the purposes of conducting a Coalbed Methane Gas Production Test approved by the Inspector.

## § 43. Metering coalbed methane gas production.

Production from coalbed methane gas wells, gob wells, or horizontal ventilation holes shall be metered separately prior to introduction into the gathering pipeline system or transfer at a point of sale.

## § 44. Plugging coalbed methane gas wells.

A. In addition to the provisions of §§ 21, 22, and 23 of this regulation, coalbed methane gas wells may be plugged as follows:

1. For open hole, cased hole, or cased/open hole completions, plugging shall be:
  - a. First, from the bottom of the well to a point not less than 40 feet below the lowest coal seam, or from the obtainable bottom, whichever is shallower, the well shall either (i) be filled with mud, clay, or other nonporous material or (ii) have a permanent bridge anchored 40 feet below its lowest coal seam;
  - b. Second, from this point to a point 20 feet above the lowest coal seam, the well shall be filled with cement;
  - c. Third, from the point not less than 20 feet above the lowest coal seam to a point 40 feet below the next higher coal seam, if any, the well shall be filled with mud, clay, or other nonporous material;
  - d. Fourth, if applicable due to additional completed zones or mineable coal seams, the hole shall be filled and plugged as provided in subsections A.1.b and A.2.c of this section through the shallowest coal

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seam;

e. Fifth, from a point 20 feet above the shallowest coal seam to a point 50 feet below the surface, the well shall be filled with mud, clay or other nonporous material; and,

f. Finally, from a point 50 feet below the surface to the surface, a plug of cement shall be installed.

2. For completions in the gob, plugging shall be:

a. First, a permanent bridge plug shall be set at the base of the deepest casing string left in the well;

b. Second, a 100 foot cement plug shall be set on top of the permanent bridge;

c. Third, if applicable due to additional completed zones or mineable coal seams, the hole shall be filled and plugged as provided in subsections A.1.b and A.1.c of this section through the shallowest coal seam;

d. Fourth, from the point 20 feet above the shallowest coal seam to the point 50 feet below the surface, the well shall be filled with mud, clay or other nonporous material; and,

e. Finally, from the point 50 feet below the surface to the surface, a plug of cement shall be installed.

B. These provisions shall not be construed to impair or abridge the requirements of the Federal Mine Safety and Health Administration or the Department of Mines, Minerals and Energy, Division of Mines on coal operators for mining near or through a coalbed methane gas well.

**NOTICE:** The forms used in administering the Department of Mines, Minerals and Energy regulation are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Mines, Minerals and Energy, 2201 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Registration Form - Form DGO-GO-1 (Rev. 7/1/90)

Notice and Application for a Permit - Form DGO-GO-2 (Rev. 7/1/90)

Appendix to Notice and Application for a New Well Permit Under 45.1-361.29B - Form DGO-GO-2, Appendix A (Rev. 7/1/90)

Appendix to Notice and Application if the Well is for Enhanced Oil Recovery or for a Disposal Well - Form DGO-GO-2, Appendix B (Rev. 7/1/90)

Appendix to Plug or Replug - Form DGO-GO-2, Appendix C (Rev. 7/1/90)

Appendix to Notice and Application for a Permit Modification under 45.1-361.29.C - Form DGO-GO-2, Appendix D (Rev. 7/1/90)

Operator's Surety Bond - Form DGO-GO-3 (Rev. 7/1/90)

Operator's Cash Bond - Form DGO-GO-4 (Rev. 7/1/90)

Well Location Map - Form DGO-GO-5

Notice by Publication of an Application for a Permit - Form DGO-GO-6 (Rev. 7/1/90)

Statement of No Objection to a Permit - Form DGO-GO-7 (Rev. 7/1/90)

Proof of Notice of Application - Form DGO-GO-8 (Rev. 7/1/90)

Pipeline Construction Application - Form DGO-GO-8A (Rev. 7/1/90)

Existing Pipeline Application - Form DGO-GO-8B (Rev. 7/1/90)

Certification of Location of a New Well - Form DGO-GO-9 (Rev. 7/1/90)

Notice of Mining Within 500 Feet of a Well - Form DGO-GO-10 (Rev. 7/1/90)

Petition to Mine Within 200 Feet of or Through a Well - Form DGO-GO-11 (Rev. 7/1/90)

Application to Complete Abandoned Gas or Oil Well as a Water Well - Form DGO-GO-12 (Rev. 7/1/90)

Permit to Mine Near or Through a Well - Form DGO-GO-13 (Rev. 7/1/90)

Notice of Completion of a Well Under Article 2 - Form DGO-GO-14 (Rev. 7/1/90)

Initial Test of a Well Under Article 2 - Form DGO-GO-15 (Rev. 7/1/90)

Report of Completion of Work - Form DGO-GO-16 (Rev. 7/1/90)

Completion Report - Form DGO-GO-16, Appendix A (Rev. 7/1/90)

Plugging Affidavit - Form DGO-GO-16, Appendix C (Rev. 7/1/90)

Monthly Oil Production Report - Form DGO-GO-17 (Oil) (Rev. 7/1/90)

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Monthly Gas Production Report - Form DGO-GO-17 (Gas)  
(Rev. 7/1/90)

/s/ Milton K. Brown, Jr., Director  
Department of Commerce  
Date: May 13, 1991

## REAL ESTATE APPRAISER BOARD

**EDITOR'S NOTE:** The Real Estate Appraiser Board Emergency Regulations were published in V.A.R. 7:14, April 8, 1991. The effective date of this regulation is being extended through March 13, 1992.

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: May 17, 1991

/s/ L. Douglas Wilder  
Governor of Virginia  
Date: May 29, 1991

**Title of Regulation:** VR 583-01-03. Real Estate Appraiser Board Emergency Regulations.

/s/ Joan W. Smith  
Registrar of Virginia  
Date: June 4, 1991

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

**Effective Dates:** March 14, 1991, through March 13, 1992.

### REQUEST FOR AN EXTENSION OF THE EXPIRATION DATE OF REAL ESTATE APPRAISER BOARD EMERGENCY REGULATIONS

Pursuant to § 54.1-2013 of the Code of Virginia, the Director of the Department of Commerce promulgated emergency regulations governing the real estate profession in Virginia on October 31, 1990. These regulations were to remain effective through October 31, 1991.

Following receipt of information from the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council, the entity authorized by Congress to monitor each state's appraiser regulatory program, the Real Estate Appraiser Board voted to repeal the October 31, 1991 regulations. On January 9, 1991 the Real Estate Appraiser Board adopted a new set of regulations to assure compliance with the federal law requiring the licensure of real estate appraisers by July 1, 1991.

Governor Wilder approved the new Real Estate Appraiser Board Emergency Regulations on March 8, 1991. Upon submission of the regulations to the Registrar, the Board specified that the emergency regulations should remain effective from March 14, 1991 through October 31, 1991, five months less than the time allowed under the Administrative Process Act.

In light of the Appraisal Subcommittee's April 29, 1991 announcement of an extension of the nationwide effective date for the licensure of appraisers until December 31, 1991 and the need to provide sufficient public participation in the formulation of final Appraiser Board regulations, the Real Estate Appraiser Board respectfully requests that the expiration date of the current Real Estate Appraiser Board Regulations be extended to March 14, 1992.

Approval:

/s/ Robert E. Barton, Chairman  
by DYK  
Real Estate Appraiser Board  
Date: May 13, 1991

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# STATE CORPORATION COMMISSION

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## BUREAU OF INSURANCE

June 10, 1991

Administrative Letter 1991-8

TO: All Health Services Plans and Insurers Licensed to Write Accident and Sickness Insurance in Virginia

RE: "Rules Governing Minimum Standards for Medicare Supplement Policies" Insurance Regulation No. 35, Effective December 1, 1990

Section 3.C. of the Virginia State Corporation Commission's Insurance Regulation No. 35 states: "No [medicare supplement] policy form shall be delivered or issued for delivery in this Commonwealth on or after December 1, 1990, unless it complies with this Regulation."

Section 13 of the regulation applies to compensation paid by insurers or other entities to agents selling medicare supplement insurance. Essentially, this section allows that the first year commission or other compensation (pecuniary or non-pecuniary remuneration including, but not limited to, bonuses, gifts, prizes, awards, and finder's fees) can be no more than 200% of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

It also requires that the commission or other compensation provided in subsequent (renewal) years be the same as is provided for in the second year or period and must be provided for a reasonable number of renewal years.

In order to determine and assure compliance with Section 13 of the Regulation, the Bureau of Insurance will require, effective immediately, that the actuarial justification of rates, in addition to providing the information required by Section 7 and/or Section 8 of "Rules Governing the Rates for Individual and Certain Group Accident and Sickness Insurance Policy Forms" (Insurance Regulation No. 22) now contain the following information for medicare supplement rate filings:

1. The percent of agents' compensation - first year.
2. The percent of agents' compensation - second and subsequent years.

Failure to provide the information as part of the actuarial justification will, commencing immediately, result in disapproval of the rate filing pending receipt of the requested information.

Questions regarding the contents of this letter should be directed to:

Robert R. Knapp  
Insurance Market Examiner  
Life and Health Division

Bureau of Insurance  
P. O. Box 1157  
Richmond, VA 23209

/s/ Steven T. Foster  
Commissioner of Insurance

## BUREAU OF INSURANCE

June 3, 1991

ADMINISTRATIVE LETTER 1991-10

TO: ALL INSURERS LICENSED TO WRITE WORKERS COMPENSATION INSURANCE

RE: VIRGINIA WORKERS COMPENSATION PROFITABILITY

In April, 1991, William Hager, President of the National Council on Compensation Insurance (NCCI), issued a State of the Line Report detailing NCCI's view of the financial condition of workers compensation insurance on a countrywide basis. It is NCCI's opinion that the workers compensation line of business must be viewed as financially unsound and that this line will be in a negative surplus condition by 1992.

According to NCCI, the 1990 combined ratio is 118.2% on a countrywide basis. NCCI also advised that investment income on premiums and surplus has not been sufficient to offset underwriting losses and that surplus erosion is real. NCCI asserts that this situation has been created because the premium increases filed by NCCI have been granted at about 50% of the requested amount on a countrywide basis.

The purpose of this letter is to advise you that the Bureau of Insurance has further examined the premium level in Virginia using the NCCI methodologies and assumptions inherent in the countrywide analysis offered by NCCI's Mr. Hager. As further explained below, our analysis shows that rates in Virginia will not force insurance companies into negative surplus situations by 1992, even with insurers continuing to give away profits in the form of dividends and deviations. In fact, without dividends and deviations, insurer surplus has increased at an average annual rate of 22% for the years 1984-1990.

The Virginia operating results (including consideration of investment income on loss reserves and surplus) shown below compare profitability based on direct net earned premium with and without the inclusion of dividends and deviations.

Column 1	Column 2
Virginia Only Operating Ratio as % of Premium including dividend	Virginia Only Operating Ratio as % of Premium excluding dividends

# State Corporation Commission

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	and deviations actually granted to policyholders	and deviations
1984	105.8	87.6
1985	98.0	82.4
1986	98.9	86.1
1987	97.0	85.5
1988	97.9	85.8
1989	101.7	90.1
1990	103.4	91.7

As you can see, the figures in Column 1 are the direct result of insurers' insistence upon paying dividends and granting downward deviations, and not the result of inadequate rates.

Any deterioration of surplus attributable to Virginia is the direct result of dividend and deviation allowances. In fact, by excluding dividends and deviations, hindsight indicates that the rate of return on surplus for the period 1984-1990 has been more than adequate. There is a provision for a 14.5% rate of return underlying the current rate level.

The answer to NCCI's repetitive complaints that the State Corporation Commission does not include dividends and deviations in the premium level is for NCCI, if it so chooses, to approach the Virginia General Assembly and convince that body that dividends and deviations shall be included in the rate-making process and, therefore, that the law should be changed to accommodate that end. Without such a change, the Commission must continue as it has done and disallow dividends and deviations as a consideration in the rate-making process.

It is unassailable that overall the rates granted by the Commission during the period 1984-1990 have been more than adequate for insurers to pay claims, cover expenses and earn at least a reasonable rate of return, provided that insurers do not elect voluntarily, and recklessly in many instances, in the name of competition, real or perceived, to give away their profits in dividends and deviations.

We cannot address rate adequacy issues in other states, but we strongly object and disagree with the NCCI's insistence that there has been long-term rate inadequacy in Virginia. We are willing to discuss any legitimate concerns of NCCI, its member companies and their agents; however, scare tactics and misinformation have no place in this process.

For further information, copies of a paper outlining and discussing the various components underlying the current rate level are available from the Property and Casualty Consumer Services Section of the Bureau by calling 804-786-5185 or toll free in Virginia 1-800-552-7945.

/s/ Steven T. Foster  
Commissioner of Insurance

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER THIRTY-FIVE (91)

### AUTHORITY AND RESPONSIBILITY OF THE GOVERNOR'S SECRETARIES

By virtue of the authority vested in me by Sections 2.1-39.1, 2.1-51.8:1, 2.1-51.9, 2.1-51.14, 2.1-51.15, 2.1-51.17, 2.1-51.18, 2.1-51.20, 2.1-51.21, 2.1-51.26, 2.1-51.27, 2.1-51.33, 2.1-51.34, 2.1-51.39, 2.1-51.40, 2.1-51.41, 2.1-51.42, and 2.1-51.43 of the Code of Virginia, and subject always to my continuing, ultimate authority and responsibility to act in such matters and to reserve powers, I hereby affirm and delegate to the Governor's Secretaries the powers and duties set out below.

#### A. Agencies are assigned to the Secretaries as follows:

##### 1. To the Secretary of Administration:

- a. Commission on Local Government
- b. Compensation Board
- c. Council on Human Rights
- d. Council on Information Management
- e. Department of Employee Relations Counselors
- f. Department of General Services
- g. Department of Information Technology
- h. Department of Personnel and Training
- i. Department of Veterans' Affairs
- j. State Board of Elections
- k. Virginia Retirement System

l. The following agencies shall report to the Secretary of Administration on administrative matters, but shall report directly to the Governor on executive policy matters:

- 1) Secretary of the Commonwealth
- 2) Virginia Liaison Office

##### 2. To the Secretary of Economic Development:

- a. Commission for the Arts (until 7/1/91)
- b. Department of Agriculture and Consumer Services
- c. Department of Commerce
- d. Department of Economic Development
- e. Department of Forestry

f. Department of Housing and Community Development

g. Department of Labor and Industry

h. Department of Mines, Minerals and Energy

i. Department of Minority Business Enterprise

j. Milk Commission

k. Virginia Agricultural Council

l. Virginia Employment Commission

m. Virginia Marine Products Board

n. Virginia Port Authority

o. Virginia Racing Commission

p. Virginia Department of World Trade (until 7/1/91)

q. Virginia World Trade Council (until 7/1/91)

##### 3. To the Secretary of Education:

- a. Board of Regents of Gunston Hall
- b. Christopher Newport College
- c. The College of William and Mary in Virginia
- d. Commission for the Arts (after 7/1/91)
- e. Department of Education
- f. Frontier Culture Museum of Virginia
- g. George Mason University
- h. James Madison University
- i. Jamestown-Yorktown Foundation
- j. Longwood College
- k. Mary Washington College
- l. Norfolk State University
- m. Old Dominion University
- n. Radford University
- o. State Council of Higher Education for Virginia.
- p. State Education Assistance Authority
- q. The Science Museum of Virginia



# Governor

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- r. University of Virginia
  - s. Virginia Commonwealth University
  - t. Virginia Community College System
  - u. Virginia Education Loan Authority
  - v. Virginia Military Institute
  - w. Virginia Museum of Fine Arts
  - x. Virginia Polytechnic Institute and State University
  - y. Virginia State Library and Archives
  - z. Virginia State University
4. To the Secretary of Finance:
- a. Department of Accounts
  - b. Department of Planning and Budget
  - c. Department of the State Internal Auditor
  - d. Department of Taxation
  - e. Department of the Treasury
  - f. Treasury Board
5. To the Secretary of Health and Human Resources:
- a. Child Day-Care Council
  - b. Council on Child Day Care and Early Childhood Programs
  - c. Council on Coordinating Prevention
  - d. Council on Indians (until 7/1/91)
  - e. Council on the Status of Women (until 7/1/91)
  - f. Department for the Aging
  - g. Department for Children (until 7/1/91)
  - h. Department for the Deaf and Hard-of-Hearing
  - i. Department of Health
  - j. Department of Health Professions
  - k. Department of Medical Assistance Services
  - l. Department of Mental Health, Mental Retardation and Substance Abuse Services
  - m. Department of Rehabilitative Services
- n. Department for Rights of Virginians with Disabilities
  - o. Department of Social Services
  - p. Department for the Visually Handicapped
  - q. Department of Volunteerism (until 7/1/91)
  - r. Governor's Employment and Training Department
  - s. Health Services Cost Review Council
6. To the Secretary of Natural Resources:
- a. Chesapeake Bay Local Assistance Department
  - b. Chippokes Plantation Farm Foundation
  - c. Council on the Environment
  - d. Department of Air Pollution Control
  - e. Department of Conservation and Recreation
  - f. Department of Game and Inland Fisheries
  - g. Department of Historic Resources
  - h. Department of Waste Management
  - i. Marine Resources Commission
  - j. State Water Control Board
  - k. Virginia Museum of Natural History
7. To the Secretary of Public Safety:
- a. Commonwealth's Attorneys' Services and Training Council
  - b. Department of Alcoholic Beverage Control
  - c. Department of Correctional Education
  - d. Department of Corrections
  - e. Department of Criminal Justice Services
  - f. Department of Emergency Services
  - g. Department of Fire Programs
  - h. Department of Military Affairs
  - i. Department of State Police
  - j. Department of Youth and Family Services
  - k. Virginia Parole Board

8. To the Secretary of Transportation:

- a. Commission on the Virginia Alcohol Safety Action Program
- b. Department of Aviation
- c. Department of Transportation
- d. Department of Motor Vehicles

B. With respect to the appropriate aforementioned agencies, each Secretary is empowered to:

1. Direct the development of goals, objectives, policies, and plans that are necessary to the effective and efficient operation of government and make recommendations to the Governor as to their implementation;
2. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;
3. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials;
4. Coordinate communications with the federal government and the governments of the other states, subject to guidelines established under my direction, in matters related to agency programs and activities.
5. Receive first all reports that by law are required from any assigned agency to be presented to the Governor. Except as specifically delegated, however, the Governor retains the responsibility for the submission of reports to the General Assembly.
6. Receive all recommendations required of assigned agencies by statute to be made to the Governor and to convey them to the Governor.

C. Responsibility for directing the formulation of a comprehensive program budget, as identified in § 2.1-398 of the Code of Virginia, is delegated in the following manner:

1. The Secretary of Administration is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of General Government encompassing agencies assigned to the Secretary in Part A of this Executive Order.
2. The Secretary of Economic Development is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for

that portion of the area of Resources and Economic Development encompassing agencies assigned to the Secretary in Part A of this Executive Order.

3. The Secretary of Education is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of cultural affairs encompassing agencies assigned to the Secretary in Part A of this Executive Order. The Secretary of Education is authorized to direct the preparation of alternative policies, plans, and budgets for the area of elementary, secondary, and postsecondary education activities encompassing agencies assigned to the Secretary in Part A of this Executive Order.

4. The Secretary of Finance is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of General Government encompassing agencies assigned to the Secretary in Part A of this Executive Order.

5. The Secretary of Health and Human Resources is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of Individual and Family Services encompassing agencies assigned to the Secretary in Part A of this Executive Order.

6. The Secretary of Natural Resources is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of Resources and Economic Development encompassing agencies assigned to the Secretary in Part A of this Executive Order.

7. The Secretary of Public Safety is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the areas of Administration of Justice encompassing agencies assigned to the Secretary in Part A of this Executive Order.

8. The Secretary of Transportation is empowered to direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of Transportation encompassing agencies assigned to the Secretary in Part A of this Executive Order.

D. Each Secretary shall serve as the liaison with those nonstate agencies, interstate compacts, and other nonstate organizations that receive appropriations or support directly or through those state agencies that report to that Secretary.

# Governor

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E. Each Secretary is empowered to employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order subject to the funds available for the operation of the office and to state law and regulation.

F. Each Secretary is empowered, respectively, to take those actions or to sign, in my stead, those documents referenced below by subject matter in the Code of Virginia section cited.

## 1. Secretary of Administration:

Authorizing Section	Subject Matter of Authority Delegated
2.1-20.1	Establish and approve health insurance plan for state employees and retired state employees to be administered by Department of Personnel and Training.
2.1-20.1:02	Establish and approve health insurance plan for employees of local governments, local officers, teachers and retirees, and their dependents to be administered by Department of Personnel and Training.
2.1-114.2 A and B	Oversee and monitor establishment and maintenance of classification plan and administration of compensation plan.
2.1-234.13	Approve leases proposed by Virginia Public Building Authority, as lessee or lessor, and sale, transfer and conveyance of property acquired or constructed by the Virginia Public Building Authority.
2.1-488.4 B.	Approve, with advice and counsel of the Art and Architectural Review Board, the plans to remove certain existing structures.
2.1-489	Approve preparation and amendment of long-range site plan for location of state buildings in the Richmond area, acquisition of land to effect plan, and execution of projects.
2.1-490	Exempt certain projects from provisions of § 2.1-489.
2.1-504.2	Approve acquisition of real property by state agencies.
2.1-504.3	Approve conveyance and transfer of real property

by state agencies.

2.1-504.4	Approve conveyance of easements and appurtenances thereto to utility companies, public service companies, cable television companies and political subdivisions by state agencies. Approve leases to a credit union for space in a state-owned office building after written approval by the Attorney General as to the form of the written lease agreements.
2.1-504.5	Approve conveyance of land to Department of Transportation by state agencies.
2.1-505	Authorize transfer of surplus state-owned property to Department of General Services.
2.1-511 A	Approve temporary transfer of real property between state agencies or temporary leases to private entities under stated conditions.
2.1-512	Approve sale or lease of surplus property.
2.1-512.1	Determine if mineral exploration, leasing or extraction is in public interest. Approve execution of leases or contracts.
2.1-526.3 A	Exempt any agency, institution of higher education or part thereof from any part of risk management and insurance program.
2.1-526.6	Approve insurance plan for state-use motor vehicles.
2.1-526.7	Approve insurance plan for state-owned or state-occupied buildings and state-owned contents.
2.1-526.8	Approve public liability insurance plan.
2.1-526.8:1	Approve insurance plans administered for political subdivisions, constitutional officers and other specified entities.
2.1-526.9	Approve blanket surety bonding plan for state employees.
2.1-526.10	Approve Workers' Compensation Insurance program for state employees.

- 4-7 (f) Approve purchase or acquisition of title to land or buildings required for alcoholic beverage control purposes. Approve sale or conveyance of same.
- 7.1-20 Approve deeds conveying certain waste and unappropriated lands, plus certain marshlands in Accomack and Northampton counties.
- 7.1-25.1 Accept lands in Virginia relinquished by the United States.
- 9-6.18 Approve withholding of compensation of agency officers or employees until they comply with Virginia Register Act.
- 9-81 Approve sale, granting or conveyance of real property by Virginia Museum of Fine Arts Board of Trustees.
- 9-84.1 Accept property known as The White House of the Confederacy, any buildings of the Confederate Memorial Literary Society, and the Lee House.
- 9-97 (5) and (6) Approve requests from Jamestown-Yorktown Foundation to acquire lands, property and structures necessary to its purposes, or to lease land owned by the Foundation.
- 9-99.4 (7) and (8) Approve acquisitions of real property by Virginia Frontier Culture Museum Board of Trustees. Approve leases of land by the Trustees.
- 9-254 (15) Authorize percentage of net royalties to be shared with developers of patented, copyrighted, patentable, or copyrightable property.
- 10.1-109 Approve conveyance, leasing, renewal of leases or transfer of property of the Department of Conservation and Recreation.
- 10.1-110 Approve granting of easements over properties held or controlled by Department of Conservation and Recreation to governmental agencies, political subdivisions, public utilities and public service companies or authorities.
- 10.1-112 Approve contracts and leases for revenue producing capital projects in state parks.
- 10.1-114 Approve terms and conditions for leasing of acquired commemorative facilities and historic sites by Director, Department of Conservation and Recreation.
- 10.1-201 Approve terms and conditions for custody or leasing of property acquired through gift or contribution by Director, Department of Conservation and Recreation.
- 10.1-645 Approve sale of water storage facilities authorized by § 10.1-638 (B) to entity eligible for loan under § 10.1-638(A).
- 10.1-1210 Approve major state projects after review of environmental impact statement of Council on the Environment, in order for State Comptroller to authorize payment of funds from the state treasury.
- 11-41 C.1 Approve exception to competitive bid for procurement of insurance.
- 15.1-22 Accept land by deed of gift from local governing body for establishment, operation or maintenance of branch of state-supported college or university.
- 15.1-264 Approve acceptance by state institutions of higher education of conveyance from two or more political subdivisions of real property located in one of the political subdivisions.
- 15.1-265 Approve, for higher education institutions, conveyance from any political subdivision of real property in that political subdivision or in an adjacent city or county.
- 23-4.1 Approve sale, lease or conveyance of real property by boards of visitors or trustees of state educational institutions.
- 23-4.4 Approve transfers by boards of visitors, State Board for Community Colleges, or their designees of interests in intellectual property developed wholly or significantly through use of state general funds under stated conditions.
- 23-9.1 Approve, at request of State Board of Education, granting of easements on property of institutions under the Board to political subdivisions, cable television companies, public utility or public service

# Governor

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companies.

- 23-49.21 Approve, at request of Board of Old Dominion University, lease, sale or conveyance of real estate to which it has acquired title.
- 23-49.32 Approve, at request of Christopher Newport College Board, lease, sale, or conveyance of real estate to which it has acquired title.
- 23-50.13 Approve, at request of Virginia Commonwealth University Board, sale, lease or conveyance of real estate, including easements, to which it has acquired title.
- 23-77.1 Approve, at request of University of Virginia Board, sale, lease or conveyance of real estate to which it has acquired title.
- 23-91.33 Approve, at request of Board of George Mason University, sale, lease or conveyance of real estate to which it has acquired title.
- 23-91.44 Approve, at request of Mary Washington College Board, sale, lease or conveyance of real estate to which it has acquired title.
- 23-164.10 Approve, at the request of James Madison University Board, conveyance of easements for property of the University.
- 29.1-105 Approve contracts respecting lease of any land or buildings held by Board of Game and Inland Fisheries to private persons, corporations, associations, other agencies, public authorities, or political subdivisions.
- 29.1-218 Approve compensation of special counsel approved by the Governor to defend game wardens prosecuted on criminal charges.
- 37.1-12 Approve request of Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to raze buildings under Commissioner's supervision and control.
- 51.1-114 E Approve investment in real estate by Virginia Retirement System Board of Trustees to be used at administrative offices for the System.

- 51.1-119 A Approve, with concurrence of Virginia Port Authority, investment in certain port facilities by Virginia Retirement System.
- 51.1-121 A Select, with concurrence of Virginia Public Buildings Board, investment in sites and buildings by Virginia Retirement System for occupancy by state agencies.
- 51.1-121 B Select state agencies to occupy sites purchased by Virginia Retirement System Board.
- 51.1-702 Authorize the Virginia Retirement System Board to enter into federal-state agreement regarding Social Security Act benefits under stated conditions.
- 53.1-31 Approve contracts and leases for removal or mining of gas, oil or minerals found in real estate titled to Board of Corrections.
- 53.1-81 Authorize sale of state land for regional jail facilities.
- 53.1-95.9 Approve transfer of real property from state agencies and commissions to jail authorities.
- 55-186.2 Sign and seal the grant, received from the State Treasurer, conveying escheated property from the Commonwealth to the escheat purchaser and deliver the grant to the State Librarian.
- 57-5 Enter lease agreement with Virginia Division of United Daughters of the Confederacy for use of Pelham Chapel.
2. Secretary of Economic Development:
- | Authorizing Section | Subject Matter of Authority Delegated  |
|---------------------|--|
| 2.1-20.1:1          | Set policies regarding ownership of patents and copyrights of intellectual property developed by state employees.  |
| 3.1-690             | Approve adoption of codes or marketing agreements approved by federal officials under Agricultural Adjustment Act. |
| 3.1-739.1           | Accept rules and regulations in state's behalf regarding suppression of specified diseases in                      |

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|---|---------------------------------------|---------------------------------------|---|---------------------|---------------------------------------|
| <p>domestic animals. Cooperate accordingly with federal officials.</p> <p>10.1-1149<br/>Execute Southeastern Interstate Forest Fire Protection Compact.</p> <p>10.1-1150<br/>Execute Middle Atlantic Interstate Forest Fire Protection Compact.</p> <p>10.1-1158<br/>Issue proclamations prohibiting open burning.</p> <p>10.1-1159<br/>Issue proclamations to close hunting and fishing season when extraordinary fire hazards exist.</p> <p>10.1-1160<br/>Extend hunting season for a number of days not to exceed the number of days the proclamation of dry conditions was in effect.</p> <p>13.1-985<br/>Approve articles of incorporation for industrial development corporations prior to issuance by State Corporation Commission.</p> <p>40.1-22.1<br/>Authorize agreements with U. S. Occupational Safety and Health Administration to provide training to employees of Department of Labor and Industry and other state agencies to assist in enforcing Public Law 91-596.</p> <p>45.1-381<br/>Execute Interstate Compact to Conserve Oil and Gas.</p> <p>60.2-116<br/>Approve Virginia Employment Commission reciprocal agreements.</p> <p>62.1-132.14<br/>Approve contracts known as "agreements of local cooperation" between Virginia Port Authority or other agencies designated by the Governor and the U. S. Army Corps of Engineers.</p> <p style="text-align: center;">3. Secretary of Education:</p> <table border="0" style="width: 100%; margin-left: 20px;"> <tr> <td style="width: 30%;">Authorizing Section</td> <td style="width: 70%;">Subject Matter of Authority Delegated</td> </tr> </table> <p>3.1-41<br/>Approve plans and services of Extension Division of Virginia Polytechnic Institute and State University and Cooperative Extension Service Program of Virginia State University.</p> <p>3.1-46<br/>Request status report of Extension activities.</p> | Authorizing Section                   | Subject Matter of Authority Delegated | <p>23-38.33:1 (9)<br/>Approve agreements or contracts submitted to federal government by VELA.</p> <p>23-261<br/>Assign additional duties to State Council of Higher Education in its capacity as State Commission on Postsecondary Education.</p> <p style="text-align: center;">4. Secretary of Finance:</p> <table border="0" style="width: 100%; margin-left: 20px;"> <tr> <td style="width: 30%;">Authorizing Section</td> <td style="width: 70%;">Subject Matter of Authority Delegated</td> </tr> </table> <p>2.1-174<br/>Receive notice of absence of State Treasurer and State Comptroller when absence exceeds five days.</p> <p>2.1-223.6<br/>Approve payment of claims referred by State Comptroller otherwise not allowed due to expiration of time limits.</p> <p>2.1-321<br/>Approve temporary borrowing of monies by the Treasury Board.</p> <p>2.1-393<br/>Prepare annually, for Governor's submission to General Assembly, six-year estimates of revenue collections for the general fund and each major nongeneral fund.</p> <p>4-23<br/>Approve payment of expenses incurred by State Comptroller, State Treasurer and Auditor of Public Accounts pursuant to provisions of Alcoholic Beverage Control Act.</p> <p>23-30.01<br/>Approve borrowing by an educational institution upon its endowment and other investments.</p> <p>23-30.02<br/>Approve an educational institution's borrowing funds to purchase real estate under certain conditions.</p> <p>23-30.27:1 C<br/>Request detail from higher education institutions on specific equipment to be acquired through Virginia College Building Authority. Approve emergency acquisition and leases under stated conditions.</p> <p>23-38.10:7<br/>Approve at the request of the board and president of higher education institution borrowing money under certain conditions to provide additional student loan funds.</p> <p>55-184.1<br/>Order and set terms of sale for escheated land.</p> | Authorizing Section | Subject Matter of Authority Delegated |
| Authorizing Section   | Subject Matter of Authority Delegated |                                       |   |                     |                                       |
| Authorizing Section   | Subject Matter of Authority Delegated |                                       |   |                     |                                       |

# Governor

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Deliver order to State Treasurer, to be transmitted to the escheator, who shall proceed to sell according to such order.

58.1-2 Enter into reciprocal agreements with other states for collection of taxes.

58.1-2146 A Transfer funds from motor fuels fund for inspection of gasoline and motor grease measuring and distributing equipment and for inspection and analysis of gasoline for purity.

60.2-311 Include in budget reported to General Assembly a sum required to make replacements to the Unemployment Compensation Administration Fund.

62.1-215 B Include in budget reported to General Assembly a sum required to restore Virginia Resources Authority Capital reserve fund(s).

## 5. Secretary of Health and Human Resources:

Authorizing Section	Subject Matter of Authority Delegated
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2.1-598	Submit state plan for community action agencies to Secretary of Health and Human Services.
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9-297 C	Request Advisory Commission on Mandated Health Insurance Benefits to meet.
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15.1-36.2 A, B, C, D, E, and H	Receive reorganization plans from cities and counties for local human resources agencies under stated conditions. Issue guidelines for such plans. Direct state boards and commissions to modify rules, regulations and guidelines accordingly. Prepare submissions to General Assembly for Governor. Issue guidelines for maintaining records.
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28.1-175	Request State Health Commissioner to examine or analyze fish or shellfish.
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32.1-21	Approve Board of Health action authorizing State Health Commissioner to hold teaching position.
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32.1-325	Approve state plan and amendments to the plan, for medical assistance services submitted to federal government.
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37.1-28	Authorize Commissioner of Mental Health, Mental
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Retardation and Substance Abuse Services to receive and expend Social Security payments and retirement benefits on behalf of patients at institutions under Commissioner's control.

51.5-2 Designate agencies that serve the disabled to formulate cooperative plan in accordance with state law and federal Rehabilitation Act.

63.1-24 Request Board of Social Services to investigate questions and consider problems and report their findings and conclusions.

63.1-238.6 and .7 Develop, negotiate and enter into interstate compacts on behalf of the Commonwealth with other states for the protection of adopted children receiving assistance from the Department of Social Services.

63.1-293 Change rules of any state agency to assure proper functioning of pilot programs for delivery of human services. Request variances or exceptions to federal rules governing administration or use of funds for human services programs.

63.1-298 Approve cost of administering pilot programs for delivery of human services (costs to be determined by appropriate state agencies and cities and counties where pilot programs are located).

## 6. Secretary of Natural Resources:

Authorizing Section	Subject Matter of Authority Delegated
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10.1-111	Approve making and execution of leases, contracts or deeds for the removal or mining of minerals on Department of Conservation and Recreation property.
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10.1-213	Approve amendments to the instruments of dedication of natural area preserves under stated conditions.
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10.1-505	Approve or disapprove work plans and soil and water conservation programs embodied in federal laws which, by their terms or by related executive orders, require approval.
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10.1-1402	Approve acquisition by Virginia Waste Management Board of lands to be used for hazardous waste management sites.
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- 10.1-1430  
Enter into agreements with federal government providing for discontinuance of the federal government's responsibilities regarding low-level radioactive waste.
- 10.1-1431  
Authorize Waste Management Board to enter into agreements with federal government to cooperatively handle low-level radioactive waste.
- 10.1-1432  
Approve acquisition by Virginia Waste Management Board of lands to be used for low-level radioactive waste facility sites.
- 10.1-1434  
Approve request of Waste Management Board for resources and services of other state agencies in performance of Board's duties for hazardous waste facility sites.
- 10.1-1702  
Determine state board, commission, office or officer through which "public bodies" may exercise powers under Open Space Land Act.
- 28.1-109 (18)  
Approve, at request of Marine Resources Commissioner, lease of public oyster-planting grounds which may be required for dredging operations or spoils disposal areas in connection with federal navigation improvement projects.
- 41.1-3  
Control oyster bed, rock or shoal at Old Magazine at Westhampton and adjacent state lands. Issue regulations for use of this land in interest of state.
- 62.1-4  
Approve, with Attorney General, certain easements and leases of beds of state waters recommended by Marine Resources Commission.

7. Secretary of Public Safety:

Authorizing Section	Subject Matter of Authority Delegated
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- 4-9  
Approve purchase or sale of shares of alcoholic beverage manufacturing companies by Department of Alcoholic Beverage Control.
- 15.1-977.24  
Receive notification from cities barred from annexation that elect to be treated as immune counties for purposes of State Police services and highway maintenance and construction or notification of termination of such status.

- 16.1-313  
Approve, for purposes of eligibility for construction reimbursement, plans, including personnel needs, for construction of detention homes, group homes, or other residential care facilities for children in need of services or for delinquent or alleged delinquent youth.
- 44-158  
Promulgate necessary rules and regulations to mobilize fire fighters to assist other political subdivisions during time a state of war exists between the United States and any foreign country.
- 44-204  
Approve training for Virginia State Defense Force or National Defense Executive Reserve, not to exceed fifteen workdays per federal fiscal year.
- 46.2-1157  
Issue order requiring inspection of motor vehicles, trailers, and semitrailers by Superintendent of State Police.
- 52-9.1  
Approve uniform and insignia design to be adopted by Superintendent of State Police for use of State Police Officers.
- 53.1-17  
Approve payment for counsel for defense of any employee of the Department of Corrections under certain conditions.
- 53.1-45  
Approve alternatives for sale of articles produced or manufactured and services provided, other than on the open market, and in best interest of state, by Director, Department of Corrections.
- 53.1-80  
Approve construction of local jails to qualify for reimbursement.
- 53.1-81  
Approve construction of regional jails to qualify for reimbursement.
- 53.1-82  
Approve enlargement or renovation of regional jails to qualify for reimbursement.
- 53.1-191  
Approve credits towards terms of prisoners for stated reasons.
- 66-2  
Provide direction to the Director of the Department of Youth and Family Services in the



# Governor

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supervision of the agency.

## 8. Secretary of Transportation:

- | Authorizing Section | Subject Matter of Authority Delegated   |
|---------------------|---|
| 33.1-42             | Approve incorporation or elimination of roads or streets into state highway system.   |
| 33.1-299            | Approve turnpike projects proposed by Commonwealth Transportation Board.  |
| 33.1-340            | Receive reports of refusal of highway contractors' associations to permit examination of papers, records and accounts. Certify such information to Commonwealth Transportation Commissioner. Certify to Commonwealth Transportation Board that full examination has been made prior to further letting of any contracts with association members. |
| 46.2-383            | Approve destroying of conviction, forfeiture, assignment, acceptance or judgment records, under certain conditions, by Commissioner of Motor Vehicles.  |
| 46.2-703            | Enter into reciprocal agreements, with advice of Reciprocity Board, with other states for assessing and collecting motor vehicle license fees.  |
| 46.2-750            | Approve use of state-owned vehicles without regular official state use only license plates by Department of Economic Development (after consultation with Secretary of Economic Development.)   |
| 46.2-751            | Direct Commissioner of Motor Vehicles to issue license plates for state-owned, passenger-type vehicles.   |
| 46.2-1127           | Approve increases in axle and gross weight limits on Federal Interstate Highway System on recommendation of Department of Transportation.   |
| 59.1-162            | Direct cooperation of Departments of Transportation and Motor Vehicles with Commissioner of Agriculture and Consumer Services in carrying out provisions of authorizing chapter for testing and inspecting gasoline and lubricating oil.  |

Should conflicts arise concerning any action authorized by this Executive Order, the matter shall be resolved by the Governor.

In the event that the Secretary delegated herein is not available, I hereby affirm and delegate the Chief of Staff such powers and duties during the Secretary's absence as may be required.

This Executive Order supersedes and rescinds Executive Order Number 78 (89) Authority and Responsibility of the Governor's Secretaries, issued December 21, 1989.

This Executive Order is effective upon the expiration of Executive Order 78 (89). This Executive Order will remain in full force and effect until October 1, 1994, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 30th day of May, 1991.

/s/ Lawrence Douglas Wilder  
Governor

### GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

#### DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

Title of Regulation: VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 31, 1991

#### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Cost Management Initiatives for PIRS and Occupational/Speech-Language Services.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-03-4.1940.1. Nursing Home Payment System.

VR 460-03-4.1943. Cost Reimbursement Limitations.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 14, 1991

**VIRGINIA RACING COMMISSION**

**Title of Regulation: VR 662-04-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Entries.**

Governor's Comment:

The proposed regulations would establish conditions and procedures for accepting entries for horse races with pari-mutuel wagering. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 29, 1991

**BOARD FOR OPTICIANS**

**Title of Regulation: VR 505-01-2. Board for Opticians Regulations.**

Governor's Comment:

The proposed regulations would clarify certain licensing provisions and, in accordance with the Callahan Act, would enable the Board for Opticians to cover administrative expenses. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder  
Governor  
Date: May 29, 1991

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# FORMS

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## DEPARTMENT OF MINES, MINERALS AND ENERGY

**NOTICE:** The forms used in administering the following Department of Mines, Minerals and Energy regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Mines, Minerals and Energy, 2201 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Forms of the Division of Mined Land Reclamation, under the Coal Surface Mining Reclamation Regulation, VR 480-03-19:

Coal Surface Mining Reclamation Fund Tax Reporting Form - DMLR-PT-178 (Rev. 7/91)

Affidavit - DMLR-PR-244 (Rev. 3/91)

Coal Exploration Notice - (DMLR-PS-051 (Rev. 3/91)

Consent for Right of Entry - DMLR-AML-174 (Rev. 3/91)

Chapter 17, Statement for Third Party Certification of Deposit - DMLR-CP-023 (Rev. 8/85) (Form no longer used)

Chapter 23, Statement for Third Party Certification of Deposit - DMLR-CP-094 (Rev. 8/85) (Form no longer used)

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Forms of the Division of Mineral Mining, under the Safety and Health Regulations for Mineral Mining, VR 480-05-1.2:

Course Application - DMM-154 (Rev. 10/90)

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Pesticide Control Board

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.** The purpose of the proposed action is to establish a single product registration fee, to provide for the payment of certification fees biennially, and to delete the provision which allows applicants to furnish affidavits certifying that they have not engaged in the application of pesticides classified for restricted use in Virginia.

The Pesticide Control Board is of the opinion that the current two-tiered product registration fee has not had the desired effect, and that a single product registration fee would be more equitable and easier to administer. The implementation of a single tier system may cause an increase in fees currently paid by some registrants.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 18, 1991.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, Rm. 401, 1100 Bank St., Richmond, VA 23209, telephone (804) 371-6558.

## BOARD FOR COSMETOLOGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, adjustment of examination fees; establishment of a nail technician licensing program; and establishment of an esthetician licensing program.

Statutory Authority: §§ 54.1-201(5) and 54.1-113 the Code of Virginia.

Written comments may be submitted until July 7, 1991.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.** The purpose of the proposed action is to revise the current regulations to incorporate both new legislative mandates and other advisable improvements.

Statutory Authority: §§ 22.1-16 and 22.1-214 of the Code of Virginia.

Written comments may be submitted until July 15, 1991.

**Contact:** Anne P. Michie, Coordinator, Due Process Proceedings, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2013.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-4.1940:1. Nursing Home Payment System.** The purpose of the proposed action is to ensure appropriate interpretation of the Patient Intensity Rating System peer group ceiling calculation methodology in permanent regulations to supersede the current emergency regulations.

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

Written comments may be submitted until July 1, 1991, to Joseph J. Beck, Hearing Officer, Division of Cost Settlement and Audit, DMAS, 600 East Broad St., Suite 1300, Richmond, VA 23219.

# General Notices/Errata

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**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## BOARD OF MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-05-01. Regulations Governing Physician's Assistants.** The purpose of the proposed action is to amend the license renewal period by deleting annual and enacting a biennial renewal period in each even-numbered year in the licensee's birth month.

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

Written comments may be submitted until August 1, 1991.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases or Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to review the regulations in response to the Governor's request. The board will entertain written comments for consideration on the present regulations.

Copies of the present regulations may be secured by phone request at (804) 662-9925.

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

Written comments may be submitted until September 3, 1991.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health,

Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-01. Mandatory Standards for Community Mental Health Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

**Contact:** Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-02. Mandatory Standards for Community Programs for the Mentally Retarded.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

**Contact:** Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-05-01. Mandatory Standards for Community Substance Abuse Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

**Contact:** Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board

intends to consider promulgating regulations entitled: **Certification of Case Management**. The purpose of the proposed action is to certify facilities for the provision of case management, therapeutic consultation and residential support services if these services are to be reimbursed by the Department of Medical Assistance Services.

Written comments may be submitted until July 5, 1991, to Ben Saunders, Jr., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214.

**Contact:** Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

### GENERAL NOTICES

#### VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

##### Request for Public Participation

The 1990 reauthorization of the Coastal Zone Management Act (CZMA), as amended, established under § 309 a new Coastal Zone Enhancement Grants Program which sets aside from 10% to 20% of the states' federally-approved Coastal Zone Management funds to encourage the states to seek to achieve one or more of eight legislatively defined coastal management objectives. The states are to achieve these objectives by implementing changes to their coastal management programs; for instance, by amending their laws, regulations, or boundaries or by other means that improve management of their coastal resources.

As a first step in this process, the Council on the Environment is seeking to identify priority needs for Virginia from among those identified in the legislation. The Council is requesting the public to comment on the Commonwealth's most pressing coastal issues relating to the following objectives:

The protection, enhancement, or creation of coastal wetlands;

The prevention or significant reduction of threats to life and property through the control of coastal development and redevelopment in hazardous areas, and the anticipation and management of sea level rise;

The development of increased opportunities for public access;

The reduction of marine debris by managing uses and activities contributing to marine debris;

The development and adoption of procedures to address the cumulative and secondary impacts of coastal growth and development;

The preparation and implementation of special area management plans;

The development of plans for the use of ocean resources; and

The adoption of procedures and policies to facilitate the siting of energy facilities and government facilities as well as energy-related facilities and government activities which may be of greater than local significance.

In addition to determining the most pressing coastal management issues from the above list, the Council is seeking initial ideas on how best to address these issues. Using public input and other resources, the Council, with the assistance of its Coastal Resources Management Subcommittee, will undertake an assessment to determine its priority needs under this section of the CZMA. A draft of this assessment will be made available for public review. Following this assessment, a strategy for addressing the most important of these issues will be developed. The assessment and strategy will provide the basis by which the Council will apply for \$309 grant funds from the National Oceanic and Atmospheric Administration for use under Virginia's Coastal Resources Management Program. The assessment will be complete by late fall and the strategy by the end of February, 1992.

In considering these issues, the Council suggests that individuals recognize that limited funds are available for this purpose (approximately \$185,000 in the next grant year) and, therefore, that they concentrate 1) on issues which are clearly coastal, not state-wide, in their focus, and 2) on those issues not being fully addressed under other auspices.

To obtain more information on Virginia's Coastal Resources Management Program or this section, please contact:

Ann Dewitt Brooks  
Assistant Administrator  
Chesapeake Bay and Coastal Programs  
Council on the Environment  
202 N. 9th Street, Suite 900  
Richmond, Virginia 23219  
(804) 786-4500

Written comments may be sent to the above address by July 8, 1991, or individuals may present their ideas at the Council's quarterly meeting on June 25, 10 a.m. in House Room C, the General Assembly Building, Richmond.

# General Notices/Errata

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## VIRGINIA SWEET POTATO BOARD

A referendum will be held between July 10, 1991, and August 1, 1991. The purpose of the referendum is to determine if sweet potato growers in the state wish to tax themselves two cents per bushel of sweet potatoes grown in lieu of one cent with the revenue to be used for further research, education and promotion.

Additional information may be obtained from: L. William Mapp, Secretary, P.O. Box 26, Onley, Virginia 23418, telephone (804) 787-5867

## NOTICE TO STATE AGENCIES

**Change of Address:** Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

## FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08  
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

## ERRATA

### DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Publication: 7:18 VA.R 2652-2660 June 3, 1991.

#### Correction to Final Regulation:

Section 3 of the Waterfowl and Waterfowl Blinds regulation (VR 325-02-24) was inadvertently omitted from final publication in the June 3, 1991, issue of the Virginia Register. The omitted text is set out below.

Page 2660, column 1, after line 5, insert the following text:

#### VR 325-02-24. WATERFOWL AND WATERFOWL BLINDS.

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

A violation of federal statute or a regulation based thereunder as relates to the taking, capturing, killing or attempting to take, capture or kill any migratory game bird shall constitute a violation of this section. ~~Provided, however, it shall not be a violation of this section to shoot a crippled duck, goose, or other migratory bird upon open public waters from a motorboat while it is being propelled by a motor, nor shall it be a violation of this section to hunt migratory waterfowl with lead shot anywhere within the Commonwealth of Virginia when and where such hunting is permitted.~~

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: VR 394-01-06. Virginia Statewide Fire Prevention Code/1990.

Publication: 7:18 VA.R 2580-2623 June 3, 1991.

#### Correction to Proposed Regulation:

Page 2608, § 118.1.1., line 7 should read, "...before either the damage occurred or the start of..."

### DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.

Publication: 7:18 VA.R 2637-2642 June 3, 1991.

Correction to Proposed Regulation:

Page 2638, § 3.1 A should read:

*A. Qualifying recycling machinery and equipment include any piece or system of machinery or equipment used at a fixed location primarily to process recyclable materials into a product suitable for sale. Such processing may include (but is not limited to) flattening, shredding, melting, pulping, compaction, granulation, liquification or classification.*

**DEPARTMENT OF YOUTH AND FAMILY SERVICES**

Title of Regulation: VR 690-20-001. Pre and Post Dispositional Group Home Standards.

Publication: EU 7:18 VA.R 2643-2651 June 3, 1991.

Correction to Proposed Regulation:

Page 2644, § 1.3, change "standards and goals" to "policies" and change "§ 53.1-5" to "§ 66-10."



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# CALENDAR OF EVENTS

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## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

### NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

### VIRGINIA CODE COMMISSION

#### EXECUTIVE

##### BOARD FOR ACCOUNTANCY

- † July 15, 1991 - 10 a.m. – Open Hearing
  - † July 16, 1991 - 8 a.m. – Open Hearing
- Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review and conduct disposition of enforcement cases; (iv) conduct regulatory review/public hearing July 16th; and (v) conduct routine board business.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

- July 16, 1991 - 11 a.m. – Public Hearing
- 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The proposed regulations establish continuing professional education requirements for original licensure and license renewal.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

\* \* \* \* \*

- July 16, 1991 - 11 a.m. – Public Hearing
- 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to adopt regulations entitled: **VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.** The proposed regulations establish entry requirements, renewal/reinstatement requirements and establish the standards of practice for continuing professional education sponsors.

Statutory Authority: §§ 54.1-201(5) and 54.1-2002(C) of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Pesticide Control Board

- July 18, 1991 - 10 a.m. – Open Meeting
- Department of Agriculture and Consumer Services, Board Room No. 204, 1100 Bank Street, Richmond, Virginia. ☒

Pesticide Control Board committee meetings.

- July 19, 1991 - 9 a.m. – Open Meeting
- Department of Agriculture and Consumer Services, Board Room No. 204, 1100 Bank Street, Richmond, Virginia. ☒

The Pesticide Control Board will conduct a general business meeting. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's Agenda at 9 a.m.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 401, Richmond, VA 23209, telephone (804) 371-6558.

## DEPARTMENT OF AIR POLLUTION CONTROL

† July 8, 1991 - 7 p.m. - Open Meeting  
Bland County Circuit Courtroom, Bland City Courthouse,  
Bland County, Virginia.

A meeting to allow public comments on a permit application received by Hunter Paving, Inc., for approval of an asphalt batch plant to be located at the Pounding Mill Quarry site.

**Contact:** Director, Region I, Department of Air Pollution Control, 121 Russell Road, Abingdon, VA 24210, telephone (703) 676-5582.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† July 12, 1991 - 10 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room One, Richmond, Virginia.

The board will meet to conduct a formal hearing: File Number 90-01734, APELSLA Board v. David E. DeLew.

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

## ASAP POLICY BOARD - VALLEY

† July 8, 1991 - 8:30 a.m. - Open Meeting  
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting of the local policy board to conduct business pertaining to (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

**Contact:** Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405.

## BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

† July 18, 1991 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A regular meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone, (804) 662-9111.

## VIRGINIA CATTLE INDUSTRY BOARD

July 11, 1991 - 8 a.m. - Open Meeting  
Blacksburg Marriott, Blacksburg, Virginia. ☒

A meeting to review FY 1990-91 projects and review research proposals presented by VPI staff.

**Contact:** Reginald B. Reynolds, Executive Director, P.O. Box 176, Daleville, VA 24083.

## CHILD DAY-CARE COUNCIL

† July 11, 1991 - 9 a.m. - Open Meeting  
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools.

**Contact:** Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8007, telephone (804) 662-9217.

## COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† July 2, 1991 - 9:30 a.m. - Open Meeting  
Virginia Housing Development Authority, Conference Room 1, 601 South Belvidere Street, Richmond, Virginia. ☒

Head Start Grant Workshop. Public comments will be received at the meeting.

† July 11, 1991 - 10 a.m. - Open Meeting  
Crestar Financial Corporation, Piedmont Conference Room, Fourth Floor, 919 East Main Street, Richmond, Virginia. ☒

A regularly scheduled meeting. Public comments will be received at the meeting.

**Contact:** Linda Sawyers, Director, Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Bldg., 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-8603.

## INTERAGENCY CONSORTIUM ON CHILD MENTAL HEALTH

† July 10, 1991 - 9:15 a.m. - Open Meeting  
† August 7, 1991 - 9:15 a.m. - Open Meeting  
† September 4, 1991 - 9:15 a.m. - Open Meeting  
Youth and Family Services, 700 Centre, 7th & Franklin Streets, Richmond, Virginia. ☒

# Calendar of Events

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A meeting to (i) discuss technical assistant position; (ii) set date for quarterly review; (iii) review fiscal report; (iv) review old applications, and (v) review new applications.

**Contact:** Dian M. McConnel, Chair, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

## INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

**July 19, 1991 - 8:30 a.m. – Open Meeting**  
Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

**Contact:** John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

## INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† **July 23, 1991 - 9:30 a.m. – Open Meeting**  
St. Joseph's Villa's Conference Room, 8000 Washington Highway, Richmond, Virginia. ☒

The council will elect the new officers for 1991-92, discuss the process to review rate-setting regulations, and update the report on the progress of the Council on Community Services for Youth and Families.

**Contact:** Mr. H. Russell Harris, Department of Social Services, 8008 Discovery Dr., Richmond, VA 23288, telephone (804) 662-9011.

## STATE BOARD FOR COMMUNITY COLLEGES

† **July 17, 1991 - Time to be Determined – Open Meeting**  
Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

The board will meet for a working session (time TBA). Committee meetings will convene following the working session.

† **July 18, 1991 - 9 a.m. – Open Meeting**  
Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

A regularly scheduled meeting. The agenda will be

available by July 8, 1991.

**Contact:** Mrs. Joy Graham, Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia, telephone (804) 225-2126.

## COMPENSATION BOARD

† **June 24, 1991 - 5 p.m. – Open Meeting**  
† **July 18, 1991 - 5 p.m. – Open Meeting**  
† **August 28, 1991 - 5 p.m. – Open Meeting**  
† **September 26, 1991 - 5 p.m. – Open Meeting**  
Room 913/913A, 9th Floor, Ninth Street Office Building, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine meeting to conduct business of the board.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, Virginia 23206-0686, telephone (804) 786-3886/TDD 5

## DEPARTMENT OF CONSERVATION AND RECREATION

### Falls of the James Scenic River Advisory Board

† **July 19, 1991 - Noon – Open Meeting**  
Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor Street, Suite 326, Richmond, VA 23219, telephone (804) 786-4132.

## BOARD FOR CONTRACTORS

† **July 17, 1991 - 9 a.m. – Open Meeting**  
3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A regular quarterly meeting of the board to address policy and procedural issues as well as other routine business matters. The meeting is open to the public; however, a portion of the board's discussions may be conducted in executive session.

**Contact:** Martha S. LeMond, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8667.

## VIRGINIA COUNCIL ON COORDINATING PREVENTION

† **July 8, 1991 - 2:30 p.m. – Public Hearing**

# Calendar of Events

McCoart Government Center, Occouuan River Room, Prince William County, Virginia. ☒ (Interpreter for deaf provided upon request)

† July 8, 1991 - 6 p.m. - Public Hearing  
McCoart Government Center, Potomac Room, Prince William County, Virginia. ☒ (Interpreter for deaf provided upon request)

† July 9, 1991 - 2:30 p.m. and 6 p.m. - Public Hearing  
Virginia Beach Public Library, Central Branch, Meeting Room B, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided upon request)

† July 10, 1991 - 2:30 p.m. and 6 p.m. - Public Hearing  
Virginia Highlands Community College, Auditorium #605, Abingdon, Virginia. ☒ (Interpreter for deaf provided upon request)

† July 11, 1991 - 2:30 p.m. and 6 p.m. - Public Hearing  
Shenandoah University, Room 108, Henkel Hall, Winchester, Virginia. ☒ (Interpreter for deaf provided upon request)

† July 15, 1991 - 2:30 p.m. and 6 p.m. - Public Hearing  
State Capitol, House Room 4, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Public hearing on draft "Goals and Objectives of 1992-2000 Comprehensive Prevention Plan for Virginia."

Contact: Sharyl Adams, Executive Assistant, Department of MHMRSAS, P.O. Box 23214, Richmond, VA 23214, telephone (804) 786-1530.

† July 19, 1991 - 10 a.m. - Open Meeting  
Virginia Housing Development Authority, Conference Room 3, Richmond, Virginia. ☒

A regular quarterly meeting of the council. Awards will be presented for Prevention Excellence and public comment on the draft 1992-2000 Comprehensive Prevention Plan for Virginia will be discussed.

Contact: Sharyl Adams, Executive Assistant, Department of MHMRSAS, P.O. Box 23214, Richmond, VA 23214, telephone (804) 786-1530.

## BOARD OF CORRECTIONS

† July 17, 1991 - 10 a.m. - Open Meeting

† August 21, 1991 - 10 a.m. - Open Meeting  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Ms. Vivian T. Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

## Liaison Committee

† July 24, 1991 - 9 a.m. - Open Meeting  
Omni Hotel, Norfolk, Virginia. ☒

The committee will continue to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

## BOARD OF DENTISTRY

July 13, 1991 - 9 a.m. - Open Meeting  
Northern Virginia Community College, Provost Office, 8333 Little River Turnpike, Annandale, Virginia. ☒

Informal conferences will begin at 9 a.m. followed by a Regulatory Committee Meeting at 1 p.m.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9906.

## STATE BOARD OF EDUCATION

July 25, 1991 - 8 a.m. - Open Meeting  
July 26, 1991 - 8 a.m. - Open Meeting  
August 14, 1991 - 7:30 a.m. - Open Meeting  
James Monroe Building, Conference Rooms D & E, 101 North Fourteenth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Margaret Roberts, Executive Director, Board of Education, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† September 5, 1991 - 5:30 p.m. - Open Meeting  
† October 3, 1991 - 5:30 p.m. - Open Meeting  
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

# Calendar of Events

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**Contact:** Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

## LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

† July 15, 1991 - 1:30 p.m. - Open Meeting  
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee meeting to discharge the provisions of SARA Title III.

**Contact:** Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800.

## LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

† July 24, 1991 - 6:30 p.m. - Open Meeting  
Gloucester Administration Building Conference Room, Gloucester, Virginia. ☒

The summer quarterly meeting of the Gloucester Local Emergency Planning Committee will address: adoption of the Hazardous Materials Plan update and discussion of the annual exercise to be conducted in the fall.

**Contact:** Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042.

## LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

July 15, 1991 - 1:30 p.m. - Open Meeting  
County Office Building, 112 Water Street, Gate City, Virginia. ☒

Update of SARA, Title III for Scott County's LEPC.

**Contact:** Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, VA 24251, telephone (703) 386-6521.

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† July 17, 1991 - 3 p.m. - Open Meeting  
Old Frederick County Courthouse, Conference Room, Winchester, Virginia.

Regular quarterly meeting of the LEPC.

**Contact:** L.A. Miller, Fire Chief, Winchester Fire & Rescue Department, 126 North Cameron Street, Winchester, VA 22602, telephone (703) 662-2298.

## VIRGINIA EMERGENCY RESPONSE COUNCIL

† September 11, 1991 - 10 a.m. - Open Meeting  
Conference Room B, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

This meeting will update the VERC on new developments in SARA Title III, Emergency Planning and Community "Right-to-Know"; and will discuss the impact of waste minimization and pollution prevention initiatives on program activities.

**Contact:** Cathy L. Harris, Environmental Program Manager, Department of Waste Management, 14th Floor, Monroe Bldg., 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-2513, (804) 225-2631, toll-free 1-800-552-2075 or (804) 371-8737/TDD 5

## VIRGINIA EMPLOYMENT COMMISSION

### Advisory Board

July 17, 1991 - 10:30 a.m. - Open Meeting  
July 18, 1991 - 5:30 p.m. - Open Meeting  
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia.

A regular meeting to conduct general business.

**Contact:** Nancy L. Munnikhuysen, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004.

## VIRGINIA FIRE SERVICES BOARD

† July 9, 1991 - 7:30 p.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

A regular business meeting of the Virginia Fire Services Board. Time will be allotted for public comments and input. Discussion will be fire training and policies.

† July 10, 1991 - 9 a.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

Continuation of board meeting which began on Thursday night at 7:30 p.m.

**Contact:** Anne J. Bales, Executive Secretary Senior, Parham/64 Building, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire Prevention and Control Committee

† July 9, 1991 - 9 a.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,  
Roanoke, Virginia.

Fire Services Board committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, Parham/64 Building, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire/EMS Training Committee

† July 9, 1991 - 1 p.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,  
Roanoke, Virginia.

Fire Services Board committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, Parham/64 Building, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Legislative Committee

† July 9, 1991 - 1 p.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,  
Roanoke, Virginia.

Fire Services Board committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, Parham/64 Building, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## BOARD OF GAME AND INLAND FISHERIES

† July 18, 1991 - 9:30 a.m. - Open Meeting  
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Each committee agenda will include items appropriate to that specific committee, which may make recommendations to the board that will require action. The Planning Committee will meet at 9:30 a.m., followed by the Finance Committee, Liaison Committee, Wildlife and Boat Committee and end with the Law and Education Committee. In addition to regular committee agenda items, the following items of interest are planned for discussion in the Wildlife and Boat Committee:

1. The webless migratory game bird seasons will be

discussed.

2. A report will be presented on the study conducted on the feasibility of bear and raccoon chase seasons.
3. Waterfowl zoning options will be discussed.
4. An individual has requested permission to appear before this committee to discuss deer farming.

Other general and administrative matters, as necessary will be presented for discussion.

† July 19, 1991 - 9:30 a.m. - Open Meeting  
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will meet to set the 1991-92 Virginia webless migratory game bird seasons (doves, woodcock, rail and snipe) based on the framework permitted by the U.S. Fish and Wildlife Service. In addition:

- Action will be taken on a proposed regulation to permit livetrapping of rabbits for release or restock purposes in Virginia at any time.

- Public input will be received, and the board will discuss a proposed Site Specific Agreement between the department and Ducks Unlimited, Inc., for the acquisition and management of a 415-acre tract on Back Bay, City of Virginia Beach, Virginia. If acceptable, the board will authorize the director of the department to enter into this agreement with Ducks Unlimited.

- Waterfowl zoning options will be discussed.

- A report, with possible recommendations, will be presented on the findings of the Wildlife and Boat Committee which was requested to study the feasibility of bear and raccoon chase seasons.

- Committee reports will be given and, if necessary, board action will be taken, based on committee recommendations. In addition, the Nominating Committee will present its recommendations for board officers for 1991-92.

- Other general and administrative matters, as necessary, will be discussed, and appropriate action will be taken.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000 or toll-free 1-800-252-7717.

## HAZARDOUS MATERIALS TRAINING COMMITTEE

† July 9, 1991 - 10 a.m. - Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,  
Roanoke, Virginia.

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The purpose of this meeting will be to discuss curriculum course development and review existing hazardous materials courses.

**Contact:** Mr. N. Paige Bishop, 2873 Moyer Road, Powhatan, Virginia 23139, telephone (804) 598-3370.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**July 10, 1991 - 10 a.m. – Public Hearing**  
Roanoke City Health Department, 515 Eighth Street, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.** The purpose of the proposed regulation is to amend the hospital licensure regulations governing the provision of obstetric and newborn services in hospitals licensed in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m., August 16, 1991.

**Contact:** Stephanie A. Sivert, Assistant Director, Division of Licensure and Certification, Virginia Department of Health, Suite 216, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2104.

## BOARD OF HEALTH PROFESSIONS

† **July 16, 1991 - 10 a.m. – Open Meeting**  
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request).

A regular quarterly meeting of the board to consider committee reports: (i) administration and budget; (ii) compliance and discipline; (iii) regulatory research; (iv) professional education and public affairs.

**Contact:** Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904.

## Task Force on Managed Health Care

† **July 17, 1991 - 10 a.m. – Open Meeting**  
General Assembly Building, Third Floor West, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Task Force will meet to review progress on the study of managed health care requested by HJR 399

(1991 Session) and to plan for public hearing to follow.

† **July 17, 1991 - 3 p.m. – Open Meeting**

† **July 17, 1991 - 7 p.m. – Open Meeting**

General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Informational hearing on HJR 399 and the study of managed health care. Public comments are solicited on the effects of managed health care on health care costs, access and quality. Specifically HJR 399 (1991 Session) requests the Board of Health Professions to study the need for operational guidelines and other aspects of the ethics of managed health care, including public and private programs.

**Contact:** Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**July 23, 1991 - noon – Public Hearing**

Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed amendments deal with the Annual Charge Survey conducted by the council. The anticipated charges will reflect more accurately what information will be collected from nursing homes and hospitals. The amendments also clarify that health care institutions which are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home components from its nonpatient care activities when completing the report forms required by council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1991.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

NOTE: CHANGE IN MEETING DATE

† July 10, 1991 - 9 a.m. - Open Meeting  
Monroe Building, Council Conference Room, 9th Floor,  
Richmond, Virginia. ☒

A general business meeting. For more information  
contact the council.

Contact: Barry Dorsey, Deputy Director, 101 N. 14th St.,  
9th Floor, Monroe Bldg., Richmond, VA 23219, telephone  
(804) 225-2632.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

† July 2, 1991 - 9 a.m. - Open Meeting  
† August 6, 1991 - 9 a.m. - Open Meeting  
† September 3, 1991 - 9 a.m. - Open Meeting  
Hopewell Community Center, Second & City Point Road,  
Hopewell, Virginia. ☒ (Interpreter for the deaf provided  
upon request)

Local Emergency Preparedness Committee Meeting on  
Emergency Preparedness as required by SARA Title  
III.

Contact: Robert Brown, Emergency Services Coordinator,  
300 North Main Street, Hopewell, VA 23860, telephone  
(804) 541-2298.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Amusement Device Technical Advisory Committee

† July 18, 1991 - 9 a.m. - Open Meeting  
Seventh Floor Conference Room, 205 North Fourth Street,  
Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining  
to the construction, maintenance, operation and  
inspection of amusement devices adopted by the Board  
of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, Building  
Regulation, Department of Housing and Community  
Development, 205 N. Fourth Street, Richmond, VA 23219,  
telephone (804) 786-4752 and VTDD (804) 786-5405.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

July 15, 1991 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 910 Capitol  
Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to amend regulations  
entitled: VR 394-01-06. Virginia Statewide Fire

Prevention Code/1990. The proposed amendments are  
necessary to incorporate fees for explosive permits  
and blaster certification authorized by emergency  
regulations effective January 1, 1991.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until August 5, 1991.

Contact: Gregory H. Revels, Program Manager, Code  
Development Office, 205 N. 4th St., Richmond, VA 23219,  
telephone (804) 371-7772.

\* \* \* \* \*

July 15, 1991 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 910 Capitol  
Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to amend regulations  
entitled: VR 394-01-21. Virginia Uniform Statewide  
Building Code, Volume I - New Construction  
Code/1990. The proposed amendments are necessary  
to incorporate provisions consistent with the National  
Flood Insurance Program relating to alterations and  
repairs of existing buildings located in a floorplan.

Statutory Authority: §§ 36-98 and 36-99 of the Code of  
Virginia.

CORRECTION TO WRITTEN COMMENT DATE:

Written comments may be submitted until August 5, 1991.

Contact: Gregory H. Revels, Program Manager, Code  
Development Office, 205 N. 4th St., Richmond, VA 23219,  
telephone (804) 371-7772.

### Regulatory Effectiveness Advisory Committee

August 8, 1991 - 8:30 a.m. - Open Meeting  
Virginia Housing Development Authority, Training Room,  
601 Belvidere Street, Richmond, Virginia. ☒

A meeting to develop positions relative to the  
challenges to the BOCA Committees actions on the  
1991 proposed changes to the BOCA National Codes as  
presented in the Final Hearing Roster. REAC positions  
thus developed are forwarded as recommendations to  
the Board of Housing and Community Development  
(BHCD). Positions approved by the board will be  
presented at the BOCA Annual Conference in  
Indianapolis, Indiana, September 15 through 20, 1991.

Contact: Carolyn R. Williams, Building Code Supervisor,  
205 N. 4th St., Richmond, VA 23219, telephone (804)  
371-7772.



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## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† July 10, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.** The purpose of this action is to amend the rules and regulations for single family mortgage loans to persons and families of low and moderate income by adding programmatic guidelines and by making clarifying and instructive changes to programmatic procedures and requirements.

### STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Substance and issues: The proposed amendments will make the following changes to the authority's Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate income:

1. The authority will be able to make loans under the Farmers Home Administration ("FmHA") Guarantee Program and FmHA Interest Assistance Program in conformity with FmHA's guidelines and requirements.
2. Applicants for mortgage loans will be allowed to borrow funds for downpayment and closing costs if (i) the loan amount is not greater than 80% of the lesser of the sales price or appraised value, or (ii) if the loan of such funds is by the applicant's employer, the private mortgage insurer approves and the applicant makes a downpayment from his own funds of at least 3.0% of the lesser of the sales price or the appraised value.
3. Application and closing requirements will be updated to include Notice of Recapture Tax, RESPA Disclosure Statement and Quality Control Disclosure and Authorization as required by revisions of federal law.
4. Requirements for assumptions will be clarified to include all requirements of state and federal law.
5. Other changes will be typographical corrections or stylistic revisions.

Impact: The authority expects that approximately 100 mortgage loans will be made annually under the FmHA Guarantee Program and FmHA Interest Assistance Program; otherwise, the proposed amendments will have no significant impact on the number of persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance

with the proposed amendments.

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

Written comments may be submitted until July 10, 1991.

**Contact:** J. Judson McKellar, Jr., General Counsel, VHDA, 601 S. Belvidere Street, Richmond, VA 23220.

† July 16, 1991 - 11 a.m. – Open Meeting  
601 South Belvidere Street, Richmond, Virginia. ☒

The annual meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; and (v) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

## COUNCIL ON INFORMATION MANAGEMENT

† July 8, 1991 - 9 a.m. – Open Meeting  
1100 Bank Street, Suite 901, Richmond, Virginia. ☒

A regular business meeting. The council will consider adoption of Guideline on Imaging.

**Contact:** Linda Hening, Administrative Assistant, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

## VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

† July 10, 1991 - 9 a.m. – Open Meeting  
James Monroe Building, 101 North 14th Street, 1st Floor, Conference Rooms D and E, Richmond, Virginia. ☒  
(Interpreter for deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC) according to PL 101-476, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency, to develop

and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Director, MR Children/Youth Services, VA. Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Safety and Health Codes Board

† July 30, 1991 - 9 a.m. - Open Meeting  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Preliminary Agenda:

1. Hazardous Waste Operations and Emergency Response; Final Rule; Corrections
2. Amendment to the Construction Industry Standard for Sanitation, 1926.51; Technical Corrections
3. Air Contaminants, Final Rule; Grant of Partial Stay for Nitroglycerin
4. Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Extension of Partial Stay
5. Occupational Exposure to Formaldehyde; Extension of Administrative Stay
6. Amendment to the Bylaws of the Safety and Health Codes Board
7. Amendment to the Lead Standard

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384.

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

July 19, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.** The amendments update requirements that microfilm of public archival records meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

July 19, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.** The amendments update requirements that microfilms produced in a procedural microfilm process meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

July 19, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.** The amendments update requirements that microfilm of ended cases in circuit court meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

July 19, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for**

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**Archival Retention.** The amendments update requirements that COM of public records meets various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

**July 19, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.6. Standards for Plats.** The amendments update criteria for plats which are to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

**July 19, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.7. Standards for Recorded Instruments.** The amendments update criteria for instruments to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

\* \* \* \* \*

**July 19, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to consider adopting regulations entitled: **VR**

**440-01-137.8. Standards for Paper for Permanent Circuit Court Records.** The purpose of the proposed action is to establish criteria for the paper to be used for the permanent records stored in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

## COMMISSION ON LOCAL GOVERNMENT

† **July 10, 1991 - 10 a.m.** – Open Meeting  
State Capitol, House Room 1, Richmond, Virginia.

A regular meeting of the commission to consider such matters as may be presented.

Persons desiring to participate in the commission's regular meeting and requiring special accommodations or interpreter services should contact the Commission's offices at by July 3, 1991.

**July 22, 1991 - 7:30 p.m.** – Public Hearing  
Town of Orange, Orange County area - Site to be determined.

Public hearing regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD ☎ by July 15, 1991.

**July 22, 1991 - 11 a.m.** – Open Meeting  
**July 23, 1991 - 9 a.m.** – Open Meeting  
**July 24, 1991 - (if needed) - Time to Be Announced** – Open Meeting  
Town of Orange, Orange County area - Site to be determined.

Oral presentations regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD ☎ by July 15, 1991.

**August 19, 1991 - 11 a.m.** – Open Meeting  
**August 20, 1991 - (if needed) - Time to be announced** – Open Meeting  
City of South Boston, Halifax County - Site to be

determined.

Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

**August 20, 1991 - 7 p.m. - Public Hearing**  
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

**Contact:** Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**LONGWOOD COLLEGE**

**Board of Visitors**

**July 28, 1991 - 4 p.m. - Open Meeting**  
**July 29, 1991 - 9 a.m. - Open Meeting**  
Longwood College, Ruffner Building, Virginia/Prince Edward Rooms, Farmville, Virginia. ☒

Committee meetings (Finance Committee and Facilities Committee). Meeting of full board to conduct routine business.

**Contact:** William F. Dorrill, President, Longwood College, Farmville, VA 23209, telephone (804) 395-2001.

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
(BOARD OF)**

**July 5, 1991 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-05-3000. Drug Utilization Review in Nursing Facilities.** This program proposes to control the use of drugs by nursing facility residents to reduce inappropriate and perhaps hazardous drug use.

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

Written comments may be submitted until July 5, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**July 19, 1991 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1102. Case Management for Mental Retardation Waiver Clients.** This action proposes to regulate the provision of case management services to mentally retarded persons who are receiving community based services.

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

Written comments may be submitted until July 19, 1991, to Ann Cook, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**August 2, 1991 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Estimated Acquisition Costs Pharmacy Reimbursement Methodology. VR 460-02-4.1920. Methods and Standards for Establishing Payments Rates-Other Types of Care** This regulation will supersede the existing emergency regulation relating to estimated acquisition cost pharmacy reimbursement methodology.

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

Written comments may be submitted until August 2, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, 600 East Broad Street, Suite 1300, Richmond, Virginia.

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**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**August 2, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical. VR 460-03-3.1100. Amount, Duration, and Scope of Services.** This amendment proposes granting psychologists licensed by the Board of Psychology as psychologists clinical and eligible to enroll in the Virginia Medicaid Program as providers of Medicaid covered services.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**August 2, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Payments.** This proposed regulation promulgates specific obstetric and pediatric maximum payment rates to become effective October 1, 1991.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**August 16, 1991** – Written comments may be submitted

until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.** The purpose of this proposal is to promulgate permanent regulations for the provision of home and community-based services for persons with mental retardation, to supersede the temporary emergency regulation which became effective on December 20, 1990.

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

Written comments may be submitted until 4:30 p.m., August 16, 1991, to Chris Pruett, Division of QCA, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## BOARD OF MEDICINE

**July 9, 1991 - 9 a.m.** – Open Meeting

**July 26, 1991 - 10 a.m.** – Open Meeting

**August 6, 1991 - 9 a.m.** – Open Meeting

Sheraton-Fredericksburg Resort and Conference Center, I-95 & Route 3, Fredericksburg, Virginia. ☒

The Informal Conference Committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen D. Waldron, Deputy Executive Director, Disc., 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

## Advisory Committee On Acupuncture

**July 12, 1991 - 9 a.m.** – Public Hearing

Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The board will conduct an informational fact-gathering hearing in response to HJR 478, to gather information regarding utilizing acupuncture as a possible treatment for substance abuse. Public comment will be received.

A meeting will follow the public hearing to review and act upon the draft report in response to HJR No. 478. The committee will not entertain public

comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## Executive Committee

† **August 2, 1991 - 9 a.m.** – Open Meeting  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

An open session to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee.

The committee will not receive public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## Legislative Committee

† **August 2, 1991 - 1 p.m.** – Open Meeting  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review the proposed amendments to the Code of Virginia relating to the method of conduct for formal evidentiary hearings and develop recommendations to the full board. The committee will review other business which may come before it.

The committee will not receive public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## Advisory Board on Physical Therapy

**August 23, 1991 - 9 a.m.** – Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and discuss regulations, bylaws, procedural manuals, and to receive reports and other items which may come before the advisory board. The advisory board will not receive public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **July 31, 1991 - 10 a.m.** – Open Meeting  
James Madison Building, 13th Floor Conference Room,

Richmond, Virginia. ☒

A regular monthly meeting. The agenda will be published on July 24. The agenda may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.

Wednesday: Committee Meetings - 8:45 a.m.  
Regular Session - 10 a.m.

See agenda for location.

**Contact:** Jane V. Helfrich, Board Administrator, State MHMRSAS Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3912.

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### State Human Rights Committee

† **July 19, 1991 - 9 a.m.** – Open Meeting  
Omni-Charlottesville, 235 West Main Street, Charlottesville, Virginia. ☒

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to the meeting.

**Contact:** Elsie D. Little, ACSW, State Human Rights Director, DMHMRSAS, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

### Substance Abuse Advisory Council

† **July 18, 1991 - 10 a.m.** – Open Meeting  
James Madison Building, 13th Floor Board Room, 109 Governor Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The advisory council will discuss issues related to the planning and delivery of substance abuse services in Virginia.

**Contact:** Wayne Thacker, Office of Substance Abuse Services, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor Street, Richmond, VA 23219, telephone (804) 786-3906 or (804) 786-2991/TDD ☎

## MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

**August 1, 1991 - 7 p.m.** – Open Meeting  
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors

# Calendar of Events

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will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

**Contact:** Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Virginia Gas and Oil Board

**July 16, 1991 - 9 a.m. - Open Meeting**  
Southwest Virginia 4-H Center, Dickenson Conference Center, Route 609, Hillman Highway, Abingdon, Virginia. ☒

A regularly scheduled meeting.

**Contact:** B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Drive, Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or 1-800-552-3831/TDD ☎

\* \* \* \* \*

**July 16, 1991 - 9 a.m. - Public Hearing**  
Southwest Virginia 4-H Center, Dickenson, Conference Center, Route 609, Hillman Highway, Abingdon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Gas and Oil Board intends to adopt regulations entitled: **VR 480-05-22.2. Virginia Gas and Oil Board Regulations.** The proposed regulations will govern conservation of gas and oil resources and protection of correlative rights of gas and oil owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or 1-800-552-3831/TDD ☎

## DEPARTMENT OF MOTOR VEHICLES

### Medical Advisory Board

**† July 10, 1991 - 1 p.m. - Open Meeting**  
DMV, 2300 West Broad Street, Berkley Room, Richmond, Virginia. ☒

A regular business meeting open to the public.

**Contact:** Ms. Karen Ruby, Manager, DMV, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-0406.

## VIRGINIA MUSEUM OF FINE ARTS

### Board of Trustees

**† July 10, 1991 - 2 p.m. - Open Meeting**  
The Mellon Galleries, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ☒

The Accessions Committee will meet to consider gift offers.

**Contact:** Emily C. Robertson, Secretary of the Museum, VMFA, 2800 Grove Avenue, Richmond, VA 23221, telephone (804) 367-0553.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Board of Trustees

**† July 27, 1991 - 9 a.m. - Open Meeting**  
Holiday Inn, 1424 North Main Street, Marion, Virginia

The meeting will include reports from the executive, finance, education and exhibits, marketing, personnel, planning/facilities, and research and collections committees.

Public comment will be received following approval of the minutes of the April meeting.

**Contact:** Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia 24113, telephone (703) 666-8616, SCATS 857-6950, SCATS 857-6951 or (703) 666-8638/TDD ☎

## NORFOLK STATE UNIVERSITY

### Board of Visitors

**† July 8, 1991 - 3 p.m. - Open Meeting**  
Harrison B. Wilson Hall Administration Building, Board Room, Norfolk Virginia. ☒

The Student Affairs Subcommittee will meet in the Board Room.

**† July 9, 1991 - 8:30 a.m. - Open Meeting**  
Harrison B. Wilson Hall Administration Building, Board Room, Norfolk Virginia. ☒

The Audit and Finance Subcommittee will meet in the President's Conference Room. The board will meet at 10 a.m.

**Contact:** Gerald D. Tyler, Norfolk State University, 2401 Corprew Avenue, Wilson Hall-S340, Norfolk, VA 23504, telephone (804) 683-8373.

## BOARD OF NURSING

† July 29, 1991 - 8:30 a.m. - Open Meeting  
† July 30, 1991 - 8:30 a.m. - Open Meeting  
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒  
(Interpreter for deaf provided upon request)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, July 29, 1991.

**Contact:** Corinne F. Dorsey, R.N. Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARDS OF NURSING AND MEDICINE

### Joint Committee

† July 12, 1991 - 1:30 p.m. - Open Meeting  
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒  
(Interpreter for deaf provided upon request)

A regular meeting to consider matters related to the Regulation of Nurse Practitioners in the Commonwealth. The committee will review comments received on existing regulations and decide whether or not to develop amendments.

Public comment will be received at 2 p.m.

**Contact:** Corinne F. Dorsey, R.N. Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARD OF OPTOMETRY

† July 17, 1991 - 8 a.m. - Open Meeting  
Police Academy Headquarters, 7700 Midlothian Turnpike, Richmond, Virginia.

Administration of Optometry State Board Examination and the Diagnostic Pharmaceutical Agents Examination.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9942.

† July 18, 1991 - 9 a.m. - Public Hearing  
Department of Health Professions, 1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia.

Optometry board meeting and public hearing for proposed optometry regulations. Public hearing scheduled to begin at 10 a.m.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9942.

\* \* \* \* \*

July 18, 1991 - 10 a.m. - Public Hearing  
1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The purpose of this action is to amend the regulations for purpose of fee changes, clarification of licensing, examinations, renewal, reinstatement procedures, clarification of unprofessional conduct, and continuing education requirements.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until July 18, 1991.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or SCATS (804) 662-9910.

## COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

August 7, 1991 - 10 a.m. - Open Meeting  
August 8, 1991 - 10 a.m. - Open Meeting  
Fredericksburg-Sheraton, Fredericksburg, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

**Contact:** Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

### Executive Committee

July 8, 1991 - afternoon - Open Meeting



# Calendar of Events

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General Assembly Building, 5 West Conference Room, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

**Contact:** Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

## REAL ESTATE APPRAISER BOARD

### Regulatory Review Committee

† **July 12, 1991 - 10 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Richmond, Virginia.

A meeting to discuss draft of proposed regulations.

**Contact:** Demetra Y. Kontos, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175 or (804) 367-9375/TDD ☎

## REAL ESTATE BOARD

**July 10, 1991 - 9 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room 2, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 90-00149, Real Estate Board v. Henry W. Weatherford, Jr.

**July 11, 1991 - 10 a.m.** – Open Meeting  
Roanoke City Circuit Court, 315 West Church Avenue, Court Room 1, Roanoke, Virginia.

The board will meet to conduct a formal hearing: File No. 88-00865, Real Estate Board v. Donald Hall and Julia Mawyer.

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, (804) 367-8524.

\* \* \* \* \*

**July 17, 1991 - 1 p.m.** – Public Hearing  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to adopt regulations entitled: **VR 585-01-05.**

**Real Estate Board Fair Housing Regulations.** The board proposes to promulgate fair housing regulations in support of the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia effective July 1, 1991.

Statutory Authority: §§ 36-94(d) and 36-96.20(C) of the Code of Virginia.

Written comments may be submitted until August 16, 1991.

**Contact:** Susan Scovill, Fair Housing Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8530

† **July 26, 1991 - 10 a.m.** – Open Meeting  
Marine Resources Commission, Sovran Bank Building, 2600 Washington Avenue, Fourth Floor, Library, Newport News, Virginia.

The Real Estate Board will meet to conduct a formal hearing: File Number 90-01190, Real Estate Board v. Carrithers, Paul N.

† **July 26, 1991 - 2 p.m.** – Open Meeting  
Marine Resources Commission, Sovran Bank Building, 2600 Washington Avenue, Fourth Floor, Library, Newport News, Virginia.

The Real Estate Board will meet to conduct a formal hearing: File Number 90-00154, Real Estate Board v. McCadden, George, Jr.

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**July 18, 1991 - 10 a.m.** – Public Hearing  
Wythe Building, Conference Room A, 1604 Santa Rosa Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-08-01. Virginia Energy Assistance Program.** The proposed amendments to the Fuel Assistance Component will (i) ensure that all eligible individuals who apply for Fuel Assistance during the application period will receive a benefit; (ii) ensure compliance with Public Law 97-35 relative to providing the highest benefit to those with the lowest income and the highest energy costs.

The proposed amendments to the Crisis Assistance component will assist in meeting the needs of needy households, who, due to unforeseen changes in circumstances, find themselves in a heating emergency situation during January, February or March.

# Calendar of Events

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until July 19, 1991, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

**Contact:** Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## DEPARTMENT OF TRANSPORTATION

**July 8, 1991 - 7 p.m. – Public Hearing**  
Virginia Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia.

**July 10, 1991 - 7 p.m. – Public Hearing**  
Norfolk City Council Chambers, Norfolk City Hall, 11th Floor, 810 Union Street, Norfolk, Virginia.

† **July 18, 1991 - 7 p.m. – Public Hearing**  
Abingdon High School Auditorium, 705 Thompson Drive, Abingdon, Virginia.

† **July 24, 1991 - 7 p.m. – Public Hearing**  
Virginia Department of Transportation, Auditorium, 731 Harrison Avenue, Salem, Virginia.

† **July 25, 1991 - 7 p.m. – Public Hearing**  
George Mason University, 4400 University Drive, Student Union II - Ballroom, Fairfax, Virginia.

A public meeting is being held to obtain comments from Virginia residents, business leaders, and state and local officials on the Virginia Department of Transportation's study of the Allocation Formula for the Transportation Trust Fund as mandated by the 1991 General Assembly. The study has three major goals: (i) to consider whether the way funds are currently allocated in the Code are equitable, (ii) to consider the changing roles of state, local, and federal governments in funding transportation needs; and (iii) to consider the special needs of freight and passenger rail.

**Contact:** Mary Lynn Tischer, Ph.D., 1401 E. Broad St., Room 403, Richmond, VA 23219, telephone (804) 225-4698.

## COMMONWEALTH TRANSPORTATION BOARD

† **July 17, 1991 - 2 p.m. – Open Meeting**  
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒

† **August 14, 1991 - 2 p.m. – Open Meeting**  
Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

A joint work session of the Commonwealth

Transportation Board and the Department of Transportation staff.

† **July 18, 1991 - 2 p.m. – Open Meeting**

Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒

† **August 15, 1991 - 10 a.m. – Open Meeting**

Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

Monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting, on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

**Contact:** John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

## TRANSPORTATION SAFETY BOARD

**August 16, 1991 - 10 a.m. – Open Meeting**

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

A meeting to discuss several topics which pertain to transportation safety.

**Contact:** W. H. Leighty, Deputy Commissioner for Transportation Safety, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23219-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

## TREASURY BOARD

† **July 17, 1991 - 9 a.m. – Open Meeting**

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

**Contact:** Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931.

# Calendar of Events

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## DEPARTMENT OF THE TREASURY (TREASURY BOARD)

July 19, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Treasury Board intends to amend regulations entitled: **VR 640-02. Security for Public Deposits Act Regulations.** The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions in light of recent changes within financial institutions and in types of securities pledged.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

**Contact:** Susan F. Dewey, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

## VIRGINIA RACING COMMISSION

July 22, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.** The purpose of the proposed amendments is to establish the duties, responsibilities and powers of stewards.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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July 22, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.** The regulation establishes the duties and responsibilities of the Commission Veterinarian.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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July 22, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.** The regulation establishes the procedure for appealing decisions of the stewards.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

\* \* \* \* \*

July 22, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.** The regulation establishes conditions under which horses may be identified, determined eligible for racing and may be barred from racing.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

\* \* \* \* \*

July 22, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Entries.** The purpose of the proposed amendments is to establish procedures and conditions under which entries will be taken for horse races with pari-mutuel wagering.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until June 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

\* \* \* \* \*

July 22, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.** The regulation establishes the conditions under which flat racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

\* \* \* \* \*

July 22, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.** The regulation establishes the conditions under which jump racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

\* \* \* \* \*

July 22, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.** This regulation establishes the

conditions under which quarter horse racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

July 9, 1991 - 10 a.m. - Open Meeting  
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of June 11, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

August 13, 1991 - 10 a.m. - Open Meeting  
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of July 9, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

NOTE: CHANGE IN MEETING DATE  
† July 27, 1991 - 11 a.m. - Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

# Calendar of Events

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**Contact:** Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

## DEPARTMENT OF WASTE MANAGEMENT

**July 22, 1991 - 10 a.m. – Public Hearing**  
The Wagner Building, Multipurpose Room, 9502 Lucy Corr Drive, Chesterfield, Virginia. ☐

**July 24, 1991 - 2 p.m. – Public Hearing**  
Virginia Tech., Litton-Reaves Hall, Room 1870, West Campus Drive at Washington Street, Blacksburg, Virginia. ☐

A public hearing will be held to receive comments on proposed regulation VR 672-50-11. The proposed regulation establishes criteria for the certification of recycling machinery and equipment, as well as the procedure for applying for certification.

This certification would allow the owners of the equipment to apply for personal property tax exemptions as authorized by local ordinances.

**Contact:** G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

**July 22, 1991 - 10 a.m. – Public Hearing**  
The Wagner Building, 9502 Lucy Corr Drive, Chesterfield, Virginia.

**July 24, 1991 - 2 p.m. – Public Hearing**  
Virginia Tech., Room 1870, Litton-Reaves Hall, West Campus Drive at Washington Street, Blacksburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.** This regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code

of Virginia.

Written comments may be submitted until August 7, 1991, to Equipment Certification Officer, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219.

**Contact:** G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**† July 10, 1991 - 8:30 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

An open meeting to conduct regulatory review and other board business which may require action.

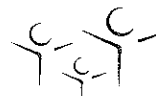
**Contact:** Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, Virginia, 23230-4917, telephone (804) 367-8534.

## VIRGINIA WINEGROWERS ADVISORY BOARD

**July 8, 1991 - 10 a.m. – Open Meeting**  
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☐

The board will vote on the new chairman and vice chairman. The board will also hear committee and project monitor reports, review old and new business and discuss any new proposals.

**Contact:** Annette C. Ringwood, Secretary, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.



VIRGINIA DEPARTMENT OF  
**YOUTH &  
FAMILY SERVICES**  
Youth Begins With You.

## BOARD OF YOUTH AND FAMILY SERVICES

**July 11, 1991 - 10 a.m. – Open Meeting**  
700 Centre Building, 4th Floor, 7th & Franklin Sts., Richmond, Virginia. ☐

A general business meeting.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804)

371-0692.

## DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

**July 10, 1991 - 4 p.m. - Public Hearing**  
Department of Youth and Family Services, 7th & Franklin  
Sts., Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-20-001. Pre and Post Dispositional Group Home Standards.** The proposed regulation establishes board standards for the operation of pre and post dispositional group homes.

Statutory Authority: §§ 66-10 and 16.1-311 of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804) 371-0692.

## LEGISLATIVE

### SPECIAL JOINT COMMITTEE ON BLOCK GRANTS

† **July 12, 1991 - 10 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Street, House  
Room C, Richmond, Virginia.

A public hearing concerning block grants.

**Contact:** Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING THE MEASURES NECESSARY TO ASSURE VIRGINIA'S ECONOMIC RECOVERY

† **July 1, 1991 - 10 a.m. - Open Meeting**  
General Assembly Building, 910 Capitol Street, House  
Room C, Richmond, Virginia.

The joint subcommittee will meet to study the measures necessary to assure Virginia's economic recovery. The meeting has been rescheduled from the original date of June 18.

**Contact:** John G. MacConnell, Staff Counsel, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### July 1

† Measures Necessary to Assure Virginia's Economic Recovery, Joint Subcommittee Studying

#### July 2

† Child Day Care and Early Childhood Programs, Council on  
† Hopewell Industrial Safety Council

#### July 8

† Air Pollution Control, Department of  
† ASAP Policy Board - Valley  
† Information Management, Council on  
Population Growth and Development, Commission on  
- Executive Committee  
Winegrowers Advisory Board, Virginia

#### July 9

† Fire Services Board, Virginia  
- Fire Prevention and Control Committee  
- Fire/EMS Training Committee  
- Legislative Committee  
† Hazardous Materials Training Committee  
Medicine, Board of  
† Norfolk State University  
- Board of Visitors  
Virginia Resources Authority

#### July 10

† Child Mental Health, Interagency Consortium on  
† Local Government, Commission on  
† Fire Services Board, Virginia  
† Interagency Coordinating Council on Early  
Intervention, Virginia  
† Motor Vehicles, Department of  
- Medical Advisory Board  
† Museum of Fine Arts, Virginia  
- Board of Trustees  
Real Estate Board  
† Waterworks and Wastewater Works Operators, Board  
for

#### July 11

Cattle Industry Board, Virginia  
† Child Day Care and Early Childhood Programs,  
Council on  
† Child Day-Care Council  
Real Estate Board  
Youth and Family Services, Board of

#### July 12

† Architects, Land Surveyors, Professional Engineers  
and Landscape Architects, Board for  
Medicine, Board of  
- Advisory Committee on Acupuncture  
† Nursing and Medicine, Boards of

# Calendar of Events

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- Joint Committee
  - † Real Estate Appraiser Board
  - Regulatory Review Committee
- July 13**  
Dentistry, Board of
- July 15**  
† Accountancy, Board for  
† Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park  
Emergency Planning Committee, Local - Scott County
- July 16**  
† Accountancy, Board for  
Gas and Oil Board, Virginia  
† Health Professions, Board of  
† Housing Development Authority, Virginia
- July 17**  
† Community Colleges, State Board for  
† Contractors, Board for  
† Corrections, Board of  
† Emergency Planning Committee, Local - Winchester  
Employment Commission, Virginia  
- Advisory Board  
† Health Professions, Board of  
- Task Force on Managed Health Care  
† Optometry, Board of  
† Transportation Board, Commonwealth  
† Treasury Board
- July 18**  
Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
† Audiology and Speech Pathology, Board of  
† Community Colleges, State Board for  
† Compensation Board  
Employment Commission, Virginia  
- Advisory Board  
† Game and Inland Fisheries, Board of  
† Housing and Community Development, Board of  
- Amusement Device Technical Advisory Committee  
† Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- Substance Abuse Advisory Council  
† Optometry, Board of  
† Transportation Board, Commonwealth
- July 19**  
Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
Children, Interdepartmental Regulation of Residential Facilities for  
- Coordinating Committee  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
† Coordinating Prevention, Virginia Council on  
† Game and Inland Fisheries, Board of  
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Abuse Services, Department of  
- State Human Rights Committee
- July 20**  
Visually Handicapped, Department for the  
- Advisory Committee on Services
- July 22**  
Local Government, Commission on
- July 23**  
Health Services Cost Review Council, Virginia  
† Children's Facilities, Interdepartmental Council on Rate-Setting for  
Local Government, Commission on  
Medicine, Board of  
- Advisory Committee on Acupuncture
- July 24**  
† Corrections, Board of  
- Liaison Committee  
† Emergency Planning Committee, Local - Gloucester  
Local Government, Commission on
- July 25**  
Education, State Board of
- July 26**  
Education, State Board of  
Medicine, Board of  
† Real Estate Board
- July 27**  
† Museum of Natural History, Virginia  
- Board of Trustees  
† Visually Handicapped, Department for the  
- Advisory Committee on Services
- July 28**  
Longwood College  
- Board of Visitors
- July 29**  
Longwood College  
- Board of Visitors  
† Nursing, Board of
- July 30**  
† Labor and Industry, Department of  
- Safety and Health Codes Board  
† Nursing, Board of
- July 31**  
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
- August 1**  
Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board
- August 2**

# Calendar of Events

- † Medicine, Board of
- Executive Committee
- Legislative Committee

## August 6

- † Hopewell Industrial Safety Council
- Medicine, Board of

## August 7

- † Child Mental Health, Interagency Consortium on
- Population Growth and Development, Commission on

## August 8

- Housing and Community Development, Department of
- Regulatory Effectiveness Advisory Committee
- Population Growth and Development, Commission on

## August 13

- Virginia Resources Authority

## August 14

- Education, State Board of
- † Transportation Board, Commonwealth

## August 15

- † Transportation Board, Commonwealth

## August 16

- Transportation Safety Board

## August 19

- Local Government, Commission on

## August 20

- Local Government, Commission on

## August 21

- † Corrections, Board of

## August 23

- Medicine, Board of
- Advisory Board on Physical Therapy

## August 28

- † Compensations Board

## September 3

- † Hopewell Industrial Safety Council

## September 4

- † Child Mental Health, Interagency Consortium on

## September 5

- † Emergency Planning Committee, Local - Chesterfield
- County

## September 11

- † Emergency Response Council, Virginia

## September 26

- † Compensations Board

October 3 ★BI1 † Emergency Planning Committee, Local -  
Chesterfield County

## PUBLIC HEARINGS

### July 8

- † Coordinating Prevention, Virginia Council on
- Transportation, Department of

### July 9

- † Coordinating Prevention, Virginia Council on

### July 10

- † Coordinating Prevention, Virginia Council on
- Youth and Family Services, Department of
- Transportation, Department of

### July 11

- † Coordinating Prevention, Virginia Council on

### July 12

- † Block Grants, Special Joint Subcommittee on

### July 15

- † Coordinating Prevention, Virginia Council on
- Housing and Community Development, Department of

### July 16

- Accountancy, Board for
- Gas and Oil Board, Virginia

### July 17

- † Health Professions, Board of
- Task Force on Managed Health Care
- Real Estate Board

### July 18

- † Optometry, Board of
- Social Services, Department of
- † Transportation, Department of

### July 19

- Racing Commission, Virginia

### July 22

- Local Government, Commission on
- Waste Management, Department of

### July 23

- Health Services Cost Review Council, Virginia

### July 24

- † Transportation, Department of
- Waste Management, Department of

### July 25

- † Transportation, Department of



# Calendar of Events

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August 20  
Local Government, Commission on