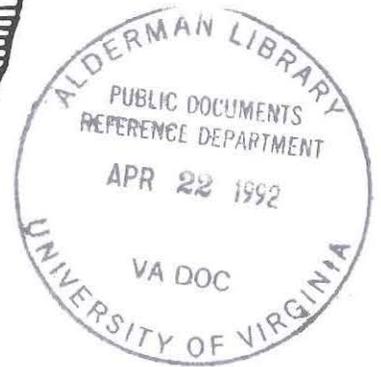


# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME EIGHT • ISSUE FIFTEEN

April 20, 1992

# 1992

Pages 2373 Through 2526

## VIRGINIA REGISTER

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

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

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

### ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

### EMERGENCY REGULATIONS

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

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

### STATEMENT

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

### CITATION TO THE VIRGINIA REGISTER

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VIRGINIA REGISTER OF REGULATIONS

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March 1992 through June 1993

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# NOTICES OF INTENDED REGULATORY ACTION

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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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## STATE AIR POLLUTION CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to amend the Public Participation Guidelines (Appendix E) to: (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, certain analyses would be required to be performed to form the basis for the regulatory action, and the notice of public comment would state that the analyses had been performed and are available for viewing by the public upon request.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 10 a.m. on May 27, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Location of documents:** The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

**Need and issues involved:** The provisions of § 120-02-02 and Appendix E which prescribe the procedures for public participation in the regulatory adoption process are in need of revision to provide better information to the public and regulated community in order to facilitate more meaningful participation by interested parties. They are

also in need of update to conform to recent changes in the process under the Administrative Process Act. The issue is whether the regulation should be amended to meet the needs identified above or remain as is.

**Regulatory alternatives:** The alternatives are to either (i) amend the regulation to meet the needs identified above and improve the procedure to gain more meaningful input into the regulatory adoption process or (ii) not amend the regulation and leave the provisions cited outdated and ineffective with regard to meaningful public input.

**Basis and statutory authority:** Section 10.1-1308 of the Code of Virginia authorized the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution. Section 9-6.14:7.1 requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

**Estimated impacts:** No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the agency. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

**Applicable statutory provisions:** The legal basis for the regulation are as follows:

1. § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).
2. § 9-6.14:7.1 of the Administrative Process Act (Title 9, Chapter 1.1:1 of the Code of Virginia).
3. § 120-02-02 and Appendix E of the Regulations for the Control and Abatement of Air Pollution (VR 120-01)

**Statutory Authority:** §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 27, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

**Contact:** Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P.O.

# Notices of Intended Regulatory Action

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Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the regulation is to limit or prohibit open burning in some instances and to establish requirements to allow the agency to monitor and issue permits for open burning in order to restrict particulate (smoke) emissions from open burning to the levels necessary for the protection of public health and welfare.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 9 a.m. on June 24, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad hoc advisory group:** The department will form an ad hoc advisory group to assist in the development of the regulation. Persons desiring to be in the group should notify the agency contact in writing by close of business on May 21, 1992, providing the name, address, phone number, and the organization to be represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants by June 4, 1992. Person selected to be on the group are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation.

**Location of documents:** The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

**Need and issues involved:** The basic elements of Rule 4-40 are as follows. Section 120-04-4003 generally prohibits the burning of refuse (except as allowed by § 120-04-4004). Section 120-04-4003 also specifies conditions under which open burning is never allowed, such as the burning of rubber, asphaltic or oily materials, or toxic materials. Section 120-04-4004 contains the list of circumstances under which burning is allowed. In two of these circumstances, the burning of land clearing refuse and burning at local landfills, a permit is required in order to burn. Section 120-04-4005 covers the permitting of special open pit incinerators often used as an alternative to open burning. Essentially, Rule 4-40 does not prevent open burning but does impose restrictions designed to minimize the adverse effects of this activity.

Open burning produces a form of air pollution that is

readily visible to the public and is therefore a very sensitive issue. Also, open burning presents an immediate and real health hazard to the public, especially to those with asthma, bronchitis, or other respiratory diseases. Moreover, control of open burning can sometimes involve a conflict between two public policy issues: the enjoyment of life and property and the promotion of economic development. For instance, a large open burn in a heavily populated area may cause a nuisance and hinder the enjoyment of private property, but at the same time it may reduce the expense of disposal.

On the other hand, emissions from open burning represent less than 1.0% of the total emissions statewide, but the time spent in dealing with the problem may range as high as 25% for some of the department's enforcement staff. This allocation of resources seems disproportionate in light of the department's responsibility to control other types of emissions which contribute far more to the degradation of air quality, like those from industry and motor vehicles. Therefore, the regulation of open burning on a statewide basis may not be cost effective.

**Alternatives:** The department is requesting comments on the costs and benefits of the following alternatives as well as on any others which address the need. The department's assessment of the following alternatives is presented below.

1. Take no action. This alternative would be inappropriate from the point of view of both public and department. Scarce resources prevent the department from devoting the necessary time and staff to the enforcement of the current rule. Local governments and the public, however, assume the existence of adequate enforcement efforts on the part of the state because of the language of the current rule.
2. Remove all state air quality restrictions on open burning except for those governing the burning of hazardous materials. This alternative would probably be unacceptable to the public. Since open burning is one of the most visible forms of air pollution, citizens file complaints about this activity with great readiness. Furthermore, the department's abolition of the open burning restrictions might be perceived by the public as irrational and inconsistent in light of the fact that the department has worked to obtain several convictions for violation of the current open burning rule over the past years.
3. Prohibit all open burning. This alternative would be impossible to enforce. Department staff have already significantly reduced the amount of time spent investigating open burning complaints and issuing open burning permits because more important legal mandates demand that they spend their time enforcing rules that have a greater environmental and health impact than does the open burning rule. Open burning has no measurable effect on ambient air quality;

# Notices of Intended Regulatory Action

therefore, statewide regulation contributes very little to Virginia's legal health and welfare goals. A more stringent rule (like one involving a prohibition of all open burning) would further widen the discrepancy between law and practice since sufficient resources could not possibly be allocated to enforce it.

4. Prohibit all open burning except where there is a valid local ordinance meeting criteria specified by the state. Since local waste collection and disposal policies significantly affect the practice of open burning, it is appropriate for the local governing bodies responsible for those policies to assume the authority for dealing with open burning within their jurisdictions. Such assumption of authority is realistic since little technical expertise is needed to enforce a local open burning ordinance. Furthermore, a local government could more consistently and efficiently enforce an open burning ordinance through its fire and police departments than the state could through nonlocal staff. The major caveat with this alternative is that local governments vary considerably in their capability and willingness to assume responsibility for open burning. Any attempt to force local control could result in strained relations with both the localities and the public.

**Regulatory constraints:** Section 10.1-1308 of the Virginia Air Pollution Control Law prohibits the board from regulating "the burning of leaves from trees by persons on property where they reside if the local governing body of the county, city or town has enacted an otherwise valid ordinance regulating such burning."

**Applicable statutory provisions:** The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Chapter 13 of Title 10.1 of the Code of Virginia).

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

Written comments may be submitted until 4 p.m., June 24, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

**Contact:** Kathleen Sands, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider repealing regulations entitled: **VR 173-01-00. Public Participation Procedures for the Formation and Promulgation of**

**Regulations.** The purpose of the proposed action is to repeal the agency's existing Public Participation Procedures. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 173-01-01).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Chesapeake Bay Preservation Act (§§ 10.1-2100-10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

**Statutory Authority:** §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

**Contact:** C. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad Street, Suite 701, Richmond, VA 23219, telephone

# Notices of Intended Regulatory Action

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(804) 225-3440 or 1-800-243-7229/TDD ☎

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider promulgating regulations entitled: **VR 173-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business. Section 10.1-2107 requires the board to consider economic and social costs and benefits that can be expected to result from its regulatory actions.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Chesapeake Bay Preservation Act (§§ 10.1-2100-

10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

**Contact:** C. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad Street, Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or 1-800-243-7229/TDD ☎

## DEPARTMENT OF COMMERCE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider repealing regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies.** The purpose of the proposed action is to repeal current regulations which are not consistent with the new requirements of House Bill 911 which was passed by the 1992 General Assembly. The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

**Contact:** David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider promulgating new regulations entitled: **VR 190-01-1:1. Rules and Regulations Governing Employment Agencies.** The purpose of the proposed action is to promulgate regulations governing employment agencies to implement House Bill No. 911, passed by the 1992 Session of the General Assembly, and seeks public comment concerning all aspects of employment agency regulations. Specific comment is sought concerning requirements for the:

- Initial and renewal licensure, registration and approval as a controlling person;
- Minimum elements of initial contracts, position acceptance agreements and written job descriptions;

# Notices of Intended Regulatory Action

- Manner in which fees are to be earned and paid;
- Standards of practice;
- Grounds for disciplinary actions;
- Records to be kept and maintained by employment agencies; and
- Amount of bond.

The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

## DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-00-00. Regulatory Public Participation Guidelines**. The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each

agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-107 of the Code of Virginia authorizes the Board of Conservation and Recreation to promulgate regulations necessary for the execution of the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); § 10.1-107 and the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia; and all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider repealing regulations entitled: **VR 215-01-00. Public Participation Guidelines**. The purpose of the proposed action is to repeal the agency's existing public participation guidelines. Concurrently with this action, the agency is proposing to adopt Regulatory Public Participation Guidelines for the department which establish, in regulation, various

# Notices of Intended Regulatory Action

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provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 215-01-00, Public Participation Guidelines, the department is considering adoption of VR 217-00-00, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other Acts of Assembly and Code of Virginia references

conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 217-00-00. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the department which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the department is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to promulgate VR 217-00-00, Regulatory Public Participation Guidelines, the department is considering the repeal of the existing VR 215-01-00,

# Notices of Intended Regulatory Action

**Public Participation Guidelines.** The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the department in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other Acts of Assembly and Code of Virginia references conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

## 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 State Board of Education intends to consider amending regulations entitled: **VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.** The purpose of the proposed action is to establish a fee schedule whereby the proceeds will help defray 50% of the cost incurred by the Department of Education in the licensing and monitoring activities of proprietary schools. These regulations are necessary due to

a recent change in the Code of Virginia.

Statutory Authority: §§ 22.1-16 and 22.1-319 through 22.1-325 of the Code of Virginia.

Written comments may be submitted until April 28, 1992.

**Contact:** Carol Buchanan, Specialist, Proprietary Schools, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2848 or toll-free 1-800-292-3820.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider repealing regulations entitled: **VR 270-01-0052. Standards for Approval of Teacher Preparation Programs in Virginia (1979).** The purpose of the proposed action is to repeal the outdated regulations which were incorporated into the Certification Regulations for Teachers in 1982 and revised in 1986. New regulations governing teacher preparation programs will be promulgated by the Board of Education.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

**Contact:** Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The purpose of the proposed action is to upgrade the standards for approval of teacher education programs offered at Virginia colleges and universities.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

**Contact:** Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

## COUNCIL ON THE ENVIRONMENT

### † Notice of Intended Regulatory Action

# Notices of Intended Regulatory Action

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Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider repealing regulations entitled: **VR 305-01-001. Public Participation Guidelines.** The purpose of the proposed action is to repeal the council's existing Public Participation Guidelines. Concurrently with this action, the council is proposing to adopt new Public Participation Guidelines (VR 305-01-001:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 authorizes the Council on the Environment to adopt rules governing the procedures of the council.

Concurrently with this action, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted by the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22, 1992, to Keith J. Buttleman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

**Contact:** Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider promulgating regulations entitled: **VR 305-01-001:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the council which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Specifically, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 of the Code of Virginia authorizes the Council on the Environment to adopt rules governing the procedures of the council.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22,

# Notices of Intended Regulatory Action

1992, to Keith J. Buttleman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

## DEPARTMENT OF HEALTH (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **Waterworks Technical Assistance Program/Operation Fee**. The purpose of the proposed action is to make appropriate state regulations to set fee schedules for operation permit fees and their applicability to waterworks.

Statutory Authority: §§ 32.1-170, 32.1-171.1 and 32.1-174 of the Code of Virginia pursuant to House Bill 236 effective July 1, 1992.

Written comments may be submitted until May 6, 1992.

Contact: Thomas B. Gray, P.E., Projects Manager, Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to allow health care institutions, which neither receive Medicare nor Medicaid reimbursement for patients, to develop their own methodology to ascertain nursing home costs and to eliminate the requirement that these facilities utilize the allocation methodology used for cost reports filed with the Virginia Department of Medical Assistance Services or for the Medicare Program.

Statutory Authority: §§ 9-158(A) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until April 24, 1992.

Contact: John A. Rupp, Executive Director, Virginia Health Services Cost Review Council, 805 E. Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## BOARD OF HISTORIC RESOURCES

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-01. Public Participation Guidelines**. The purpose of the proposed action is to adopt Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Sections 10.1-2205 and 10.1-2305 of the Code of Virginia authorize the Virginia Board of Historic Resources to promulgate regulations necessary for (i) the designation of historic properties, (ii) the establishment of appropriate preservation practices, (iii) approval and authorization of highway historical markers, (iv) acquisition of property, and (v) issuance of permits for archaeological excavation of human remains.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 10 a.m., Wednesday, May 27, 1992, in the board room, Department of Historic Resources, 221 Governor Street, Richmond, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative

# Notices of Intended Regulatory Action

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Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), and §§ 10.1-2205 and 10.1-2305 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1, 10.1-2205 and 10.1-2305 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 29, 1992.

Contact: H. Bryan Mitchell, Deputy Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

## MARINE RESOURCES COMMISSION

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider amending regulations entitled: VR 450-01-0045. **Public Participation Guidelines.** The purpose of the proposed action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

The intended amendments require an expanded NOIRA to include (i) a statement as to the need for the regulatory action; (ii) a description of alternatives available to meet the need; (iii) a request for comments on the intended regulatory action and benefits of the alternatives and suggestions; and (iv) require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the commission.

The commission will hold a public hearing at 9:30 a.m., Monday, April 28, 1992, at the commission headquarters located at 2600 Washington Avenue, Newport News, to review the comments received and answer questions of the public.

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 62.1-13.4 authorizes the Marine Resources Commission to promulgate regulations necessary to carry out its powers and duties under the provisions of Title 62.1.

**Purpose and Substance:** The purpose of this intended regulatory action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the intended regulatory action would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

**Estimated impacts:** No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the commission. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

**Public meeting:** The commission will hold a public meeting at the commission headquarters at 2600 Washington Avenue, Newport News, at 9:30 a.m., April 28, 1992, to receive views and comments and to answer questions of the public.

**Comments:** The commission seeks written comments from interested persons. To be considered, comments should be submitted no later than May 22, 1992.

**Applicable laws and regulations:** Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and Title 62.1 of the Code of Virginia.

**Statutory Authority:** §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until May 22, 1992, to Marine Resources Commission, P.O. Box 756, Newport News, Virginia.

**Contact:** Robert W. Grabb, Chief, Habitat Management, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

# Notices of Intended Regulatory Action

## 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: **Standards Established and Methods Used to Assure High Quality of Care: Nursing Facility Criteria (Attachment 3.1C, Supplement 1)**. The purpose of the proposed action is to amend the State Plan for Medical Assistance to include criteria for nursing facility admission and continued stay based on the resident assessment instrument approved by the state (the Minimum Date Set).

Statutory Authority: § 54.1-2400 of the Code of Virginia and 42 CFR 483.20 (Omnibus Budget Reconciliation Act of 1987).

Written comments may be submitted until April 28, 1992, to Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Mary Chiles, Manager, Long Term Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 225-4220.

## 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 465-01-1. Public Participation Guidelines**. The purpose of the proposed action is to establish a clear and concise process for receiving public written comments on proposed regulations.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

### † 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 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology,**

**and Acupuncture**. The purpose of the proposed action is to establish regulations governing the use of pharmacotherapy for weight loss, and add examinations for licensure and endorsement licensure for doctors of medicine and osteopathy.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

### † 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 465-05-1. Regulations Governing the Practice of Physician's Assistants**. The purpose of the proposed action is to establish the required curriculum of academic study to be a licensed physician's assistant in Virginia shall be for physician's assistants accredited by the Committee on Allied Health Education and American Academy of Physicians Assistants.

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

Written comments may be submitted until May 7, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

## BOARD FOR OPTICIANS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider amending regulations entitled: **VR 505-01-01.1. Board for Opticians Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and Chapter 2 of Title 54.1 of the Code of Virginia.

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

Written comments may be submitted until April 23, 1992.

**Contact:** Mrs. Peggy S. McCrerey, Director of Regulatory Programs, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 674-2194.

# Notices of Intended Regulatory Action

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## BOARD OF PSYCHOLOGY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider amending regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to review the requirements for licensure for clinical psychologists, psychologists, and school psychologists to include educational requirements and requirements for examination in light of action taken by the 1992 General Assembly.

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

Written comments may be submitted until May 20, 1992.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

The department wishes to withdraw the Notice of Intended Regulatory Action regarding "General Relief (GR) and Auxiliary Grants (AG) Programs - Attempted Recovery of Overpayments" published in 7:12 VA.R. 1868 March 11, 1991.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **Calculation of Expected Cohabitant Contribution in the Aid to Dependent Children (ADC) Program.** The purpose of the proposed action is to make the calculation of the expected cohabitant contribution consistent with the calculation of the amount of income which is deemed available to an assistance unit from a stepparent. Section 63.1-90.1 of the Code of Virginia holds a cohabitant responsible for the support and maintenance of the children of the parent with which he cohabits as man and wife.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 22, 1992, to Ms. Constance O. Hall, ADC Program Manager, Department of Social Services, Division of Benefit Programs, 8007 Discovery Drive, Richmond, VA 23229.

**Contact:** Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

## BOARD OF SOCIAL WORK

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider amending regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to review requirements for licensure including required examinations in light of action taken by the 1992 General Assembly.

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

Written comments may be submitted until May 20, 1992.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider repealing regulations entitled: **VR 625-00-00. Public Participation Guidelines.** The purpose of the proposed action is to repeal the board's existing public participation guidelines. Concurrently with this action the board is proposing to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605

# Notices of Intended Regulatory Action

of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 625-00-00, Public Participation Guidelines, the board is considering adoption of VR 625-00-00:1, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Department of Conservation and Recreation and the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle I of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing VR 625-00-00, Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605

# Notices of Intended Regulatory Action

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of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 625-00-00.1, Regulatory Public Participation Guidelines, the board is considering the repeal of existing VR 625-00-00, Public Participation Guidelines. The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle 1 of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing VR 625-00-00, Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The purpose of the proposed action is to amend the manual to address the use of natural gas as a motor fuel, and the transportation of low-pressure oxygen.

Statutory Authority: §§ 33.1-12 and 33.1-49 of the Code of Virginia.

Written comments may be submitted until May 6, 1992, to Mr. J. L. Butner, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

**Contact:** Mr. C. A. Abernathy, Transportation Engineer, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Room 206 Highway Annex, Richmond, VA 23219, telephone (804) 786-2889.

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waste Management Facility Operators intends to consider promulgating regulations entitled: **Regulations Governing Waste Management Facility Operators.** The purpose of the proposed action is to establish a certification program to regulate the activities of waste management facility operators in Virginia to conform to Senate Bill 877.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

**Contact:** Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider repealing regulations entitled: **VR 672-01-1. Public Participation Procedures for Formation and Promulgation of**

# Notices of Intended Regulatory Action

**Regulations.** The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrent with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 672-01-1:1.)

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia, the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: Karol A. Akers, Policy and Planning Manager,

Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **VR 672-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia),

# Notices of Intended Regulatory Action

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the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

**Contact:** Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

## STATE WATER CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-41-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 680-41-01:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and

the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

**Contact:** Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with

## Notices of Intended Regulatory Action

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respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

**Contact:** Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF AVIATION (BOARD OF)

Title of Regulation: VR 165-01-02. Rules and Regulations of the Virginia Aviation Board Governing the Licensing of Aircraft and Airports, and the Operation of Aircraft and Airports in the State of Virginia. REPEALED.

Title of Regulation: VR 165-01-02:1. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.

Statutory Authority: § 5.1-2 of the Code of Virginia.

Public Hearing Date: April 28, 1992 - 10 a.m.  
(See Calendar of Events section for additional information)

### Summary:

The Department of Aviation intends to repeal existing regulations governing the licensing of airmen, aircraft and airports and promulgate new regulations. These proposed regulations address topical aviation areas in Virginia for the protection and enhancement of safe and efficient air transportation in the Commonwealth. The regulations relate to (i) aircraft; (ii) airports and landing areas; (iii) obstructions to airspace; and (iv) miscellaneous items including accident reports, aircraft surveys, and enforcement of the regulations.

Aircraft sections have been streamlined, and the Airmen section has been deleted. Conversely, an Obstructions to Airspace section has been added. Airport sections have been combined, and Parachuting and Drop Zone sections have been deleted.

These regulations are designed to supplement, where necessary, Federal Air Regulations by creating state standards that are applicable and prudent. Likewise, they are designed to not be redundant of federal air regulations.

Accordingly, the registration of aircraft is provided for with these regulations. Design standards for the operation of airports are provided for through an airport license procedure. Specifications and permits are required for structures and vegetation that penetrate navigable airspace of the state. A Model Airport Safety Zoning Ordinance is referenced to aid localities in their compliance with adoption of Airport Safety Zoning.

These and other miscellaneous provisions are proposed

*to protect the public's health, safety, and welfare as it pertains to air transportation.*

VR 165-01-02:1. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.

## PART I. DEFINITIONS.

### § 1.1. Definitions.

Whenever used in these regulations, unless the context or subject matter requires otherwise, the following words or terms have the meaning herein ascribed to them, respectively:

"Aerial application" means the dispensing or discharge of any liquid spray, dust aerosol, fog or organic or inorganic matter used or useful as a fertilizer or a pesticide (this would include herbicides and fungicides) from an aerial application aircraft.

"Aerial application aircraft" means any aircraft (including helicopters of any type) which is equipped with any apparatus or mechanism designed or used to dispense or discharge liquid spray, dust, seed, aerosol, fog or organic or inorganic matter used or useful as a fertilizer or a pesticide from the air.

"Aircraft" means any contrivance now known or hereafter invented, which is controlled, used, and usually occupied by man for the purpose of navigation and transportation through the air, excepting "hang glider" as defined in § 5.1-1 of the Code of Virginia.

"Airline" means an air carrier operation under Federal Aviation Regulation Part 121 or Part 135 if operating with an exemption from Title IV of the Federal Aviation Act to provide scheduled passenger service.

"Airman" means any individual, including the person in command, and any pilot, mechanic, or member of the crew, who engages in the navigation of aircraft while under way within Virginia airspace, and any individual who inspects, maintains, overhauls or repairs aircraft, aircraft engines, propellers or accessories.

"Airport" means any area of land or water which is used or intended for use for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities including rights-of-way, easements and all airport buildings and facilities located thereon.

# Proposed Regulations

"Airspace" means all that space above the land and waters within the boundary of this state.

"Antique aircraft" means any aircraft used solely for exhibit or demonstration flying, constructed by the original manufacturer, or his licensee, on or before 30 years prior to the current date.

"Approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward. For non-Federal Aid Airports, the slope extends at a slope of 15:1 from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

1. 1,200 feet at a distance of 5,000 feet for that end of a runway with only visual approaches.
2. 2,000 feet at a distance of 5,000 feet for that end of a runway having or proposing to have a nonprecision instrument approach procedure.

See also Appendix B of these regulations for design standards as they apply to Federal Aid Airports.

"Aviation" means transportation by air; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or landing areas, or other air navigation facilities, and air instruction.

"Board" means the Virginia Aviation Board.

"Certificate" means an aerial application aircraft certificate issued by the department.

"Civil aircraft" means any aircraft other than a public aircraft.

"Commercial operator" means a person who operates any aircraft for the purpose of rental or charter or for any other purpose from which revenue is derived.

"Contract carrier permit" means a permit issued by the department to contract for transport of passengers or aircraft by air. Owners of aircraft who contract to provide flight instruction in their aircraft are required to have a contract carrier permit.

"Conical surface" for a non-Federal Aid airport means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 15:1 for a horizontal distance of 4,000 feet. See also Appendix B of these regulations for standards as they apply to Federal Aid Airports.

"Department" means the Department of Aviation.

"Effective runway length" means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway at the far end thereof.

"Hazards" for airports means any structure, object or natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

"Helipad" means a rectangular or square specially prepared surface that may be turf or paved, which is designated specifically for the purpose of landing and takeoff of helicopter aircraft.

"Heliport" means any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon.

"Heliport approach surface" means a surface beginning at each end of the heliport primary surface with the same width as the primary surface, and extending outward and upward. Reference Appendix B of these regulations for design standards.

"Heliport primary surface" means the area of the primary surface coinciding in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

"Heliport transitional surface" means a surface extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces. Reference Appendix B of these regulations for design standards.

"Horizontal surface" means a horizontal plane 150 feet above the established airport elevation. Reference Appendix B of these regulations for design standards.

"Imaginary surfaces" are those surfaces as defined herein for non-Federal Aid Airports and in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations. Reference Appendix B of the regulations for the definitions and design standards.

"Intrastate air transportation" means air transportation between two or more airports within Virginia.

"Landing area" means any local specific site, whether over land or water, including airports and intermediate landing fields, which is used or intended to be used for the landing and takeoff of aircraft, whether or not

# Proposed Regulations

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facilities are provided for the sheltering, servicing or repair of aircraft, or for receiving or discharging passengers or cargo.

"Noncommercial dealer" means a person who owns and offers for sale a minimum of three aircraft during any consecutive 12-month period, which aircraft are not used for personal use, rental, charter or for any purpose from which revenue is derived.

"Obstacle" means any fixed or mobile object that is located on an area intended for the surface movement of aircraft, or that extends above a defined imaginary surface intended to protect aircraft in flight, that interferes with the siting or operation of navigational aids, or that may control the establishment of instrument procedures.

"Obstruction" means any object, man-made or otherwise, which penetrates any of the imaginary surfaces at an aircraft landing facility.

"Obstruction clearance plane" means a plane sloping upward from the runway at a slope of 15:1 to the horizontal and tangent to or clearing all obstructions within a specified area surrounding the runway as shown in a profile view of that area. For Federal Aid Airports the slope of the plane is 20:1.

"Person" means any individual, corporation, government, political subdivision of the state, or governmental subdivision or agency, business trust, estate, trust, partnership, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 100 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The minimum width of a primary surface is 200 feet. See also Appendix B of these regulations for standards as they apply to Federal Aid Airports.

"Public aircraft" means an aircraft used exclusively for the service of any state or political subdivision thereof, or the federal government.

"Relocated threshold" means a landing threshold that has been relocated from the physical end of the runway.

"Runway" means a rectangular specially prepared surface that may be turf or paved which is designated specifically for the purpose of landing and taking off of aircraft.

"Runway safety area" means a rectangular area,

symmetrical about the runway centerline, which includes the runway, runway shoulders, and stopways, if present. The portion abutting the edge of the runway shoulders, runway ends and stopways is cleared, drained, graded, and usually turfed. Under normal conditions, the runway safety area is capable of supporting snow removal, firefighting, and rescue equipment and of accommodating occasional passage of aircraft without causing major damage to the aircraft.

"Stopway" or "overrun" means any area beyond the takeoff runway, no less wide than the runway and centered upon the extended centerline of the runway, able to support the airplane during an aborted takeoff without causing structural damage to the airplane, and designated by the airport authorities for use in decelerating the airplane during an aborted takeoff.

"Threshold" means the beginning of that portion of the runway identified for the landing of aircraft.

"Transitional surface" for non-Federal Aid airports means a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 5 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface. See also Appendix B of these regulations for standards as they apply to Federal Aid Airports.

"Ultralight" means any aircraft that (i) is used or intended to be used for manned operation in the air by a single occupant, (ii) is used or intended to be used for recreation and sport purposes only, and (iii) does not have any U.S. or foreign air worthiness certificate, and (iv) weighs less than 254 pounds empty weight, excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation; and (v) that has a fuel capacity not exceeding 5 U.S. gallons; and (vi) is not capable of more than 55 knots calibrated airspeed at full power in level flight and has a power-off stall speed which does not exceed 24 knots calibrated airspeed.

## PART II AIRCRAFT.

### § 2.1. Aircraft to be licensed.

Every resident of this state owning a civil aircraft, every nonresident owning a civil aircraft based in this state over 60 days during a 12-month period, all aerial application aircraft operating within this state and every owner of a civil aircraft operated in this state as a for-hire intrastate air carrier shall, before the same is operated in this state, apply to the department for, and obtain from the department, an aircraft license for such civil aircraft.

### § 2.2. Application for aircraft license.

An owner who holds a currently effective registration

certificate for an aircraft issued by the Federal Aviation Administration shall make application for an aircraft license upon appropriate forms to be prescribed and furnished by the department. Such owner shall provide all information as requested thereon, provided, however, the failure of the Federal Aviation Administration to require registration of an aircraft, including, for example an ultralight, shall not of itself operate to excuse the owner thereof from the licensing requirements contained in § 2.1 above. The owner shall certify every application for an aircraft license.

## § 2.3. Expiration and renewal of licenses.

Every aircraft license issued by the department shall expire 12 months from date of issuance, except for antique aircraft as hereinafter provided, unless sooner suspended or revoked by the department. Every such license shall be renewed annually upon application of the owner on appropriate forms prescribed and furnished by the department and upon payment of the fees required by these regulations, such renewal to take effect on the date of issuance.

Every antique aircraft license issued by the department shall expire on the date of sale of such aircraft, unless sooner suspended or revoked by the department.

No license issued by the department for an aircraft shall be transferable.

## § 2.4. License decals to be carried or displayed.

The aircraft license decal issued by the department for an aircraft required to be licensed by these regulations shall be displayed at all times centered below the right-hand horizontal stabilizer on the fuselage or immediately aft of the cabin entry door of such aircraft; it shall be readily visible from the outside of such aircraft and shall be subject to inspection by any person charged with the duty of enforcing the aviation laws of this state.

Aircraft license decals issued to antique aircraft and balloons may, in lieu of being displayed, be carried with the aircraft papers in such aircraft and shall be subject to inspection by any person charged with the duty of enforcing the aviation laws of this state.

## § 2.5. Transfer of registration or interest in aircraft—surrender of license.

The owner of an aircraft licensed by the department under the provisions of these regulations who transfers or assigns his registration or interest in such aircraft shall immediately notify the department in writing of such transfer or assignment and shall furnish the department with the name and address of the person to whom such transfer or assignment was made and shall remove or obliterate the decal license so as to indicate its cancellation prior to delivery of the aircraft to the transferee or assignee and shall request the department to

cancel such decal license.

## § 2.6. Commercial, noncommercial and dealer's licensing.

Persons engaged in commercial operations may obtain commercial single aircraft licenses or a commercial fleet license covering all aircraft owned by any such dealer or commercial carrier.

Noncommercial dealer aircraft licenses shall be issued to dealers for demonstration flights only. This license shall not be valid while the aircraft is being used for personal use, rental, charter or for any purpose from which revenue is derived.

Commercial single, commercial fleet or noncommercial dealer aircraft licenses will be issued in lieu of regular licensing for each aircraft and may be obtained from the department upon application therefore upon a form prescribed by the department and the payment of the fees required by these regulations. Such license shall expire one year from the date of the issuance of such license. Upon the issuance of such license, the department shall issue to such licensee decals of distinguishing color which shall be displayed by such licensee as required by § 2.4 of these regulations.

All corporate applicants applying for commercial licenses shall be Virginia corporations or duly authorized to transact business in Virginia.

Such dealer decals may be used on aircraft owned by such dealer when operated in this state by such dealer or his authorized representatives for demonstration for sale.

Commercial air carriers licensed under a commercial fleet aircraft license and providing regular scheduled air service shall be exempt from displaying licensing decals.

Any aircraft sold to or used by the United States or any of the governmental agencies thereof, the Commonwealth of Virginia or any political subdivision thereof, or any airline operated solely intrastate, interstate or in foreign commerce and as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports shall be exempt from such commercial license and permit requirements; provided, however, that nothing contained herein shall be deemed to exempt from the licensing and permit requirements contained in § 5.1-9.2 of the Code of Virginia any aircraft or operations of a person engaged in whole or in part in the business of a contract carrier by aircraft intrastate in the airspace of this state.

## § 2.7. Commercial operators.

All commercial fleet operators shall submit to the department a monthly report, on forms provided by the department, listing all aircraft owned or leased by such operator.

## § 2.8. Lease or rental of unlicensed aircraft.

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*It shall be unlawful for any person to lease or rent an unlicensed aircraft to any person.*

## § 2.9. Operation of aircraft.

*All aircraft operations shall be conducted in conformity with Federal Aviation Regulations as amended from time to time and violation of such federal regulations shall also constitute a violation of these regulations.*

## § 2.10. Fees.

*The annual fee for a license or renewal thereof: noncommercial aircraft shall be \$5.00; commercial single aircraft shall be \$10.00; noncommercial dealer aircraft shall be \$50.00 and commercial fleet aircraft shall be \$75.00 payable at the time of application.*

*The fee for replacement of a lost license shall be \$2.00 for either noncommercial or commercial aircraft licenses upon satisfactory proof that such replacement is necessary or in the public interest.*

## PART III. AIRPORTS AND LANDING AREAS.

### § 3.1. Licenses.

*Airports and landing areas shall be licensed by the department pursuant to the provisions of §§ 5.1-7 and 5.1-8 of the Code of Virginia, on and after the effective date of these regulations, following review and recommendation by the board. An application for a license to operate or conduct an airport or a landing area shall be executed by the applicant or his or its duly authorized agent, under oath on forms prescribed by the department, and shall be filed with the department.*

### § 3.2. Permits.

*Airports and landing areas which are issued permits pursuant to § 5.1-8 of the Code of Virginia shall be open to the general public on a nondiscriminatory basis. An application for such permit shall be submitted to the department by the applicant or his duly authorized agent under oath on forms prescribed by the department. Such permit shall remain in effect until suspended, modified or revoked by the department.*

### § 3.3. Transfer of licenses.

*No license issued by the department for the operation of an airport or landing area may be transferred by the licensee without first obtaining the approval of the department and review and recommendation of the board for such transfer.*

*Application for approval of a transfer of a license shall be made on forms prescribed by the department and may be granted only after satisfactory evidence has been submitted which shows that the proposed transferee (i) is*

*capable of operating the airport or landing area in accordance with the laws of this state and these regulations; and (ii) is financially responsible and has paid or guaranteed payment of all financial commitments due the Commonwealth under Title 5.1 of the Code of Virginia or these regulations.*

*Before such transfer shall be made the transferee by written agreement shall assume the unfulfilled obligation to the Commonwealth to operate the airport or landing area under any and all agreements executed by any prior licensee or licensees of such airport or landing area to procure state funds for such airport or landing area.*

*Upon death or dissolution of a licensee, the airport license may be transferred. Transfer shall be effected within 180 days after death or dissolution of the licensee or the airport license shall become null and void.*

### § 3.4. Minimum requirements for licensing.

*The minimum standards which are required for initial and continued licensing or permitting under §§ 5.1-7 and 5.1-8 of the Code of Virginia will provide for an effective runway length of 2,000 feet with 100 feet of overrun and unobstructed approach surfaces of 15:1 slope at each end of the runway. The airport will have an unobstructed primary surface(s) which is 2,200 feet in length and 200 feet in width. There will be unobstructed transition surfaces of 5:1 slope on either side of the primary and approach surfaces. The minimum runway width shall be 60 feet and the minimum runway safety area width shall be 130 feet.*

*In any case, where an approach surface to either physical end of the runway is obstructed, and the obstacle cannot be removed, the threshold must be displaced. A displaced threshold shall be located down the runway at the point where the obstruction clearance plane intersects the runway centerline.*

*An airport runway licensed or permitted specifically and solely for the purpose of accommodating short-takeoff-and-landing aircraft may, at the discretion of the department, be less than 2,000 feet in length; however, all other dimensional standards will apply.*

*The minimum dimensional standards which are required for licensing or permitting a commercial, public-use landing area for use as a heliport will provide for minimum dimensions of 75 feet square. The heliport will have unobstructed primary, approach and transition surfaces in accordance with § 1.1 of these regulations.*

*In addition to the investigation required for safety provisions as outlined in § 5.1-8 of the Code of Virginia, a detailed consideration of the economic, social and environmental effects of the airport location shall be conducted. These considerations may include hearings as required to ensure consistency with the goals and objectives of such planning as has been carried out by the*

community.

## § 3.5. Public waters landing rights.

The public waters of Virginia shall be available for amphibious or float planes use in accordance with applicable state and federal statutes and regulations. Users or prospective users of such waters for such purposes should, unless prevented by sudden emergencies of other conditions beyond the reasonable control of such user, obtain all available information regarding known obstructions or hazards.

## § 3.6. Private or personal nonlicensed airports.

Any person owning property utilized for landing aircraft that is solely for private or personal use, shall be required only to register the landing area if it is not within five nautical miles of a commercial airport. Registration shall be accomplished on forms provided by the department.

Aircraft landing at these landing areas and nonpublic-use airports shall have prior approval of the landowners or controlling agency when reasonably practical. Aircraft landing at other than licensed airports without such prior approval shall not be removed therefrom without the consent of the owner or lessee of such property.

## § 3.7. Fees.

The fee for licensing a commercial, public use airport or landing area in accordance with § 3.1 shall be \$100.

The fee for a permit issued pursuant to § 3.2 shall be \$50.

## PART IV. OBSTRUCTIONS TO AIRSPACE.

### § 4.1. Determination of hazard.

The Department of Aviation shall conduct an aeronautical study and determine the effect of any structure that penetrates any imaginary surface upon the safe and efficient operation of any licensed air navigation facility or airport. This determination shall be made based on standards as defined by these regulations and Federal Aviation Regulations, Part 77. If a structure constitutes an "Obstruction" in accordance with these standards, it shall be presumed to be a "Hazard" until determined otherwise by the Virginia Aviation Board.

### § 4.2. Obstruction criteria.

In conducting any study required by these regulations the department may consider, but not be limited to, at least the following factors: Federal Aviation Regulations Parts 77.25, 77.28, 77.29; Airport Traffic Patterns; IFR Airways and Routes; VFR routes and designated practice areas; and terminal airspace and instrument approach procedures.

### § 4.3. Obstruction permit procedure.

A. Any person seeking a permit from the board, as required by § 5.1-25.1 of the Code of Virginia, pertaining to structures hazardous to air navigation shall abide by the requests listed below. This process shall not be applicable in those localities that have satisfied the local ordinance provisions of § 15.1-491.02 of the Code of Virginia.

1. The person shall submit to the Department of Aviation a permit request, made on such form as prescribed by the department, including any ancillary data required by the department.

2. The department shall conduct an analysis of the request using the criteria established in §§ 4.1 and 4.2 of these regulations. It shall then forward to the board its analysis in the form of a staff report with the concurrent recommendations regarding the permit request.

3. The board shall issue its decision on the permit request at the meeting described in subdivision 4 below. The decision may be reached using, but not limited to, (i) the department staff report, (ii) any verbal and written testimony of the applicant, (iii) any analysis of the Federal Aviation Administration, and (iv) any comments from the local jurisdiction where the structure is to be located. All decisions issued by the board shall be issued in writing stating the reasons for same. Any affirmative decision may be accompanied by conditions deemed applicable by the board including, but not limited to, obstruction marking, lighting and similar safety features.

4. The board shall consider each permit request at the next regularly scheduled meeting following the completion of the department staff report. Upon receiving the request, the department shall notify the applicant of the receipt, and supply available information pertaining to the obstruction analysis, with the date and location of the applicable board meeting. The analysis and decision process shall not normally exceed 90 days from the date of receipt.

5. The applicant, if given an affirmative decision by the board, shall not be relieved by that decision of any local legal requirements as to building, variance, or other permits as may be required.

### § 4.4. Model airport safety zoning ordinance.

B. Any county, city, or town in the Commonwealth seeking to comply with the mandate of § 15.1-491.02 of the Code of Virginia to enact local obstruction ordinances shall abide by the following:

1. The Model Airport Safety Zoning Ordinance developed by the Department of Aviation shall be used as a guide by localities. A copy of such ordinance is found in Appendix A of these regulations.

# Proposed Regulations

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2. The provisions of any locally adopted ordinance shall be in substantial conformity with the Model Airport Safety Zoning Ordinance. Substantial conformity shall include, but not be limited to, protection of airspace from intrusions as described in Article 3 and 4 of the Model.

3. The department may, at the request of a local governing body, review any ordinance submitted prior to adoption by such locality. In conducting its review the department shall make an evaluation regarding the integrity of such ordinance with respect to the requisites of the Model Airport Safety Zoning Ordinance. The review of the department may include, but not be limited to, the evaluation with respect to the Model Ordinance, any comments of the locality, and its opinion concerning the expected effectiveness of the ordinance as it relates to the general intent of § 15.1-491.02 of the Code of Virginia.

## PART V. AERIAL APPLICATION AIRCRAFT.

### § 5.1. Certificate required.

Aerial application aircraft operating within this state must be licensed and certificated by the department. Application therefore must be made by the federally registered owner of the aircraft on forms prescribed by the department.

### § 5.2. Requirements for certificate.

Before any aerial application aircraft will be certificated by the department, such aircraft must be certificated by the Federal Aviation Administration, licensed by the department, equipped with approved shoulder harness, and the owner must furnish proof of financial responsibility as required by § 5.1-88.1 of the Code of Virginia.

### § 5.3. Duration of certificates.

Certificates, unless sooner suspended, cancelled or revoked by the department, shall remain in effect for the period to coincide with the Virginia aircraft license or for the period covered by the insurance policy bond or other security on file with the department, whichever expires first.

### § 5.4. Renewal of certificates.

Certificates may be renewed by the department upon application on forms prescribed by the department, provided satisfactory evidence is furnished by the applicant that the requirements herein established for issuance of an original certificate have been met.

### § 5.5. Use of approved pesticides.

Each holder of an aerial applicator certificate shall ensure that pesticides used are approved and registered

with the Virginia Department of Agriculture and Consumer Services, 1100 Bank Street, P.O. Box 1163, Richmond, Virginia 23219, Phone (804) 786-3798, pursuant to § 5.1-5, and Chapter 14 of Title 3.1 of the Code of Virginia.

## PART VI. SUSPENSION, MODIFICATION OR REVOCATION OF LICENSES.

### § 6.1. Sanctions, notice and appeals.

The department may immediately temporarily suspend or modify any license, permit or certificate issued pursuant to Chapter 1 of Title 5.1 of the Code of Virginia and these regulations for violation of any of the provisions of the aviation laws of Virginia or of these regulations, at the instance of any person, upon duly sworn affidavit of such person, or upon its own motion. Such sanction shall be effective upon receipt of written notice of the sanction by the licensee at his last known address as disclosed by the records of the department. Such temporary sanction shall be effective for a period not to exceed 90 days.

The department may permanently suspend, modify or revoke any license, permit or certificate issued pursuant to Chapter 1 of Title 5.1 of the Code of Virginia and these regulations for violation of any of the provisions of the aviation laws of Virginia or of these regulations, at the instance of any person, by duly sworn affidavit of such person, or on its own motion. Such action shall be effective 10 days after receipt of written notice of the action by the licensee at his last known address as disclosed by the records of the department, unless the licensee shall, before that time, show cause why such sanction should not be imposed.

Temporary or permanent suspensions, modifications or revocations by the department may be appealed by filing a written notice of appeal with the director of the department within 10 days of receipt of the notice of sanction, requesting an opportunity to be heard and to present evidence. Such an opportunity will be afforded by the director not later than 21 days after receipt by him of the written notice of appeal. The director will give written notice to the licensee of his decision to affirm, modify or rescind the sanction within 10 days after this hearing.

The sanctions enumerated in this regulation shall be cumulative with other enforcement powers conferred upon the department by these regulations or by statute, and no action taken hereunder shall limit the jurisdiction of the department to impose other penalties authorized by these regulations or by statute.

## PART VII. GENERAL.

### § 7.1. Report of accidents.

The pilot, or any member of the crew able to do so, or the owner or lessee of an aircraft involved in an accident

or incident in this state resulting in injury to or death of any person or damage to the property of others in an amount in excess of \$500 or damage to the aircraft in an amount in excess of \$500 shall immediately report such accident or incident to the Virginia State Police, the Federal Aviation Administration, and to the National Transportation Safety Board if required. Such report shall show the license number of the aircraft, the name of the pilot, the time and place of the accident or incident, the name or names of the persons killed or injured or whose property was damaged, and whether the persons injured or killed were passengers in the aircraft or members of the crew of the aircraft and the nature and extent of the injuries to persons or damage to property. Within five days after such accident or incident, the owner or lessee of such aircraft shall make a full and complete report thereof in writing to the Virginia State Police and the Federal Aviation Administration.

State police and local police authorities of any city, incorporated town or county, shall preserve aircraft wreckage until the arrival of the National Transportation Safety Board or the Federal Aviation Administration. Until the board or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail and cargo may be disturbed or moved only to the extent necessary:

1. To remove persons injured or trapped;
2. To protect the wreckage from further damage; or
3. To protect the public from injury

## § 7.2. Airport hazards.

Commercial, public-use airport and landing area owners, operators and managers shall maintain vigilance as to airport conditions and shall notify the nearest Federal Aviation Administration Flight Service Station and the Department of Aviation whenever any known hazards to aircraft exist at such airport or landing area. Known hazards are any conditions which create an unsafe situation and include uncut grass on any runway in excess of eight inches in height.

## § 7.3. Emergency services.

The department, in the interest of the public, will exercise direction and surveillance of the programs of the Department of Emergency Services which relate to aviation within the state.

## § 7.4. Use of department's aircraft by other state agencies.

Upon request, the department may authorize the use of its aircraft by other state agencies. The department shall be reimbursed by any such agency for such use on the basis of the direct and indirect cost per flying hour of its aircraft as determined by the department. All sums collected for such use shall be credited to the Aviation

## Special Fund.

§ 7.5. Aviation facilities constructed in whole or in part with state funds.

Before any funds appropriated by the General Assembly of Virginia for the promotion of aviation, the construction or improvement of aviation facilities at any county, municipal or privately-owned, commercial, public-use airport or heliport, the owner thereof shall enter into a written agreement with the department, acting through the director, which shall provide for operation of such airport or heliport as a public-use facility for a minimum period of 20 years. The owner of any such aviation facility and his or its transferees, successors and assignees who fails to fulfill the period of operation specified in any such agreement shall be liable for the return of any such funds on a pro rata basis.

Privately owned or publicly owned hospitals may establish and maintain airports and may restrict the public use of such airports to takeoff and landing of any aircraft for medical emergencies only; such airports may be funded in accordance with this regulation.

## § 7.6. Enforcement.

It shall be the duty of the department to assist all law-enforcement officers of this state in the enforcement of the provisions of Title 5.1 of the Code of Virginia and these regulations promulgated pursuant thereto.

## § 7.7. Annual aircraft survey.

To provide an annual physical count of based aircraft, all Virginia licensed or registered airports shall submit annually a survey of all based aircraft with information as required on a form provided by the department.

## § 7.8. Contract carrier permit holders: landing restrictions.

Holders of Virginia Contract Carrier permits operating for-hire aircraft shall operate to and from licensed commercial, public-use airports only, with the following exceptions: Permit holders may operate to and from other landing areas on an infrequent basis upon consent of the person contracting for such services and with financial responsibility assured as required under § 5.1-9.5 of the Code of Virginia.

Operation must also be in compliance with § 8.2 of these regulations.

## § 7.9. Posting of traffic patterns and chart of local student practice area.

Each fixed base operator at a commercial, public-use licensed airport or landing area shall post and keep posted a copy of the airport traffic pattern and an aeronautical chart with the local student practice area clearly outlined thereon in a conspicuous place available to airmen at such

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airport or landing area.

§ 7.10. Posting of regulations.

*Each fixed base operator at a commercial, public-use licensed airport or landing area shall post and keep posted a copy of these regulations.*

§ 7.11. Effective date.

*These regulations shall become effective 30 days after publication of the final regulation in the Virginia Register of Regulations and shall remain effective until modified, suspended, or revoked in conformance with all the requisites of the Virginia Administrative Process Act.*

# Appendix A

REGISTRAR OF REGULATIONS

92 MAR 31 PM 4: 09

## AIRPORT SAFETY ZONING ORDINANCE

### PREAMBLE

AN ORDINANCE regulating and restricting the height of structures and objects or natural growth, and otherwise incidentally regulating the use of property in the vicinity of the airports in (-insert name of locality-) by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; providing for enforcement; and imposing penalties.

The ordinance is adopted pursuant to the authority conferred by Chapter 11 of Title 15.1, and specifically to satisfy the requirements of Section 15.1-491.02 of the Code of Virginia 1950, as amended. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the airports and residents in (-insert name of locality-); and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein. Accordingly, it is declared:

1. That is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of obstructions that are hazards to air navigation be prevented;

2. That the creation or establishment of an obstruction has the potential for being a public nuisance and may injure the area served by the airports;

3. That the (-insert name of locality-) derives economic development and enhanced interstate commerce from (-insert name of airports(s)-), when such airport(s) and it's (their) surrounding vicinity is held strictly to the highest possible safety standards; and

4. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

Be it ordained by (-insert name of local governing body-):

### ARTICLE 1 SHORT TITLE.

Section 1.1 This ordinance shall be known and may be cited as the (-insert name of locality-) Airport Safety Zoning Ordinance.

## ARTICLE 2. DEFINITIONS

REGISTRAR OF REGULATIONS

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Section 2.1 As used in this ordinance, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

2.2 "Administrator": The official charged with the enforcement of this ordinance. He or she shall be the (-insert title of designated local official-).

2.3 "Airport": (-insert name of affected airport or airports-).

2.4 "Airport elevation": The highest point on any usable landing surface expressed in feet above mean sea level.

2.5 "Approach surface": A surface, whose design standards are referenced in Article 3 of this ordinance, longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope set forth in Article 4 of this ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

2.6 "Approach, transitional, horizontal, and conical zones": The airspace zones as set forth in Article 3 of this ordinance.

2.7 "Conical surface": A surface, whose design standards are referenced in Article 3 of this ordinance, extending and sloping horizontally and vertically from the periphery of the horizontal surface.

2.8 "Hazard to air navigation": An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth,

2.9 "Height": For the purpose of determining the height limits in all zones set forth in Article 4 of this ordinance and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

2.10 "Horizontal surface": A horizontal plane, whose design standards are referenced in Article 3 of this ordinance, above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

2.11 "Nonconforming use": Any preexisting structure or object of natural growth which is inconsistent with the provisions of this ordinance or any amendment to this ordinance.

2.12 "Obstruction": Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, set forth in Article 4 of this ordinance.

2.13 "Permit": A document issued by (-insert name of locality-) allowing a person to begin an activity which may result in any structures or vegetation exceeding the height limitations provided for in this ordinance.

2.14 "Person": Any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. The term includes a trustee, a receiver, an assignee, or a similar representative of any of them.

2.15 "Primary surface": A surface, whose design standards are referenced in Article 3 of this ordinance, longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

2.16 "Runway": A specified area on an airport prepared for landing and takeoff of aircraft.

2.17 "Structure": Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles, and electric lines of overhead transmission routes, flag poles, and ship masts.

2.18 "Transitional surfaces": Surfaces, whose design standards are referenced in Article 3 of this ordinance, which extend outward perpendicular to the runway centerline sloping from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

2.19 "Vegetation": Any object of natural growth.

2.20 "Zone": All areas provided for in Article 3 of this ordinance, generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the runway centerline and the primary and horizontal surfaces, with the zone floor set at specific vertical limits by the surfaces found in Article 4 of this ordinance.

ARTICLE 3  
AIRPORT SAFETY ZONES

Section 3.1 In order to carry out the provisions of this ordinance, there are hereby established certain zones which

include all of the area and airspace of (-insert name of locality-) lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to (-insert name of airport or airports-). These zones are established as overlay zones, superimposed over the existing base zones, being more specifically zones of airspace that do not affect the uses and activities of the base zones except as provided for in Articles 4 and 5 of this ordinance. An area located in more than one of the following zones is considered to be only in the zone with the most restrictive height limitation. These zones are as follows:

3.2 "Airport zone": A zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.

3.3 "Approach zone": A zone that extends away from the runway ends along the extended runway centerline, with the floor set by the approach surfaces.

3.4 "Transitional zone": A zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.

3.5 "Conical zone": A zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.

3.6 The source and the specific geometric design standards for these zones are to be found in Part 77.25, 77.28, and 77.29, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these design standards is found in the Appendix of this ordinance.

ARTICLE 4  
AIRPORT SAFETY ZONE HEIGHT LIMITATIONS

Section 4.1 Except as otherwise provided in this ordinance, in any zone created by this ordinance no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow to a height so as to penetrate any referenced surface, also known as the floor, of any zone provided for in Article 3 of this ordinance at any point.

Section 4.2 The height restrictions, or floors, for the individual zones shall be those planes delineated as surfaces in Part 77.25, 77.28, and 77.29, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these design standards is found in the Appendix of this ordinance.

ARTICLE 5  
USE RESTRICTIONS

Section 5.1 Notwithstanding any other provision of this ordinance, and within the area below the horizontal limits of any zone established by this ordinance, no use may be made of land or water in such a manner as to:

5.2 Create electrical interference with navigational signals or radio communication between the airport and aircraft;

5.3 Diminish the ability of pilots to distinguish between airport lights and other lights;

5.4 Result in glare in the eyes of pilots using the airport;

5.5 Impair visibility in the vicinity of the airport;

5.6 Create the potential for bird strike hazards; or

5.7 Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft in the vicinity of and intending to use the airport.

ARTICLE 6  
NONCONFORMING USES

Section 6.1 Except as provided in Section 6.2 and 7.2 of this ordinance, the regulations prescribed by this ordinance shall not require the removal, lowering, or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this ordinance shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

Section 6.2 Notwithstanding the provision Section 6.1, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator to indicate to operators of aircraft the presence of that airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the airport owners, and not the owner of the nonconforming structure in question.

ARTICLE 7  
PERMITS AND VARIANCES

Section 7.1 Except as provided in Sections 7.1, 7.2, and 7.3 of this Article, no structure shall be erected or otherwise established in any zone created by this ordinance unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which desired with and sufficient geometric specificity to determine whether the resulting structure would conform to the regulations prescribed in this ordinance. No permit for a structure inconsistent with this ordinance shall be granted unless a variance has been approved as provided in Section 7.4.

Section 7.2 No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto other than with relief as provided for in Section 7.4.

Section 7.3 Whenever the administrator determines that a nonconforming structure has been abandoned or more than fifty percent destroyed, physically deteriorated, or decayed, no permit shall be granted that would enable such structure to be rebuilt, reconstructed, or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this ordinance, except with the relief as provided for in Section 7.4.

Section 7.4 Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in this ordinance may apply for a variance from such regulations to the (-insert board of zoning appeals or other entity-). Such application shall be properly advertised and be reviewed and considered in a public hearing. Prior to being considered by the (-insert board of zoning appeals or other entity-) the application for variance shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance.

Section 7.5 Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question

to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator. If deemed proper through the failure of the owner of the structure or with other reasonable cause by the (-insert board of zoning appeals or other entity-), this condition may be modified to require the owner of the structure in question to permit the airport owner, at his own expense, to install, operate, and maintain the necessary markings and lights.

Section 7.6 Applications for permits and variances shall be made on forms available from the administrator, with such forms allowing for enough specific detail such that proper analysis can be given the request.

ARTICLE 8  
ENFORCEMENT

Section 8.1 The administrator shall administer and enforce the regulations prescribed in this ordinance. He or she shall be vested with the police power incumbent to carry out and effectuate this ordinance, including the action of injunction, prosecution and other available means through the (-insert name of circuit court having jurisdiction in the locality-).

ARTICLE 9  
APPEALS

Section 9.1 Any person aggrieved, or any officer, department, board, or bureau of (-insert name of locality-) affected by a decision of the administrator may appeal such decision to the (-insert board of zoning appeals or other entity-).

ARTICLE 10  
JUDICIAL REVIEW

Section 10.1 Any person aggrieved or any taxpayer adversely affected by any decision of the (-insert board of zoning appeals or other entity-) may appeal to the (-insert name of circuit court having jurisdiction in the locality-).

ARTICLE 11  
PENALTIES

Section 11.1 Each violation of this ordinance or of any regulation, order, or ruling promulgated under this ordinance shall constitute a misdemeanor and be punishable by a fine of no more than five hundred dollars. Each day on which a violation occurs shall constitute a separate offense.

ARTICLE 12  
CONFLICTING REGULATIONS

Section 12.1 Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same subject, where the conflict is with respect to the height of structures or vegetation and the use of land, or any other matter, the more stringent limitation or requirement shall govern.

ARTICLE 13  
SEVERABILITY

Section 13.1 Should any portion or provision of this ordinance be held by any court to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

ARTICLE 14  
ADOPTION

Section 14.1 Be it resolved that this ordinance has been properly drawn, legally advertised, and presented through a public hearing before the governing body of (-insert name of locality-) on (-insert month, day, year-). Be it further resolved that the effective date of this ordinance is (-insert month, day, year-) and that the ordinance from that date forward carries the full weight of law within (-insert name of locality-) until and unless altered otherwise by the Governing Body.

## Appendix B

6

OBJECTS AFFECTING NAVIGABLE AIRSPACE

PART 77

## Federal Air Regulations

## Part 77.25,

## 77.28, &amp; 77.29

**§ 77.25 Civil airport imaginary surfaces.**

The following civil airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

(a) **Horizontal surface**—a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

- (1) 5,000 feet for all runways designated as utility or visual;
- (2) 10,000 feet for all other runways.

The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

(b) **Conical surface**—a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(c) **Primary surface**—a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface,

the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or when the runway is a planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

- (1) 250 feet for utility runways having only visual approaches;
- (2) 500 feet for utility runways having nonprecision instrument approaches;
- (3) For other than utility runways the width is:
  - (i) 500 feet for visual runways having only visual approaches;
  - (ii) 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile;
  - (iii) 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

(d) **Approach surface**—a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

(1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

- (i) 1,250 feet for that end of a utility runway with only visual approaches;
- (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
- (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach;

PART 77

OBJECTS AFFECTING NAVIGABLE AIRSPACE

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(iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

(v) 4,000 feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and

(vi) 10,000 feet for precision instrument runways.

(2) The approach surface extends for a horizontal distance of:

(i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;

(ii) 10,000 feet at a slope of 34 to 1 for all nonprecision instrument runways other than utility; and,

(iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.

(3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) **Transitional surface**—these surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

**§ 77.27 (Revoked)****§ 77.28 Military airport imaginary surfaces.**

(a) **Related to airport reference points.** These surfaces apply to all military airports. For the purposes of this section a military airport is any airport operated by an armed force of the United States.

(1) **Inner horizontal surface**—a plane is oval in shape at a height of 150 feet above the established airfield elevation. The plane

is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

(2) **Conical surface**—a surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

(3) **Outer horizontal surface**—a plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

(b) **Related to runways.** These surfaces apply to all military airports.

(1) **Primary surface**—a surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criteria, the 2,000-foot width may be reduced to the former criteria.

(2) **Clear zone surface**—a surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.

(3) **Approach clearance surface**—an inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.

(4) **Transitional surfaces**—these surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the ap-

PART 77

OBJECTS AFFECTING NAVIGABLE AIRSPACE

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approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

§ 77.29 Airport imaginary surfaces for heliports.

(a) *Heliport primary surface.* The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

(b) *Heliport approach surface.* The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

(c) *Heliport transitional surfaces.* These surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

## BOARD FOR COSMETOLOGY

**Title of Regulation:** VR 235-01-03. Nail Technician Regulations.

**Statutory Authority:** §§ 54.1-201, 54.1-202, 54.1-1200 of the Code of Virginia.

**Public Hearing Date:** May 11, 1992 - 2 p.m.  
(See Calendar of Events section for additional information)

### Summary:

The Board for Cosmetology proposed Nail Technician Regulations set forth the requirements for the licensure of persons and salons performing manicures, pedicures and the applications of artificial nails for compensation or consideration in Virginia. The regulations also require the board to approve nail technician educational programs and license the schools in which the program is offered. The proposed text is identical to the emergency text of regulations which is currently in effect.

VR 235-01-03. Nail Technician Regulations.

### PART I. GENERAL.

#### § 1.1. Definitions.

"Certified nail technician instructor" means a person who is eligible to teach in a nail school in accordance with § 4.2 and § 2.8 C of the regulations of the board.

"Nail salon" means any place or establishment licensed by the board for the practice of manicuring, pedicuring, and applying artificial nails for compensation. A nail salon may provide for the training of apprentices under the regulations of the board.

"Nail school" means a place or establishment licensed by the board to accept and train students. The board shall approve the nail curriculum.

"Nail technician" means any person licensed under Chapter 12 of Title 54.1 of the Code of Virginia who for compensation manicures or pedicures natural nails or who performs artificial nail services for compensation, or any combination thereof.

### PART II. ENTRY.

#### § 2.1. Requirements for licensure.

Upon filing an application with the Virginia Board for Cosmetology on forms provided by the board, and paying the examination fee, any person meeting the qualifications set by the board shall be eligible for a license if the

applicant has sufficiently demonstrated that:

1. The applicant has received training as defined in Part II of these regulations, and
2. The applicant has qualified for licensure either by passing the required examination or by endorsement, and
3. The applicant's license as a nail technician has not been previously revoked or suspended.

All persons offering nail technician services as defined in § 1.1 of the regulations must be licensed as of April 1, 1992.

#### § 2.2. Acceptable training.

##### A. Schools.

Any person who has completed a nail technician program in a licensed cosmetology school, licensed nail school, or a Virginia public school in a nail technician program shall be eligible for examination.

#### § 2.3. Exceptions to training requirements.

A. Persons with two years of nail training or experience outside the territorial limits of the United States shall be eligible for examination upon submission of satisfactory documentary evidence of such training.

B. Persons with experience or training as a nail technician shall be exempt from the requirement of § 2.1 and eligible for examination if they applied for examination by October 1, 1991. All persons applying for examination after October 1, 1991, shall meet the requirements of § 2.1 to be eligible to sit for the examination.

#### § 2.4. Examination required.

##### A. Examination generally.

Applicants for licensure shall pass a practical and a written examination.

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

C. The fee for taking the entire examination shall be \$48.

D. The fee for retaking the practical portion of the examination shall be \$35.

E. The fee for retaking the written portion of the examination shall be \$30.

F. Failure to appear.

# Proposed Regulations

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

## § 2.5. Administration of examination.

A. The examination shall be administered by independent examiners and supervised by the chief examiner.

B. Every examiner shall be a practicing nail technician with three or more years active experience as a nail technician and as of April 1, 1992, should be a currently licensed nail technician.

C. The chief examiner shall be a nail technician with three or more years of active experience and as of April 1, 1992, shall be a currently licensed nail technician.

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

## § 2.6. Original license.

Upon application to the board, on prescribed forms, any person passing the nail technician examination shall be eligible for licensure. The fee for original licensure shall be \$30. All fees shall be nonrefundable and shall not be prorated.

## § 2.7. License by endorsement.

Upon application to the board, on prescribed forms, any person currently licensed to practice as a nail technician in any other state or jurisdiction of the United States may be issued a license authorizing practice as a nail technician in this state without an examination. The fee for license by endorsement shall be \$30. All fees shall be nonrefundable and shall not be prorated.

## § 2.8. Temporary permit.

A. A temporary permit to work under the supervision of a currently licensed nail technician or licensed cosmetologist may be issued to any person found eligible by the board for examination after April 1, 1992.

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

C. A licensed nail technician or person holding a temporary permit may be granted a provisional instructor permit. The provisional instructor permit shall remain in force until 30 days following the next scheduled nail instructor's examination for which the applicant would be eligible. Failure to maintain a nail technician license or a temporary permit pending examination shall disqualify an individual from holding a provisional instructor permit.

D. The temporary permit is nonrenewable.

## § 2.9. Salon license.

A. Any individual wishing to operate a nail salon shall have obtained a license by October 1, 1991.

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

C. The application fee for a nail salon license shall be \$100. All fees are nonrefundable and shall not be prorated.

## PART III. RENEWAL OF LICENSE/CERTIFICATE.

### § 3.1. Renewal required.

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

B. The renewal fees shall be as follows:

Nail technician license .....	\$40
Nail technician instructor certificate .....	\$40
Nail salon license .....	\$85
Nail school license .....	\$120

### § 3.2. Notice of renewal.

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

### § 3.3. Failure to renew.

A. When a licensed/certified individual or entity fails to renew the license within 30 days following its expiration date, an additional fee of \$40 for a nail technician license, of \$40 for a nail technician instructor certificate, of \$85 for the salon license, and of \$120 for the nail school license will be required in addition to the regular renewal fee in order to renew his license.

B. When a licensed/certified individual or entity fails to renew his license within six months following the expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Commerce a reinstatement application and reinstatement

fee of \$150 for a nail technician license, of \$180 for a nail technician instructor certificate, of \$250 for a nail salon license, and of \$300 for a nail school license together with a statement of the reasons for failing to renew prior to the expiration date.

C. Upon receipt of the reinstatement application and fee the board may reinstate the license/certificate or require requalification, reexamination, or both.

D. When an individual licensee fails to renew his license after a two-year period of time the licensee must pass both a practical and a written examination in order to be reinstated.

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

#### F. Fees.

All fees are nonrefundable and shall not be prorated.

#### § 3.4. Board discretion to deny renewal.

The board, in its discretion, may deny renewal of a license. Upon such denial, the applicant for renewal may request a hearing.

### PART IV. NAIL SCHOOLS.

#### § 4.1. General requirements.

A nail school or cosmetology school offering a nail technician program shall be an entity that:

1. Holds a school license for each and every location by October 1, 1991;
2. Holds a salon license if the school receives compensation for services provided in its clinic;
3. Employs a staff of certified instructors or persons with a provisional instructor permit as of September 30, 1992;
4. Develops individuals as nail technicians at an entry level of competence.

The application fee for a nail school license shall be \$125. All fees are nonrefundable and shall not be prorated.

The application fee for a licensed cosmetology school offering a nail technician program shall be \$25.

#### § 4.2. Nail technician instructor certificate.

To obtain a certificate as a nail technician instructor, a person shall:

1. Hold a current Virginia nail technician license; and
2. Pass a course in teaching techniques at the post secondary educational level; or

Complete an instructor training course approved by the Virginia Board for Cosmetology under the supervision of a certified instructor in a nail/cosmetology school and a seminar approved by the Virginia Board for Cosmetology; or

Hold a certificate as a nail technician instructor in another state; or

Pass a teachers examination administered by the board.

The fee for the teachers examination shall be \$30. All fees are nonrefundable and shall not be prorated.

#### § 4.3. Curriculum requirements.

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

1. Orientation, school policies, state law, regulations and professional ethics;
2. Sterilization, sanitation, bacteriology and safety;
3. Anatomy and physiology;
4. Diseases and disorders of the nail;
5. Nail procedures (manicuring, pedicuring and nail extensions); and
6. Nail theory, nail structure and composition.

A licensed school wishing to amend and seek approval of its nail technician curriculum shall pay a processing fee of \$25.

#### § 4.4. Performance completions.

Each approved school shall certify, on a form provided by the board, that the student has satisfactorily completed the following minimum performance completions:

- 30 Manicures
- 15 Pedicures
- 200 Sculptured nails/nail tips
- 10 Removals

# Proposed Regulations

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## 20 Nail wraps

### § 4.5. Performances and hours reported.

Upon completion of 50% and 100% of performances or hours completed by a student in a licensed school, the school shall provide an individualized written report to the student of performances and hours completed. Upon termination of a student from a licensed school, for any reason, the school shall provide a written report to the board on performances and hours within 30 days from the date of termination.

### § 4.6. Hours and performances, exception.

Curriculum and completion requirements shall be offered over a minimum of 150 clock hours unless the school presents evidence satisfactory to the board that the school:

1. Will measure for competency, for each student enrolled, tasks specified in subsection A through F of § 4.3 of these regulations; and
2. Inform each student of progress in achieving competency of tasks taught; and
3. Record the number of hours of instruction and performances for each student.

### § 4.7. Retention of records.

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

## PART V. STANDARDS OF PRACTICE.

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

All current licenses, permits, and certificates issued by the board shall be conspicuously displayed in a public area within the school or establishment where business is conducted.

### § 5.2. Sanitation.

Licensees of schools and salons shall comply with the following sanitation standards and shall ensure that all employees likewise comply:

#### 1. Premises and equipment.

a. Cleanliness. Wash basins, sinks, and work stations shall be clean. Floors shall be kept free of nail product and other waste materials. Instruments such as nippers, brushes, towels, etc., shall be cleaned, sanitized after use by each patron and stored free from contamination. All products shall be stored in

sealed containers.

b. Soiled towels shall be stored in an enclosed container.

#### 2. Operations and service.

a. Clean towels shall be used for each patron.

b. Brushes, nippers, and other instruments, shall be washed in soap and water and sanitized after each use with a disinfectant used in accordance with the manufacturer's instructions.

c. A nail technician shall maintain a supply of 70% Isopropyl alcohol to be used in the event that a patron's skin is accidentally broken during the manicuring/pedicuring process. In that event all implements must be immersed in the alcohol for 10 minutes.

d. All artificial acrylic nail services shall be performed in a well-lighted, ventilated facility which is in compliance with Article 7 of the 1987 B.O.C.A. National Building Code. All contaminants in the breathing atmosphere shall be exhausted to the outdoor air.

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

### § 5.3. Discipline.

The board has the power to fine any licensee or certificate holder or to suspend or revoke any license or certificate issued under the provisions of Chapter 12 of Title 54.1 of the Code of Virginia and the regulations of the board, at any time after a hearing is conducted pursuant to the provisions of Chapter 1.1:1 of Title 9 of the Code of Virginia, if the board finds that:

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

2. The licensee or certificate holder is guilty of fraud or deceit in the practice or teaching of manicuring, pedicuring and performance of artificial nail services;

3. The owner or operator of a school or salon allowed a person to practice or teach a nail program without the person obtaining a license, temporary permit, or certificate issued by the board. Exception: Holders of associate degrees or higher shall not be prohibited from teaching theory;

4. The licensee, certificate holder, or owner violates, induces others to violate, or cooperates with others in violating any of the provisions of Chapters 3 and 12 of Title 54.1 of the Code of Virginia or these regulations;

5. The licensee, certificate holder, or owner refuses or fails, upon request or demand, to produce to the board or any of its agents, any document, book, record, or copy thereof in a licensee's, certificate holder's, or owner's possession concerning the practice or teaching of manicuring, pedicuring, and artificial nail services.

License No. \_\_\_\_\_  
Date \_\_\_\_\_  
Code \_\_\_\_\_  
Initials \_\_\_\_\_  
For office use only

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

REGISTRAR OF REGULATIONS

92 APR -1 AM 11:56

FEE: \$100.00

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

APPLICATION FOR LICENSE TO OPERATE A NAIL SALON

NAME OF SALON: \_\_\_\_\_ PHONE NO. \_\_\_\_\_

T/A NAME OF SALON: \_\_\_\_\_

ADDRESS OF SALON: \_\_\_\_\_  
Street and Number City State Zip Code

OWNER'S NAME: \_\_\_\_\_  
Last Name First Name Middle

OWNER'S MAILING ADDRESS: \_\_\_\_\_  
Street and Number City State Zip Code

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

AFFIDAVIT OF INSPECTION  
(If required by Local Ordinance)

This is to certify \_\_\_\_\_ nail salon

(Address)

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

State and/or Local Health Department \_\_\_\_\_ Signature of Inspector \_\_\_\_\_

AFFIDAVIT

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_

Signature of Applicant \_\_\_\_\_ Signature of Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

REV 8-1-91

License No. \_\_\_\_\_  
Date \_\_\_\_\_  
Code \_\_\_\_\_  
Initials \_\_\_\_\_  
For office use only

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

REGISTRAR OF REGULATIONS

92 APR -1 AM 11:56 \$125.00

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

APPLICATION FOR LICENSE TO OPERATE A NAIL SCHOOL

NAME OF SCHOOL: \_\_\_\_\_ PHONE NO. \_\_\_\_\_

T/A NAME OF SCHOOL: \_\_\_\_\_

ADDRESS OF SCHOOL: \_\_\_\_\_  
Street and Number City State Zip Code

OWNER'S NAME: \_\_\_\_\_  
Last Name First Name Middle

OWNER'S MAILING ADDRESS: \_\_\_\_\_  
Street and Number City State Zip Code

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

§ 4.3. Curriculum requirements.

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

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

AFFIDAVIT

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_

Signature of Applicant \_\_\_\_\_ Signature of Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

REV 8-1-91

License No. \_\_\_\_\_  
 Date \_\_\_\_\_  
 Code \_\_\_\_\_  
 Initials \_\_\_\_\_  
 For office use only  
 FEE: \$30.00  
 (Make check or money  
 order payable to the  
 Treasurer of Virginia)

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

REGISTRAR OF REGULATIONS  
 92 APR -1 AM 11:56  
 FEE: \$30.00

APPLICATION FOR A NAIL TECHNICIAN LICENSE BY ENDORSEMENT

Section I

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

Section II

1. Attach copy of current nail technician license.

FOR OFFICE USE ONLY  
 Approved for Endorsement \_\_\_\_\_ State \_\_\_\_\_

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

Section III

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

State of \_\_\_\_\_

County or City of \_\_\_\_\_

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Signature of Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

# Proposed Regulations

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## DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

**Title of Regulation:** VR 486-01-02. Regulation to Govern the Certification of Minority Business Enterprises.

**Statutory Authority:** § 2.1-64.35:8 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted until June 19, 1992.

(See Calendar of Events section for additional information)

### Summary:

This proposed regulation governs the certification of a business as a bona fide minority business enterprise. These rules apply to minority businesses seeking assistance from the Department of Minority Business Enterprise and may serve as a vehicle for state agencies and institutions, localities, and private sector organizations requiring such certification.

This regulation sets forth the process of certification, establishes a formal application procedure, creates a review process to determine the extent of ownership and control of a business owned by a minority individual or individuals, provides a basis for approval or denial of certification and outlines an appeal procedure to ensure due process from businesses that have been denied certification.

VR 486-01-02. Regulation to Govern the Certification of Minority Business Enterprises.

### PART I GENERAL INFORMATION.

#### § 1.1. Definitions.

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

“Administratively closed” means an application for certification or recertification that has been placed in an inactive status by the department due to:

1. Insufficient information submitted and the failure of the applicant to respond to at least two written requests for such information; or
2. The applicant has voluntarily withdrawn his application; or
3. The firm is no longer in business.

“Applicant” means any licensed for profit business entity that applies to the Department of Minority Business Enterprise for certification as a bona fide minority business enterprise.

“Business enterprise” means a legal entity which is organized in any form, other than as a joint venture, such as a sole proprietorship, partnership or corporation, to engage in lawful commercial transactions for profit.

“Certification” means a process through which a business enterprise is verified to be in fact owned and controlled by an individual or individuals of an identified minority group, and so eligible to participate in minority business programs designed to stimulate minority business development.

“Certification staff” means the certification staff of the Department of Minority Business Enterprise which consists of two certification specialists and the deputy director for market development. The certification staff shall review all matters relating to applications for certification, recertification and decertification at the direction the director of the Department.

“Certified” means any applicant that has satisfied the requirements of these regulations as a minority owned business and is placed on the department’s certified list for a period of two years.

“Control” means the primary power to direct the management and operations of a business enterprise and:

1. “Operational control” means the applicant should demonstrate that basic decisions pertaining to the operations of the business are independently made. This does not necessarily preclude the applicant from seeking paid assistance. An applicant must possess the knowledge to weigh all advice given and to make decisions regarding their particular industry or field. Such control includes but is not limited to the following:

- a. The dominant control over the purchase of goods, equipment, business inventory, and services needed in the day-to-day operation of the business;
- b. The dominant control of corporate accounts such as savings, checking, and other financial affairs; and
- c. A thorough knowledge of the financial structure of the business and a control of the overall financial affairs and policy of the firm.

2. “Managerial control” means the applicant should demonstrate the ability to make independent and unilateral business decisions needed to guide the future and destiny of the business. Such control includes but is not limited to the following:

- a. Dominant control over management policy;
- b. Dominant control over the hiring and firing of employees; and
- c. Dominant control over the solicitation and

negotiation of contracts, the offering and acceptance or rejection of bids, and the administration of major aspects of the business.

3. "Operational and managerial noncontrol" exists when any one of the following conditions create a presumption that the minority owners do not have dominant control of the company:

a. The minority owners are current employees of a nonminority corporation, sole proprietorship, trust, or partnership which has ownership interest in the business firm applying for certification; or

b. The principals of the applicant company are substantially the same as in a nonminority firm that has an overt or undisclosed ownership or investment in the company; or

c. The applicant is a wholly-owned subsidiary or affiliate of a nonminority firm.

"Conversion rights" means any agreement, option, scheme or documents that will create any rights which, if exercised, would result in less than 51% minority ownership of the business enterprise and less than dominant control by minority owners.

"Day" means any day except Saturday, Sunday and legal state holidays.

"Decertification" means the process by which a company loses its minority business certification.

"Department" or "DMBE" means the Department of Minority Business Enterprise.

"Director" means the director of the Department of Minority Business Enterprise.

"Investment" means as follows in the following contexts: A substantial personal investment equal to at least 51% of combined financial and nonfinancial investments in the business by the minority owners. Proof of such substantial investment shall be established by producing evidence of financial investment in the business or investments in the form of capital, equipment, contribution of property, space, patents or copy rights. Contributions of personal or professional services alone shall not be considered a substantial investment; however, a contribution of such services shall receive consideration when given in conjunction with other tangible forms of investment.

"Minority" means a person who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "Asian Americans" means all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,

Vietnam, Korea, Samoa, Laos, Cambodia, Taiwan, Northern Marianas, the Philippines, U.S. Territory of the Pacific, India, Pakistan, Bangladesh and Srilanka and who are regarded as such by the community of which these persons claim to be a part.

2. "Blacks" means all persons having origins in any of the black racial groups in Africa and who are regarded as such by the community of which these persons claim to be a part.

3. "Hispanic Americans" means all persons having origins in any of the Spanish speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who are regarded as such by the community of which these persons claim to be a part.

4. "American Indians" means all persons having origins in any of the original peoples of North America and who are regarded as such in the community of which these persons claim to be a part of or who are recognized by a tribal organization.

5. "Eskimos and Aleuts" means all persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia and who are regarded as such in the community of which these persons claim to be a part.

6. "Members of other groups" means all other individuals found to be socially disadvantaged by the United States Small Business Administration under Section 8(a) of the Small Business Act (15 USC 637 (a)).

"Owned" means as follows as it relates to the following legal entities of a business enterprise:

1. In a "corporation" minority principals must own at least 51% or more, of all voting stock of the corporation. Any voting agreements, voting trusts or shareholders agreement among the stockholders must not dilute the beneficial ownership, the rights or the influence of minority owners of the stock or classes of stock, of the corporation.

2. In a "partnership" form of business the minority principals must act as general partners, own 51% or more, of the partnership interest, exert 51% control among other general partners and must have made at least 51% of the total investment.

3. In a "sole proprietorship" the individual shall be a minority and own 100% of the business interest including assets, both tangible and intangible.

"Recertification" means the review of firms currently certified by the department to determine whether or not certification will be renewed for another two years.

# Proposed Regulations

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"Recertify" means to renew certification for another two years.

"Revoked or decertified" means a business is no longer recognized by the department as a bona fide minority business enterprise and has been deleted from the department's certified list.

"Site visit" means a visit by a certification specialist, supervisor or other department employee to the site of an applicant or certified company for the purpose of clarifying or obtaining additional information.

## § 1.2. Certification eligibility criteria.

In order to be certified by the department a business shall meet the following criteria:

1. Be legally owned and licensed.
2. Be minority "controlled" as defined by § 1.1 of these regulations.
3. Be "owned" by a minority as defined by § 1.1 of these regulations.
4. Have an "investment" by a minority as defined by § 1.1 of these regulations.
5. Be freed from any "conversion rights" as defined by § 1.1 of these regulations.

## PART II. GENERAL REQUIREMENTS.

### § 2.1. Who may file a certification application.

Any for profit business enterprise that believes it meets the criteria for a minority business enterprise may file an official application with the department to be certified and included on the minority business certification list. The exceptions are any businesses whose investment securities are offered for sale in interstate commerce. For example, a business whose securities are listed with the National Association of Security Dealers, American, or New York Stock Exchange for the purpose of selling shares of stock or other investment securities to the general public shall be ineligible to be certified under these regulations.

### § 2.2. Application submission and initial review.

Any firm desiring to be registered as a minority business enterprise with this department shall make and file a written application on such forms as may be prescribed by the department. Applications for certification shall be submitted to the Virginia Department of Minority Business Enterprise at its office in Richmond, Virginia. The application shall be reviewed initially for completeness. The specialist may conduct a site visit to obtain or clarify any information. The specialist shall prepare a written report stating the factual and legal

grounds for approval or denial of certification within 30 days from the date a completed application is filed.

### § 2.3. Request for additional information.

In the event that information obtained in an application or site visit is unclear or inconsistent, the department shall request the applicant to provide additional information or documentation to clarify the application. Any applicant who is asked to provide additional information shall be notified by the department in writing with good cause.

### § 2.4. Administratively closed application.

Any application pending for 60 days because requested additional information or documentation has not been provided, shall be administratively closed. In this instance a firm shall be notified in writing by certified mail of such action. Any application that has been administratively closed for 60 or more days from the date of such action shall be required to file a new application.

### § 2.5. Notification of change in application information prior to a determination by the certification staff.

The applicant shall be responsible for notifying the department immediately of any change in the application information or supporting documentation submitted prior to the decision of the certification staff. Failure to do so may be grounds for denial of certification.

### § 2.6. False or misleading information.

Any applicant that knowingly provides false or misleading information on his application or in supporting documentation shall be automatically denied certification and shall be prohibited from reapplying for certification for a period of two years.

## PART III. APPROVAL AND DENIAL OF CERTIFICATION.

### § 3.1. Certification staff.

The certification staff shall make the initial determination to deny or approve an application by a simple majority decision of the certification staff.

### § 3.2. Quorum.

A quorum for a meeting of the certification staff shall consist of two staff members. A majority vote of the members in attendance shall be necessary for the approval or denial of an application for certification. A unanimous vote shall be necessary to make a final determination. In the event of a tie vote the application may be held over for the next meeting of the certification staff. In this case the director or his designee shall review the application and cast the third and deciding vote.

### § 3.3. Approval of certification.

If certification is approved the department shall notify the applicant in writing no later than 10 days from the date of the decision.

## § 3.4. Duration of certification.

A business certified by the department shall remain certified for a period of two years, unless the business is decertified or is no longer in business.

## § 3.5. Certification list.

The department shall maintain a list of businesses certified as a minority business enterprise. This list shall be used as a source to assist governmental agencies, individuals, corporations, and prime contractors in identifying and utilizing minority businesses. This list may be updated and published monthly.

## § 3.6. Notification of changes in status.

After a business has been certified by the department, within 15 days of any change in the ownership, control, management, or status as an on-going minority business concern the applicant shall notify the department in writing of such change and the department shall, within 15 days, notify the firm of its determination that such a change is either a material change which warrants a review by the certification staff or that the change has no effect on the certification status of the business. Failure to notify the department within 15 days of such change is grounds for automatic revocation or decertification.

## § 3.7. Denial of certification.

If certification is denied, the department shall notify the applicant by certified mail no later than 10 days from the date of the decision by the certification staff stating the factual and legal grounds for such action and offering the applicant the opportunity to appeal the decision.

## § 3.8. Reapplication.

If and when the applicant has finalized his right to appeal, he may reapply for certification 12 months after the date of the ultimate disposition of his case.

## PART IV. APPEALS.

## § 4.1. Appeals from a denial of certification or decertification.

An applicant shall have the right to appeal a denial of certification or decertification. Appeals for denial of certification or decertification shall be in accordance with these regulations and §§ 9-6.14:11 and 9-6.14:12 of the Code of Virginia. The appeal process for denial of certification and decertification shall be the same.

## § 4.2. Notification of intent to appeal.

The applicant shall file a written notice of intent to appeal stating the grounds for such appeal to the director of the department within 10 days of receipt of the certification staff's determination to deny certification or decertify. Upon receipt of such notice by the director, the department shall notify the applicant in writing of the date, time, and location of the hearing. The applicant shall be advised of his right to be represented by counsel and to present evidence and witnesses.

## § 4.3. Informal hearing committee.

Appeals are reviewed by an informal hearing committee comprised of the original certification staff presided by the director or his designee. The decision of the informal hearing committee shall be by a simple majority decision of the full committee and shall be issued in writing within 15 days of the hearing date except when additional information is requested at the hearing which is pertinent to the committee's decision on the hearing, in which case it will issue a written notice within 15 days of receiving such information.

## § 4.4. Submission of new information by the applicant.

New information which was not submitted in the original application and which reflects a change in information upon which the decision to deny certification was based submitted at the informal hearing may be reviewed by the informal hearing committee. The informal hearing committee has the sole discretion to accept or reject any new information.

## § 4.5. Formal hearing.

If the informal hearing committee upholds the denial of certification, the applicant may appeal the decision of the hearing committee through a formal hearing procedure presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Virginia Supreme Court. The applicant shall file a notice of intent directly to the director of the department within 10 days of receipt of the informal hearing committee's determination upholding the denial of certification or decertification. The department will then acknowledge receipt of such notice in writing to the applicant within five days and so advise the Executive Secretary of the Virginia Supreme Court. The rules and procedures for the formal hearing process shall be established by the hearing officer in compliance with the requirements of the Administrative Process Act and the Executive Secretary of the Supreme Court.

## § 4.6. Judicial review.

In the case when the hearing officer has upheld the denial of certification and the appeal process has been exhausted and the applicant desires further review, the applicant shall be informed of his right to pursue a judicial review.

# Proposed Regulations

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## PART V. DECERTIFICATION.

### § 5.1. Standard.

Any certified business that fails to continue to satisfy the conditions stated in these regulations shall be subject to full decertification procedures.

### § 5.2. Complaint.

Whenever the department receives a complaint that a certified company no longer meets the requirements of these regulations the director shall assign a certification specialist to investigate the complaint and make a report of the findings.

### § 5.3. Investigation procedures.

The certification specialist shall use the following procedures to investigate the complaint:

1. Promptly notify in writing the firm which is the subject of the complaint that a complaint has been filed and that the matter is under review.
2. Conduct an investigation including, but not limited to, questioning all parties who have information regarding the complaint.
3. Prepare a written report to present to the certification staff recommending a disposition of the matter based on the factual and legal grounds of the case.
4. Should the firm be decertified, the same rules for notification, reapplication and appeals will apply as for denial of certification under Part IV of these regulations.

## PART VI. RECERTIFICATION.

### § 6.1. Notification of expiration of certification.

At least 30 days prior to the anniversary date of the last certification date, a business shall be notified in writing of the expiration of certification and advised of the need to renew certification.

### § 6.2. Application for recertification.

Any firm desiring to be recertified shall make and file a written application on such forms as may be prescribed by the department. The department shall request such information as may be reasonably necessary to determine an applicant's eligibility to renew certification. Consideration shall be given to previous information submitted so as to avoid any unnecessary duplication and

to reduce the paperwork burden on the applicant.

### § 6.3. Extensions.

A reasonable extension for filing an application for certification may be granted by the director of the department for good cause shown, for a period of no longer than 30 days from the expiration date of the previous certification.

### § 6.4. Expiration of certification and notification.

Any business failing to renew certification prior to the expiration date of the previous certification shall be so notified in writing by the department of the expiration of certification and deleted from the certification list.

## PART VII. MISCELLANEOUS.

### § 7.1. Confidentiality.

The department shall take all necessary steps to ensure the confidentiality of any documents submitted in support of an application for certification which are not considered public records within the definition of the Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

### § 7.2. Certification by another state, locality or federal agency.

Current certification of a business by another state, locality, or federal agency shall be considered as evidence of an applicant's status, but shall not be conclusive evidence that the applicant has satisfied the eligibility requirements set in § 1.2 of these regulations. The director of the department at his discretion may waive certification application requirements of businesses certified by another state, locality, or federal agency.

### § 7.3. Applicant representation.

Any applicant or party, other than a staff member of the department, shall be entitled to representation or may appoint someone else, including an attorney, to represent him at any proceedings involving the department, provided that written notice of this decision shall be sent to the director of the department stating the name, title, and relationship of such person to the applicant or party.

Such person shall have full authority to act for and on behalf of the represented, and the acts of the representative shall be binding on such party.

### § 7.4. Standard industry practice.

A business may be exempted from the requirements of § 1.2 if it can demonstrate that it is minority owned and controlled and operating within prescribed standard industry practice. Examples of businesses who may meet this exemption are those which are locally minority owned

but, in accordance with industry practice, remain under the control of a larger parent organization or those established by the parent company for the express purpose of promoting minority business development. The application of the exemption shall be determined by the department on a case by case basis.

§ 7.5. Identity of any person furnishing information relating to an investigation.

Any person who volunteers information regarding a possible violation of these regulations shall be kept confidential to the extent possible, consistent with a fair determination of the issues. Where disclosures of the person's identity are essential to assure a fair determination of the issues under these regulations, the director of the department or the certification staff may disclose such identity.

§ 7.6. Waiver of one-year period.

Any business denied certification as a minority business enterprise prior to the effective date of these regulations may reapply for certification under these regulations without regard to the one-year waiting period.

§ 7.7. Extension of time period.

In any circumstance where the convenience of the applicant or the interests of justice so require, the time period for performance under these regulations may be extended by the director of the department.

COMMONWEALTH OF VIRGINIA REGISTER OF REGULATIONS  
DEPARTMENT OF MINORITY BUSINESS ENTERPRISE



MINORITY BUSINESS ENTERPRISE CERTIFICATION APPLICATION

The following definitions shall be used in determining whether a firm is owned and controlled by one or more minorities for the purpose of certification:

**MINORITY BUSINESS ENTERPRISE (MBE)** - a business that is owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Minority persons are Black Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.

**MINORITY** - A person who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

**BLACK AMERICANS** - all persons having documented origins in any of the black racial groups of Africa.

**HISPANIC AMERICANS** - all persons having documented origins in any of the Spanish-speaking peoples of Mexico, South or Central America or the Caribbean Islands or other Spanish or Portuguese cultures and who are regarded as such by the community of which these persons claim to be a part.

**ASIAN AMERICANS** - all persons having documented origins in any of the original peoples of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Korea, Samoa, Laos, Cambodia, Taiwan, Northern Marianas, the Philippines, U.S. Territory of the Pacific, India, Pakistan, Bangladesh and Sri Lanka and who are regarded as such by the community of which these persons claim to be a part.

**AMERICAN INDIANS** - all persons having documented origins in any of the original peoples of North America and who are regarded as such in the community of which these persons claim to be a part or who are recognized by a tribal organization.

**ESKIMOS AND/OR ALEUT** - all persons having documented origins in any of the peoples of Northern Canada, Greenland, Alaska and Eastern Siberia and who are regarded as such in the community of which these persons claim to be a part.

**MINORITY CODES (MC)** - B-Black H-Hispanic Amer. A-Asian Amer. AI-Amer. Indian E-Eskimos AL-Aleut

THIS REQUEST IS FOR CERTIFICATION \_\_\_\_\_ RECERTIFICATION \_\_\_\_\_

I. BUSINESS PROFILE

- a. Legal name of firm \_\_\_\_\_
- b. Business address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
- c. Mailing address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
- d. Phone number (\_\_\_\_) \_\_\_\_\_ Contact person: \_\_\_\_\_
- e. Federal Employer Identification number \_\_\_\_\_
- f. Date established \_\_\_\_\_ h. Date incorporated \_\_\_\_\_

II. TYPE OF BUSINESS

- a. Describe products or services rendered \_\_\_\_\_
- b. List (if known) one primary Standard Industrial Classification Code (SIC) \_\_\_\_\_ and three secondary SIC codes \_\_\_\_\_
- c. Please circle marketing areas: Central VA Private Sector Northern VA Tidewater All Exporting

III. LEGAL STRUCTURE

- Check one ( ) sole proprietorship ( ) partnership ( ) corporation
- |   |   |
|---|---|
| Name _____                              | Name _____                              |
| Title _____                             | Title _____                             |
| MC _____ SS# _____                      | MC _____ SS# _____                      |
| Sex _____ Percentage of Ownership _____ | Sex _____ Percentage of Ownership _____ |
| # Shares _____ Purchase Price _____     | # Shares _____ Purchase Price _____     |

Please list all owners, shareholders, and/or directors owning stock in the company. Attach additional sheets if necessary.

IV. CERTIFICATION

- a. Are you an MBE certified with the Virginia Department of Transportation? Yes \_\_\_\_\_ No \_\_\_\_\_
- IF YES, PLEASE SUBMIT THE FOLLOWING INFORMATION, SIGN AFFIDAVIT, AND RETURN THE APPLICATION. IF NO, PLEASE COMPLETE THE REMAINDER OF THE APPLICATION.

- Copy of VDOT firms certification letter
- Copy of most recent Federal Tax Return
- Firm's gross receipts, total assets and net worth for each of the last two years. Please attach additional sheets.

- b. Are you an MBE certified as an 8(a) firm with the U.S. Small Business Administration? Yes \_\_\_\_\_ No \_\_\_\_\_

IF YES, PLEASE SUBMIT THE FOLLOWING INFORMATION, SIGN AFFIDAVIT, AND RETURN THE APPLICATION. IF NO, PLEASE COMPLETE THE REMAINDER OF THE APPLICATION.

- Copy of SBA 8(a) certification letter with statement of fixed participation period.
- Copy of most recent federal tax return
- Firm's gross receipts, total assets and net worth for each of the last two years. Please attach additional sheet.

- c. If certified as a MBE by any other public or private organization, attach a copy of the current certification.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

V. MANAGEMENT AND CONTROL OF FIRM

REGISTRAR OF REGULATIONS

Please provide information regarding those individuals (owners and non-owners) who are responsible for the day-to-day operation and policy decision-making, including, but not limited to, those with responsibility to the following. See minority codes (MC) listed on page one.

a. Decide which jobs the business will undertake:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

b. Estimate the cost of jobs:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

c. Sign the performance bonds which the business obtains:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

d. Negotiate and sign for the insurance for the business:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

e. Supervise the jobs the business undertakes:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

f. Hire and fire employees of the business:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

g. Purchase major items or supplies:

Name \_\_\_\_\_ MC \_\_\_\_\_ Name \_\_\_\_\_ MC \_\_\_\_\_
Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_ Title \_\_\_\_\_ Hrs wkly \_\_\_\_\_

VI. FINANCIAL INFORMATION

a. Indicate the source(s) of investment capital (by code) for individuals who have an ownership interest of 5% or more in the business. See minority codes (MC) listed on page one.

Financial Codes: PS - Personal Savings JS - Joint Savings RE - Real Estate BL - Bank Loan PC - Personal Checking O - Other, please explain.

Name \_\_\_\_\_ Fin. Code \_\_\_\_\_ MC \_\_\_\_\_

REGISTRAR OF REGULATIONS
b. Please supply the following information regarding your primary banking institution. Attach additional sheets, if needed.
92 MAR 26 PM 3: 38

Name of Bank \_\_\_\_\_ Contact Person \_\_\_\_\_
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
Telephone number (\_\_\_\_) \_\_\_\_\_
Type of Account and Account number:
Checking Account # \_\_\_\_\_ Savings # \_\_\_\_\_ Line of Credit # \_\_\_\_\_
Loan # \_\_\_\_\_ Loan # \_\_\_\_\_ Loan # \_\_\_\_\_
c. Bonding capacity \$ \_\_\_\_\_
d. Gross receipts for the last two years 19\_\_ \$ \_\_\_\_\_ 19\_\_ \$ \_\_\_\_\_

AFFIDAVIT

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing documents are true and correct and include all information necessary to identify and explain the operation of

Name of Firm \_\_\_\_\_

as well as the ownership thereof. The undersigned, in addition, swears that the above named firm is a bona fide minority business enterprise of which at least 51% is owned and controlled by a minority, who exercises independent day-to-day management.

I agree to notify the Department of Minority Business Enterprise within thirty days of any change in the ownership, control, management or status as an on-going minority business concern.

I understand that any material misrepresentation will be grounds for denial or revocation of certification and initiation of action under Federal or State laws concerning false sworn statements.

Owner(s) Signature \_\_\_\_\_

Print Name(s) \_\_\_\_\_

Date \_\_\_\_\_ Please imprint corporate seal (where appropriate)

Date \_\_\_\_\_ City County of \_\_\_\_\_ State \_\_\_\_\_

NOTARY

Commonwealth/State of \_\_\_\_\_

City/County of \_\_\_\_\_

Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

Notary Public \_\_\_\_\_

My Commission expires \_\_\_\_\_, 19\_\_

NOTE: THE PENALTY FOR OBTAINING CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE BY DECEPTION IS A CLASS 1 MISDEMEANOR IN THE COMMONWEALTH OF VIRGINIA, PUNISHABLE BY CONFINEMENT IN JAIL FOR NOT MORE THAN TWELVE MONTHS AND A FINE OF NOT MORE THAN \$1,000, EITHER OR BOTH. (Section 18.2-11, CODE OF VIRGINIA)

Acknowledged: \_\_\_\_\_ (owner)

REQUEST FOR EXEMPTION OF CERTIFICATION INFORMATION  
FROM DISCLOSURE UNDER THE  
VIRGINIA FREEDOM OF INFORMATION ACT

REGISTRAR OF REGULATIONS  
92 MAR 26 PM 3:38

ATTACHMENTS

REGISTRAR OF REGULATIONS

The following items must be attached and submitted with this application. Any items not included will result in denial of certification process. Please number corresponding copies.

1. Copy of most recent federal income tax return (include all schedules) and previous year financial statements (Balance Sheet and Profit and Loss Statement).
  2. At least five (5) canceled checks written on business account.
  3. Copy of bank resolutions or signature card on all company checking and other accounts.
  4. Copies of resumes of principles and key employees
  5. Copies of drivers license(s), U.S. Passport, or other document(s) that provide evidence of minority status for each minority owner. If not an American citizen, proof of permanent resident status (i.e. naturalization papers, alien registration number)
  6. Copy of tribal identification card or certificate if claiming to be an American Indian. In lieu of the latter, written evidence of recognition of such in community will be acceptable.
  7. Copies of license (i.e. business, contractors, etc.)
  8. Partnership (if applicable)
    - Partnership Agreement
    - Buy-out Agreement
    - Profit Sharing Agreement
  9. Corporation (if applicable)
    - Articles of Incorporation, including date approved by State
    - Minutes of first corporate organizational meeting and of any meeting which by laws were amended.
    - Corporate By Laws
    - Copy (front and back) of stock certificate(s) issued (not a specimen copy)
    - Stock transfer ledger
    - Proof of stock purchase
- Furnish copies of agreements relating to:
- stock options
  - ownership agreements
  - stockholder agreements
  - restrictions on the disposal of loan agreement
10. Documents of initial investment by applicant, showing source of start-up or buy-out capital. Please submit cancelled checks or other document.
  11. Sample of letterhead stationary business card, flyers or any other evidence of business operation.

In submission of certain proprietary information for consideration of certification,

\_\_\_\_\_  
(Name of Firm)

hereby invokes the protection of 11-52 (D) of the Code of Virginia (Virginia Public Procurement Act) and requests exemption from public disclosure of certain proprietary information.

The material to be protected and the reasons why such protection is necessary, are listed below.

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

Signature of owner: \_\_\_\_\_

Date: \_\_\_\_\_

## BOARD OF PSYCHOLOGY

**Title of Regulation:** VR 565-01-2. Regulations Governing the Practice of Psychology. (WITHDRAWN)

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

**NOTICE:** The board is WITHDRAWING the proposed regulation entitled "Regulations Governing the Practice of Psychology" (VR 565-01-2) published in 7:26 V.A.R. 4226-4244 September 23, 1991.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**Title of Regulation:** VR 615-08-01. Virginia Energy Assistance Program.

**Statutory Authority:** § 63.1-25 of the Code of Virginia.

**Public Hearing Date:** June 19, 1992 - 10 a.m.

(See Calendar of Events section for additional information)

### Summary:

*The amendments to the crisis assistance component provide additional clarification of the type of services to be provided to eligible households.*

*Assistance will be provided for routine maintenance of heating equipment and to purchase supplemental heating equipment.*

*Assistance will be provided to households who did not receive fuel assistance in the current program year to purchase home heating fuel sufficient to respond to a crisis situation or to pay to prevent the disconnection of a primary utility heat source.*

*Maximum amount of assistance will be the amount of the disconnection notice or the cost of a 30-day supply of fuel not to exceed \$200.*

VR 615-08-01. Virginia Energy Assistance Program.

### PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used herein, shall have the following meaning unless the context indicates otherwise:

*"Department"* means the Department of Social Services.

*"Disabled person"* means a person receiving Social Security disability, Railroad Retirement Disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

*"Elderly person"* means anyone who is 60 years of age or older.

*"Energy-related," "weather-related," or "supply shortage emergency"* means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

*"Fiscal year"* means October 1 through September 30.

*"Household"* means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

*"Poverty guidelines"* means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

*"Primary heating system"* means the system that is currently used to heat the majority of the house.

*"Program year"* means the specified timeframe established for each of the program components by the department.

*"Resources"* means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

### PART II. FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance component is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

#### A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 130% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

3. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date

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such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

## B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;
2. The resource was less than the allowable resource limit;
3. The disposition or transfer was done without the person's full understanding.

## § 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each household shall be determined by state computer using the following method:

A. The following factors for each household will be assigned a point value:

Gross monthly income

Living arrangements

Primary heat type

Climate zone

Vulnerability

Person 60 years of age or older

Disabled person in HH

Child under 16

Point values will be determined by department staff.

B. The total points of all households will be determined.

C. The available benefit dollars will be divided by the point total to determine a point value.

D. The household's benefit amount will be calculated by multiplying the household's point total by the value per point.

§ 2.3. The application period for fuel assistance shall be the month of November.

## PART III. CRISIS ASSISTANCE.

§ 3.1. The purpose of the Crisis Assistance component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance component or other local resources.

A. Eligibility criteria.

In order to be eligible for Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance criteria as set forth in Part II, § 2.1;

2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;

3. Other resources cannot meet the emergency (including Fuel Assistance);

4. Did not receive Crisis Assistance during the current fiscal year;

5. For assistance with primary heat source, did not receive Fuel Assistance in current program year.

B. Benefits.

An eligible household can receive no more than \$200 for Crisis Assistance during any federal fiscal year, unless the assistance is for the rebuilding or replacement of heating equipment or purchase of heating equipment where none exists, in which case the maximum amount of assistance shall be \$700.

The following forms of assistance shall be provided:

1. Repairs, replacement or rebuilding of inoperable or unsafe heating equipment. *Routine maintenance cost of heating equipment and purchase of supplemental*

equipment.

2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to \$200 maximum. Assistance may be provided once every five years.

3. A one-time-only payment per fuel type of a heat-related utility security deposit.

4. Providing space heaters.

5. Providing emergency shelter.

6. Purchase of a supply of home heating fuel sufficient to respond to the immediate crisis situation when the household is out of fuel or payment to prevent the disconnection of a primary utility heat source. Assistance will be provided during a specified timeframe.

#### PART IV. COOLING ASSISTANCE.

§ 4.1. Cooling Assistance program is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their crisis allocation and will provide the assistance no earlier than June 15 through no later than August 31.

##### A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

##### B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

#### PART V. ADMINISTRATIVE COSTS.

§ 5.1. Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of program grant allocation.

**NOTICE:** The forms used in administering the Virginia Energy Assistance Program 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 Social Services, 8007 Discovery Drive, Richmond, Virginia, or at the Office

of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Change Request Form (032-03-089/2) (10/91)

Energy Assistance - Case Input Document (032-03-080/8) (9/91)

Request for Crisis/Cooling Assistance

Fuel Assistance Worksheet/Evaluation Form

Crisis Assistance Worksheet (032-03-086/2) (11/91)

Energy Assistance Outreach Batch Sheet

Declaration of Citizenship or Alien Status (032-03-715/3) (12/89)

Stop Payment Request (032-06-117)

Affidavit on Check Endorsement (032-06-118/1)

Correction of Payment Errors (COPE) (032-03-201/3) (11/85)

Check Cancellations - Initial Entry Document (032-03-184/1) (10/88)

Fuel Assistance Case Reading Form

Fuel Assistance Case Readings Instructions

Fuel Assistance Case Reading Form Instructions for Completion - Attachment B

Payment Notice (032-03-082/1)

Credit Authorization (032-03-081/1)

Fuel Assistance Application (032-12-057) (9/91)

#### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**Title of Regulation:** VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

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

**Public Hearing Date:** June 25, 1992 - 10 a.m.  
(See Calendar of Events section  
for additional information)

##### Summary:

*The proposed regulation applies to approximately 1,500 applicants who file original and reexamination waterworks and wastewater works applications annually. Substantive changes in the regulation are proposed to increase the fees covering the original applications for waterworks and wastewater works operators and applications for reexamination. The proposal will assure the board's compliance with the requirements of § 54.1-113 of the Code of Virginia.*

VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

#### PART I. DEFINITIONS, LICENSING AND CLASSIFICATION REQUIREMENTS.

§ 1.1. Definitions.

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

**"Board"** means the Board for Waterworks and Wastewater Works Operators.

**"Category"** means the two divisions of waterworks and wastewater works and operators' licenses, one being waterworks and the second being wastewater works.

**"Classification"** means the divisions of each category of waterworks and wastewater works and operators' licenses. Class "I" represents the highest classification.

**"Licensure"** means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without a license.

**"Operator"** means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

**"Operator-in-training"** means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

**"Owner"** means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

**"Person"** means any individual, group of individuals, a corporation, a partnership, a business trust, an association or other similar legal entity engaged in operating waterworks or wastewater works.

**"Responsible charge"** means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks or wastewater works.

**"Wastewater works"** means each system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of

Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge to state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

**"Waterworks"** means each system of structures and appliances used in connection with the collection, storage, purification, and treatment of water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Department of Health to be such.

## § 1.2. License required.

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board of a classification equal to or greater than the classification of the waterworks or wastewater works and in the appropriate category.

## § 1.3. License renewal required.

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.

B. Each licensee applying for renewal shall return the renewal notice and fee established in § 1.4 of these regulations to the Department of Commerce prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the expired license may be submitted with the required fee.

C. If the operator fails to renew the license within 30 days after the expiration date on the license, a penalty fee as established in § 1.4 of these regulations shall be required, in addition to the renewal fee.

D. Any operator failing to renew within one year of the expiration date on the license must apply for a new license by examination in accordance with Part II of these regulations. Such an individual shall be deemed to be eligible to sit for the same category and class of license as the expired license.

E. Limited waterworks operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1993, will not be renewed. Limited wastewater works operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and

Wastewater Works (effective March 1, 1977), expiring on February 28, 1994, will not be renewed. A holder of a limited license shall be deemed to have met the experience and education requirements of these regulations and shall be eligible to sit for an examination upon application in the same category and in the same or lower classification as the limited license currently held.

## § 1.4. Fees.

Fees are nonrefundable and shall not be prorated.

The following fees shall apply:

1. Application for licensure by examination or by reciprocity \$ ~~65~~ \$ 95 .
2. Application for reexamination \$ 45 \$ 75 .
3. Renewal of license \$ 55.
4. Penalty for failure to renew license within 30 days of expiration \$ 55.

## § 1.5. Waterworks.

A. Class V shall mean any waterworks as follows:

1. Waterworks employing no treatment other than chlorine disinfection, including consecutive water systems or groundwater systems with no treatment or consecutive systems employing repumping or rechlorination or both, and classified by the Department of Health as public water supplies; or
2. Waterworks classified by the Department of Health as Class V waterworks.

B. Class IV shall mean any waterworks as follows:

1. Waterworks employing disinfection, corrosion control, iron and manganese removal, softening, slow sand filtration, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified by the Department of Health as public water supplies; or
2. Waterworks classified by the Department of Health as Class IV waterworks.

C. Class III shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration other than slow sand filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or

2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or

3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies; or

4. Waterworks classified by the Department of Health as Class III waterworks.

D. Class II shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or

2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or

3. Waterworks classified by the Department of Health as Class II waterworks.

E. Class I shall mean any waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more.

## § 1.6. Wastewater works.

A. Class IV shall mean any wastewater works as follows:

1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or
2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.

B. Class III shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater

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than 0.04 mgd, but equal to or less than 0.5 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or

4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or

5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.

C. Class II shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd,

D. Class I shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 2.5 mgd.

E. Biological treatment methods as used in this section shall mean a fixed film or suspended growth biological treatment process, such as:

1. Activated sludge.

2. Trickling filter.

3. Aerated lagoon.

4. Rotating biological contactor.

5. Land application.

6. Biological nutrient removal process.

F. Physical/chemical treatment methods as used in this

section shall mean a treatment process such as:

1. Chemical coagulation, flocculation and precipitation.

2. Filtration.

3. Carbon adsorption.

4. Breakpoint chlorination.

5. Demineralization (including but not limited to ion exchange, reverse osmosis, electro dialysis).

## PART II. ENTRY REQUIREMENTS.

§ 2.1. Licensure.

The board shall issue a Class V, IV, III, II, or I license only after an individual has met all experience and examination requirements as set forth in these regulations. Each license shall be in the appropriate category and classification and shall indicate the highest classification of works the holder is qualified to operate.

§ 2.2. Licensure by reciprocity.

The board may issue a license to any person holding a currently valid license or certificate in any state, territory, or possession of the United States, or in any foreign country, or a certificate issued by the Association of Boards of Certification, provided the requirements and standards under which the license or certificate was issued are equivalent to those established by these regulations.

§ 2.3. Licensure by experience and examination.

Licensure is based upon having applicable experience and demonstrating minimum required knowledge, skills and abilities by examination. Education, specialized training, and experience in the other category may be substituted for the required experience as specified in this section. These requirements are summarized in Table 1.

A. Experience.

For purposes of these regulations, experience requirements are expressed in terms of calendar periods of full-time employment with actual hands-on experience as an operator or as an operator-in-training at a waterworks or wastewater works in the same category as the license being applied for. All experience claimed on the application for licensure must be certified by the individual's immediate supervisor.

1. A year of full-time employment is defined as 1760 hours per year or 220 workdays per year. A workday is defined as attendance at a waterworks or wastewater works to the extent required for proper operation.

2. Experience gained as an operator-in-training must be obtained under the supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience is gained. The supervising operator shall certify the experience on the application form.

3. Partial credit may be given for actual hours of work or workdays experience if the applicant works as an operator or as an operator-in-training less than full time.

4. Experience limited to wastewater collection system operation and maintenance, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or as an operator-in-training.

5. Experience limited to water distribution system operation and maintenance shall be considered only when applying for a Class V waterworks operator license.

**TABLE 1. Summary of requirements for operator's license by class**

License Class	Education <sup>1</sup>	Current License	Total Experience Required (Years)	Experience must be at this class facility or higher (Years)				Maximum Substitution Permitted (Years)
				Cl. V	Cl. IV	Cl. III	Cl. II	
V	BS degree	None	0.5	0.5				0.0
	High School	None	0.5	0.5				0.0
	None	None	1.0	1.0				0.0
IV	BS degree	None	0.5		0.5			0.0
	High School	None	0.5		0.5			0.0
	None	None	1.0		1.0			0.0
III	BS degree	None	1.0		1.0			0.0
		IV	1.0		1.0			0.0
	High School	None	2.0		2.0			1.0
		IV	2.0		2.0			1.0
	None	IV	4.0		4.0			2.0
II	BS degree	None	1.5			0.5		0.0
		IV	1.5			0.5		0.0
		III	1.5			0.5		0.0
	High School	III	4.0		2.0			2.0
None	III	7.0		3.0			2.5	
I	BS degree	II	2.5			1.0		0.0
		III	6.0		2.0			3.0
	High School	II	6.0		2.0			3.0
None	II	10.0		4.0	3.0	3.0	5.0	

<sup>1</sup> BS degree = bachelor's degree in engineering or engineering technology; or in physical, biological, or chemical science or engineering. All other bachelor's degrees will be considered the equivalent of high school education for the purpose of meeting the education requirement, although individual courses in science, engineering, or public health may be substitutes for experience in accordance with § 2.3 c.

High School = high school diploma or GED or college degree other than BS degree defined above.

All experience must be at a waterworks or wastewater works of the appropriate category and of a class equal to or higher than the class indicated in the table. Experience gained at a waterworks or wastewater works of higher class than currently held license must be under direct supervision and direction of a properly licensed operator.

## B. Specific requirements for licenses.

1. Specific requirements for a Class V license. Applicants for licensure as a Class V waterworks operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks of Class V, Class IV, Class III, Class II, or Class I.

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks of Class V, Class IV, Class III, Class II, or Class I.

2. Specific requirements for a Class IV license. Applicants for licensure as a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks or wastewater works of Class IV, Class III, Class II, or Class I; or

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV, Class III, Class II, or Class I.

3. Specific requirements for a Class III license. Applicants for licensure as a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV, Class III, Class II, or Class I; or

b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least one year of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

c. Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training of waterworks or wastewater works of Class IV, Class III, Class II, or Class I; or

d. Have (i) a high school diploma or GED, (ii) a

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Class IV license, and (iii) a total of at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

e. Have (i) no high school diploma, (ii) a Class IV license, and (iii) a total of at least four years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I.

4. Specific requirements for Class II license. Applicants for licensure as a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of Class III, Class II or Class I; or

b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of Class III, Class II or Class I; or

c. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class III license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months, without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

d. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) a total of at least four years of experience of which at least two years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

e. Have (i) no high school diploma, (ii) a Class III license, and (iii) a total of at least seven years of experience of which at least three years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I.

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5. Specific requirements for a Class I license. Applicants for licensure as a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class II license; and (iii) a total of at least 2-1/2 years of experience, of which at least one year without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

b. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) a total of at least six years of experience of which at least two years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

c. Have (i) no high school diploma, (ii) a Class II license, and (iii) a total of at least 10 years of experience of which at least three years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I.

C. Substitutions for required experience.

For the purpose of meeting the experience requirements for licenses of Class III, Class II, and Class I, experience in the other category, relevant training in waterworks and wastewater works operation, and formal education may be substituted for actual hands-on experience in the category being applied for.

1. Limitations on substitution.

a. Substitutions may not reduce the actual operator experience required to less than 2-1/2 years for a Class I license, to less than 1-1/2 years for a Class II license, to less than one year for a Class III license, or to less than 1/2 year for a Class IV or Class V license.

b. Under no circumstances shall experience, training, and education substitutions exceed 50% of the total experience required in the appropriate subdivision of § 2.3 B.

c. No experience, training, or education substitutions are permitted for the experience required to obtain a Class V or a Class IV license as specified in § 2.3 B.

2. Experience substitution. One-half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.

3. Education substitution. Education may be substituted for part of the required experience, subject to the limitations in § 2.4 A as follows:

a. Education used to meet the educational requirements for any class of license may not be substituted for experience.

b. Formal education. Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works operation; or public health may be substituted for part of the required experience.

(1) All education substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Education may be substituted for experience at a rate of one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to 2/3 of a semester hour.

c. Specialized training. Waterworks or wastewater works operator training courses, seminars, workshops, or similar specialized training, specifically approved by the board, may be substituted for part of the required experience.

(1) All training substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Training may be substituted for experience at a rate of one month experience for each training credit (TC) approved by the board. One TC is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip time. No credit towards TCs is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.

(3) All courses used for substitution must be approved by the board utilizing the criteria set forth in Appendix A.

#### D. Examination.

A board-approved examination shall be administered at least twice a year.

1. An individual may take the examination prior to fulfilling the education and experience requirements,

provided all requirements will be met within three months after the date the applicant will take the examination. The results of the examination and the license shall not be issued until all applicable requirements have been met and satisfactorily verified.

2. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees, in accordance with §§ 1.4 and 2.4 A.

3. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination. Applications for reexamination must be received in the Department of Commerce at least 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

#### § 2.4. Application.

A. Any person seeking licensure by reciprocity or by education, experience, and examination shall submit a fully-completed application with the appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Application for licensure by examination must be received in the Department of Commerce 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

B. All applications of candidates will be reviewed by the Department of Commerce staff to determine eligibility for licensure and examination within 50 days of receipt at the offices of the Department of Commerce. Any applicant may appeal the initial review, in writing, to the board within 60 days of the staff's determination. No applicant will be approved for licensure unless he meets all of the requirements of Part II of these regulations.

C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications, training, or experience. No additional fee will be required, provided all requirements for licensing are met within two years from the date of original application.

#### PART III. STANDARDS OF PRACTICE.

# Proposed Regulations

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## § 3.1. Discipline.

A. The Board, in its discretion, may fine any licensee, or may suspend or revoke a license, either or both, if it finds that:

1. The license was obtained or renewed through fraud or misrepresentation; or
2. The licensed operator has been found guilty by the board, or by a court of any material misrepresentation in the course of performing his operating duties; or
3. The licensed operator has not demonstrated reasonable care, judgment or application of his knowledge and ability in the performance of his operating duties; or
4. The licensed operator violates or induces another person to violate any provisions of Chapters 1, 2, 3, and 23 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.

### Appendix A - Approval of Specialized Training

Specialized waterworks and wastewater works operator training may be substituted for some of the experience required for Class III, Class II and Class I licenses, subject to the limitations in this appendix. Training courses that may be substituted for required experience must be approved by the board prior to the training activity in accordance with the following procedure:

A. Training activities for which experience credit may be granted must be conducted in general conformance with the guidelines of the Council on the Continuing Education Unit. The board reserves the right to waive any of the requirements of the council's guidelines on a case-by-case basis.

1. **Organization.** The board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer and coordinate a training credit (TC) program.
2. **TC records.** The board will only approve training offered by a sponsor who maintains TC records for all participants for a minimum of 20 years, and who has a written policy on retention and release of TC records.
3. **Instructors.** The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an

understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.

4. **Objectives.** The board will only approve courses that have a series of stated objectives that are consistent with the job requirements of waterworks and wastewater works operators. The training course content must be consistent with those objectives.

5. **Course completion requirements.** For successful completion of a training program, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.

B. The board shall consider the following information, to be submitted on forms provided by the board, at least 45 days prior to the scheduled training activity:

1. **Course information.**
  - a. Course title
  - b. Planned audience
  - c. Name of sponsor
  - d. Name, address, phone number of contact person
  - e. Scheduled presentation dates
  - f. Detailed course schedule, hour-by-hour
  - g. List of planned breaks
  - h. Scheduled presentation location
  - i. Relevancy of course to waterworks or wastewater works operator licensing
2. **Instructor qualifications.**
  - a. Name of instructor
  - b. Title, employer
  - c. Summary of qualifications to teach this course
3. **Training materials.**
  - a. **Course objectives.** A listing of the course objectives stated in the terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training.
  - b. **Course outline.** A detailed outline showing the planned activities that will occur during the training program, including major topics, planned presentation sequence, laboratory and field activities,

audio-visual presentation, and other major activities.

c. Course reference materials. A list of the name, publisher and publication date for commercially available publications; for reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference.

d. Audio-visual support materials. A listing of any commercially available audio-visual support material that will be used in the program; a brief description of any sponsor or instructor generated audio-visual material that will be used.

e. Handouts. Identification of all commercially available handout materials that will be used; copies of all other planned handouts.

4. Determination of successful completion. A description of the means that will be used to determine the successful completion of the training program by individual attendees, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

C. Substitution of training for experience will be approved by the board only for applicants whose names appear on a roster of those participants who successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the TC value, provided to the participant by the sponsor.

D. Recurring training programs. If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may approve the overall program rather than individual presentations if so requested by the sponsor.

1. The board shall consider all of the information listed above except those items related to specific offerings of the course.

2. Board approval may be granted for a specific period of time or for an indefinite period.

3. Board approval will apply only to those specific offerings appearing on listings provided to the board prior to conducting the training. The listing shall contain for each offering the dates, locations, and instructors.

4. To maintain approval of the program, changes made to the program since its approval must be submitted.

5. Substitution of training for experience will be approved by the board only for applicants whose

names appear on a roster of those who have successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor following the course offering, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the TC value, provided to the participant by the sponsor.

# 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 COMMERCE

## PART I. GENERAL.

Title of Regulation: VR 190-04-1. Private Security Services Businesses Regulations. **REPEALED**

Title of Regulation: VR 190-04-1:1. Private Security Services Businesses Regulations.

Statutory Authority: § 54.1-1903 and 54.1-1904 of the Code of Virginia.

Effective Dates: June 1, 1992, through June 30, 1993.

### Summary:

*The final regulation requires the licensure of businesses and the registration of individuals who perform investigative services or who make available the services of private security personnel to other organizations, businesses or individuals.*

*The regulation separates entry, renewal and reinstatement requirements. It also separates standards of conduct from standards of practice. Throughout the regulation, a clear distinction is made between the requirements for businesses and the requirements for individuals. Requirements have been added for in-service training for compliance agents as required by the Department of Criminal Justice Services regulation and for providing fingerprint cards as part of a National Criminal Records search mandated by an Act of the General Assembly in 1991. Fees throughout the regulation have been adjusted in order to conform with the requirements of § 54.1-113 of the Code of Virginia to ensure that the expenses of this program are adequately covered by revenues generated from the regulants. Most provisions of the current regulation have been retained but reorganized and rephrased for clarity. New provisions have been added.*

*Revisions were made to reflect the cancellation of the department's plans to create a new computer system to issue and renew registrations and has assigned an expiration date of midnight on June 30, 1993. Both revisions were made in response to an Act of the 1992 Session of the Virginia General Assembly which moves the department's responsibilities for this regulatory program to the Department of Criminal Justice Services on July 1, 1993.*

VR 190-04-1:1. Private Security Services Businesses Regulations.

### § 1.1. Definitions.

*The following words and terms when used in these regulations shall have the following meaning:*

*"Approved training school" means any school which has been approved by the Criminal Justice Services Board to conduct private security training.*

*"Code" means the Code of Virginia.*

*"Department" means the Department of Commerce.*

*"Firearms endorsement" means a handgun endorsement or a handgun and shotgun endorsement as evidenced by the training requirements completed by an individual.*

*"Firm" means a business entity, regardless of method of organization applying for a private security services business license or for a renewal or reinstatement of same.*

*"Handgun endorsement" 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 rules promulgated by the Criminal Justice Services Board.*

*"In-service training requirement" means the compulsory in-service training standards adopted by the Criminal Justice Services Board for private security services business personnel.*

*"Licensed firm" means a business entity, regardless of method of organization, which holds a valid private security services business license issued by the department.*

*"Licensee" means a licensed private security services business.*

*"On duty" means that time during which a registrant receives or is entitled to receive [ fees or other ] compensation for employment for which a registration is required and that time while the registrant is traveling immediately before and after the period of actual duty [ between his residence and to and from ] the place of duty.*

*"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.*

"Registrant" means any individual who has met the requirements for registration in any of the categories listed under "registration category."

"Registration category" means any one of the following categories:

- Armed guard/Courier
- Armored car personnel
- Guard dog handler
- Private investigator/private detective

"Shotgun endorsement" means the method of regulation used by the department to acknowledge a registrant's successful completion of all [ handgun-related and ] shotgun-related firearms training and retraining requirements established by the rules promulgated by the Criminal Justice Services Board.

"Training requirements" means the Compulsory Minimum Training Standards adopted by the Criminal Justice Services Board for private security services business personnel.

"Uniform" means any clothing [ ; with a ] badge, patch or lettering which clearly identifies the person [ to any observer ] as a private security registrant, not a law-enforcement officer.

## PART II. ENTRY.

### § 2.1. Entry requirements for a private security services business.

Any person seeking a license as a private security services business shall file an application furnished by the department accompanied by a nonrefundable application fee, which shall not be prorated, in the amount of \$600. All forms shall be completed in full compliance with the instructions provided by the department. Applicants shall meet or exceed all of the following requirements prior to the issuance of a license:

1. Surety bond or insurance required. Each person seeking 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. Irrevocable consent. Each nonresident applicant for a license or nonresident licensee shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth.
3. Compliance agent required. Each firm applying for [ or maintaining ] a license as a private security services business shall employ at least one individual

as compliance agent who is not designated as a compliance agent for any other licensee and who shall meet or exceed the following requirements:

- a. Be 18 years old;
- b. Three years of managerial or supervisory experience in a private security services business; in federal, state, or local law-enforcement or in a related field;
- [ e. Successful completion of an examination on the regulations and laws governing a private security services business. The fee for the examination is \$50. All fees are nonrefundable;
- d. Successful completion of the training requirements and, if appropriate, the in-service training requirements for compliance agents;
- c. Successful completion of the training requirements and, if appropriate, the in-service training requirements for compliance agents;
- d. Successful completion of an examination on the regulations and laws governing a private security services business after the training requirements are met. The fee for the examination is \$50. All fees are nonrefundable; ]
- e. Be in good standing and free of disciplinary action in every jurisdiction where licensed or registered in private security; and
- f. Submit a nonrefundable fee of \$25.

4. Applicant conviction record. The department may deny licensure to any firm in which any compliance agent, sole proprietor, officer or director of the corporation, member of the association or general partner of the partnership has been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution, physical injury or property damage, or of any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. Criminal background investigation. Upon application for a private security services business license, each compliance agent, officer, director, general partner, member of an association and proprietor of the applicant firm shall submit to the department his fingerprints on forms provided by the department and a \$40 fee for each fingerprint card. The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National

# Final Regulations

Criminal Records search to determine whether the individual(s) has a record of conviction.

6. Applicant(s) to be in good standing in other jurisdictions. The department may deny licensure to any firm in which any compliance agent, sole proprietor, officer or director of the corporation, member of the association, or general partner of the partnership has not maintained good standing in every jurisdiction where licensed or registered as a private security business or has had his license or registration denied upon initial application, suspended, revoked, surrendered, not renewed or otherwise disciplined in connection with a disciplinary action in any jurisdiction prior to applying for licensure in Virginia.

[ 7. Physical address. Each firm applying for a private security services business license shall disclose its physical address. A post office box is not a physical address. ]

§ 2.2. Entry requirements for [ individual registrants individuals ] .

A. Individuals seeking [ a ] registration [ or a registration and firearms endorsement(s) ] as private security personnel under § 54.1-1902 of the Code shall file an application furnished by the department which shall be accompanied by a nonrefundable application fee in the amount of \$80. Each applicant shall meet or exceed the following requirements prior to the issuance of a registration [ or a registration and firearms endorsement(s) ] :

1. Shall be at least 18 years of age;

[ 2. Shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction; ]

[ 3. ] Shall disclose his physical address. A post office box is not a physical address;

[ 4. 3. ] Shall have submitted his fingerprints on forms provided by the department; [ and ]

[ 5. 4. ] Shall have submitted evidence that he has complied with the training requirements and, if appropriate, the in-service training requirements [ in for ] each registration category [ and each firearms endorsement ] applied for [ ; and . ]

[ 6. Shall have maintained his license or registration in good standing in every jurisdiction where licensed

or registered as private security personnel and shall not have been fined or had any private security license or registration denied upon application, suspended, revoked, surrendered, not renewed or otherwise disciplined in connection with a disciplinary action in any jurisdiction prior to applying for registration or licensure in Virginia.

B. [ Registration - ] Additional categories [ and firearms endorsements ] .

[ Individuals Registered individuals ] seeking additional registration categories or firearms endorsements shall file an application furnished by the department [ showing documenting ] that the training requirements for the [ desired ] categories [ or and ] endorsements have been met. The fee for each filing is \$25. All fees are nonrefundable.

C. Criminal background investigation.

Upon receipt of an original registration application, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the applicant has a record of conviction.

[ D. Registration denial.

The department may deny registration to any person who:

1. Has been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution, property damage or physical injury, or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction; or

2. Has failed to maintain his license or registration in good standing in every jurisdiction where licensed or registered as private security personnel, or has been fined or had any private security license or registration denied upon application, suspended, revoked, surrendered, not renewed or otherwise disciplined in connection with a disciplinary action in any jurisdiction prior to applying for registration or licensure in Virginia. ]

§ 2.3. Unclassifiable fingerprint cards.

Each applicant whose fingerprint cards are found to be unclassifiable, requiring the department to submit additional fingerprint cards and incur an additional fee for processing by the Virginia State Police or the Federal Bureau of Investigation, shall be so notified in writing and

shall submit new fingerprint cards and a fee of \$40 to the department before the processing of his application shall resume.

## PART III. RENEWAL OF LICENSE/REGISTRATION.

### § 3.1. License expiration, renewal.

A. All licenses issued to private security services businesses shall expire every year on October 31.

B. The department shall mail a license renewal outlining the procedures for renewal application to the last known address of the licensee. Failure to receive the renewal application shall not relieve the licensee of the obligation to renew.

C. The department shall renew the license [ for a period of 12 months from the expiration date printed on the expiring license ] when the following are received by the department no later than the expiration date printed on the expiring license:

1. The properly completed renewal application;
2. Evidence, as required by § 3.3 of this regulation, that each of the licensee's compliance agents has satisfactorily completed the compliance agent continuing in-service training; and
3. [ ~~The appropriate fee established by § 3.4 of this regulation.~~ A license renewal fee of \$300 which shall not be prorated and is nonrefundable. ]

### § 3.2. Registration expiration, renewal.

A. All registrations issued on or after [ ~~January 1, 1992~~ June 1, 1992 ], shall expire 12 months from the last day of the month wherein issued as indicated on the registration.

B. The department shall mail a registration renewal application outlining the procedures for renewal to the registrant at his last known home address. Failure to receive the renewal application shall not relieve the registrant of the obligation to renew.

C. The department shall renew the registration [ for a period of 12 months from the expiration date printed on the expiring registration ] when the following are received by the department no later than the expiration date printed on the expiring registration:

1. The properly completed renewal application;
2. Evidence [ ; as required by § 3.3 of this regulation, ] of satisfactory completion of the in-service training requirements for every registration category [ ~~and~~ ~~firearms endorsement~~ ] reflected on the expiring registration; and

3. [ ~~The appropriate fee established by § 3.4 of this regulation.~~ A registration renewal fee of \$35 which shall not be prorated and is nonrefundable. ]

### [ § 3.3. Evidence of in-service training-

Evidence of satisfactory completion of the in-service training requirement for compliance agents and registrants shall be submitted on forms provided by the department either by approved training schools upon completion of training or by the license or registration renewal applicant with the completed renewal application form and renewal fee.

### [ § 3.3. Firearms endorsement expiration, renewal.

A. All firearms endorsements issued after June 1, 1992, shall expire 12 months from the last day of the month wherein issued as indicated on the firearms endorsement.

B. The department shall mail a firearms endorsement renewal application outlining the procedures for renewal to the registrant's last known address. No such notice will be sent to individuals whose registrations have expired at the time the notice is prepared. Failure to receive the renewal application shall not relieve the registrant of the obligation to renew.

C. The department shall renew the firearms endorsement for 12 months from the expiration date printed on the firearms endorsement when the following are received by the department no later than the expiration date printed on the expiring firearms endorsement:

1. The properly completed renewal application;
2. Evidence of satisfactory completion of the in-service training requirements for the expiring firearms endorsement(s); and
3. A fee of \$25 which is nonrefundable and may not be prorated.

D. Registrants may avoid paying a separate fee for firearms endorsement renewal when evidence of satisfactory completion of the in-service training requirements for each firearms endorsement issued accompanies the registration renewal application described in § 3.2 of this regulation. ]

### § 3.4. Fee, term of renewal.

The fee for license renewal shall be \$300 and the fee for registration renewal shall be \$35. All fees are nonrefundable and shall not be prorated. The term of renewal for licenses and registrations shall be one year from the date shown on the expiring license or registration. ]

§ [ ~~3.5.~~ 3.4. ] Department discretion to deny renewal.

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The department may deny renewal of a license or registration for the same reasons as it may refuse initial licensure or discipline a licensee or registrant.

## PART IV. REINSTATEMENT.

### § 4.1. Failure to renew - reinstatement required.

Any licensee or registrant failing to apply for renewal within 30 days after the expiration date printed on the license or registration shall be required to reinstate the license or registration.

[ A. The application fee for reinstatement of a license shall be \$600 and the application fee for reinstatement of a registration shall be \$70. Reinstatement application fees are nonrefundable and shall not be prorated. ]

[ B. A. ] Applicants for license reinstatement shall meet the requirements of [ § ~~3.1~~ subdivisions 1 and 2 of § 3.1 C ] of this regulation and [ applicants submit a reinstatement application fee of \$600. Applicants ] for registration [ reinstatement ] shall meet the requirements of [ § ~~3.2~~ subdivisions 1 and 2 of § 3.2 C ] of this regulation [ and submit a reinstatement application fee of \$70 ] . [ Reinstatement application fees are nonrefundable and shall not be prorated. ]

[ C. B. ] No license or registration shall be reinstated when the application and fee are received by the department more than six months after the expiration date printed on the license or registration. After that date the applicant shall meet the then current entry requirements and apply for a new license or registration.

[ D. C. ] The date on which the application and fee are received by the department or its agent shall determine whether the licensee or registrant is eligible for renewal or reinstatement or is required to apply for a new license or registration.

[ E. D. ] Licenses and registrations shall be reinstated for one year from the date shown on the expired license or registration.

### § 4.2. Department discretion to deny reinstatement.

The department may deny reinstatement of a license or registration for the same reasons as it may refuse initial licensure [ or registration ] or discipline a licensee or registrant.

## PART V. STANDARDS OF PRACTICE.

### § 5.1. Transfer of license or registration prohibited.

A. Each license shall be issued to the legal business entity named on the application, whether it be a sole proprietorship, a partnership, a corporation, an association

or other legal entity, and shall be valid only for the legal entity named on the license. No license shall be assigned or otherwise transferred to another legal entity.

B. Each registration shall be issued to the individual named on the application and shall be valid only for use by the individual named on the registration card. No registration shall be utilized by any individual other than the individual named on the registration card. No registration shall be transferred to another individual.

### § 5.2. Change of name or address.

A. Each licensee shall upon application and at all times keep the department informed of its physical address and shall report in writing to the department any change in its name or physical address no later than 15 days after the effective date of that change. Name change reports shall be accompanied by certified true copies of the documents which establish the name change. A post office box is not a physical address.

B. Each registrant shall upon application and at all times keep the department informed of his physical address and shall report in writing to the department any change in his name or physical address no later than 15 days after the effective date of that change. A post office box is not a physical address.

### § 5.3. Compliance agent restriction.

No individual shall be approved by the department as a compliance agent for more than a single licensee at any given time.

### § 5.4. Change of ownership or entity.

A. Each licensee shall report in writing to the department any change in its ownership or changes in the officers of a corporation which do not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change and shall include the application form, fingerprint cards and a fee of \$40 for each new individual.

B. A new license is required whenever there is any change in the ownership or manner of organization of the licensed entity which results in the creation of a new legal entity.

### § 5.5. Maintenance and replacement of compliance agent.

A. Each licensee shall maintain at least one [ individual as a ] compliance agent [ who has met the requirements of § 2.1 3 of this regulation and has been ] approved by the department.

B. Each licensee shall notify the department in writing within 10 business days of the termination of employment of an approved compliance agent.

C. Within 60 days of the termination of the employment of a licensee's sole remaining compliance agent, the licensee shall submit, on a form provided by the department, the name of a new compliance agent who [ meets has met ] the requirements of [ ~~§ 2.1~~ 3 subdivisions 3 and 5 of § 2.1 ] of this regulation [ and a nonrefundable fee of \$25 ] . [ If this individual has already been approved as a compliance agent, a nonrefundable fee of \$25 is required. If the application is for a new compliance agent a nonrefundable fee of \$65 is required. ]

## PART VI. STANDARDS OF CONDUCT.

### § 6.1. Prohibited acts.

Each of the acts listed below is cause for disciplinary action:

1. Violating or aiding and abetting others in violating the provisions of Chapters 1, 2, 3 or 19 of Title 54.1 of the Code of Virginia, the regulations promulgated by the Criminal Justice Services Board or this regulation.

2. Having committed any act or omission which resulted in a license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

3. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution, physical injury, or property damage, or any felony from which no appeal is pending, the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as a prima facie evidence of such guilt.

4. Failing to inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution, physical injury or property damage or of any felony.

5. Obtaining a license, license renewal, registration, registration renewal or approval to act as a compliance agent for a licensee through any fraud or misrepresentation.

6. Failing or refusing to produce during regular business hours to the department or any of its agents for inspection or copying any contract, document or record in the compliance agent's or the licensed firm's possession which is pertinent to the records required to be kept by the Code of Virginia or by this

regulation.

7. Failing to inform the department in writing within 30 days after having been found by any court or administrative body of competent jurisdiction in any jurisdiction to have violated the private security services business statute or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed.

8. Conducting a private security services business or acting as a registrant or compliance agent in such a manner as to endanger the public health, safety and welfare.

9. Engaging in improper, fraudulent, or dishonest conduct.

10. Falsifying or aiding and abetting others in falsifying training records for the purpose of obtaining a license or registration.

11. Representing as one's own a license issued to another private security services business or a registration issued to another individual, or representing oneself as an approved compliance agent of a licensee without approval by the department.

12. Employing individuals who do not possess a valid registration issued by the department showing the registration categories required to perform their duties, and employing armed persons who do not have a valid endorsement for the firearm(s) used while performing their duties.

13. Performing any unlawful, negligent or improper act resulting in loss, injury or death to any person.

14. Wearing of any [ ~~military or police style~~ ] uniform by any employee of a licensee while on duty unless such uniform has:

a. Attached on the outermost garment, except rainwear worn only to protect from inclement weather, at least one insignia clearly identifying the name of the licensed firm employing the individual and [ , except armored car personnel, ] a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials; and

b. Attached no patch or other writing containing the word [ "~~police,~~" ] "officer" (unless used in conjunction with the word "security") [ , "police" ] or any other word(s) suggesting a law-enforcement officer or resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers to the extent that they may display

# Final Regulations

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words which accurately represent that distinction.

15. Using a vehicle in the conduct of a private security services business which uses or displays a flashing red, blue or amber light except when specifically authorized by §§ 46.2-1022 through 46.2-1029.1 of the Code.

16. Using or displaying the state seal of Virginia as a part of any licensed firm's logo, stationary, business card, badge, patch, insignia or other form of identification or advertisement.

17. Displaying by employees of licensed firms of their uniform, badge or other insignia while not on duty.

18. Provision of services to any individual by a licensee without a written contract which includes the following:

a. A clear representation of the services to be provided to the client;

b. In the case of contracts for private detective or private investigator services, whether a verbal or written report is to be provided to the client;

c. A clear explanation of how and how often statements of charges itemizing the nature and duration of tasks performed on behalf of the client shall be prepared and submitted to the client; and

d. The effective date of the contract.

This provision shall not apply to contracts between licensed firms and business entities, government agencies or attorneys-at-law.

19. Failure to maintain the original copy of each written contract between the licensee and any client for five years after the date of termination or completion of services.

20. Providing information obtained by any licensed firm and its employees during the course of any private investigation to any person other than the client who employed the licensee to obtain that information without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies or from the department or its agents shall not constitute a violation of this regulation. [ Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of this regulation. ]

21. The failure of a licensee's approved compliance agent to at all times comply with the following:

a. Ensure that the licensed firm is at all times in full compliance with the Code and these regulations;

b. Ensure that the documentary evidence concerning unarmed guards required by § 54.1-1902 D of the Code is maintained;

c. Maintain employment and payroll records which document the licensed firm's compliance with the Code and this regulation; and

d. Ensure that an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth is filed with the department within 30 days after the licensee moves to a location outside of the Commonwealth.

22. The failure of a registered individual to comply with the following at all times:

a. Perform those duties authorized by his registration card only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is registered as an armed guard from being employed by a nonlicensee as provided for in § 54.1-1901 (8) of the Code;

b. Carry or have immediate access [ to firearms ] while on duty only [ to firearms of the type specifically endorsed on their registration card if the registrant possesses a valid handgun endorsement when the firearm is a handgun, or a valid handgun endorsement and a valid shotgun endorsement when the firearm is a shotgun ] ;

c. Carry a firearm concealed while on duty only with the expressed authorization of the licensed private security services business employing the registrant and only in compliance with § 18.2-308 of the Code;

d. Transport, carry and utilize firearms while on duty only in a manner which does not endanger the public health, safety and welfare;

e. If authorized to make arrests, make arrests in full compliance with the law and using only the minimum force necessary to effect arrest;

f. Engage in no conduct which through word, deed or appearance suggests that a registrant is a law-enforcement officer or other government official; and

g. Display his registration card while on duty in response to the request of any orderly person. This shall not apply to armored car personnel [ while actually engaged in the operation of an armored car or walking between the armored car and the client's establishment except when that request comes from a client's representative or a law-enforcement officer ] .

[ PART VII.  
EXPIRATION OF REGULATION.

§ 7.1. Expiration date.

*This regulation shall be valid until midnight on June 30,  
1993. ]*



FOR OFFICE USE ONLY  
LIC. # \_\_\_\_\_  
DATE \_\_\_\_\_  
CODE \_\_\_\_\_

FOR OFFICE USE ONLY  
FEND. # \_\_\_\_\_  
FEE AMT. \_\_\_\_\_  
REGISTRATION FEE \_\_\_\_\_

REGISTRAR OF SECURITIES  
92 MAR 31 PM 12:01

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Private Security Section  
3600 West Broad Street \* Richmond, Virginia 23230-4917

PRIVATE SECURITY SERVICES BUSINESS COMPLIANCE AGENT APPLICATION

1. Applicant's Name \_\_\_\_\_  
Last First Middle
  2. Residence Address \_\_\_\_\_  
Street and Number  
City or Town State Zip Code
  3. Telephone: Residence( ) \_\_\_\_\_ Business( ) \_\_\_\_\_
  4. Firm: \_\_\_\_\_
  5. Were you a Licensed Qualifying Agent on October 31, 1984? Yes No
  6. Have you passed the Virginia Compliance Agent Examination? Yes No
- If you answered "No" to both items five and six you must pass the compliance agent examination before this application can be approved.
7. Have you ever been convicted of a felony or misdemeanor? Yes No  
If your answer is yes, attach an explanatory letter.
  8. Are you now or have you ever been licensed in Virginia or any other jurisdiction in private security? Yes No  
If yes, where and when \_\_\_\_\_
  9. Has your private security license or registration in Virginia or any other jurisdiction ever been suspended or revoked for any reason? If yes, attach an explanatory letter.
  10. Do you understand you may be a Compliance Agent for only one licensed private security services business? \_\_\_\_\_
  11. Do you understand you are responsible for the full compliance with Virginia law and regulation of the licensed firm named in item 4 above? \_\_\_\_\_

12. AFFIDAVIT \_\_\_\_\_ ss.  
County or City of \_\_\_\_\_

ATTENTION NOTARY PUBLIC:  
Affiant must be under oath.

The undersigned being duly sworn deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Signature of Applicant: \_\_\_\_\_

Signature of Notary \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

My Commission expires \_\_\_\_\_

FOR OFFICE USE ONLY  
LIC. # \_\_\_\_\_  
DATE \_\_\_\_\_  
CODE \_\_\_\_\_

FOR OFFICE USE ONLY  
FDD. # \_\_\_\_\_  
FEE AMT. \_\_\_\_\_  
CLASS/FEE \_\_\_\_\_

REGISTRAR OF REGULATIONS

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Private Security Section  
3600 West Broad Street \* Richmond, Virginia 23230-4917

IRREVOCABLE CONSENT FOR SERVICE

To be executed by each non resident of Virginia applying for license

Firm Name \_\_\_\_\_

Business Address \_\_\_\_\_

WHEREAS, I, or we, the above named applicant for license privileges as a Private Security Services Business trading and/or operating individually or for or under the firm name of \_\_\_\_\_ have made application for a license to act as a Private Security Services Business, Nonresident, within the State of Virginia, in accordance with the provisions of Chapter 17.3, Title 54 of the Code.

WHEREAS, under the provisions of said Chapter, it is necessary to file with the Director, Department of Commerce, Richmond, Virginia, an irrevocable consent that actions against the subscriber (or subscribers) may be filed in any appropriate court of any county or municipality of this Commonwealth in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the subscriber (or subscribers) by leaving two copies thereof with the Director of the Department. Such consent shall stipulate and agree that such service of process shall be valid and binding for all purposes;

NOW THEREFORE, I, or we, \_\_\_\_\_, the above named applicant for license privilege as a Private Security Service Business as aforesaid, hereby execute and file with the Director of the Department of Commerce our (or my) Irrevocable Consent that actions against the subscriber (or subscribers) may be filed in any appropriate court of any county or municipality of this Commonwealth in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the subscriber (or subscribers) by leaving two copies thereof with the Director of the Virginia Department of Commerce. Such consent shall stipulate and agree that such service of process shall be valid and binding for all purposes.

In witness whereof, I, or we \_\_\_\_\_ have hereunto signed our name, this \_\_\_\_\_, day of \_\_\_\_\_, 19\_\_\_\_.

Signature of all Owners, Partners, and Officers: \_\_\_\_\_ Print Names

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affidavit:

State of \_\_\_\_\_ ss. \_\_\_\_\_

County of \_\_\_\_\_

ATTENTION NOTARY PUBLIC:  
Affiants must be under oath.

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally appeared the subscriber, \_\_\_\_\_ who is (or, are) known to me to be the persons in and who signed the foregoing instrument, and who, being duly sworn, acknowledged that they signed the same as his, her, or their, voluntary act and deed for the uses and purposes therein expressed.

(Place Notary Seal Here)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date of Expiration of Commission

FOR OFFICE USE ONLY  
 LIC. # \_\_\_\_\_  
 DATE \_\_\_\_\_  
 CODE \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
 Department of Commerce  
 P.O. Box 11066  
 Richmond, Virginia 23230-1066

FOR OFFICE USE ONLY  
 LIC. # \_\_\_\_\_  
 DATE \_\_\_\_\_  
 CODE \_\_\_\_\_

FOR OFFICE USE ONLY  
 LIC. # \_\_\_\_\_  
 DATE \_\_\_\_\_  
 CODE \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
 Department of Commerce  
 Private Security Section  
 3600 West Broad Street \* Richmond, Virginia 23230-4917

APPLICATION FOR PRIVATE SECURITY SERVICES BUSINESS LICENSE

FEE \$650

INSTRUCTIONS: This application form is designed to provide all the information you need to apply for a Private Security Services Business License. Carefully read the instructions at the beginning and end of each numbered section and include the exact information and attachments asked for. If you cannot you may not be eligible for a license. If you have not already done so, read the law and regulations governing private security in Virginia. Make sure you understand what is expected of you. Violations can result in criminal prosecution as well as action to suspend or revoke your license. Incomplete applications will be returned or denied. The fee is non-refundable. Make all checks payable to the "Treasurer of Virginia".

1. NAME:

Enter the firm's name, a physical business address and telephone number. Also enter a mailing address if you have a post office box or wish you mail to be sent to a different address. Remember - A post office box is not a physical address.

Firm Name \_\_\_\_\_  
 Business Address \_\_\_\_\_ Street & No. \_\_\_\_\_ City/Town \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone( ) \_\_\_\_\_  
 Mailing Address \_\_\_\_\_

If your business address is not in Virginia you must attach an irrevocable consent for service form

OWNERSHIP:  Sole Proprietor  Partnership  Corporation  
 Association (please check one)

APPLICATION FOR OWNERS, PARTNERS, OFFICERS & DIRECTORS FOR A PRIVATE SECURITY SERVICES BUSINESS

- LEGAL NAME OF APPLICANT: Last \_\_\_\_\_ First \_\_\_\_\_ Middle \_\_\_\_\_
- LEGAL RESIDENCE: Address \_\_\_\_\_ City \_\_\_\_\_ St. \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_
- BUSINESS/FIRM: Address \_\_\_\_\_ City \_\_\_\_\_ St. \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

- Have you ever been convicted of a felony or a misdemeanor? \_\_\_\_\_ If the answer is "yes", attach an explanatory letter.
- Are you now or have you ever been licensed or registered by any other jurisdiction? \_\_\_\_\_ If yes, which jurisdiction? \_\_\_\_\_
- Has a license or registration issued to you to operate in a Private Security Services Business in Virginia, or any other jurisdiction ever been suspended or revoked for any reason? \_\_\_\_\_ If yes, attach an explanatory letter.

ATTENTION NOTARY PUBLIC:  
 Affiant must be under oath.

AFFIDAVIT \_\_\_\_\_ ss. \_\_\_\_\_

County or City of \_\_\_\_\_

The undersigned being duly sworn deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Signature of Applicant: \_\_\_\_\_  
 Signature of Notary Public: \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 My Commission expires \_\_\_\_\_

If the firm is individually owned or owned by a partnership, list the name(s) and home address(es) of the owner(s). If the firm is a corporation or association, list the names, addresses and telephone numbers of the officers and directors.

**OWNERS, PARTNERS, OFFICERS:**

Name	Address	Title	Telephone

**DIRECTORS:**

Name	Address	Title	Telephone

Each person named above must submit an APPLICATION FOR OWNERS, PARTNERS, OFFICERS AND DIRECTORS AND two FINGERPRINT CARDS.

**3. COMPLIANCE AGENTS(S):**

Each licensed firm must have and maintain a Compliance Agent who is responsible for the firm's full compliance with Virginia law and regulations. He must pass an examination and administered by the Department of Commerce if he was not a licensed Qualifying Agent on October 31, 1984. His failure to keep the firm in compliance will result in criminal and/or administrative action against the firm's license. He may act as Compliance Agent for only one Licensee.

Name	Address	Title	Telephone

Each person named above must attach a COMPLIANCE AGENT APPLICATION and two classifiable FINGERPRINT CARDS. Also attach an Application for Private Security Registration and fee if he is not already registered.

**4. AFFIDAVIT:**

To be executed by every applicant, including nonresidents. Each Owner, Partner and Officer must place his signature in the left hand column and print his name in the right hand column below.

The undersigned, each being duly sworn, deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, that he will conduct the business of the firm at all times in compliance with Virginia law and regulations and that he has read and understands this affidavit.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Signatures

Printed Names

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**ATTENTION NOTARY PUBLIC:**  
The affiants signing this form must be under oath.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Date Commission Expires

Carefully review this form and make sure it is complete and that you have all other forms and attachments called for ready to submit. If any part of any form is incomplete or if any applicant is ineligible, this Application for Private Security Services Business License will be denied. The fee is non-refundable. You must have:

1. A check for \$650 payable to the Treasurer of Virginia
2. This form fully filled in and notarized.
3. An IRREVOCABLE CONSENT FOR SERVICE FORM complete and notarized, if a nonresident of Virginia.
4. An APPLICATION FOR OWNERS, PARTNERS, OFFICERS AND DIRECTORS, complete and notarized, for each person named in item 3 of this form.
5. A COMPLIANCE AGENT APPLICATION complete and notarized, for each person named in item 3 of this form.
6. An APPLICATION FOR PRIVATE SECURITY REGISTRATION and check for \$80 payable to the "Treasurer of Virginia" for any person named in item 3 of this form who is not already registered.
7. Any documents or letters of explanation required by the above cited application forms.
8. Classifiable FINGERPRINT CARDS on each person named in this form. (USE ONLY THE FINGERPRINT FORMS PROVIDED BY THE DEPARTMENT OF COMMERCE)
9. Bond and Insurance Requirements Form with Bond or Certificate of Insurance attached.
10. Mail to: Commonwealth of Virginia  
Department of Commerce  
P.O. Box 11066  
Richmond, Virginia 23230-4917
11. Expect to wait several weeks for a response.

FOR OFFICE USE ONLY  
LIC. # \_\_\_\_\_  
DATE \_\_\_\_\_  
CODE \_\_\_\_\_

FOR OFFICE USE ONLY  
FEND. # \_\_\_\_\_  
FEE AMT. \_\_\_\_\_  
CLASS/FEE \_\_\_\_\_

DEPARTMENT OF COMMERCE

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
P.O. Box 11066  
Richmond, Virginia 23230-1066

REGISTRATION FEE  
\$80

REGISTRATION FEE  
\$80

ALL FEES ARE NON-REFUNDABLE

Application for Private Security Registration

Date \_\_\_\_\_

1. NAME: \_\_\_\_\_  
First Middle Last (Jr., Sr., III, etc.)
2. RESIDENCE ADDRESS: \_\_\_\_\_  
No. Street City St. Zip Phone No.
3. SOCIAL SECURITY NUMBER: \_\_\_\_\_
4. DATE OF BIRTH: \_\_\_\_\_ 5. PLACE OF BIRTH: \_\_\_\_\_
6. Have you ever been convicted of a felony or misdemeanor in Virginia or any other jurisdiction? \_\_\_\_\_ If yes, on a separate sheet of paper, please give full details, including charge, date, place, law enforcement agency involved and disposition.
7. Have you ever had a private security license, certificate, registration or permit suspended, revoked or denied in this or any other jurisdiction? \_\_\_\_\_ If yes, on a separate sheet of paper, please provide full details.

8. APPROVED TRAINING SCHOOL: \_\_\_\_\_  
Date(s) Training completed: \_\_\_\_\_  
TRAINING COMPLETED:  
Unarmed Guard dog Private Handgun  
guard handler Investigator Range  
     
Handgun Shotgun Shotgun  
Classroom Range Classroom

9. APPROVED TRAINING SCHOOL: \_\_\_\_\_  
Date(s) Training completed: \_\_\_\_\_  
TRAINING COMPLETED:  
Unarmed Guard dog Private Handgun  
guard handler Investigator Range  
     
Handgun Shotgun Shotgun  
Classroom Range Classroom

10. APPROVED TRAINING SCHOOL: \_\_\_\_\_  
Date(s) Training completed: \_\_\_\_\_  
TRAINING COMPLETED:  
Unarmed Guard dog Private Handgun  
guard handler Investigator Range  
     
Handgun Shotgun Shotgun  
Classroom Range Classroom

11. The undersigned being duly sworn deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, that the applicant will notify the Department of material changes to such information within 15 days, and that he has read and understands this affidavit.

Signature of applicant

Signature of Notary Public

My commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF COMMERCE  
3600 West Broad Street  
Richmond, Virginia 23230

REGISTRAR OF REGULATIONS

92 MAR 31 PM 12:01

BOND AND INSURANCE REQUIREMENTS FOR PRIVATE SECURITY SERVICES

CHECK APPROPRIATE BOX:

I AM FILING WITH THE DEPARTMENT A SURETY BOND IN THE AMOUNT OF \$25,000 EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

I POSSESS A GENERAL COMPREHENSIVE LIABILITY INSURANCE POLICY WITH MINIMUM COVERAGE OF \$100,000 AND \$300,000 WITH \_\_\_\_\_ (Name of Insurance Co.)

The undersigned certifies to the Department of Commerce that if required by statute, this business is properly recorded in the appropriate Circuit Court in the Commonwealth of Virginia, and if the business is a foreign corporation that it has been properly domesticated and registered in Virginia with the State Corporation Commission. The State Corporation Commission shall issue a certificate granting the authority to transact business within this state. In addition, the business will apply for a State Revenue License with the Commissioner of the Revenue in the city or county in which the firm's business office is located.

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

I/WE, DULY AUTHORIZED REPRESENTATIVE (S) OF \_\_\_\_\_ BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE ANSWERS ABOVE SET FORTH ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT APPLICATION IS MADE FOR THE PURPOSE OF INDUCING THE ISSUANCE OF LICENSE REQUESTED.

Signature of Applicant (s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SWORN AND SUBSCRIBED TO BEFORE ME AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

Notary public

ATTACH BOND OR CERTIFICATE OF INSURANCE

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF COMMERCE

PRIVATE SECURITY SERVICES BOND REGISTRAR OF REGULATIONS

92 MAR 31 PM 12:01

KNOW ALL MEN BY THESE PRESENTS:

That I/We \_\_\_\_\_ of \_\_\_\_\_ Principal, and \_\_\_\_\_ Surety, are held and firmly bound unto the Secretary of the Commonwealth of Virginia, in the just and full sum of Twenty-Five Thousand Dollars (\$25,000) to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that whereas the above bound \_\_\_\_\_ has made application for license to be a Private Security Services business.

NOW, THEREFORE, if the said \_\_\_\_\_ shall well and faithfully perform its duties as a Private Security Services business AND does no act or acts meriting suspension or revocation of its license under the provisions of Chapter 19, Title 54.1, Code of Virginia, 1950 as amended, then this obligation is void, otherwise to remain in full force and effect, subject, however, to the following conditions:

1. That this bond shall be continuous in form, and shall remain in full force and effect until canceled as hereinafter provided.
2. This bond may be canceled at any time by the Principal or the Surety upon giving thirty (30) days written notice to the Department of Commerce, at Richmond, Virginia, of its intention to do so, it being understood that the Surety shall be liable for any violation of the terms of this bond by the Principal accruing during the life of this bond.
3. Any person aggrieved by any act of the above bounden principal in violation of the provisions of Chapter 19, Title 54.1, Code of Virginia, 1950 as amended, may proceed against the principal or surety on said bond, or both, to recover damages not in excess of the penalty of such bond, in accordance with the provisions of Chapter 19, Title 54.1, Code of Virginia, 1950 as amended.

IN WITNESS THEREOF, The said \_\_\_\_\_ Principal(s) has hereunto affixed his or her signature and seals, and the Surety has caused these presents to be executed by \_\_\_\_\_, its duly authorized Attorney-in-Fact, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Expiration Date \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(SURETY)  
(Authorized to conduct business  
in the Commonwealth of Virginia)

\_\_\_\_\_  
(SEAL)

POTOMAC RIVER FISHERIES COMMISSION

NOTICE: The following order has been filed with the Registrar of Regulations in accordance with Article IV, Section 2, of the Potomac River Compact of 1958, and is set out for informational purposes.

Title of Regulation: Potomac River Fisheries Commission Regulations - Order #92-1 - Special Oyster Area Season.

Statutory Authority: § 28.1-203 of the Code of Virginia.

Effective Dates: April 6, 1992, through April 17, 1992.

ORDER #92-1

SPECIAL OYSTER AREA SEASON

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources in light of the existence of disease and the resultant potential high rate of mortality and pursuant to its authority under Regulation II, Section 3(b), HEREBY DECLARES AND ORDERS: that the area where seed oysters were planted on Church Point Oyster Bar be opened for harvest, by any lawfully licensed Potomac River tonger to begin on April 6, 1992 and will run from sunrise to 3 p.m. each day Monday through Friday until such time as there is no harvest activity occurring or April 17, 1992, whichever occurs first.

BE IT FURTHER DECLARED AND ORDERED; that the minimum size limit stipulated in Regulation II, Section 2(f) shall be 2-1/2" for any oysters harvested from subject area during the open period as provided herein.

BE IT FURTHER DECLARED AND ORDERED; that subject area will be buoyed and said buoys will remain in place each day as long as the area is open. The buoys will be removed when the area is closed.

AND, BE IT FURTHER DECLARED AND ORDERED; this Order #92-1 shall be effective April 6, 1992 and remain in effect through April 17, 1992. #92-1 was adopted by the Potomac River Fisheries Commission at its regular quarterly meeting, February 17, 1992, Colonial Beach, Virginia.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

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 Social Services will receive, consider and respond to petitions by any interested person at any time with respect to

reconsideration or revision.

Title of Regulation: VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

Statutory Authority: §§ 63.1-25 and 63.1-98 of the Code of Virginia.

Effective Date: May 20, 1992.

Summary:

Pursuant to Public Law 96-420, Public Law 100-50, and Public Law 101-392, funds received from the Maine Indians Claims Settlement Act of 1980, and funds for attendance costs received under the Higher Education and Technical Amendments Act of 1987 and the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 are not to be considered as income or resources in determination of eligibility for assistance in the Aid to Dependent Children (ADC) Program. The amendments to the regulation ensures ADC Program compliance with federal law and regulation.

VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Agent Orange payments" means any payment from the Agent Orange Settlement Fund or any other fund established pursuant to the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

"Aid to Dependent Children (ADC) Program" means the program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Allowable reserve" means the type and amount of real and personal property, including cash and liquid assets, which may be retained by the assistance unit without affecting eligibility for financial assistance.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.

"Attendance costs" means tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for

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rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

“Emergency” means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

“Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.

“Native Corporation” means regional, village, urban or group corporations organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage, or distribute lands, funds, and other rights and assets for or on behalf of members of a native group in accordance with the Alaska Native Claims Settlement Act.

## PART II. DISREGARDED INCOME AND RESOURCES.

### § 2.1. Disregarded income.

A. The following income of members of the assistance unit, a parent not included in the assistance unit or anyone whose income is used in determining eligibility or the amount of assistance in the Aid to Dependent Children (ADC) program, shall be disregarded.

B. Income which is disregarded under the following provisions shall not be counted in determining the need for assistance of any individual under any other federal assistance program:

1. Home produce of the assistance unit utilized for their own consumption;
2. The value of food coupons under the Food Stamps program;
3. The value of foods donated under the U.S.D.A. Commodity Distribution Program, including those furnished through school meal programs;

4. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

5. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

6. Grants or loans to any undergraduate students for educational purposes made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loan (including the Virginia Education Loan), PLUS Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

7. Funds derived from the College Work Study Program;

8. A scholarship, loan, or grant obtained and used under conditions which preclude its use for current living costs;

9. Training allowance (transportation, books, required training expenses, and motivational allowance) provided by the Department of Rehabilitative Services (DRS) for persons participating in Rehabilitative Services Programs. This disregard is not applicable to the allowance provided by DRS to the family of the participating individual;

10. Any portion of an SSI payment or Auxiliary Grant;

11. Payments to VISTA Volunteers under Title I, when the monetary value of such payments is less the minimum wage as determined by the Director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-13, the Domestic Volunteer Service Act of 1973;

12. The Veterans Administration educational amount for the caretaker 18 or older is to be disregarded when it is used specifically for educational purposes.

Any additional money included in the benefit amount for dependents is to be counted as income to the assistance unit;

13. Foster care payments received by anyone in the assistance unit;

14. Unearned income received from Title IV, Part B (Job Corps) of the Job Training Partnership Act (JTPA) by an eligible child is to be disregarded as an incentive payment. However, any payment received by any other Job Corps participant or any payment made on behalf of the participant's eligible children) is to be counted as income to the assistance unit;

15. Income tax refunds including earned income tax credit advance payments and refunds;

16. Payments made under the Fuel Assistance program;

17. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs; the Women, Infants, and Children (WIC) program; and the Child Care Food program;

18. HUD Section 8 and Section 23 payments;

19. Unearned income received by an eligible child under Title II, Parts A and B, and Title IV, Part A, of the Job Training Partnership Act (JTPA) is to be disregarded;

20. Funds distributed to, or held in trust for, members of any Indian tribe under Public Laws 92-254, 93-134, 94-540, 97-458, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

21. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):

a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year;

b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

c. A partnership interest;

d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

e. An interest in a settlement trust.

22. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 92-114);

23. The first \$50 of total child or spousal support payments received each month by an assistance unit

prior to the issuance of the first ongoing check;

24. Payments sent to the recipient by the Commonwealth which are identified as disregarded support;

25. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707);

26. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383);

27. Agent Orange payments; and

28. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426) ; ;

29. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law (96-420));

30. Student financial assistance received under the Higher Education Technical Amendments Act of 1987 made available for attendance costs (Public Law 100-50); and

31. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392).

## § 2.2. Disregarded resources.

In determining eligibility for financial assistance for the Aid to Dependent Children (ADC) program, all resources shall be considered in relation to the \$1,000 allowable reserve, except as specifically disregarded below. These resources shall be disregarded as long as they are kept separate from the allowable reserve. In the event any funds derived from subdivisions 3 through 16 of this section are combined with other resources, they shall be considered in determining eligibility.

1. The value of the food coupons under the Food Stamp Program;

2. The value of foods donated under the U.S.D.A. Commodity Distribution Program;

3. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

4. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act

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of 1965, as amended;

5. Grants or loans to undergraduate students for educational purposes, made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

6. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs, the Women, Infants, and Children (WIC) program, and the Child Care Food program;

7. Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage as determined by the director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973;

8. Funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 97-458, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

9. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):

a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year;

b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

c. A partnership interest;

d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

e. An interest in a settlement trust.

10. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114);

11. Disregarded support payments which were sent to the recipient by the Virginia Department of Social Services or determined to be a disregard by the eligibility worker;

12. Tools and equipment belonging to a temporarily disabled member of the assistance unit during the period of disability, when such tools and equipment have been and will continue to be used for employment;

13. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707);

14. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Island Restitution Act (Public Law 100-383);

15. Agent Orange payments; and

16. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426) ; ;

17. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law (96-420);

18. Student financial assistance received under the Higher Education Technical Amendments Act of 1987 made available for attendance costs (Public Law 100-50); and

19. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392).



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

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

April 3, 1992

Mr. Larry D. Jackson, Commissioner  
Department of Social Services  
8007 Discovery Drive  
Richmond, Virginia 23229

Re: VR 615-01-29 - Aid to Dependent Children (ADC) Program -  
Disregarded Income and Resources.

Dear Mr. Jackson:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS:jbc

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## STATE WATER CONTROL BOARD

**Title of Regulation:** VR 680-15-02. Virginia Water Protection Permit Regulation.

**Statutory Authority:** § 62.1-44.15:5 of the Code of Virginia.

**Effective Date:** May 20, 1992.

### Summary:

In accordance with § 62.1-44.15:5 of the Code of Virginia, the State Water Control Board adopted regulations establishing the Virginia Water Protection Permit Regulation. This regulation delineates the authority and general procedures to be followed in connection with any Virginia Water Protection Permit (VWPP) issued by the board pursuant to § 401 of the Clean Water Act (Act) and § 62.1-44.2 et seq. of the Code of Virginia.

The regulation requires a VWPP to be issued for activities that result in a discharge to surface waters, that require a federal permit or license, and are not permitted under the Virginia Pollutant Discharge Elimination System. Conditions of the VWPP are designed to protect the beneficial uses of surface waters. VWPPs issued pursuant to the regulation require that the discharge of dredge or fill material be placed in an environmentally acceptable manner.

VWPPs issued in conjunction with stream intakes, reservoirs, and hydroelectric facilities would contain conditions restricting the amount and times when water withdrawals are allowed.

The regulation is a slight revision of a draft regulation proposed in November 1991. Five changes were made in response to public comments. The definition of ground water was deleted in § 1.1. The requirement for submitting an application has been clarified to address individual permits and nationwide permits in § 2.1 A 5. A typographical error was corrected in § 2.4 I. Clarifying language regarding formal hearings was added in §§ 3.3 D, 3.4 D and 4.6 D. Clarifying language regarding "other persons" initiating modification, revocation and reissuance or termination of a permit was added in § 4.1 3. The changes will not affect which activities are required to obtain permits.

VR 680-15-02. Virginia Water Protection Permit Regulation.

### PART I GENERAL.

#### § 1.1. Definitions.

Unless a different meaning is required by the context, the following terms, as used in these regulations, shall have the following meanings.

"Act (Clean Water Act)" means 33 USC § 1251 et seq. as amended 1987.

"Applicant" means an individual, operator or owner filing a joint permit to dredge or fill, or both, or requiring a Federal Energy Regulatory Commission (FERC) permit or conducting other activities which require a permit under this regulation.

"Approval authority" means the executive director of the State Water Control Board.

"Best management practices" means a schedule of activities, prohibition of practices, maintenance procedures and other management practices to prevent or reduce the pollution of surface waters.

"Board" means the State Water Control Board.

"Certificate" means certification required under § 401 of the Clean Water Act, provided by the State Water Control Board.

"Composite sample" means a combination of individual samples of sediment or water taken in proportion to the area to be impacted which ensures that a representative sample is obtained.

"Consumptive use" means the withdrawal of surface waters, without recycle of said waters to their source or basin of origin.

"Discharge" means, when used without qualification, a discharge of a pollutant, or any addition of any pollutant or combination of pollutants, to state waters or waters of the contiguous zone or ocean other than a discharge from a vessel or other floating craft when being used as a means of transportation.

"Draft permit" means a prepared document indicating the board's tentative decision relative to a permit action.

"Dredged material" means material that is excavated or dredged from surface waters.

"Effluent" means dredged material or fill, including return flow from confined sites.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

"Executive director" means executive director of the State Water Control Board.

"Fill material" means any pollutant which replaces portions of surface water with dry land or which changes the bottom elevation of a water body for any purpose.

"General permit" means a permit issued by the Corps of Engineers, such as Regional or Nationwide Permits or a permit issued by the State Water Control Board (SWCB)

authorizing a specified category of activities within a geographic area.

[ "Ground water" means any water beneath the land surface in the zone of saturation. ]

"Nationwide permit" means a permit governing specified activities, issued by the U.S. Army Corps of Engineers, the conditions of which are applicable nationwide.

"Nonpoint source" means a source of pollution, such as a farm, forest or construction site runoff, urban storm water runoff or mine runoff that is not collected or discharged as a point source.

"Permit" means a Virginia Water Protection Permit (VWP) which is the Commonwealth of Virginia's § 401 Water Quality Certification.

"Permittee" means an owner or operator who currently has an effective VWP permit issued by the board.

"Person" means any firm, corporation, association, or partnership, one or more individuals, or any governmental unit or agency thereof.

"Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. It does not mean water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for the disposal purposes if approved by the Department of Mines, Minerals and Energy unless the board determines that such injection or disposal will result in the degradation of surface or ground water resources.

"Public hearing" means a fact finding proceeding held to afford interested persons an opportunity to submit factual data, views and comments to the board pursuant to the board's Procedural Rule No. 1.

"Regional permit" means a type of general permit issued by the Corps of Engineers authorizing a specified category of activities within the Commonwealth of Virginia or other specified geographic region and whose conditions are applicable within the geographic area specified.

"Schedule of compliance" means a schedule of remedial measures including a sequence of enforceable actions or operations leading to compliance with the Act, the law, and the board regulations, standards and policies.

"State general permit" means a VWP permit issued by the Commonwealth of Virginia through the State Water Control Board, and applicable statewide, for activities of minimal environmental consequence.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering

the Commonwealth or within its jurisdiction.

"Surface water" means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:
  - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. "Wetlands" adjacent to waters, other than waters that are themselves wetlands, identified in subdivisions 1 through 6 of this definition.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under § 307(a) of the Act which after discharge will, on the basis of available information, cause toxicity. Toxicity means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

"Water quality standards" means water quality standards VR 680-21-00 adopted by the board.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

§ 1.2. Purpose.

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This regulation delineates the procedures and requirements to be followed in connection with the Virginia Water Protection Permit issued by the board pursuant to the State Water Control Law. This regulation supersedes Procedural Rule No. 3 of the regulations of the State Water Control Board.

## § 1.3. Authority for regulations.

The authority for this regulation is pursuant to the State Water Control Law (law), Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1, in particular §§ 62.1-44.15:5, 62.1-44.15(7) and 62.1-44.15(10); and 33 USC § 1251 et seq.

## § 1.4. Federal guidelines.

The following federal guidelines are hereby incorporated by reference:

Guideline for Specification of Disposal Sites for Dredged or Fill Material 40 CFR Part 230, July, 1990.

## § 1.5. Prohibitions and requirements for permits.

A. No person shall dredge, fill or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical or biological properties of surface waters, except as authorized pursuant to a Virginia Water Protection Permit, or as excluded in § 1.6 of this regulation.

B. No permit shall be issued for the following:

1. Where the terms or conditions of the permit do not comply with state law;
2. For the discharge of any radiological, chemical or biological warfare agent or high level radioactive material into surface waters;
3. For any discharge which will result in the pollution of surface waters or the violation of standards, regulations or policies adopted by the board pursuant to state law.

## § 1.6. Exclusions.

The following do not require a Virginia Water Protection Permit but may require other permits under state and federal law:

1. Discharges of dredged or fill material which are addressed under a U.S. Army Corps of Engineers Regional, General or Nationwide Permit, and for which no § 401 Water Quality Certificate is required. Such permits include the following activities:

a. The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (33 CFR Part 66, Subchapter C, §

10).

b. Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (33 CFR Part 322.5(g), § 10).

c. The repair, rehabilitation or replacement of any previously authorized, currently serviceable structure or fill, or any currently serviceable structure or fill constructed prior to the requirement for authorization, provided such repair, rehabilitation, or replacement does not result in a deviation from the plans of the original structure or fill, and further provided that the structure or fill has not been put to uses differing from uses specified for it in any permit authorizing its original construction. Minor deviations due to changes in materials or construction techniques and which are necessary to make repair, rehabilitation, or replacement are permitted. Maintenance dredging and beach restoration are not authorized under nationwide permits (33 CFR Part 330.5(a), § 10).

d. Fish and wildlife harvesting devices and activities such as pound nets, crab traps, eel pots, duck blinds, and clam and oyster digging (33 CFR Part 330.5(a), § 10).

e. Staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar scientific structures (33 CFR Part 330.5(a), § 10).

f. Survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes. Drilling of exploration-type bore holes for oil and gas exploration is not authorized by any nationwide permit (33 CFR Part 330.5(a), § 10).

g. Structures for the exploration, production, and transportation of oil, gas and minerals on the outer continental shelf within areas leased for such purposes by the Department of Interior, Mineral Management Service, provided those structures are not placed within the limits of any designated shipping safety fairway or traffic separation scheme (33 CFR Part 330.5(a), § 10).

h. Structures placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard (33 CFR Part 330.5(a), § 10).

i. Noncommercial, single boat, mooring buoys (33 CFR Part 330.5(a), § 10).

j. Temporary buoys and markers placed for recreational use such as water skiing and boat

racing provided that the buoy or marker is removed within 30 days after its use has been discontinued (33 CFR Part 330.5(a), § 10).

2. Any activity permitted by a Virginia Pollutant Discharge Elimination System (VPDES) permit in accordance with VR 680-14-01;

3. Any activity permitted by a Virginia Pollution Abatement (VPA) permit in accordance with VR 680-14-01;

4. Land disposal activities including septic tanks when authorized by a State Department of Health permit or a State Department of Waste Management Permit;

5. Discharges authorized by EPA under the Safe Drinking Water Act Underground Injection Control Program (UIC).

6. a. Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage and harvesting for the production of food, fiber and forest products, or upland soil and water conservation practices. For the purposes of subdivision 6 of this subsection, cultivating, harvesting, minor drainage, plowing, and seeding are defined as follows:

(1) "Cultivating" means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality, or yield.

(2) "Harvesting" means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silviculture lands to bring about their removal from farm, forest, or ranch land, but does not include the construction of farm, forest, or ranch roads.

(3) "Minor drainage" means:

(a) The discharge of dredged or fill material incidental to connecting upland drainage facilities to surface waters, adequate to effect the removal of excess soil moisture from upland croplands. Construction and maintenance of upland (dryland) facilities, such as ditching and tiling incidental to the planting, cultivating, protecting, or harvesting of crops, involve no discharge of dredged or fill material into surface waters, and as such never require a § 401 Water Quality Certificate, and hence no Virginia Water Protection Permit;

(b) The discharge of dredged or fill material for the purpose of installing ditching or other water control facilities incidental to planting, cultivating, protecting, or harvesting of rice, or other wetland crop species, where these activities and the discharge occur in surface waters which are in

established use for such agricultural and silviculture wetland crop production;

(c) The discharge of dredged or fill material for the purpose of manipulating the water levels of, or regulating the flow or distribution of water within, existing impoundments which have been constructed in accordance with applicable requirements of the Act, and which are in established use for the production of rice, or other wetland crop species;

(d) The discharge of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flood flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting or cultivating of crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected drainageway as it existed prior to the formation of the blockage. Removal must be accomplished within one year after such blockages are discovered in order to be eligible for exclusion.

(e) Minor drainage in surface waters is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a nonwetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from one wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting surface water. Any discharge of dredged or fill material into surface water incidental to the construction of any such structure or waterway requires a permit.

(4) "Plowing" means all forms of primary tillage, including moldboard, chisel, or wide-blade plowing, discing, harrowing, and similar physical means used on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. Plowing does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any area of surface water to dry land. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the reduction of water storage and recharge capabilities, or the overburden of natural water filtration

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capacities does not constitute plowing. Plowing as described above will never involve a discharge of dredged or fill material.

(5) "Seeding" means the sowing of seed and placement of seedlings to produce farm, ranch or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

b. To fall under this exclusion, the activities specified in subdivision 6 a of this subsection must be part of an established (i.e., ongoing) farming, silviculture, or ranching operation, and must be in accordance with best management practices which facilitate compliance with the § 404 (b) (1) Guidelines (40 CFR Part 230). Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation.

c. Activities which bring a new area into farming, silviculture or ranching use are not part of an established operation. An operation ceases to be established when the area in which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operation. If the activity takes place outside surface waters, or does not involve a discharge, it does not need a § 401 Water Quality Certificate, and therefore no Virginia Water Protection Permit, whether or not it is part of an established farming, silviculture or ranching operation.

7. Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, groins, levees, dams, riprap breakwaters, causeways, bridge abutments or approaches, and transportation structures.

8. Construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance (but not construction) of drainage ditches. Discharge associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and such other facilities as are appurtenant and functionally related to irrigation ditches are included in this exclusion.

9. Construction of temporary sedimentation basins on a construction site which does not include the placement of fill materials into surface waters. The term "construction site" refers to any site involving the erection of buildings, roads, and other discrete structures and the installation of support facilities necessary for construction and utilization of such structures. The term also includes any other land areas which involve land-disturbing excavation activities, including quarrying or other mining activities, where an increase in runoff of sediment is controlled through the use of temporary sedimentation basins.

10. Any activity with respect to which the Commonwealth of Virginia has an approved program under § 208(b)(4) of the Act which meets the requirements of § 208(b)(4)(B) and (C).

11. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to ensure that flow and circulation patterns and chemical and biological characteristics of surface waters are not impaired, that the reach of such waters is not reduced, and that any adverse effect on the aquatic environment will otherwise be minimized. The BMPs which must be applied to satisfy this provision include the following baseline provisions:

a. Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes), and skid trails (for logging) in surface waters shall be held to the minimum feasible number, width, and total length consistent with the purpose of specific farming, silviculture or mining operations, and local topographic and climatic conditions;

b. All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into surface waters;

c. The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows;

d. The fill shall be properly stabilized and maintained to prevent erosion during and following construction;

e. Discharges of dredged or fill material into surface waters to construct road fill shall be made in a manner which minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within state waters (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself;

f. In designing, constructing, and maintaining roads, vegetative disturbance in surface waters shall be kept to a minimum;

g. The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body;

h. Borrow material shall be taken from upland sources whenever feasible;

i. The discharge shall not take, or jeopardize the continued existence of a federally or state listed threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species;

j. Discharges into the nesting and breeding areas for migratory waterfowl, spawning areas, and wetlands shall be avoided if practical alternatives exist;

k. The discharge shall not be located in proximity of a public water supply or intake;

l. The discharge shall not occur in areas of concentrated shellfish production;

m. The discharge shall not occur in a component to the National Wild and Scenic River System;

n. The discharge material shall consist of suitable material free from toxic pollutants in toxic amounts; and

o. All temporary fills shall be removed in their entirety and the area restored to its original elevation.

## § 1.7. Effect of a permit.

A. Compliance with a VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law.

B. The issuance of a permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

## PART II. PERMIT APPLICATION AND ISSUANCE.

### § 2.1. Application for a permit.

#### A. Duty to apply.

Any person who is required to obtain a Federal 404 permit or federal license or relicense which requires a § 401 Certification and proposes the discharge of dredged or fill material into or adjacent to surface waters, or proposes to construct an intake for the purpose of withdrawing water from surface waters which has the potential to affect the beneficial use of such waters, or is required to have a permit under § 1.5, and who does not have an effective permit except persons excluded under § 1.6 of this regulation, shall submit a complete Joint Permit Application to the State Water Control Board through the Virginia Marine Resources Commission.

1. A complete Joint Permit Application shall be completed and submitted to the Virginia Marine

Resources Commission (VMRC) by any owner or applicant who discharges or proposes to discharge dredged or fill materials or requires a FERC permit before a Virginia Water Protection Permit can be issued. These applications are available from VMRC, the Norfolk District, U.S. Army Corps of Engineers, or the State Water Control Board. This item does not apply where Nationwide or General Permits, for which the board has waived certification, are applicable.

2. A complete 404/401/VWPP application to the State Water Control Board, as a minimum, consists of the following:

a. A joint 404/401/VWPP application being completed in its entirety and all maps, attachments and addenda being included;

b. The application must be accompanied by a Local Government Approval Form;

c. The application must have an original signature;

d. A detailed location map of the impact area with the latitude and longitude, hydrologic unit code, stream classification, the drainage area of the affected surface waters and the watershed in which the surface water occurs clearly identified on the map. The map should be of sufficient detail such that the site may be easily located for site inspection;

e. An assessment of functional values of the affected surface waters including information on existing beneficial uses of the surface waters at the proposed project location;

f. A complete narrative description of the project, with detailed sketches, of the type of activity to be conducted and showing any physical alteration to surface waters;

g. If dredged or fill material is involved the applicant must provide evidence that the material is free from toxic contaminants, or that the material, if not free of contaminants, will be placed in an approved disposal area;

h. An assessment of the impacts of the activity to existing beneficial uses;

i. A delineation map of all wetlands if any on the site as required by the U.S. Army Corps of Engineers or U.S. EPA or the Federal Energy Regulatory Commission, including the data utilized to develop the delineation map and the latitude and longitude of the center of the wetland area to be impacted;

j. The drainage area of any wetland identified in

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subdivision *i* above, or the watershed in which the wetland occurs;

*k.* A plan of mitigation for unavoidable impacts to surface waters which must include: measures taken to avoid impacts, the measures proposed to reduce the impacts to surface waters and where impacts could not be avoided the means by which mitigation will be accomplished (e.g., channel relocation, aquatic habitat enhancement, wetland replacement, recreational enhancement etc.).

3. In addition to requirements of subdivision 2 of this subsection, applications involving a surface water withdrawal or a FERC license or relicense also shall include:

*a.* The drainage area, the average annual flow and the median monthly flows at the withdrawal point;

*b.* The average daily withdrawal, the maximum daily and instantaneous withdrawals and information on the variability of the demand by season;

*c.* The consumptive use and the average daily return flow of the proposed project and the location of the return flow;

*d.* Information on the proposed use of the surface water and information on how the demand for surface water was determined;

*e.* Information on flow dependent beneficial uses at the proposed project location;

*f.* Information on the aquatic life at the proposed project location, including species and habitat requirements.

4. Where an application is considered incomplete the board may require the submission of additional information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a permit application, or submitted incorrect information in a permit application or in any report to the board, he shall immediately submit such facts or the correct information.

5. Any person proposing a new discharge [ for an individual permit ] of dredged or fill material shall submit a [ complete ] Joint Permit Application at least 180 days prior to the date planned for commencement of the activity resulting in the discharge. [ Any person proposing a new discharge which meets the criteria for a nationwide or state general permit shall submit a complete Joint Permit Application at least 60 days prior to the commencement of the activity resulting in

the discharge. ] There shall be no discharge of dredged or fill material prior to the issuance of a permit.

6. For any person possessing a § 401 Water Quality Certificate as of December 31, 1989, such certificate shall remain valid and enforceable until such time as the certificate expires, or reapplication or modification is necessary. For certificates issued under § 401 of the Act after December 31, 1989, the board may at its option issue a Virginia Water Protection Permit.

7. Any person with an existing unpermitted discharge of dredged or fill material shall submit a Joint Permit Application immediately upon discovery by the owner or within 30 days upon being requested to by the board which ever comes first.

8. Pursuant to Virginia Code § 62.1-44.15:3 no application for a new permit will be deemed complete until the board receives notification from the local government body of the county, city or town in which the discharge is to take place that the location and operation of the discharging activity is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1. and Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 where applicable.

## B. Duty to reapply.

1. Any permittee with an effective permit shall submit a new permit application at least 180 days before the expiration date of an effective permit unless permission for a later date has been granted by the board.

2. Owners or persons who have effective permits shall submit a new application 180 days prior to any proposed modification to their activity which will:

*a.* Result in significantly new or substantially increased discharge of dredged or fill material, or significant change in the nature of the pollutants; or

*b.* Violate or lead to the violation of the terms and conditions of the permit or the water quality standards of the Commonwealth.

## C. Informational requirements.

All applicants for a Virginia Water Protection Permit shall provide information in accordance with § 404(b)(1) Guidelines for Specification of Disposal Sites of Dredged or Fill Material, 40 CFR Parts 230.60 and 230.61, as revised 1990, where appropriate. All applicants for a permit must submit a complete permit application in accordance with § 2.1 A of this regulation.

## D. Confidentiality.

In accordance with § 62.1-44.21 or as otherwise required

by state or federal law and as provided in § 2.1 A of this regulation information submitted to the executive director in accordance with this subpart may be claimed as confidential.

## § 2.2. Conditions applicable to all permits.

### A. Duty to comply.

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the VWP holder of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. Any permit noncompliance is a violation of the Act and law, and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit renewal application.

### B. Duty to cease or confine activity.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a permit has been granted in order to maintain compliance with the conditions of the permit.

### C. Duty to mitigate.

The permittee shall take all reasonable steps to (i) avoid all adverse environmental impact which could result from the activity, (ii) minimize the adverse environmental impact where avoidance is impractical, and (iii) provide mitigation of the adverse impact on an in kind basis where impacts cannot be avoided.

### D. Permit action.

1. A permit may be modified, revoked and reissued, or terminated as set forth in this regulation.
2. If a permittee files a request for permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective permit.
3. Permits may be modified, revoked and reissued or terminated upon the request of the permittee, or upon board initiative to reflect the requirements of any changes in the statutes or regulations.

### E. Inspection and entry.

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any

records that must be kept as part of the permit conditions;

2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the permit;

3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the permit or as otherwise authorized by law.

### F. Duty to provide information.

1. The permittee shall furnish to the board, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking, reissuing and terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

### G. Monitoring and records requirements.

1. Monitoring shall be conducted according to approved analytical methods as specified in the permit as approved by the board. The board may require sediment monitoring in all surface waters where it determines the potential presence of contaminated sediments exists.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three years from the date of the expiration of a granted permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:

- a. The date, exact place and time of sampling or measurements;
- b. The name of the individual(s) who performed the sampling or measurements;
- c. The date the analyses were performed;

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d. The name of the individual(s) who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used; and

f. The results of such analyses.

## § 2.3. Signatory requirements.

Any application, report, or certification shall be signed as follows:

### 1. Application.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

d. Any application for a permit under this regulation must bear the signatures of the responsible party and any agent acting on the responsible party's behalf.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision 1 a, b or c of this section; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision 1 a, b or c of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position;

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

3. Certification of application and reports. Any person signing a document under subdivision 1 or 2 of this section shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

## § 2.4. Establishing applicable standards, limitations or other permit conditions.

In addition to the conditions established in §§ 2.2. and 2.3 of this regulation, each permit may include conditions meeting the following requirements where applicable:

1. Instream flow conditions. Subject to the provisions of Virginia Code § 62.1-242 et seq., and subject to the authority of the State Corporation Commission over hydroelectric facilities contained in Virginia Code § 62.1-80 et seq., instream flow conditions may include but are not limited to conditions that limit the volume and rate at which water may be withdrawn at certain times and conditions that require water conservation and reductions [ and in ] water use.

2. Water quality standards and state requirements. The permit shall include requirements to comply with all appropriate provisions of state laws and regulations.

3. Toxic pollutants.

a. Where the board finds that appropriate limitations may not ensure compliance with the law or State Water Quality Standards the board shall require the permittee to follow a program of biological or

chemical toxics monitoring. The requirement may include a permit reopener to allow the imposition of toxicity reduction or elimination measures determined to be necessary as a result of the board's evaluation of the results of the toxic monitoring and other available information. Based upon this determination, appropriate limitations will be included in the permit to ensure the reduction or elimination of toxic pollutants and allow the board to ensure that the proposed project will comply with water quality standards and other appropriate requirements of state law.

b. Limitations will be included in the permit to control all toxic pollutants which the board determines (based on information reported in a permit application or a notification or on other information) are or may be discharged at a level which would adversely affect the beneficial use of the receiving waters.

4. Duration of permits. Virginia Water Protection Permits issued under this regulation shall have an effective and expiration date which will determine the life of the permit.

a. Except as authorized in subdivisions b and c below, Virginia Water Protection Permits shall be effective for a fixed term not to exceed five years for any period of construction, monitoring, or other activity and will be specified in the conditions of the permit.

b. Permits affecting instream flows shall have an effective duration not to exceed 10 years.

c. All maintenance dredging of navigation projects shall be effective for a fixed term not to exceed 10 years.

The term of these permits shall not be extended by modification beyond the maximum duration. Extension of permits for the same activity beyond the maximum duration specified in the original permit will require reapplication and reissuance of a new permit.

5. Monitoring requirements as conditions of permits.

a. All permits shall specify:

(1) Requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate) when required as a condition of the permit;

(2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity and including, when appropriate, continuous monitoring and composite samples;

(3) Applicable reporting requirements based upon the impact of the regulated activity on water quality.

b. All permits shall include requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once per year.

c. In addition, the following monitoring requirements may be included in the permits:

(1) Mass or other measurements specified in the permit for each pollutant limited in the permit;

(2) The volume of effluent discharged;

(3) Other measurements as appropriate, including intake water.

6. Best Management Practices (BMPs). The permit may require the use of BMPs to control or abate the discharge of pollutants.

7. Reissued permits. When a permit is renewed or reissued, limitations, standards or conditions must be in conformance with current limitations, standards, or conditions.

8. Reopening permits. Each permit shall have a condition allowing the reopening of the permit for the purpose of modifying the conditions of the permit to meet new regulatory standards duly adopted by the board. Cause for reopening permits include but are not limited to:

a. When state law prohibits conditions in a permit which are more stringent than an applicable effluent limitation guideline;

b. When subsequently promulgated effluent guidelines are modified, and are based on best conventional pollutant control technology; or

c. When the circumstances on which the previous permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the permit was issued and thereby constitute cause for permit modification or revocation and reissuance.

§ 2.5. Draft permit formulation.

A. Upon receipt of a complete application, the board shall make a decision to tentatively issue or deny the application. If a tentative decision is to issue the permit then a draft permit shall be prepared in advance of public notice. The following tentative determinations shall be incorporated into a draft permit:

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1. Conditions, discharge limitations, standards and other requirements applicable to the permit;

2. Monitoring requirements; and

3. Requirements for mitigation of adverse environmental impacts.

B. If the tentative decision is to deny the application, the board shall do so in accordance with § 4.6 of this regulation.

C. Should a decision be made to waive the requirement for a permit, the board shall do so in accordance with § 4.5 of this regulation.

## § 2.6. State general permits.

The board may issue state general permits by regulation for certain specified activities which have been determined to be of minimal environmental consequence.

A. After public interest review, and after such general permits have been issued, individual activities falling within the categories that are authorized do not have to receive an individual permit as described by the procedures of this regulation.

B. The board will determine by regulation the appropriate conditions, duration of the permit and restrictions to protect the interests of the citizens of the Commonwealth for each general permit issued.

C. When the board determines on a case by case basis that concerns for water quality and the aquatic environment so indicate, the board may exercise its authority to require individual applications and permits rather than issuing a general permit. Cases where an individual permit may be required include the following:

1. Where the discharge(s) is a significant contributor of pollution;

2. Where the discharger is not in compliance with the conditions of the general permit;

3. When a discharger no longer meets general permit conditions;

4. Any owner operating under a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit;

5. When an individual permit is issued to an owner, the applicability of the general permit to the individual permittee is automatically terminated on the effective date of the individual permit;

6. When a general permit is issued which applies to an owner already covered by an individual permit, such owner may request exclusion from the provisions

of the general permit and subsequent coverage under an individual permit;

7. A general permit may be revoked as to an individual owner for any of the reasons set forth in § 4.1 subject to appropriate opportunity for a hearing.

## PART III. PUBLIC INVOLVEMENT.

### § 3.1. Public notice of permit action and public comment period.

A. Every draft permit shall be given public notice paid for by the owner, by publication once in a newspaper of general circulation in the area affected by the discharge.

B. The board shall allow a period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative decision and to request a public hearing.

C. The contents of the public notice of an application for a permit or proposed permit action shall include:

1. Name and address of the applicant. If the location of the activity differs from the address of the applicant the notice shall also state the location in sufficient detail such that the specific location may be easily identified.

2. Brief description of the business or activity to be conducted at the discharge site.

3. The name of the receiving waterway.

4. A statement of the tentative determination to issue or deny a permit.

5. A brief description of the final determination procedure.

6. The address and phone number of a specific person at the state office from whom further information may be obtained.

7. A brief description on how to submit comments and request a public hearing.

D. Public notice shall not be required for submission or approval of plans and specifications or conceptual engineering reports not required to be submitted as part of the application.

E. When a permit is denied the board will do so in accordance with § 4.6 of this regulation.

### § 3.2. Public access to information.

All information pertaining to permit processing or in reference to any source of discharge of any pollutant,

including discharges of dredged or fill material, shall be available to the public, unless the information has been identified by the applicant as a trade secret covered by § 62.1-44.21 of the Code of Virginia. All information claimed confidential must be identified as such at the time of submission to the board and Virginia Marine Resources Commission.

### § 3.3. Public comments and hearing.

A. The board shall provide a comment period of at least 30 days following the date of public notice of the formulation of a draft permit during which interested persons may submit written comments and requests for an informal hearing on the permit. All written comments submitted during the comment period shall be retained by the board and considered during its final decision on the permit.

B. The executive director shall consider all written comments and requests for an informal hearing received during the comment period, and shall make a determination on the necessity of an informal hearing in accordance with § 1.12 of Procedural Rule No. 1 (VR 680-31-01). All proceedings, informal hearings and decisions therefrom will be in accordance with Procedural Rule No. 1.

C. Should the executive director, in accordance with Procedural Rule No. 1, determine to dispense with the informal hearing, he may grant the permit, or, at his discretion, transmit the application or request, together with all written comments thereon and relevant staff documents and staff recommendations, if any, to the board for its decision.

[ D. Any owner aggrieved by any action of the board taken without a formal hearing may request in writing a formal hearing pursuant to Procedural Rule No. 1. ]

### § 3.4. Public notice of hearing

A. Public notice of any informal hearing held pursuant to § 3.3 shall be circulated as follows:

1. Notice shall be published once in a newspaper of general circulation in the county or city where the activity is to occur;

2. Notice of the informal hearing shall be sent to all persons and government agencies which received a copy of the notice of permit application and to those persons requesting an informal hearing or having commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 and 2 of this section at least 30 days in advance of the informal hearing.

C. The content of the public notice of any [ informal ] hearing held pursuant to § 3.3 shall include at least the

following:

1. Name and address of each person whose application will be considered at the informal hearing and a brief description of the person's activities or operations;

2. The precise location of such activity and the surface waters that will, or may, be affected. The location should be described, where possible, with reference to route numbers, road intersections, map coordinates or similar information;

3. A brief reference to the public notice issued for the permit application, including identification number and date of issuance unless the public notice includes the informal hearing notice;

4. Information regarding the time and location for the informal hearing;

5. The purpose of the informal hearing;

6. A concise statement of the relevant water quality issues raised by the persons requesting the informal hearing;

7. Contact person and the address of the State Water Control Board office at which the interested persons may obtain further information or request a copy of the draft permit prepared pursuant to § 2.5;

8. A brief reference to the rules and procedures to be followed at the informal hearing.

[ D. Public notice of any formal hearing held pursuant to § 3.3 D shall be in accordance with Procedural Rule No. 1. ]

## PART IV. PERMIT MODIFICATION, REVOCATION, REISSUANCE, TERMINATION AND DENIAL.

§ 4.1. Rules for the modification, revocation, reissuance and termination.

Permits shall be modified, revoked, reissued, or terminated only as authorized by this section as follows:

1. A permit may be modified in whole or in part, revoked and reissued or terminated.

2. Permit modifications shall not be used to extend the term of a permit.

3. Modification, revocation and reissuance, or termination may be initiated by the board, [ on the request of the ] permittee, or other person [ ; at the board's discretion ] under applicable laws or the provisions of this regulation.

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4. After public notice and opportunity for a formal hearing pursuant to § 1.20 of Procedural Rule No. 1 a permit can be terminated for cause. Causes for termination are as follows:

- a. Noncompliance by the permittee with any condition of the permit;
- b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
- c. The permittee's violation of a special or judicial order;
- d. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or termination;
- e. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge of dredged and fill material controlled by the permit.

## § 4.2. Causes for modification.

A permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it.
2. When new information becomes available about the operation or discharge covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.
3. When a change is made in the promulgated standards or regulations on which the permit was based.
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act.
5. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Act.
6. When changes occur which are subject to "reopener clauses" in the permit.

7. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water is detrimental to the instream beneficial use, the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the permit.

8. When the level of discharge of a pollutant not limited in a permit exceeds the level which can be achieved by available methodology for controlling such discharges.

9. When the permittee begins or expects to begin to cause the discharge of any toxic pollutant not reported in the application.

10. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

## § 4.3. Transferability of permits.

A. Transfer by modification. Except as provided for under automatic transfer in subsection B of this section, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new owner.

### B. Automatic transfer.

Any permit shall be automatically transferred to a new owner if:

1. The current owner notifies the board 30 days in advance of the proposed transfer of the title to the facility or property.
2. The notice to the board includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to modify or revoke and reissue the permit.

## § 4.4. Minor modification.

A. Upon request of the permittee, or upon board initiative with the consent of the permittee, minor modifications may be made in the permit without following the public involvement procedures.

B. For Virginia Water Protection Permits, minor modification may only:

1. Correct typographical errors;

- 2. Require reporting by the permittee at a greater frequency than required in the permit;
- 3. Change an interim compliance date in a schedule of compliance to no more than 120 days from the original compliance date and provided it will not interfere with the final compliance date;
- 4. Allow for a change in ownership or operational control when the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability from the current to the new permittee has been submitted to the board;
- 5. Change plans and specifications where no change in discharge limitations in the permit are required;
- 6. When facility expansion, production increases and modification will not cause significant change in the discharge of pollutants;
- 7. Delete permit limitation or monitoring requirements for specific pollutants when the activities generating these pollutants are terminated.

§ 4.5. Waiver of a permit.

A. In applications where the State Water Control Board determines that a proposed activity or activities will have minimal or no environmental consequence, a waiver of the requirement for a permit may be granted.

B. The applicant and the Corps of Engineers will be notified of this decision. Waiver of the requirement for a permit shall be considered when:

- 1. The impact of the proposed activity is of minimal environmental consequence;
- 2. The impacts of the proposed activity are temporarily in nature and recovery of the beneficial use of the area is ensured; and
- 3. The impacts of the proposed activity will be fully and successfully mitigated by the applicant such that additional conditions imposed by the board are unnecessary.

§ 4.6. Denial of the permit.

A. The applicant shall be notified by letter of the staff's decision to recommend to the board denial of the permit requested.

B. The staff shall provide sufficient information to the applicant regarding the rationale for denial, such that the applicant may, at his option, modify the application in order to achieve a favorable recommendation, withdraw his application, or proceed with the processing on the

original application.

C. Should the applicant withdraw his application, no permit will be issued.

D. Should the applicant elect to proceed with the original project, the staff shall make its recommendation of denial to the executive director for determination of the need for public notice [ of a formal hearing to consider the denial ] as provided for in accordance with Procedural Rule No. 1.

PART V.  
ENFORCEMENT.

§ 5.1. Enforcement.

The board may enforce the provisions of this regulation utilizing all applicable procedures under the law.

PART VI.  
MISCELLANEOUS.

§ 6.1. Delegation of authority.

The executive director, or a designee acting for him, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

§ 6.2. Transition.

Upon the effective date of this regulation the following will occur:

- 1. Procedural Rule No. 3 (VR 680-31-03) will be superseded. All applications received after the effective date of the new regulation will be processed in accordance with these new procedures.
- 2. Section 401 Water Quality Certificates issued prior to December 31, 1989, have the same effect as a Virginia Water Protection Permit. Water Quality Certificates issued after this date will remain in effect until reissued as Virginia Water Protection Permits.

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**NOTICE:** Due to its length, the regulation entitled "Water Quality Standards," filed by the State Water Control Board, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary, in lieu of the full text, explaining the adopted amendments is being published. The full text of the standards is available for public inspection at the office of the Registrar of Regulations and at the State Water Control Board.

Title of Regulation: VR 680-21-00. Water Quality Standards.

Statutory Authority: § 62.1-44.15(3a) of the Code of

# Final Regulations

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Virginia.

Effective Date: May 20, 1992.

Summary:

*Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.*

*Virginia last completed a comprehensive review of the water quality standards in September 1987. In order to comply with state and federal laws, another review of the water quality standards is due. Therefore, the purpose of the proposed amendments is to make necessary revisions to the water quality standards to comply with the three-year review requirements.*

*The primary objective of this triennial review is to adopt, for statewide application, standards for toxics for protection of aquatic life and human health to comply with the Clean Water Act § 303(c)(2)(B) which states that water quality standards must be adopted for § 307(a) toxic pollutants. Other changes have also been incorporated in order to meet federal requirements for antidegradation, facilitate implementation or clarify the standards and provide for site specific modifications and variances to these standards. This will supersede the emergency regulation on water quality standards which became effective February 7, 1992.*

*These adopted amendments reflect changes made to the December 30, 1991, published proposal in response to public comment. Revisions have been made in VR 680-21-01.2 A, VR 680-21-01.2 C, VR 680-21-01.3 B and C, and VR 680-21-02.14 A, B, D and E.*

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# EMERGENCY REGULATIONS

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## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

**Title of Regulation:** Board for Waste Management Facility Operators Public Participation Guidelines.

**Statutory Authority:** § 9-6.14:7.1 and 54.1-2211 of the Code of Virginia.

**Effective Date:** March 30, 1992 through March 29, 1993.

**Preamble:**

The Board for Waste Management Facility Operators is promulgating emergency regulations as detailed in § 9-6.14:5 of the Code of Virginia regarding the solicitation of input from interested parties in the formation and development of regulations governing the certification of waste management facility operators in the Commonwealth.

Pursuant to § 54.1-2212 of the Code of Virginia, the Board of Waste Management Facility Operators is mandated to certify all persons acting as waste management facility operators by January 1, 1993. In order to meet this statutory requirement the board must promulgate the Public Participation Guidelines immediately before filing a Notice of Regulatory Intent.

The emergency regulations governing the public participation process will be in effect until January 1993, the anticipated effective date of final regulations.

/s/ Milton K. Brown, Jr.  
Department of Commerce  
Date: March 16, 1992

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: March 19, 1992

/s/ Lawrence D. Wilder  
Governor  
Date: March 23, 1992

/s/ Joan W. Smith  
Virginia Registrar of Regulations  
Date: March 30, 1992

Board for Waste Management Facility Operators Public Participation Guidelines.

**I. MAILING LIST.** The Board for Waste Management Facility Operators (the agency) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

- A. "Notice of Intent" to promulgate regulations.
- B. "Notice of Public Hearing" or "Information

Proceeding," the subject of which is proposed or existing regulations.

C. Final regulations adopted.

**II. BEING PLACED ON LIST; DELETION.** Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in Section I. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

**III. NOTICE OF INTENT.** At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 et seq. of the Code of Virginia, the board will publish a "Notice of Intent." This notice will contain a brief and concise statement of the possible regulation or problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register.

**IV. INFORMATIONAL PROCEEDINGS OR PUBLIC HEARINGS FOR EXISTING RULES.** At least once each biennium, the board will conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. The purpose of the proceeding will be to solicit public comment of all existing regulation as to its effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

**V. PETITION FOR RULEMAKING.** Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

**VI. NOTICE OF FORMULATION AND ADOPTION.** At any meeting of the board or any subcommittee where it is anticipated the formulation or adoption of the regulations will occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

**VII. ADVISORY COMMITTEES.** The board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

**VIII. APPLICABILITY.** Sections I through III and Sections V through VII shall apply to all regulations promulgated except emergency regulations adopted in accordance with

# Emergency Regulations

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*§ 9-6.14:9 of the Code of Virginia.*

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# STATE LOTTERY DEPARTMENT

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## EMERGENCY REGULATION

### STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Dates: March 19, 1992 through March 18, 1993.

Preamble:

*The State Lottery Department recommends approval of the Department's request to adopt emergency regulations to amend its on-line game regulations to reduce the potential of the purchase of large blocks of on-line lottery tickets and to clarify existing regulations for retailers and the general public. The Governor's approval of these emergency regulations will allow the State Lottery Department to enhance current procedures, to achieve player convenience, and to serve the general public better. As provided in the Code of Virginia, § 9-6.14:4.1, subsection C, paragraph 5, the agency shall receive, consider, and respond to petition by any interested person at any time with respect to reconsideration or revision.*

VR 447-02-2. On-Line Game Regulations.

#### PART I. ON-LINE GAMES.

##### § 1.1. Development of on-line games.

The director shall select, operate, and contract for the operation of on-line games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each on-line lottery game after consultation with the director. These details include, but are not limited to:

1. The type or types of on-line lottery games;
2. Individual prize amounts and overall prize structure;
3. Types of noncash prizes, if any;
4. The amount and type of any jackpot or grand prize which may be awarded and how awarded; and
5. Chances of winning.

##### § 1.2. General definitions for on-line games.

"Auto pick" means the same as "easy pick."

"Breakage" means the fraction of a dollar not paid out due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that (i) has been placed into the terminal, whereupon the terminal must read the information from the ticket and cancel the transaction or (ii) whose validation number has been manually entered into the terminal via the keyboard and cancelled.

"Certified drawing" means a drawing in which a lottery official and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination has occurred.

"Confirmation (or registration) notice" means the subscription notification letter or card mailed to the subscriber which confirms the game numbers for the game panel played, and the plan start date and number of draws.

"Drawing" means a procedure by which the lottery randomly selects numbers or items in accordance with the specific game rules for those games requiring random selection of number(s) or item(s).

"Duplicate ticket" means a ticket produced by any means other than by an on-line terminal with intent to imitate the original ticket.

"Easy pick" means computer generated numbers or items.

"Game panel" means the play(s) entered by the subscriber on the subscription application.

"Game numbers" means the numbers designated by the player on the subscription application or the computer-generated numbers if easy pick is selected.

"Group-designated agent" means the individual listed on the subscription application who is elected by the group of players to act as the subscriber on the group's behalf in handling all correspondence and payment disbursements resulting from the group's subscription.

"Number of draws" means the actual number of draws for which a subscription is valid.

"On-line game" means a lottery game, the play of which is dependent upon the use of an on-line terminal in direct communication with an on-line game main frame operated by or at the direction of the department.

"On-line lottery retailer" means a licensed lottery retailer who has entered an agreement with the department to sell on-line tickets.

"On-line system" means the department's on-line computer system consisting of on-line terminals, central processing equipment, and a communication network.

"On-line terminal" means computer hardware through

# State Lottery Department

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which a combination of numbers or items is selected or generated and through which on-line tickets are generated and claims may be validated.

*"On-line ticket"* means a computer-generated ticket issued by an on-line lottery retailer to a player as a receipt for the numbers, or items or combination of numbers or items the player has selected.

*"Person"* means a natural person and may extend and be applied to groups of persons as well as corporations, companies, partnerships, and associations, unless the context indicates otherwise.

*"Plan"* means the duration of the subscription as determined by the number of draws designated by the subscriber on the subscription application or renewal notice.

*"Play"* means a wager on a single set of selected numbers.

*"Player"* means a person who is a lottery customer who has purchased or intends to purchase an on-line lottery ticket or tickets for a specific on-line lottery game drawing, or an agent or representative of such person. Licensed on-line retailers and their employees may not act as agents or representatives of a player.

*"Player-selected item"* means a number or item or group of numbers or items selected by a player in connection with an on-line game. Player-selected items include selections of items randomly generated by the computer on-line system. Such computer-generated numbers or items are also known as *"auto picks," "easy picks"* or *"quick picks."*

*"Playslip"* means an optically readable card issued by the department, used in marking a player's game plays.

*"Present at the terminal"* means that a player remains physically present at the on-line lottery terminal from the time the player's order for the purchase of on-line lottery tickets is paid for and accepted by the lottery retailer until the processing of the order is completed and the tickets are delivered to the player at the licensed on-line retailer terminal location.

*"Quick pick"* means the same as *"easy pick."*

*"Registration"* means the process of entering subscription information concerning the subscriber, plan and selected numbers into the central computer system.

*"Retailer,"* as used in these on-line game regulations, means a licensed on-line lottery retailer, unless the context clearly requires otherwise.

*"Roll stock"* means the paper roll placed into the lottery retailer terminals from which a unique lottery ticket is generated by the computer, displaying the player selected

item(s) or number(s).

*"Share"* means a percentage of ownership in a winning ticket or subscription plan .

*"Start date"* means the first draw date for which a subscription is effective.

*"Subscriber"* means the individual designated on the subscription application whose entry has been entered into the department's central computer system and who has received confirmation from the department of his or her designated numbers and includes the group-designated agent for a group, organization, family unit, or club.

*"Subscription"* means a method to play a lottery on-line game by purchasing subscription plays, using a designated set of numbers, for a specific period of time, and for which the player is automatically entered in each drawing or game during the period for which the subscription is effective.

*"Subscription application"* means the form(s) used by an individual or group-designated agent to play lottery games by subscription.

*"Subscription renewal"* means the process by which a subscription plan is renewed by the subscriber in accordance with procedures established by the department.

*"Validation"* means the process of determining whether an on-line ticket is a winning ticket.

*"Validation number"* means a unique number assigned by the on-line central computer and printed on the front of each on-line ticket which is used for validation.

*"Winning combination"* means two or more items or numbers selected by a drawing.

## § 1.3. Prize structure.

The prize structure for any on-line game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each type of on-line game shall be determined in advance by the board.

B. From time to time, the board may determine temporary adjustments to the prize structure to account for breakage or other fluctuations in the anticipated redemption of prizes.

## § 1.4. Drawing and selling times.

A. Drawings shall be conducted at times and places designated by the director and publicly announced by the department.

B. On-line tickets may be purchased up to a time prior

to the drawing as specified in the on-line drawing rules. That time will be designated by the director.

## § 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. These limits shall not operate to prevent the sale of more than one lottery play on a single ticket. Unless authorized by the board, lottery retailers may not discount the sale price of on-line game tickets or provide free lottery tickets as a promotion with the sale of on-line tickets. This section shall not prevent a licensed retailer from providing free on-line tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery (see § 1.9).

B. This section shall not apply to the redemption of a winning on-line game ticket the prize for which is another free ticket.

## § 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

1. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold, prior to the time of the drawing and within the same business day it was purchased.

2. Cancellation may only be effected by the following two procedures:

a. Inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket and cancel the transaction.

b. After first determining that the preceding procedure cannot be utilized successfully to cancel the ticket, the terminal operator may cancel the ticket by manually entering the ticket validation number into the terminal via the keyboard.

Any ticket which cannot be cancelled by either of these procedures remains valid for the drawing for which purchased. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal or whose validation number cannot be read and keyed into the terminal, cannot be cancelled by any other means.

3. The cancelled ticket must be surrendered by the bearer to the retailer.

4. On a case-by-case basis, credit may be provided to retailers for tickets which could not be cancelled by

either of the two methods described in § 1.6 2. Such credit may be given provided unusual, verifiable circumstances are present which show that the department's computer system could not accept the cancellation within the same day the ticket was purchased or that the ticket was produced by an unusual retailer error. The retailer must notify the department's Hotline prior to the time of the drawing and within the same business day the ticket was purchased.

5. The director may approve credit for other cancellation requests not described in this section.

6. The lottery's internal auditor will audit cancelled tickets on a sample basis.

## § 1.7. Chances of winning.

The director shall publicize the overall chances of winning a prize in each on-line game. The chances may be printed in informational materials.

## § 1.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system by administrative order. The director may then award such cash bonuses or other incentives to retailers. *Retailers may not accept any compensation for the sale of lottery tickets other than compensation approved under this section, regardless of the source.*

## § 1.9. Retailers' conduct.

A. Retailers shall sell on-line tickets at the price fixed by the board, unless the board allows reduced prices or ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies, or with the department's specific approval.

D. Tickets shall be sold during all normal business hours of the lottery retailer when the on-line terminal is available unless the director approves otherwise. *Retailers must give prompt service to lottery customers present and waiting at the terminal to purchase tickets for on-line games. Prompt service includes interrupting processing of on-line ticket orders for which the customer is not present*

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at the terminal. Failure to render prompt service to lottery customers may result in administrative action by the director including but not limited to license suspension or revocation or disabling the on-line terminal so that it will not process transactions.

E. Tickets shall be sold only at the location listed on each retailer's license from the department. For the purposes of this section, the sale of an on-line lottery ticket at the licensed location means a lottery transaction in which all elements of the sale between the licensee and the purchaser must take place on site at the lottery terminal including the exchange of consideration, the exchange of the playslip if one is used, and the exchange of the ticket. No part of the sale may take place away from the lottery terminal.

F. On-line retailers must offer for sale all lottery products offered by the department.

G. An on-line game ticket shall not be sold to, purchased by, given as a gift to or redeemed from any individual under 18 years of age.

H. On-line retailers shall furnish players with proper claim forms provided by the department.

I. On-line retailers shall post winning numbers prominently.

J. On-line retailers and employees who will operate on-line equipment shall attend training provided by the department and allow only trained personnel to operate terminals.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by the manager or supervisor in charge at the location where the tickets are being sold.

L. *Federal Internal Revenue Code, 26 U.S.C. 60501, requires lottery retailers who receive more than \$10,000 in cash in one transaction, two or more related transactions in the aggregate, or a series of connected transactions exceeding \$10,000 in the aggregate, from a single player or his or her agent, to file a Form 8300 with the Internal Revenue Service. IRS encourages retailers to report all suspicious transactions, even if they do not meet the \$10,000 threshold. "Cash" includes coin and currency only and does not include bank checks or drafts, travelers checks, wire transfers, or other negotiable or monetary instruments not customarily accepted as money.*

§ 1.10. End of game; suspension.

The director may suspend or terminate an on-line game without advance notice if he finds that this action will serve and protect the public interest.

## PART II.

### LICENSING OF RETAILERS FOR ON-LINE GAMES.

#### § 2.1. Licensing.

##### A. Generally.

The director may license persons as lottery retailers for on-line games who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

B. For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

#### § 2.2. Eligibility.

##### A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may be considered for licensure, except no person may be considered for licensure:

1. Who will be engaged primarily in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or
3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data processing services whose tickets, goods or services are provided directly to the lottery department.

##### B. Form submission.

The submission of forms or data for licensure does not in any way entitle any person to receive a license to act as an on-line lottery retailer.

#### § 2.3. General standards for licensing.

##### A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing

or renewing a license:

1. The financial responsibility and integrity of the retailer, to include:

- a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer;
- b. A check for outstanding delinquent state tax liability;
- c. A check for required business licenses, tax and business permits; and
- d. An evaluation of physical security at the place of business, including insurance coverage.

2. The accessibility of his place of business to public, to include:

- a. The hours of operation compared to the on-line system selling hours;
- b. The availability of parking including ease of ingress and egress to parking;
- c. Public transportation stops and passenger traffic volume;
- d. The vehicle traffic density, including levels of congestion in the market area;
- e. Customer transaction count within the place of business;
- f. Other factors indicating high public accessibility and public convenience when compared with other retailers; and
- g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.

3. The sufficiency of existing lottery retailers to serve the public convenience, to include:

- a. The number of and proximity to other lottery retailers in the market area;
- b. The expected impact on sales volume of potentially competing lottery retailers;
- c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers; and
- d. The population to terminal ratio, compared to other geographical market areas.

4. The volume of expected lottery ticket sales, to include:

a. Type and volume of the products and services sold by the retailer;

b. Dollar sales volume of the business;

c. Sales history of the market area;

d. Sales history for instant tickets, if already licensed as an instant retailer;

e. Volume of customer traffic in place of business; and

f. Market area potential, compared to other market areas.

5. The ability to offer high levels of customer service to on-line lottery players, including:

a. A history demonstrating successful use of lottery product related promotions;

b. Volume and quality of point of sale display;

c. A history of compliance with lottery directives;

d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by;

e. A favorable image consistent with lottery standards;

f. Ability to pay prizes of \$600 or less during maximum selling hours, compared to other area retailers;

g. Commitment to authorize employee participation in all required on-line lottery training; and

h. Commitment and opportunity to post jackpot levels near the point of sale.

B. Additional factors for selection.

The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.

C. Filing of forms with the department.

After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:

1. Signed retailer agreement;

# State Lottery Department

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2. Signed EFT Authorization form with a voided check or deposit slip from the specified account; and

3. Executed bond requirement.

## § 2.4. Bonding of lottery retailers.

### A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer is already bonded for instant games, a second bond will not be required. However, the amount of the original bond must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

### B. Continuation of surety bond on annual license review.

A lottery retailer whose license is being reviewed shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the annual license review period; and

2. Submit the surety company's letter or certificate with the required annual license review fee to the State Lottery Department.

### C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded. Such sliding scale may require a surety bond amount either greater or lesser than the amount fixed by subsection A of this section.

### D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety

bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

### E. Limit on sales in excess of bond.

*Under no circumstances shall the retailer allow total, weekly, net on-line and instant sales from a single location for the seven-day period ending at the close of the lottery fiscal week (normally Tuesday night) to exceed five (5) times the amount of the bond for that licensed location, unless such retailer has first obtained written permission from the director. The director, in his sole discretion, may require additional bond or other security as a condition for continued sales, may accelerate the collection from the retailer of the net proceeds from the sale of lottery tickets, or may temporarily suspend the requirement that no retailer may sell lottery tickets in excess of five (5) times the amount of the bond for that licensed location for all on-line lottery retailers or for individual retailers on a case-by-case basis.*

## § 2.5. Lottery bank accounts and EFT authorization.

### A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the automatic clearing house (ACH) system. A single bank account may be used for both on-line and instant lottery business.

### B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed by or due to the retailer from the sale of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

### C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

### D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "On-Line Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department recording the establishment of his account.

### E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank account to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 2.6. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the settlement of accounts.

B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will have his on-line terminal inactivated. The retailer will not be reactivated until payment is made by cashiers check, certified check or wire transfer. Additionally, interest will be charged on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

C. Service charge for dishonored EFT transfer or bad check.

In addition to the penalty authorized by subsection B of this section, the director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt incurred by the department and the agencies to which the debt is referred.

E. Service charge, interest and penalty waived.

The service charge, interest and penalty charges may be waived when the event which would otherwise cause a service charge, interest or penalty to be assessed is not in any way the fault of the lottery retailer. For example, a waiver may be granted in the event of a bank error or lottery error.

§ 2.7. License term and annual review.

A. License term.

A general on-line license for an approved lottery retailer shall be issued on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. Annual license review.

The annual fee shall be collected within the 30 days preceding a retailer's anniversary date. Upon receipt of the annual fee, the general license shall be continued so long as all eligibility requirements are met. The director may implement a staggered, monthly basis for annual license reviews and allow for the proration of annual license fees. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

The annual fee for an amended license will be due on the same date as the fee for the license it replaced.

D. Special license.

The director may issue special licenses. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

E. Surrender of license certificate.

If the license of a lottery retailer is suspended, revoked or not continued from year to year, the lottery retailer shall surrender the license certificate upon demand.

§ 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25. Payment of this fee shall entitle the retailer to sell both on-line and instant game tickets. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. Annual license fee.

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The annual fee for a lottery retailer general license to sell on-line game tickets shall be an amount determined by the board at its November meeting or as soon thereafter as practicable for all reviews occurring in the next calendar year. The fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The fee shall be paid for each location for which a license is. This fee is nonrefundable. The fee shall be submitted within the 30 days preceding a retailer's anniversary date.

## C. Amended license fee.

The fee for processing an amended license for a lottery retailer general license shall be an amount as determined by the board at its November meeting or as soon thereafter as practicable for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license shall be submitted in cases where a business change has occurred.

## § 2.9. Fees for operational costs.

### A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25 per year shall be charged upon issuance of a new license.

2. No installation fee will be charged if interruption of service to the terminal has not occurred.

### B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15 per week. This fee may be subject to change based upon an annual cost review by the department.

## § 2.10. Transfer of license prohibited; invalidation of license.

### A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

### B. License invalidated.

A license shall become invalid in the event of any of the following circumstances:

1. Change in business location;

2. Change in business structure (e.g., from a partnership to a sole proprietorship);

3. Change in the business owners listed on the original personal data forms for which submission of a personal data form is required under the license procedure.

### C. Amended personal data form required.

A licensed lottery retailer who anticipates any change listed in subsection B must notify the department of the anticipated change at least 30 calendar days before it takes place and submit an amended personal data form. The director shall review the changed factors in the same manner that would be required for a review of an original personal data form.

## § 2.11. Denial, suspension, revocation or of license.

### A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in these regulations or if:

1. The person has been convicted of a felony;

2. The person has been convicted of a crime involving moral turpitude;

3. The person has been convicted of any fraud or misrepresentation in any connection;

4. The person has been convicted of bookmaking or other forms of illegal gambling;

5. The person has been convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;

6. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

7. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;

8. The nature of the person's business is not consonant with the probity of the Commonwealth; or

9. The person has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

### B. Grounds for refusal to license partnership or corporation.

In addition to refusing a license to a partnership or

corporation under subsection A of this section, the director may also refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A of this section.

#### C. Appeals of refusal to license.

Any person refused a license under subsection A or B may appeal the director's decision in the manner provided by VR 447-01-02, Part III, Article 2, § 3.4.

D. Grounds for suspension, revocation or refusal to continue license.

The director may suspend, revoke, or refuse to continue a license for any of the following reasons:

1. Failure to properly account for on-line terminal ticket roll stock, for cancelled ticket, for prizes claimed and paid, or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms or conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules or regulations of the department or board;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers. This failure may be determined by comparison of the retailer's sales to a sales quota established by the director;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing process;
9. Failure to comply with lottery game rules;
10. Failure to meet minimum point of sale standards;

11. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

12. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons; or

13. The nature of the person's business is not consonant with the probity of the Commonwealth.

E. Notice of intent to suspend, revoke or deny continuation of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny continuation of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

#### F. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

G. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final accounting of his lottery activities by the date specified by the director.

#### § 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

#### § 2.13. Display of license.

License displayed in general view. Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

#### § 2.14. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale

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material provided by the director in a manner which is readily seen by and available to the public.

## B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

## C. Removal of unapproved material.

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

### § 2.15. Inspection of premises.

Access to premises by department. Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

### § 2.16. Examination of records; seizure of records.

#### A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

#### B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

### § 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

### § 2.18. Reporting requirements and settlement procedures.

Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts. Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the

procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales; and (iii) settling the retailer's account with the department.

### § 2.19. Training of retailers and their employees.

Retailer training. Each retailer or anyone that operates an on-line terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

### § 2.20. License termination by retailer.

Voluntary termination of license. The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

## PART III.

### ON-LINE TICKET VALIDATION REQUIREMENTS.

#### § 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

1. The original ticket must be presented for validation.
2. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.
3. The ticket shall not be mutilated, altered, or tampered with in any manner (see § 3.4).
4. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.
5. The ticket shall have been issued by the department through a licensed on-line lottery retailer in an authorized manner.
6. The ticket shall not have been cancelled.
7. The ticket shall be validated in accordance with procedures for claiming and paying prizes (see §§ 3.10 and 3.12).
8. The ticket data shall have been recorded in the central computer system before the drawing, and the

ticket data shall match this computer record in every respect.

9. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

10. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

11. The ticket shall pass any validation requirement contained in the rules published and posted by the director for the on-line game for which the ticket was issued.

12. The ticket shall pass all other confidential security checks of the department.

### § 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

### § 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

### § 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

### § 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

### § 3.6. Prize winning tickets.

Prize winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and available for all players. Final validation and determination of prize winning tickets remain with the department.

### § 3.7. Unclaimed prizes.

A. Except for free ticket prizes, all claims for on-line game winning tickets must be postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day only at a lottery regional office.

B. Any on-line lottery cash prize which remains unclaimed after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. Cash prizes do not include free ticket prizes or other noncash prizes such as merchandise, vacations, admissions to events and the like.

C. All claims for on-line game winning tickets for which the prize is a free ticket must be postmarked or received for redemption as prescribed in these regulations within 60 days after the date of the drawing for which the ticket was purchased. In the event that the 60th day falls on a Saturday, Sunday or legal holiday, a claimant may only redeem his prize-winning ticket for a free ticket at an on-line lottery retailer on or before the 60th day. Except for claims for free ticket prizes mailed to lottery headquarters and postmarked on or before the 60th day, claims for such prizes will not be accepted at lottery regional offices or headquarters after the 60th day. This section does not apply to the redemption of free tickets awarded through the subscription program (see (§ 4.14 B).

### § 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

### § 3.9. No prize paid to people under 18.

No prize shall be claimed by, redeemed from or paid to any individual under 18 years of age.

### § 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of \$600 or less.

### § 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

### § 3.12. How prize claim entered.

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A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$601 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate the individuals in whose names the claim shall be entered and those persons' social security numbers shall be furnished.

## § 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and
2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

## § 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

## § 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

## § 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under

any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;
2. If there is any question regarding the identity of the claimant;
3. If there is any question regarding the validity of any ticket presented for payment; or
4. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act, when the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

## § 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given.

## § 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

## § 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

## § 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

## § 3.21. Penalty for counterfeit, forged or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment

is a Class 6 felony in accordance with the state lottery law.

## § 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

The director may honor a prize claim of an apparent winner who does not possess the original ticket if the claimant is in possession of information which demonstrates that the original ticket meets the following criteria and can be validated through other means. The exception does not apply to an on-line game ticket the prize for which is a free ticket.

1. The claim form and a photocopy of the ticket, or photocopy of the original claim form and ticket, are timely filed with the department;
2. The prize for which the claim is filed is an unclaimed winning prize as verified in the department's records;
3. The prize has not been claimed within the required redemption period; and
4. The claim is filed within 180 days of the drawing or within the redemption period, as established by game rules.

## § 3.23. Retailer to pay all prizes of \$600 or less .

Prizes of \$600 or less shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

## § 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.
3. Retailers shall pay claims for all prizes of \$600 or less during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.

4. Prize claims shall be payable only at the location specified on the license.

5. The department will reimburse a retailer for prizes paid up to 180 days after the drawing date.

## § 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

## § 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

## § 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

## § 3.28. Prizes of \$600 or less.

A retailer shall pay on-line prizes of \$600 or less won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of \$600 or less.

## § 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall present the signed ticket and a completed claim form to the department regional office or mail both the signed ticket and a completed claim form to the department central office.
2. If a ticket holder is unable to return to any on-line retailer to claim a prize which the retailer otherwise would pay, the ticket holder may present the signed ticket at any department regional office or mail both the signed ticket and a completed claim form to the department central office.
3. If the prize amount is \$601 or more, the ticket holder may present the signed ticket and a completed claim form at any department regional office or mail both the signed ticket and a completed claim form to the department central office.

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## § 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

## § 3.31. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay cash prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

## § 3.32. Grand prize event.

If an on-line game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director consistent with § 1.1 of these regulations.
2. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the entrants on or before the date announced by the director.
3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.
4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

## § 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$100,001 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts in each year, with the exception of the first, until the total payments equal the prize amount.

## § 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

## § 3.35. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

## § 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A claim form shall be required to claim any prize from the department's central office. A claim form shall be required to claim any prize of \$601 or more from the department's regional offices. This section does not apply to the redemption of prizes awarded through a subscription plan as identified in § 4.13.

## § 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

1. If the claim is not valid, the department will promptly notify the ticket holder.
2. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.
3. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

## § 3.38. Withholding, notification of prize payments.

When paying any prize of \$601 or more, the department shall:

1. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service;
2. Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and
3. Withhold federal and state taxes from any winnings over \$5,000.

## § 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

## PART IV. SUBSCRIPTION PLAN.

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## § 4.1. Development of subscription.

In addition to regulations set forth in this part, the conduct of subscriptions is subject to all applicable rules and regulations of the department.

## § 4.2. Subscriptions.

Subscriptions may be purchased for periods specified by the department in rules applicable to the lottery game to which the subscription applies.

## § 4.3. Subscription price.

The sale price of a subscription shall be determined by the board.

## § 4.4. Subscription cancellation.

A. A subscription entered into the department's central computer system cannot be cancelled by a subscriber or group-designated agent except when a subscriber or group-designated agent becomes employed by the lottery as an employee, board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly with the department on a contract for such goods or services, or any person residing in the same household as any such board member, officer or employee during the subscription period.

B. A subscription cannot be assigned by a subscriber or group-designated agent to another person.

C. Funds remitted to the department as payment for the subscription are not refundable to the subscriber or group-designated agent unless provisions identified in subsection A of this section are present.

## § 4.5. Effective date.

The subscription shall be effective on the start date indicated in the confirmation notice for that subscription.

## § 4.6. Retailer compensation.

Active licensed lottery retailers shall receive 5% compensation on sales of subscriptions. The compensation shall be based on all subscriptions purchased at any active licensed lottery retailer location as well as on all subscription applications mailed or delivered to the department's central office with payment and bearing a valid licensed lottery retailer number. In addition, active licensed lottery retailers shall be compensated for renewals of subscriptions which originated at their retailer location. Retailer compensation for a subscription shall be cancelled in the event the tender for the subscription payment is not honored by the payor institution or if the licensed lottery retailer does not provide the retailer number.

## § 4.7. Validation requirements.

Only those subscriptions entered into the department's central computer system and which are confirmed are valid entries eligible for prizes. Otherwise, game numbers selected on a subscription application are not eligible to win a prize in any drawing.

## § 4.8. Purchase of subscription.

A. Subscription applications may be distributed through the department's central office, any department regional office, any licensed lottery retailer, or any other means as determined by the department.

B. An individual, group, family unit, club, or other organization otherwise eligible to purchase lottery tickets may purchase a subscription by mail from the department's central office or from other locations as determined by the department.

C. In order to purchase a subscription, an individual, group, family unit, club, or other organization must furnish a valid Virginia street address or post office box, as required by U.S. postal regulations.

D. After receipt of the subscription at the department's central office, the subsequent entry of data into the central computer system, and the bank clearance of the subscriber's method of payment, the department shall mail a confirmation notice to the subscriber or group-designated agent at the address provided on the subscription application.

## § 4.9. Subscription application requirements.

A. A subscription application must meet the following requirements in order to be accepted for entry:

1. The numbers selected by the player must contain the prescribed number of unduplicated game numbers from numbers available for play in the game. If permitted by the rules of the game, numbers may be duplicated;

2. The subscription application must contain a valid Virginia street address or post office box, as required by U.S. postal regulations;

3. If a subscription is entered for a group, corporation, family unit or club, one individual must be designated as the group agent; and

4. The subscription application must be an official department application.

(a) A group, family unit, club or other organization which is not a legal entity or which does not possess a Federal Employer's Identification Number (FEIN) may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving

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Gambling Winnings," with the department. This form designates to whom winnings are to be paid and are taxable.

(b) If the prize winner does not furnish a social security number or taxpayer identification number, the department will not pay the prize. Failure to furnish the social security number or taxpayer identification number may expose the prize winner(s) to the risk that the prize will remain unclaimed after 180 days from the date of the drawing and will be forfeited.

B. A subscription application will be rejected for any of the following reasons:

1. If a subscription application is received by the department on an unofficial subscription form;
2. If no numbers are designated in a selected game panel and an available easy pick option is not selected;
3. If more or fewer than the prescribed set of numbers are selected;
4. If numbers are duplicated within the game panel, unless permitted by game rules;
5. If both a prescribed set of numbers and easy pick is designated in the same game panel;
6. If payment is not for the correct amount and is not made payable to the "Virginia Lottery," if a check or money order is returned unpaid, if a third-party check is remitted for payment, or if remittance is dishonored, the registration and the confirmation notice are void automatically for all drawings including those which may have occurred prior to the remittance being dishonored;
7. If the application contains an out-of-state address;
8. If the application is not signed;
9. If an individual (subscriber, group-designated agent or recipient) is under the age of 18, according to birth date recorded on the application; or
10. If an individual is found to be a Virginia Lottery Department employee, vendor employee, or household member, otherwise prohibited from playing any lottery game.

C. If the subscription is rejected by the department, both the subscription application and subscription payment will be returned to the subscriber or group-designated agent with a letter of explanation and no prize will be paid on any play appearing on the rejected subscription application for any drawing deriving from that subscription application.

These regulations assume that an easy pick option is available. If not available in a subscription plan, the criteria for accepting or rejecting a subscription application is modified accordingly.

## § 4.10. Subscription gifts.

A. Any recipient of a subscription gift must have a valid Virginia address or post office box.

B. Numbers selected by the subscriber for the recipient cannot be cancelled or reselected.

C. All other provisions of these regulations shall apply to subscription gifts, subscription purchasers and subscription recipients.

## § 4.11. Subscription renewals.

A. Approximately six (6) weeks prior to the end of a subscription, a renewal notice will be mailed to a subscriber or group-designated agent at the address on file with the department. Subscribers or group-designated agents may renew the subscription by returning the renewal notice with payment to the department's central office. Renewal notices may be obtained from the department's central office or other locations as determined by the lottery. Renewal notices shall not be mailed to subscribers or group-designated agents who no longer have a valid Virginia address or post office box.

B. Renewals will not be accepted unless the individual subscriber or group-designated agent furnishes a valid Virginia address or post office box.

## § 4.12. Change of name.

In the event a subscriber or group-designated agent's name changes during the subscription period, he or she may notify the department in writing of such change. Proof of name change may be required by the department at any time. The department reserves the right to refuse to change a name registered as a subscriber.

## § 4.13. Change of address.

In the event a subscriber or group-designated agent moves out of state during the subscription period and notifies the department of the change of address, the subscription will remain in effect until the number of draws for that subscription plan has expired. The subscriber or group-designated agent will not be eligible to receive a subscription renewal notice.

## § 4.14. Payment of prizes.

A. Before any prize of \$601 or greater can be paid, the department must be provided with the subscriber's taxpayer identification number, if it has not already been provided on the subscription application. The department will make reasonable efforts to obtain the missing

# State Lottery Department

taxpayer identification number. Payment will be delayed until the number is provided. Prizes for which no taxpayer identification number has been furnished within 180 days of the date of the drawing in which the prize was won will be forfeited.

B. The department will monitor subscriptions and mail nonannuitized prize payments to subscription winners without the necessity of a claim form being filed by the subscription winners. Prizes shall be subject to payment of any taxes and Debt Set-Off Collection Act amounts due and the department shall deduct applicable taxes and debt set-off amounts prior to mailing prize payments.

C. Subscribers winning a free play will receive a check as payment of free ticket prize(s) from the department at the end of their subscription(s). In lieu of awarding free tickets to a subscriber or group-designated agent, the check will pay the cumulative value of all free tickets won during the subscription plan. The value of free tickets shall be determined by the board.

D. The department will notify subscription winners of annuitized prizes by certified mail or telephone, at the address or telephone number shown on the subscription application on file with the department, and request that they come to the department's central office to receive the first prize payment. Subsequent checks will be mailed to subscription winners. Claim forms for annuitized prizes will not be required.

E. Prize payments will be processed in the name of an individual or group-designated agent according to information furnished on the subscription application.

F. If for any reason a payment is returned by the U.S. Postal Service and a new address cannot be located, such payments will be held by the department under the state's unclaimed property laws and transferred to the state if not claimed within 180 days following the drawing. Thereafter the department shall not be liable for payment and winners who make claims after this time period will be referred to the Unclaimed Property Division, Virginia Department of the Treasury.

G. Any subscription cash prize which remains unclaimed for any reason other than the preceding subsection after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. This includes, but is not limited to, failure or refusal to furnish a taxpayer identification number to complete the claim for a prize won.

## § 4.15. Player responsibility.

A. The department is not liable for department or licensed lottery retailer employee errors.

B. The player(s) assumes responsibility for any delays resulting from the choice of method of forwarding a subscription application to the department.

C. The subscriber or group-designated agent is responsible for verifying the accuracy of the lottery game data as recorded on the confirmation notice mailed to the subscriber or group-designated agent by the department.

D. The player shall notify the department if an error has been made. Notification shall be postmarked within ten (10) business days of date of the confirmation notice.

E. Player-requested corrections are not effective until entry of the corrected data into the department's central computer system and a corrected confirmation notice is mailed to the subscriber by the department. Such corrections are not retroactive. Any errors in lottery game data remain valid for all drawings occurring while the erroneous data remains effective but such erroneous game data is no longer valid for drawings occurring after the erroneous data is corrected and a corrected confirmation notice is issued.

## § 4.16. Department responsibility.

A. The department is responsible for entering the subscription data, including authorized corrections, on the department's central computer system within a reasonable period of time from receipt of the subscription application and clearance of remittance or receipt of the Request for Corrections notice.

B. If for any reason a subscription play is not accepted, the liability of the department and its retailers is limited to a refund of the purchase price for that play.

C. The department reserves the right to contract for financial services to process subscription applications.

## § 4.17. Disputes.

A. The department is not liable for nor has any responsibility to resolve disputes among group members for group subscriptions.

B. The decision of the director shall be final.

/s/ Kenneth W. Thorson, Director  
State Lottery Department  
Date: March 4, 1992

/s/ Lawrence Douglas Wilder  
Governor  
Date: March 18, 1992

/s/ Joan W. Smith  
Registrar of Regulations  
Date: March 19, 1992

\* \* \* \*

NOTICE: The forms used in administering the State Lottery Department Regulations are not being published due to the large number; however, the name of each form

# State Lottery Department

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is listed below. The forms are available for public inspection at the State Lottery Department, 2201 East Broad Street, Richmond, Virginia, or at the Office of the Register of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

On-Line Game Survey (SLD-120)  
Retailer Data Collection  
On-Line License Approval Notice  
Lottery Retailer Surety Bond  
Retailer Agreement Form (SLD-130, 3/89)  
Virginia Lottery Licensed Retailer Certificate (4/90)  
Request for Inactivating Retailer Terminal (X-0118, 6/89)  
Things to Do  
Bond Continuation Certificate (letter)  
Commonwealth of Virginia Lottery Bond Application  
Special Notice on Bonding for Lottery Retailers  
Security Check (X-0077, 2/89)  
Virginia Lottery On-Line Play Center;  
Agreement/Order Form (SLD-0136, 4/89)  
Ticket Stock Central Distribution Form (X-0095, 6/89)  
Ticket Stock Regional Distribution Form (X-0133, 6/89)  
On-Line Ticket Stock Return (X-0120, 6/89)  
On-Line Ticket Stock Destruction Form (X-0121, 6/89)  
Seal Verification Chart - Pick 3/4 (X-0103, 6/89)  
Draw Verification Sheet (SLD-0137, 4/89)  
On-Line Weekly Settlement Envelope (SLD-0127)  
Weekly Settlement Form  
A/R Online Accounting Transaction Form (X-0105, 6/89)  
Cash Tickets Envelope/Cancelled Tickets Envelope  
Ticket Problem Report  
Hot Line Report (X-0079, 2/89)  
Winner Claim Form (SLD-0007, 3/89)  
Subscription Playslip  
Confirmation Letter

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

**NOTICE:** Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0028. Pertaining to the Taking of Finfish by Gill Nets.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: February 1, 1992.

### Preamble:

*This regulation is designed to protect schooling food fish stocks in Virginia's tidal waters against overfishing. This regulation prohibits encirclement gill netting and establishes maximum depth and minimum spacing requirements for gill nets.*

### § 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia, as amended.

B. This regulation ~~supersedes and Emergency Regulation pertaining to encirclement gill netting and passed by the Commission and approved by the Governor on August 2, 1982 amends previous Regulation XXVIII, "Pertaining to the Taking of Finfish by Gill Nets," which was promulgated and made effective on April 1, 1983.~~

C. The effective date of this regulation is ~~April 1, 1983~~ February 1, 1992.

### § 2. Purpose.

The purpose of this regulation is to provide for the long-term conservation of stocks of food fish in the Chesapeake Bay and its tributaries *Virginia's tidal waters*, and to assure that there is an appropriate balance of harvests to all user groups.

### § 3. Gill nets.

A. Any gill net, whether floating or submerged, that is not assigned a fixed location shall be set in a straight line. In enforcing this provision, inspectors shall take into consideration the effect of wind and tide on any net. Nothing in this subsection shall pertain to mullet nets when used in a directed fishery for mullet.

B. Any gill net, whether floating or submerged, that is not assigned a fixed location shall have no greater depth than 330 inches total stretched mesh measurement. Measurement shall be vertically from top to bottom. Possession of any gill net, rigged with floats and weights,

and in excess of the aforementioned depth shall be deemed a violation of this subsection except that any person, firm, or corporation transiting Virginia's waters with any gill net not meeting the requirements of this regulation shall first notify and obtain permission of from the Commissioner of Marine Resources.

C. Any gill net, whether floating or submerged, that is not assigned a fixed location shall be fished no closer than 200 feet to any other such gill net. No part of any such gill net shall be closer than 200 feet to any part of any other such gill net. In enforcing this provision, inspectors shall take into consideration the effect of wind and tide on the nets in question.

D. The provisions of ~~paragraph (c) above~~ subsection C of this section shall not be applicable to those gill nets without an assigned fixed location which are set and fished in the tributaries of the Chesapeake Bay. However, no two or more such gill nets shall be fixed or tied end-to-end such that the maximum licensed length prescribed by law is exceeded.

### § 4. Penalty.

A. ~~As set forth in § 28.1-23 of the Code of Virginia, as amended provides that~~ any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

B. The licensee or the master of the vessel tending such gill net shall be responsible for compliance with this regulation.

/s/ William A. Pruitt  
Commissioner

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Title of Regulation: VR 450-01-0049. Pertaining to the Culling of Crabs.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: April 1, 1992.

### Preamble:

*Section 28.1-167 of the Code of Virginia specifies the size and possession limits for blue crabs in Virginia (minimum size of 5 inches for all male and immature female hard crabs; and a possession limit of no more than 10 undersize crabs per barrel). This regulation supplements these restrictions by describing the procedures that must be followed to cull harvested crabs to the legal limits.*

### § 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

# Marine Resources Commission

B. Other restrictions on crabbing can be found in Title 28.1, Chapter 6 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0012, VR 450-01-0036, and VR 450-01-0041.

C. The effective date of this regulation is ~~May 16, 1988~~ April 1, 1992 .

## § 2. Culling requirements.

A. All crabs taken from the tidal waters of Virginia shall be culled to the legal size and possession limits by the catcher during the harvesting process.

B. The catcher shall use ~~at least one, but not more than three~~ culling containers (other than bushel baskets and barrels normally used for crabs) for the purpose of culling crabs during the harvesting process. ~~No Crabs shall be placed loose in any boat are subject to be culled at any time .~~ The provisions of this paragraph shall not apply to the harvesting of crabs from a licensed crab trap (crab pound).

C. During culling, all undersize crabs shall be immediately returned to the water as required by § 28.1-167 of the Code of Virginia. ~~Crabs of legal size shall be placed in crab barrels or bushel baskets, and shall be subject to inspection by a VMRC Marine Patrol Officer. Upon arrival at the dock or landing point all crabs shall be have been culled as specified and shall be contained in regular crab bushel baskets or barrels that are ready for market .~~

## § 3. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

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Title of Regulation: VR 450-01-0057. Pertaining to the Marking and Minimum Mesh Size of Gill Nets.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Dates: February 1, 1992, except § 4 effective March 1, 1992.

## Preamble:

*This regulation is designed to minimize gear conflicts between gill net fishermen in the placement of nets, and conflicts with recreational boaters caused by poor visibility of gill nets. This regulation establishes marking requirements for gill nets to increase their visibility and identification. This regulation also establishes a minimum mesh size for gill nets to aid*

*in the conservation of fish stocks.*

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. This regulation amends VR 450-01-0057, "Pertaining to the Marking and Minimum Mesh Size of Gill Nets," which was promulgated and made effective on May 1, 1990.

C. ~~The effective date of this regulation is January 23, 1991. The effective date of § 4 of this regulation shall be March 1, 1992. All other provisions of this regulation become effective on February 1, 1992.~~

## § 2. Purpose.

The purpose of this regulation is to minimize gear conflicts between gill net fishermen and conflicts with recreational boaters caused by poor visibility of gill nets, and to conserve stocks of fish by establishing a minimum mesh size for gill nets.

## § 3. Marking procedures.

Except as provided in §§ 4 5 and 5 6 of this regulation, it shall be unlawful for any person, firm, or corporation to place, set or fish any gill net, except licensed fixed fishing devices, that is not marked in the following manner:

1. One end of each gill net shall be marked by a flag of square dimensions, which shall measure at least 144 square inches.

2. The end of each gill net opposite the square flag marker, shall be marked by either a triangular flag of at least 144 square inches or a floating ball of at least 50 inches circumference.

3. Each flag described in subdivisions 1 and 2 of this section shall be supported on a staff sufficient to maintain the bottom of the flag at least three feet above the surface of the water.

4. The end-marker flags on the same net, or flag and floating ball on the same net shall be of identical color.

5. An easily visible number or symbol shall be attached to end-marker flags and floating balls, and the same number or symbol shall be used for both ends of the same net.

6. Each fisherman shall not use the same number or symbol for identification on more than one of the gill nets licensed by that fisherman.

7. All flag staffs shall be marked with two stripes of two-inch wide reflective material that shall be visible from all sides; all end-marker floating balls shall be

marked on three sides with patches of approximately 2-inch by 2-inch reflective material that shall be visible from all sides above the water line.

#### § 4. Marking procedures for staked gill nets.

A staked gill net is a licensed fixed fishing device that is assigned a fixed location. It shall be unlawful for any person, firm, or corporation to hang any staked gill net on its poles, to drop such net into the fishing position or to fish such net that is not marked in the following manner:

1. Both ends of each staked gill net shall be marked by a floating buoy at least 3-1/2 inches in diameter flag of square dimensions, which shall measure at least 144 square inches.
2. Each end-marker flag described in subdivision 1 of this section shall be suspended on a pole or stake at least two feet above the surface of the water.
3. All end-marker flags shall be of blaze-orange color.
4. Each pole or stake in a gill net stand shall be marked at least two feet above the surface of the water, and visible from all sides, with either reflectors (at least two inches in diameter) or reflective tape (at least two inches wide).

#### § 4 5 . Upriver white perch fishery exemption.

During the period December 1 to the last day of February, inclusive, it shall be unlawful for any person, firm, or corporation to place, set or fish any gill net, used for the taking of white perch, in the areas defined below, and that is not marked in the following manner:

1. Both ends of each gill net shall be marked by a floating buoy of at least 3-1/2 inches in diameter.
2. Both end-marker buoys shall be of blaze-orange color.
3. Areas defined.
  - a. James River. Upstream from a line connecting College Creek and Hog Point.
  - b. York River. Upstream from a line connecting the southern most point of the northern headland of Poropotank Bay and Croaker Landing.
  - c. Rappahannock River. Upstream from a line connecting Greenvale Creek and Weeks Creek.

#### § 5 6 . Shad drift gill net fishery exemption.

During the period February 15 through April 30, both dates inclusive, it shall be unlawful for any person to place, set, or fish any drift gill net used for the taking of shad in the areas defined below, that is not marked in the

following manner:

1. Both ends of each drift gill net shall be marked by a floating bullet-shaped buoy of at least 5 inches in diameter and 11 inches in length.
2. Both end-marker buoys and all floats or buoys between the ends shall be of blaze orange or fluorescent paint color.
3. Areas defined.
  - a. James River. Upstream of the Jamestown Ferry Docking Station.
  - b. Mattaponi and Pamunkey Rivers. Upstream of the Route 33 bridges at West Point.
  - c. Rappahannock River. Upstream of the Route 360 bridge at Tappahannock.

#### § 6 7 . Minimum mesh size.

A. It shall be unlawful for any person, firm, or corporation to place, set or fish any gill net with a stretched mesh of less than 2-7/8 inches, except as provided in subsection C below. After January 1, 1992, it shall be unlawful for any person, firm, or corporation to place, set or fish any gill net with a stretched mesh of less than three inches, except as provided in subsection C below.

B. Mesh measurement is defined as the inside stretched distance between two knots on opposite sides of the same mesh.

C. As provided in § 28.1-51 of the Code of Virginia, mullet nets may consist of a stretched mesh no less than two inches stretched measure. Any person utilizing a mullet net may not take or possess quantities of species other than mullet which comprise more than 15% of their total daily catch, in pounds.

#### § 7 8 . Enforcement provisions.

In the enforcement of this regulation the Marine Patrol Officer shall consider the following:

1. If only one end of a gill net is found to be marked as required by this regulation, then a warning shall be issued by a Marine Patrol Officer, and the net owner shall have 24 hours to mark said net as provided in this regulation.
2. If both ends of a gill net are found in violation, a Marine Patrol Officer shall confiscate said net immediately.

#### § 8. Penalties.

As set forth in § 28.1-23 of the Code of Virginia, any

# Marine Resources Commission

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person, firm or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### BOARD FOR CONTRACTORS

Title of Regulation: VR 220-01-2. Board for Contractors  
Licensing Regulations.

Governor's Comment:

The proposal would help improve the existing regulations of the Board for Contractors by modifying several existing provisions and adding new sections. Pending public comments, I recommend approval of the proposal.

/s/ Lawrence Douglas Wilder  
Governor  
Date: March 20, 1992

# GENERAL NOTICES/ERRATA

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

## GENERAL NOTICES

### NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

#### DEPARTMENT OF CRIMINAL JUSTICE SERVICES

##### Notice of Availability of Funds for Pre-Release and Post-Incarceration Services

The Department of Criminal Justice Services (DCJS) announces the availability of grant funds to support pre-release and post-incarceration services which increase the opportunity for, and likelihood of, successful reentry and reintegration into local society by incarcerated adult offenders.

Pre-release services are intended to prepare offenders for transition to normal lives within their communities. Post-incarceration services are expected to address the specific needs of individual offenders after their release from prison or jail in order to help them successfully reintegrate into their communities.

The Department of Criminal Justice Services is authorized by the Appropriations Act to make grants to non-profit public or private organizations to support the provision of these services. The amount available pursuant to this notice for the fiscal year beginning on July 1, 1992, is \$186,140.

Organizations seeking funding to support these services must submit to DCJS a completed DCJS Grant Application. Applications must be received by DCJS no later than the close of business on Friday, May 1, 1992.

Successful applicants will receive funding for the 12-month period, July 1, 1992 through June 30, 1993.

Organizations interested in applying for funds may obtain a copy of the necessary application forms and program guidelines by contacting Mr. Richard Napoli, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-9652.

#### DEPARTMENT OF GENERAL SERVICES

## Division of Forensic Science

### † General Notice

Title of Regulation: VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.

Statutory Authority: §§ 2.1-424 and 19.2-188.1 of the Code of Virginia.

In accordance with § 2 of the Regulations for the Approval of Field Tests for Detection of Drugs and under the authority of § 19.2-188.1 of the Code of Virginia, the following field tests for Detection of Drugs are Approved Field Tests:

Section Dickinson Public Safety  
 147 Clinton Road  
 West Caldwell, N. J. 07006

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Marijuana	Test E (Duquenois-Levine Test)
Hashish	Test E (Duquenois-Levine Test)
Hashish Oil	Test E (Duquenois-Levine Test)
Cocaine Base	Test G (Modified Scott Reagent)
Heroin	Test K (Opiates Reagent)
Codeine	Test K (Opiates Reagent)
Morphine	Test K (Opiates Reagent)
Heroin	Test L (Brown Heroin Reagent)
Barbiturates	Test C (Dille-Koppanyi, Modified)
Amphetamine	Test A (Marquis Reagent)
Methamphetamine	Test A (Marquis Reagent)
Lysergic Acid Diethylamide	Test D (LSD Reagent System)

O D V Incorporated (NarcoPouch)  
 Post Office Box 305  
 South Paris, Maine 04281

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	901 - Mayer's Reagent
Heroin	901 - Mayer's Reagent
Morphine	901 - Mayer's Reagent
Cocaine Hydrochloride	901 - Mayer's Reagent
Opiates	902 - Marquis Reagent
Heroin	902 - Marquis Reagent
Morphine	902 - Marquis Reagent
Methamphetamine	902 - Marquis Reagent
Amphetamine	902 - Marquis Reagent
Heroin	903 - Nitric Acid
Morphine	903 - Nitric Acid
Cocaine Hydrochloride	904 - Scott (Modified) Reagent
Cocaine Base	904 - Scott (Modified) Reagent

## O D V Incorporated (NarcoPouch) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Barbiturates	905 - Dille-Koppanyi Reagent
Amphetamine	906 - Mandelin Reagent
Methamphetamine	906 - Mandelin Reagent
Methadone	906 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	907 - Ehrlich's (Modified) Reagent
Marijuana	908 - Duquenois-Levine Reagent
Hashish	908 - Duquenois-Levine Reagent
Hashish Oil	908 - Duquenois-Levine Reagent
Tetrahydrocannabinol (THC)	908 - Duquenois-Levine Reagent
Marijuana	909 - K N Reagent
Hashish	909 - K N Reagent
Hashish Oil	909 - K N Reagent
Tetrahydrocannabinol (THC)	909 - K N Reagent
Phencyclidine (PCP)	914 - PCP Methaqualone Reagent
Methaqualone	914 - PCP Methaqualone Reagent
Heroin	924 - Mecke's Modified
Diazepam	925 - Valium/Diazepam Reagent
Pentazocine	926 - Talwin/Pentazocine Reagent
Ephedrine	927 - Ephedrine Reagent

O D V Incorporated (Narcotest)  
Post Office Box 305  
South Paris, Maine 04281

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	7601 - Mayer's Reagent
Heroin	7601 - Mayer's Reagent
Morphine	7601 - Mayer's Reagent

## O D V Incorporated (Narcotest) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Cocaine Hydrochloride	7601 - Mayer's Reagent
Opiates	7602 - Marquis Reagent
Heroin	7602 - Marquis Reagent
Morphine	7602 - Marquis Reagent
Methamphetamine	7602 - Marquis Reagent
Heroin	7603 - Nitric Acid
Morphine	7603 - Nitric Acid
Cocaine Hydrochloride	7604 - Cobalt Thiocyanate Reagent
Dibucaine	7604 - Cobalt Thiocyanate Reagent
Tetracaine	7604 - Cobalt Thiocyanate Reagent
Procaine	7604 - Cobalt Thiocyanate Reagent
Barbiturates	7605 - Dille-Koppanyi Reagent
Amphetamine	7606 - Mandelin Reagent
Methadone	7606 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	7607 - Modified Ehrlich's Reagent
Marijuana	7608 - Duquenois Reagent
Hashish Oil	7608 - Duquenois Reagent
Hashish	7608 - Duquenois Reagent
Tetrahydrocannabinol (THC)	7608 - Duquenois Reagent
Marijuana	7609 - K N Reagent
Hashish	7609 - K N Reagent
Hashish Oil	7609 - K N Reagent
Tetrahydrocannabinol (THC)	7609 - K N Reagent
Cocaine Base	7613 - Test #13 (Cocaine Free-Base Reagent)

O D V Incorporated (Narcotest) continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Phencyclidine (PCP)	7614 - Test #14 (Methaqualone Reagent)
Methaqualone	7614 - Test #14 (Methaqualone Reagent)
Diazepam	7625 - Test #25 (Diazepam Reagent)
Pentazocine	7626 - Test #26 (Talwin Reagent)
Ephedrine	7627 - Test #27 (Ephedrine Reagent)

Sirchie Fingerprint Laboratories  
 5825 Triangle Drive  
 Umstead Industrial Park  
 Post Office Box 30576  
 Raleigh, N. C. 27622-0576

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Narcotic Alkaloids	#1 - Mayers Reagent
Heroin	#1 - Mayers Reagent
Morphine	#1 - Mayers Reagent
Cocaine Hydrochloride	#1 - Mayers Reagent
Morphine	#1 - Mayers Reagent
Amphetamine	#1 - Mayers Reagent
Opium Alkaloids	#2 - Marquis Reagent
Heroin	#2 - Marquis Reagent
Amphetamine	#2 - Marquis Reagent
Meperidine (Demerol) (Pethidine)	#2 - Marquis Reagent
Heroin	#3 - Nitric Acid Reagent
Morphine	#3 - Nitric Acid Reagent

Sirchie continued

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Cocaine Hydrochloride	#4 - Cobalt Thiocyanate Reagent
Procaine	#4 - Cobalt Thiocyanate Reagent
Tetracaine	#4 - Cobalt Thiocyanate Reagent
Methadone	#4 - Cobalt Thiocyanate Reagent
Barbiturates	#5 - Dille-Koppanyi Reagent
Amphetamine	#6 - Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	#7 - Ehrlich's Reagent
Marijuana	#8 - Duquenois Reagent
Hashish	#8 - Duquenois Reagent
Tetrahydrocannabinol (THC)	#8 - Duquenois Reagent
Marijuana	#9 - NDB (Fast Blue B Salt) Reagent
Hashish	#9 - NDB (Fast Blue B Salt) Reagent
Tetrahydrocannabinol (THC)	#9 - NDB (Fast Blue B Salt) Reagent
Cocaine Base (Crack)	#13 - Cobalt Thiocyanate/Crack Test
Methamphetamine	#1 - Mayers Reagent
Methamphetamine	#1 - Marquis Reagent
Hashish Oil	#8 - Duquenois Reagent
Hashish Oil	#9 - NDB (Fast Blue B Salt) Reagent

## DEPARTMENT OF HEALTH

### Public Notice

The State Health Commissioner, acting on behalf of the Board of Health, has established in § 3.7 C of the proposed Alternative Discharging Sewage Treatment System Regulations for Individual Single Family Dwellings a minimum standard to which sewage effluent discharged to a dry ditch or intermittent streams must be treated. This treatment standard requires effluent quality not to exceed 10 mg/l of BOD5 (Five Day Biochemical Oxygen Demand), 10 mg/l of suspended solids and a fecal coliform level of less than or equal to 100 per 100 ml.

The purpose of this notice is to request public comments on the appropriateness of this proposed standard taking into consideration public health factors, ground water protection factors, nuisance factors, as well as environmental resource factors. Comments as to other appropriate standards necessary to reduce risks to public health, abate nuisances, or reduce the impact to environmental resources are also requested.

The preferred point of discharge is an all weather stream where sewage effluent can be readily diluted at least 10:1 as measured during a 7 consecutive day average of a 10 year low flow (7-Q-10) and thereby minimize public health and water quality impacts. The State Water Control Board's General Permit establishes discharge limitations of 30 mg/l of BOD5, 30 mg/l of suspended solids, and a fecal coliform bacteria level of less than or equal to 200 per 100 ml. If these limitations remained the same for discharges to dry ditches or intermittent streams then comments are requested on the requirement that a polishing sand filter or similar device be added to the treatment facility. The purpose of this requirement is to reduce the risks to public health and the impact on groundwater and other environmental resources and to minimize nuisances, where partially treated effluent is not diluted.

Comments on these proposals should be submitted to Donald J. Alexander, Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, Virginia 23218. Comments must be received by May 29, 1992.

## MARINES RESOURCES COMMISSION

### Notice of Public Hearing

The Marine Resources Commission invites public comment on recommendations to restore the Virginia oyster industry. During 1991, a panel of industry representatives, legislators, members of local government, scientists and managers appointed by the Secretary of Natural Resources met to discuss the status of Virginia oyster resources and devised a set of recommendations advising the Commission on steps to take to restore the troubled fishery.

The Commission will hold two public hearings to consider testimony regarding these recommendations. Hearings will be held on Monday, March 23 and Monday, April 27, 1992. The hearings will begin at 3 p.m. and will be held at the Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, VA.

Please contact the Fisheries Management Division to obtain a full copy of the Panel Recommendations at P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23507-0756; (804) 247-2248. The scheduled hearing dates and topics are as follows:

#### Monday, April 27, 1992, 3 p.m.

• **Management of Public Grounds:** the Panel has recommended the following specific harvest restrictions and management measures for public grounds. In general the Panel also endorsed the concept of limited entry as a means of controlling and allocating harvest of limited oyster resources.

#### James River:

1. Establish an 18' maximum shaft long length
2. Establish an annual harvest quota
3. Increase the minimum size limit to 3" in the Jail Island Clean Cull Area
4. Reduce allowable amount of shell in a bushel of seed oysters from 10 quarts to 6 quarts
5. Create a 2000 acre sanctuary in the Jail Island and Wreck Shoal Area
6. Transplant oysters from Deepwater Shoal to the Sanctuary
7. Allow limited public use of Deepwater Shoal during May if sufficient oysters remain
8. Establish beds for intensive repletion near the Sanctuary

#### Rappahannock River:

1. Expand the prohibited area for patent tonging to include the area on the southside of the river to the channel above a line connecting Bailey Point (Urbanna) and Beach Creek (Northside).
2. Establish a 50-acre sanctuary and associated repletion areas

#### Pocomoke/Tangier Sounds:

Prohibit patent tonging and dredging for 3 years.

#### Seaside Eastern Shore:

# General Notices/Errata

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Establish minimum size of 3" in areas in Chincoteague and Hog Island Bays.

## Mobjack Bay:

Establish a 50-acre sanctuary and associated repletion areas.

## Plankstand and Great Wicomico Rivers:

Continue present role as seed areas for the Repletion Program.

## Repletion Strategies:

1. Develop special repletion areas where sanctuaries are established and seeded if necessary; adjacent beds then will be rehabilitated by turning and cleaning or placing clean shell to increase strike of young oysters.
2. Intensively monitor all repletion areas to evaluate success and determine allowable harvest.
3. Monitoring will include complete harvest data as well as scientific survey information by individual oyster bed.

VMRC does not discriminate against individuals with disabilities, therefore, if you are in need of reasonable accommodations due to a disability, please advise Kathy Leonard (804) 247-2120 no less than 72 hours prior to the meeting time and identify your need.

## **VIRGINIA CODE COMMISSION**

### **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 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.

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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

April 21, 1992 - 8 a.m. - Open Meeting

April 22, 1992 - 8 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; (iv) conduct routine board business; (v) review committee reports; and (vi) file Notice of Intended Regulatory Action.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.



### DEPARTMENT FOR THE AGING

#### Long-Term Care Council

May 8, 1992 - 9 a.m. - Open Meeting

Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Janet Lynch, Director, Long-Term Care Council, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 371-0552 or (804) 225-2271/TDD ☎

### VIRGINIA AGRICULTURAL COUNCIL

May 18, 1992 - 9 a.m. - Open Meeting

May 19, 1992 - 9 a.m. - Open Meeting  
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia.

A meeting to (i) hear new project proposals which are properly supported by the Board of Directors of a Commodity Group; (ii) review financial statements; and (iii) discuss any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-0792.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Dark-Fired Tobacco Board

† April 21, 1992 - 7 p.m. - Open Meeting  
Sheldon's Restaurant, Keysville, Virginia. ☒

A meeting to consider funding proposals for research, promotion and education projects pertaining to Virginia dark-fired tobacco and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: D. Stanley Duffer, Secretary, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568 or SCATS (804) 791-5215.

#### Virginia Farmer's Market Board

† May 21, 1992 - 1 p.m. - Open Meeting  
State Capitol Building, House Room 1, Richmond, Virginia.  
☒ (Interpreter for deaf provided upon request)

# Calendar of Events

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A meeting to (i) review update on markets; (ii) review finances; (iii) discuss southwest farmer's market grand opening; and (iv) discuss upcoming tours of markets by special interest groups. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

**Contact:** Nancy L. Israel, Farmers' Market Network, Program Director, 1100 Bank Street, Washington Building, Richmond, VA 23219, telephone (804) 371-6157.

## STATE AIR POLLUTION CONTROL BOARD

† **May 8, 1992 - 9 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

The board will consider draft proposed regulations on VOC and NOX emission standards, petroleum liquid storage and transfer operations, and new source permits.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2722.

## ALCOHOLIC BEVERAGE CONTROL BOARD

† **April 27, 1992 - 9:30 a.m.** – Open Meeting  
† **May 11, 1992 - 9:30 a.m.** – Open Meeting  
† **May 27, 1992 - 9:30 a.m.** – Open Meeting  
† **June 8, 1992 - 9:30 a.m.** – Open Meeting  
† **June 22, 1992 - 9:30 a.m.** – Open Meeting  
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

**Contact:** Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

## BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

† **May 21, 1992 - 9 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 19, 1992, meeting; (ii) review correspondence; and (iii) review enforcement files.

**Contact:** Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

## Board for Interior Designers

**April 24, 1992 - 1 p.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 27, 1992, meeting; (ii) review correspondence; and (iii) review applications.

**Contact:** Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

## Board for Landscape Architects

† **May 8, 1992 - 2 p.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from February 28, 1992, meeting; (ii) review correspondence; and (iii) review applications.

**Contact:** Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

## Board for Land Surveyors

† **May 20, 1992 - 9 a.m.** – Executive Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An exam writing session.

An executive meeting only.

**Contact:** Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

## Board for Professional Engineers

† **May 7, 1992 - 9 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from February 11, 1992, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

**Contact:** Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

## COMMISSION FOR THE ARTS

† **April 28, 1992 - Noon** – Open Meeting  
Richmond, Virginia. ☒

A quarterly business meeting.

Contact: Wanda T. Smith, Executive Secretary Sr., 203 Governor Street, Richmond, VA 23219-2010, telephone (804) 225-3132.

ASAP POLICY BOARD - VALLEY

† May 11, 1992 - 8:30 a.m. - Open Meeting  
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting 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 in Waynesboro (703) 943-4405.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

† April 23, 1992 - 9:30 a.m. - Open Meeting  
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A regularly scheduled board meeting.

Contact: Meredith P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-7390.

DEPARTMENT OF AVIATION (VIRGINIA AVIATION BOARD)

† April 28, 1992 - 10 a.m. - Open Meeting  
Manassas Municipal Airport, Hangar 10522, Terminal Road, Manassas, Virginia. ☒

A meeting to discuss matters of interest to aviation in Virginia.

Contact: Nancy C. Brent, Virginia Department of Aviation, 4508 S. Laburnum Avenue, Richmond, VA 23231-2422, telephone (804) 786-6284.

\* \* \* \* \*

† April 28, 1992 - 10 a.m. - Public Hearing  
Hangar 10522, Terminal Road, Manassas Municipal Airport, Manassas, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Aviation Board intends to repeal existing regulations entitled: **VR 165-01-02. Rules and Regulations of the Virginia Aviation Board Governing the Licensing of Airmen, Aircraft and Airports, and the Operation of Aircraft and Airports in the State of Virginia,** and promulgate

new regulations entitled: **VR 165-01-02:1. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.** The proposed regulations address topical aviation areas in Virginia for the protection and enhancement of safe and efficient air transportation in the Commonwealth.

STATEMENT

Since having last been amended in 1980, the regulations have been outdated in terms of content, organization, and currency with aviation law of the Commonwealth. The repeal of existing regulations, along with a concurrent promulgation of the new regulations, will create a better organized and current set of procedures by which to carry out the intent of Virginia Aviation Law as specified in Title 5.1 of the Code of Virginia.

Outlined below are the resulting changes:

1. Numerous modifications, deletions, and additions to definitions;
2. Deleted entire section regarding licensing of airmen;
3. Combined from several previous sections items dealing with aircraft into new § 2;
4. Combined and streamlined two previous sections regarding licensing of airports and landing areas into new § 3;
5. Created new § 4 dealing with obstructions and the protection of navigable airspace;
6. Deleted four previous sections regarding parachuting and drop zones;
7. Streamlined section regarding aerial application aircraft; and
8. Added miscellaneous items to the General Section.

These new regulations streamline the department's regulatory function, omitting areas of responsibility no longer valid, and expanding others deemed important for aviation safety. Consequently, the impact of adoption will be positive, by eliminating duplication and seeking greater safety for aviation as a transportation mode.

Statutory Authority: § 5.1-2 of the Code of Virginia.

Written comments may be submitted until June 19, 1992.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Avenue, Richmond, VA 23235, telephone (804) 786-1365 or toll-free 1-800-292-1034.

# Calendar of Events

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## CHESAPEAKE BAY COMMISSION

† May 7, 1992 - 1 p.m. - Open Meeting  
† May 8, 1992 - 9 a.m. - Open Meeting  
Harrisburg Hilton, One North Second Street, Harrisburg, Pennsylvania.

A quarterly meeting. Topics will include recent legislative actions, the 40% nutrient reduction strategy, the activities of the tributary states, exotic species introduction and the CBC FY '93 budget.

Contact: Ann Pesiri Swanson, Executive Director, 60 West Street, Suite 200, Annapolis, MD 21401, telephone (410) 263-3420.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† May 5, 1992 - 9 a.m. - Open Meeting  
Anchor Motel Conference Room, Route 13, Nassawadox, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will take a field trip to observe waterside development and development sites on the Eastern Shore. No public comment will be heard.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

May 6, 1992 - 8 a.m. - Open Meeting  
Anchor Motel Conference Room, Route 13, Nassawadox, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area Programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by April 29, 1992.

The board will also hold a public information meeting on an intended regulatory action. The board intends to repeal its current Public Participation Procedures (VR 173-01-00) and promulgate Public Participation Guidelines which will be consistent with those of all the agencies within the Natural Resources Secretariat and will ensure that interested parties have the necessary information to comment meaningfully on regulatory actions in all phases of the regulatory process. The board will hear public comment after a brief explanation of the intended regulatory action.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Central Area Review Committee

April 20, 1992 - 10 a.m. - Open Meeting  
April 27, 1992 - 10 a.m. - Open Meeting  
May 11, 1992 - 10 a.m. - Open Meeting  
June 8, 1992 - 10 a.m. - Open Meeting  
June 22, 1992 - 10 a.m. - Open Meeting  
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Northern Area Review Committee

May 13, 1992 - 10 a.m. - Open Meeting  
May 27, 1992 - 10 a.m. - Open Meeting  
June 10, 1992 - 10 a.m. - Open Meeting  
June 24, 1992 - 10 a.m. - Open Meeting  
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Southern Area Review Committee

May 6, 1992 - 10 a.m. - Open Meeting  
June 3, 1992 - 10 a.m. - Open Meeting  
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Regulatory Review Committee and Program Study Group

**April 22, 1992 - 10 a.m.** – Open Meeting  
St. Paul's Parish Hall, 815 East Grace Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

**May 20, 1992 - 10 a.m.** – Open Meeting  
**June 17, 1992 - 10 a.m.** – Open Meeting  
Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee and group will consider issues relating to Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01. Public comment will be heard at the end of the meeting.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **April 21, 1992 - 10 a.m.** – Open Meeting  
Washington Building, 1100 Bank Street, Richmond, Virginia. ☒

A policy and program committee meeting. Public comments will not be received.

**Contact:** Mary Ellen Verdu, Executive Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-8603.

## BOARD OF COMMERCE

**May 4, 1992 - 10 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular meeting. Items to be discussed include legislation passed in the 1992 Session of the General Assembly which will impact upon the agency, and the full board will receive a study progress report concerning HJR 365, requesting a study of contractors who install electronic security systems.

**Contact:** Alvin D. Whitley, Secretary to the Board, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564 or SCATS (804) 367-8519.

## COMPENSATION BOARD

† **April 23, 1992 - 5 p.m.** – Open Meeting

† **May 28, 1992 - 5 p.m.** – Open Meeting  
† **June 25, 1992 - 5 p.m.** – Open Meeting  
Ninth Street Office Building, Room 913/913A, 9th Floor, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A routine meeting to conduct business.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886.

## DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **May 22, 1992 - 9 a.m.** – Open Meeting  
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to adopt VR 215-00-00. Regulatory Public Participation Guidelines.

† **May 22, 1992 - 9 a.m.** – Open Meeting  
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the department's intent to adopt VR 215-01-00. Public Participation Guidelines and to adopt VR 217-00-00. Regulatory Public Participation Guidelines.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, Fax (804) 786-6141 or (804) 786-2121/TDD ☎

## Catoctin Creek Scenic River Advisory Board

† **April 24, 1992 - 2 p.m.** – Open Meeting  
Adam's Farm between Waterford and Taylorstown, 41173 Baldhill Road (Route 673 East off Route 665), 1st farm lane on right, Loudoun County, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## Falls of the James Scenic River Advisory Board

† **May 15, 1992 - Noon** – Open Meeting  
Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

# Calendar of Events

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**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## Upper James Scenic River Advisory Board

† **April 29, 1992 - Noon** – Open Meeting  
Sunnybrook Inn, Hollins, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## Virginia Soil and Water Conservation Board

† **May 22, 1992 - 9 a.m.** – Open Meeting  
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to consider repeal of VR 625-00-00. Public Participation Guidelines and to adopt VR 625-00-00:1. Regulatory Public Participation Guidelines.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, Fax (804) 786-6141 or (804) 786-2121/TDD ☎

## BOARD OF CORRECTIONS

**May 13, 1992 - 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:** Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

## Liaison Committee

**May 14, 1992 - 9:30 a.m.** – Open Meeting  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A meeting to address and discuss criminal justice issues.

**Contact:** Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

## BOARD FOR COSMETOLOGY

† **May 11, 1992 - 2 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 Board for Cosmetology intends to adopt regulations entitled **VR 235-01-03. Nail Technician Regulations**. The purpose of the proposed regulations is to protect the health and safety of those citizens obtaining manicures, pedicures or artificial nail services from disease or unsanitary practices by requiring the licensure of nail technicians, nail salons and those schools teaching these techniques. In licensing this profession, its practitioners are held to uniform standards for entry and conduct which is subject to disciplinary action by the Board for Cosmetology.

The regulations contain standards for entry into the profession as a nail technician, nail salon and nail school. In order to obtain a license as a nail technician one must complete 150 hours of education and pass a written and practical examination. Nail salons shall provide a current address and other information. Nail schools shall provide a copy of their proposed curriculum for approval by the board before licensure. The regulations also set forth standards for renewal, and standards of sanitary practice and discipline.

## STATEMENT

**Basis:** These proposed regulations are based on the current emergency regulations requiring the licensure of persons and salons providing manicures, pedicures and the application of artificial nails. In developing the current emergency regulations the Board for Cosmetology held two public hearings to receive comments on the regulation of nail technicians. The present regulatory review process was initiated to promulgate the current emergency regulations as final regulations in accordance with the APA.

**Issues and impact:** The nail technician regulations are expected to impact approximately 3,000-5,000 persons in Virginia who will now be required to obtain a license to practice their profession. By law, persons who are currently licensed as cosmetologists are not required to hold a license as a nail technician. Since the fees required to support this regulatory program are minimal, the financial impact on the public and regulants also will be minimal. The public, however, will be provided better service by nail technicians who have demonstrated minimum competence and are subject to standards of sanitary practice and discipline.

Statutory Authority: §§ 54.1-201, 54.1-202, 54.1-1200 and 54.1-1202 B of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

BOARD OF DENTISTRY

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April 21, 1992 - 10 a.m. - Open Meeting  
Alcoholic Beverage Commission, 1103 South Military Highway, Chesapeake, Virginia. ☒

Informal conferences. No public testimony will be received.

May 6, 1992 - 11:30 a.m. - Open Meeting  
Alcoholic Beverage Commission, 4907 Mercury Boulevard, Hampton, Virginia. ☒

Informal conferences. No public testimony will be received.

April 25, 1992 - 11:30 a.m. - Open Meeting  
June 20, 1992 - 8 a.m. - Open Meeting  
Wytheville Community College, Wytheville, Virginia. ☒

Informal conferences. No public testimony will be received.

May 9, 1992 - 9 a.m. - Open Meeting  
Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia. ☒

Informal conferences. No public testimony will be received.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

STATE EDUCATION ASSISTANCE AUTHORITY

May 19, 1992 - 10 a.m. - Public Hearing  
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs Under Title IV Part B of the Higher Education Act. The purpose of the proposed amendments is to update and clarify the administration of the Title IV Part B Loan Programs.

Statutory Authority: § 23-38.64 of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to

May 19, 1992 - 10 a.m. - Public Hearing  
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-02-1. Regulations Governing the Edvantage Loan Program. The purpose of the proposed amendments is to update and clarify the administration of the Edvantage Loan Program.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

April 21, 1992 - 8 a.m. - Open Meeting  
April 22, 1992 - 8 a.m. - Open Meeting  
April 23, 1992 - 8 a.m. - Open Meeting  
James Monroe Building, 101 North Fourteenth Street, Conference Rooms D and E, Richmond, Virginia. ☒  
(Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Dr. Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

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April 24, 1992 - 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 State Board of Education intends to repeal existing regulations

# Calendar of Events

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entitled **VR 270-02-0000. Teacher Certification Regulations**, and to adopt new regulations entitled: **VR 270-01-0000:1. Regulations Governing the Licensure of School Personnel**. These regulations provide a basis for the licensure of school personnel including teachers, administrators, and support personnel.

## NOTICE

Public hearings were scheduled in four locations statewide for February 20, 1992, four days prior to the publication of the regulations in the Virginia Register. A snow date has been set for March 5 (except in Manassas where the snow date is set for March 4).

Although initially, the hearings were inadvertently scheduled for the earlier dates, it appears that there will be significant comment from the public relative to the requirements. Department staff will need the additional time to analyze the comments and to make any necessary revisions to the proposed regulations. Written comments will be accepted through April 24, 1992.

The following steps have been (or will be in the very near future) taken to make the public aware of the public hearings:

1. Approximately 800 copies of the proposed regulations and hearing notices have been mailed to appropriate stakeholders in local school divisions, certain private schools, colleges and universities, and professional organizations. Staff feels that we have successfully identified and reached the vast majority of stakeholders.

2. The Board of Education will issue a statewide press release to the media announcing the date and details of the hearings.

3. Information regarding the hearings will be posted on VaPEN, Virginia's Educational Computer Network. This will be available to all users nationwide who have access to the network. This will include teachers and administrators in most local school divisions and Virginia colleges and universities, as well as many of the same population nationwide.

4. Word-of-mouth announcements have been made from individuals who are members of professional organizations. These individuals include staff of the department who are members of the organizations and/or staff who have met with the organizations since the date was set back in November, 1991.

If there is sufficient opposition to any of the proposals or substantial revision to them, the Board of Education may hold a second public hearing prior to the formal adoption of the regulations.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of

Virginia.

Written comments may be submitted until April 24, 1992.

**Contact:** Charles W. Finley, Associate, School Accreditation, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2747 or toll-free 1-800-292-3820.

\* \* \* \* \*

**May 23, 1992** – 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 State Board of Education intends to amend regulations entitled **VR 270-01-0012. Regulations Establishing Standards for Accrediting Public Schools in Virginia**. These regulations establish the basis for accrediting public schools. Such accreditation is required by the Standards of Quality.

Statutory Authority: § 22.1-253.13:3 B of the Code of Virginia.

Written comments may be submitted until May 23, 1992.

**Contact:** Lin Corbin-Howerton, Lead Specialist, Policy Analysis, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2543.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**May 7, 1992 - 5:30 p.m.** – Open Meeting

**June 4, 1992 - 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.

**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 - FAIRFAX COUNTY, THE CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

† **May 14, 1992 - 10 a.m.** – Open Meeting

John C. Wood Municipal Center, 3730 Old Lee Highway, Fairfax, Virginia. ☒

A general meeting.

**Contact:** Marysusan Giguere, 4031 University Drive, Fairfax, VA 22030, telephone (703) 246-3971.

## LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

**April 22, 1992 - 6:30 p.m. - Open Meeting**  
Gloucester Administration Building, Conference Room,  
Gloucester, Virginia. ☒ (Interpreter for deaf provided if  
requested)

A quarterly meeting to include a briefing on the DES,  
Zelda Hurricane Exercise, a report from the By-Laws  
Committee and approval of the final draft of LEPC  
Hazardous Materials Plan Update.

**Contact:** Georgette N. Hurley, Assistant County  
Administrator, P.O. Box 329, Gloucester, VA 23061,  
telephone (804) 693-4042.

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

**† May 6, 1992 - 3 p.m. - Open Meeting**  
Shawnee Fire Company, 2333 Roosevelt Boulevard,  
Winchester, Virginia.

A general meeting.

**Contact:** L. A. Miller, Fire Chief, Winchester Fire and  
Rescue Department, 126 N. Cameron Street, Winchester,  
VA 22601, telephone (703) 662-2298.

## COUNCIL ON THE ENVIRONMENT

**April 23, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, House Room C, Richmond,  
Virginia. ☒

The council will discuss and vote on final Oil and Gas  
Drilling Environmental Impact Assessments Guidelines  
and will discuss options for recognizing competency of  
wetlands delineators. A tentative agenda will be  
available the first week of April. Citizens will have an  
opportunity to present issues of concern during the  
Citizen's Forum portion of the agenda.

**Contact:** Hannah Crew, Assistant Administrator for  
Planning and Program Development, 202 N. Ninth Street,  
Suite 900, Richmond, VA 23219, telephone (804) 786-4500  
or (804) 371-7604/TDD ☎

## VIRGINIA FIRE SERVICES BOARD

**April 24, 1992 - 9 a.m. - Open Meeting**  
Best Western Hotel, Route 7 and Route 15 at East Market  
Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies.  
The meeting is open to the public for their comments  
and input.

**Contact:** Ann J. Bales, Executive Secretary Senior, 2807  
Parham Road, Richmond, VA 23294, telephone (804)  
527-4236.

## Fire/EMS Training and Education Committee

**April 23, 1992 - 1 p.m. - Open Meeting**  
Best Western Hotel, Route 7 and Route 15 at East Market  
Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies.  
The meeting is open to the public for their comments  
and input.

**Contact:** Ann J. Bales, Executive Secretary Senior, 2807  
Parham Road, Richmond, VA 23294, telephone (804)  
527-4236.

## Fire Prevention and Control Committee

**April 23, 1992 - 9 a.m. - Open Meeting**  
Best Western Hotel, Route 7 and Route 15 at East Market  
Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies.  
The meeting is open to the public for their comments  
and input.

**Contact:** Ann J. Bales, Executive Secretary Senior, 2807  
Parham Road, Richmond, VA 23294, telephone (804)  
527-4236.

## Legislative/Liaison Committee

**April 23, 1992 - 1 p.m. - Open Meeting**  
Best Western Hotel, Route 7 and Route 15 at East Market  
Street, Leesburg, Virginia.

A meeting to discuss fire training and fire policies.  
The meeting is open to the public for their comments  
and input.

**Contact:** Ann J. Bales, Executive Secretary Senior, 2807  
Parham Road, Richmond, VA 23294, telephone (804)  
527-4236.

## BOARD OF FORESTRY AND RESTORATION BOARD

**† May 20, 1992 - 9 a.m. - Open Meeting**  
Roslyn Conference Center, 8727 River Road, Richmond,  
Virginia. ☒

A meeting to discuss general business and to review  
accomplishments and budgets followed by a joint  
meeting of the two boards.

**Contact:** Phil T. Grimm, Assistant Chief, Forest  
Management or Barbara A. Worrell, Administrative Staff  
Specialist, P.O. Box 3758, Charlottesville, VA 22903,  
telephone (804) 977-6555/TDD ☎

# Calendar of Events

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## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**May 5, 1992 - 10 a.m. – Open Meeting**  
1601 Rolling Hills Drive, Surry Building, Richmond,  
Virginia. ☒ (Interpreter for deaf provided if requested)

A regular board meeting. Public comment period will be during the first 30 minutes of the meeting. State Licensure examinations at 9 a.m.

**May 6, 1992 - 9 a.m. – Open Meeting**  
1601 Rolling Hills Drive, Surry Building, Richmond,  
Virginia. ☒ (Interpreter for deaf provided if requested)

Informal hearings.

**Contact:** Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

\* \* \* \* \*

**April 27, 1992 –** 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-2. Regulations of the Board of Funeral Directors and Embalmers.** The amendments are designed to delete the requirements for the funeral services trainee program that are now incorporated into VR 320-01-4.

Statutory Authority: §§ 54.1-2400, 54.1-2803 (10), and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until April 27, 1992.

**Contact:** Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907.

\* \* \* \* \*

**April 27, 1992 –** 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-3. Regulations for Preneed Funeral Planning.** The amendments are designed to bring current regulations into compliance with 1991 legislation requiring insurance policies and annuity contracts which fund preneed contracts to offer a minimum rate of return.

Statutory Authority: §§ 54.1-2400, 54.1-2803 (10), and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until April 27, 1992.

**Contact:** Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907.

## BOARD OF GAME AND INLAND FISHERIES

**May 14, 1992 - 9:30 a.m. – Open Meeting**  
Farmville, Virginia.

Board members will meet in Farmville and tour department owned lands and facilities in the area.

**May 15, 1992 - 9:30 a.m. – Open Meeting**  
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Law and Education Committee and ending with the Liaison Committee.

The Wildlife and Boat Committee will discuss and possibly recommend to the full board that it adopt certain nongame regulation proposals that define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possessions thereof will be required. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the permit requirement.

In addition, this committee will also consider and possibly recommend to the full board that it adopt a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

The Planning, Finance, Law and Education and Liaison Committees will review items appropriate to their authority and recommend any general and administrative matters necessary to the full board for adoption or consideration.

**May 16, 1992 - 9 a.m. – Open Meeting**  
Longwood College, Main Ruffner Hall, Virginia and Prince Edward Rooms, Farmville, Virginia.

The board will meet to consider for adoption nongame

regulation proposals that will define wild animal, native animal, naturalized animal, nonnative (exotic) animal and domestic animal; a new regulation that prohibits the possession, importation or selling of any wild animal unless specifically permitted and defines those nonnative animals for which a permit for the importation and possession thereof. These nongame regulation proposals may include either a requirement that a permit will be necessary to import, liberate or possess in the Commonwealth wolf hybrids, or in the alternative that the definition of a domestic animal will include the wolf hybrid, thus exempting this animal from the permit requirement.

The board will also consider for adoption a proposed bear hound training season outside of the regular hunting season, a proposed extension of the raccoon chase season in counties west of the Blue Ridge Mountains, and proposed emergency deer hunting regulations for the City of Lynchburg.

Other general and administrative matters as necessary, will be discussed and acted on.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad Street, P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

## BOARD FOR GEOLOGY

† June 4, 1992 - 10 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Conference Room 1, Richmond, Virginia. ☒

† June 5, 1992 - 10 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Conference Room 1, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

May 5, 1992 - 2 p.m. - Public Hearing  
Tidewater Community College, Portsmouth Campus, in the  
"Theater," Portsmouth, Virginia.

May 6, 1992 - 9 a.m. - Public Hearing  
Eastern Shore Community College, Melfa Campus, in the  
Lecture Hall, Accomack, Virginia.

May 14, 1992 - 10 a.m. - Public Hearing  
Martha Washington College, Klein Theatre in dePont Hall,  
Fredericksburg, Virginia.

May 19, 1992 - 10 a.m. - Public Hearing  
Blue Ridge Community College, Auditorium, Weyers Cave  
Exit, I-81, Harrisonburg, Virginia.

May 20, 1992 - 10 a.m. - Public Hearing  
Loudoun County Courthouse, Board Room, Leesburg,  
Virginia.

May 26, 1992 - 10 a.m. - Public Hearing  
General Assembly Building, Senate Room A, Richmond,  
Virginia.

The Commission has been established to study the application of the Dillon Rule as it affects local government authority to operate in an efficient and effective manner.

Contact: Paul Grasewicz, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-7893.

## HAZARDOUS MATERIALS TRAINING COMMITTEE

† April 28, 1992 - 10 a.m. - Open Meeting  
Philip Morris, U.S.A. - Operations Center, 2001 Walmsley  
Boulevard, Richmond, Virginia.

A meeting to discuss curriculum course development and review existing hazardous materials courses.

Contact: Roger D. Raines, 108 B. Courthouse Lane, P.O. Box 447, Bowling Green, VA 22427, telephone (804) 633-9831.



## DEPARTMENT OF HEALTH (STATE BOARD OF)

May 18, 1992 - 7 p.m. - Public Hearing  
Wise County Health Department, 134 Roberts Street, S.W.,  
Wise, Virginia.

May 19, 1992 - 7 p.m. - Public Hearing  
J. Robert Jamison Memorial Library, Main Street,  
Appomattox, Virginia.

May 20, 1992 - 7 p.m. - Public Hearing  
Council Chambers Room, City Hall, 715 Princess Anne  
Street, Fredericksburg, Virginia.

May 21, 1992 - 7 p.m. - Public Hearing  
112 South Main Street, Board Meeting Room, Woodstock,  
Virginia.

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**May 27, 1992 - 7 p.m. – Public Hearing**  
Peninsula Health Center, Auditorium, J. Clyde Morris  
Boulevard, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-34-400. Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings.** These regulations govern the construction and operation of sewage treatment systems serving individual, single family homes with flows of 1,000 gallons per day or less.

Statutory Authority: §§ 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

**Contact:** Donald J. Alexander, Director, Bureau of Sewage and Water, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3559.

## DEPARTMENT OF HEALTH PROFESSIONS (BOARD OF)

† **April 20, 1992 - 8 p.m. – Open Meeting**  
The Hyatt Richmond at Brookfield, 6624 West Broad Street, Tidewater Room, Richmond, Virginia. ☒

Presentation of service awards.

**Contact:** Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

† **April 21, 1992 - 9:30 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room, Richmond, Virginia. ☒

A regular quarterly meeting of the board.

**Contact:** Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

## Executive/Legislation Committee

† **April 21, 1992 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ☒

The committee will review the agenda for the meeting of the full board to follow at 9:30 a.m. and review 1992 legislation affecting the Board and the Department of Health Professions.

**Contact:** Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**April 28, 1992 - 9:30 a.m. – Open Meeting**  
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

The council will conduct its monthly meeting.

**Contact:** Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

† **May 18, 1992 - 7 p.m. – Open Meeting**  
Syndicated Collection Agency, Board Room, 43 Reserve Avenue, Roanoke, Virginia.

The meeting will begin with a public comment period. Those wishing to address the impact of health care institutions' commercial diversification or any issue that may be addressed by the council are welcomed. Comments should be limited to three minutes and written statements are requested.

**Contact:** Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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**May 22, 1992 –** 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 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.** Section 6.3 of the regulation is being amended to specify when amendments or modifications to currently filed charge schedules would have more than a minimal impact on revenues and would therefore have to be filed at least 60 days in advance of their effective date.

Statutory Authority: §§ 9-161(D) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

## DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

† **May 27, 1992 - 10 a.m. – Open Meeting**  
Department of Historic Resources, Board Room, 221 Governor Street, Richmond, Virginia.

A meeting to receive views and comments and to

answer questions of the public on the board's intent to consider adopting VR 390-01-01:1, Public Participation Guidelines.

**Contact:** H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## State Review Board

**April 21, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, Senate Room A, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to consider the nomination of the following properties to the Virginia Landmark Register and the National Register of Historic Places:

1. Blandford Cemetery, Petersburg
2. Country Cabin, Wise County
3. Ditchley, Northumberland County
4. Enniscorthy, Albemarle County
5. Hurstville, Northumberland County
6. Onancock Historic District, Accomack County
7. Salem Post Office, Salem
8. Virginia Episcopal School, Lynchburg

**Contact:** Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## Virginia Historic Landmark Board

**April 22, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, Senate Room A, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A general business meeting to consider the listing of the following properties on the Virginia Landmark Register:

1. Blandford Cemetery, Petersburg
2. Center Theater, Norfolk
3. Country Cabin, Wise County
4. Crockett's Cove Presbyterian Church, Wythe County
5. Ditchley, Northumberland County
6. Enniscorthy, Albemarle County
7. Fairfax Elementary School Annex, City of Fairfax
8. Hughlett's Tavern, Northumberland County
9. Hurstville, Northumberland County
10. Norge Historic District, James City County
11. Onancock Historic District, Accomack County
12. Powhatan Rural Historic District, King George County
13. Salem Post Office, Salem
14. Tastee 29 Diner, City of Fairfax
15. Virginia Episcopal School, Lynchburg

**Contact:** Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**May 5, 1992 - 9 a.m. - Open Meeting**  
Hopewell Community Center, Second & City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

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.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**April 21, 1992 - 11 a.m. - Open Meeting**  
601 S. Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review, and if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (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 it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available 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.

## VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

**May 13, 1992 - 9 a.m. - Open Meeting**  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Virginia Interagency Coordinating Council according to PL 102-119, 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 Services as lead agency to develop and implement a statewide interagency early intervention program.

**Contact:** Michael Fehl, Director, MR Children/Youth

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Services, Virginia 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 Apprenticeship Council

† **April 21, 1992 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Street, House Room D, Richmond, Virginia. ☒

A meeting to review and discuss the special evaluation of the Dorey Electric Apprenticeship program.

**Contact:** Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

## LIBRARY BOARD

NOTE: CHANGE OF DATE

† **May 15, 1992 - 9:30 a.m.** – Open Meeting  
† **June 23, 1992 - 9:30 a.m.** – Open Meeting  
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

**Contact:** Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## STATE COUNCIL ON LOCAL DEBT

† **May 20, 1992 - 11 a.m.** – Open Meeting  
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting subject to cancellation unless there are action items requiring the Council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

**Contact:** Art Bowen, Senior Debt Analyst, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4929.

## LONGWOOD COLLEGE

### Finance Committee

† **April 22, 1992 - 2 p.m.** – Open Meeting

1313 East Main Street, Richmond, Virginia.

A meeting to conduct routine business of the finance committee.

## Board of Visitors

**April 27, 1992 - 9:30 a.m.** – Open Meeting  
Longwood College, Virginia Room, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business of the board.

**Contact:** William F. Dorrill, President, President's Office, 201 High Street, Longwood College, Farmville, VA 23909-1899, telephone (804) 395-2001.

## MARINE RESOURCES COMMISSION

**April 27, 1992 - 3 p.m.** – Public Hearing  
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided upon request)

The commission invites public comment on recommendations to restore the Virginia Oyster Industry. Management of public grounds and repletion strategies will be discussed. No decisions will be made at this meeting. For public input only.

**Contact:** Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088 or (804) 247-2292/TDD ☒

**April 28, 1992 - 9:30 a.m.** – Open Meeting  
† **May 26, 1992 - 9:30 a.m.** – Open Meeting  
† **June 23, 1992 - 9:30 a.m.** – Open Meeting  
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088 or (804) 247-2292/TDD ☎

Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

\* \* \* \* \*

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

May 8, 1992 - Written comments may be submitted until this date.

May 8, 1992 - 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 Inpatient Outlier Adjustments: VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates-Inpatient Hospital Care. These regulations propose the same outlier policy for hospital reimbursement as was contained in an earlier emergency regulation.

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 Community Mental Health/Mental Retardation Services: VR 460-03-3.1100, Narrative for the Amount, Duration and Scope of Services; VR 460-03-3.1102, Case Management Services; VR 460-03-3.1300, Standards Established and Methods Used to Assure High Quality Care; VR 460-02-4.1920, Methods and Standards for Establishing Payment Rates-Other Types of Care; and VR 460-04-8.1500, Community Mental Health and Mental Retardation Services: Amount, Duration and Scope of Services. This proposed regulation provides for local community mental health/mental retardation services delivered through the Community Services Boards.

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

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

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Wm. R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Ann Cook, Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

\* \* \* \* \*

May 8, 1992 - 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 Reimbursement Adjustment for Nonemergency ER Care. VR 460-02-4.1920. Methods and Standards Used for Establishing Payment Rates-Other Types of Care. These amendments promulgate permanent regulations to supersede emergency regulations which provide for the same policy.

May 8, 1992 - Written comments may be submitted until this date.

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

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. Pediatric and Obstetric Services Maximum Payments. This proposed regulation conforms the plan to federal requirements of OBRA '89 § 6402 and to the American Medical Association's new coding convention for procedure codes.

Written comments may be submitted until 4:30 p.m., May 8, 1992, to Mike Jurgenson, Policy and Planning Supervisor, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad

Written comments may be submitted until 4:30 p.m., May 8, 1992, to C. Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator,

# Calendar of Events

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Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

## BOARD OF MEDICINE

† **May 28, 1992 - 8 a.m.** – Open Meeting  
† **May 29, 1992 - 8 a.m.** – Open Meeting  
† **May 30, 1992 - 8 a.m.** – Open Meeting  
† **May 31, 1992 - 8 a.m.** – Open Meeting  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general business; (ii) receive committee and board reports; and (iii) discuss any other items which may come before the board. The board will also review reports, interview licensees, and make case decisions on disciplinary matters. The board will entertain brief public comments at the pleasure of the President.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

## Credentials Committee

† **June 20, 1992 - 8 a.m.** – Open Meeting  
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

## Informal Conference Committee

**April 24, 1992 - 9 a.m.** – Open Meeting  
Fort Magruder Inn, I-64 to Route 199 to Route 60, Williamsburg, Virginia. ☒

**April 28, 1992 - 9 a.m.** – Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☒

**April 30, 1992 - 9 a.m.** – Open Meeting  
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of

medicine and other healing arts in Virginia. The Committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☒

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

**April 22, 1992 - 10 a.m.** – Open Meeting  
Catawba Hospital, Catawba, Virginia. ☒

A regular monthly meeting. The agenda will be published on April 15 and may be obtained by calling Jane V. Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

† **May 27, 1992 - 10 a.m.** – Open Meeting  
Southside Community Service Board, South Boston, Virginia. ☒

A regular monthly meeting. The agenda will be published on May 20 and may be obtained by calling Jane V. Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

**Contact:** Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

\* \* \* \* \*

**June 5, 1992** – 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 State Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation and Residential Services.**

These regulations establish the standards which must be met by individuals and facilities providing therapeutic consultation and residential support services under the Mental Retardation Waiver.

Statutory Authority: §§ 37.1-10, 37.1-179 of the Code of Virginia, and Items 466.F.5 and 478.F.1 of the 1990 Appropriations Act.

Written comments may be submitted until June 5, 1992, to Ben Saunders, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229.

**Contact:** Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

## MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

**May 7, 1992 - 7 p.m. – Open Meeting**  
502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before it 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 South Main Street #4, Culpeper, VA 22701, telephone (703) 825-4562.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

**May 15, 1992 - 8 a.m. – Open Meeting**  
The Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. ☐

A regular meeting of the VMI Board of Visitors to (i) consider committee reports; (ii) approve awards, distinctions and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

## DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

† **June 19, 1992** – 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 Department of Minority Business Enterprise intends to adopt regulations entitled: **VR 486-01-02. Regulations to Govern the Certification of Minority Business Enterprises.** The proposed regulations will provide rules governing the certification of a business as a bonafide minority business enterprise.

### STATEMENT

**Basis and authority:** Section 2.1-64.35:8 of the Code of Virginia gives the Director of the Department of Minority Business Enterprise the authority to promulgate regulations in accordance with the Administrative Process Act to implement a certification program for minority business enterprises.

**Purpose:** The purpose of this proposed regulation is to develop rules governing the certification of a business as a bonafide minority business enterprise. These rules will provide certain safeguards for legitimate minority firms participating in minority business programs from misuse by nonminority firms.

**Substance:** The proposed regulations will provide a means for public and private sector organizations to verify the extent of ownership and control by minority individuals, assist those organizations in identifying "front" companies posing as minority businesses and outline a appeal process to ensure due process for businesses that have been denied certification.

**Issues:** There are no known issues contained in the proposed regulations.

**Impact:** Approximately 2,000 businesses are currently registered with the Department of Minority Business Enterprise (DMBE). Each of these firms is potentially affected by this regulation

A Notice of Intended Regulatory Action has been published in the Virginia Register requesting input from interested parties in the development of these regulations.

It is not expected that the regulation will result in any cost to DMBE to administer beyond that currently in the budget.

Statutory Authority: § 2.1-64.35:8 of the Code of Virginia.

Written comments may be submitted until June 19, 1992.

**Contact:** Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, 200-202 N. 9th Street, 11th Floor, Richmond, VA 23219, telephone (804) 786-5560 or

# Calendar of Events

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toll-free 1-800-223-0671.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Board of Trustees

**May 2, 1992 - 9 a.m. – Open Meeting**

Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. ☒

This meeting will include reports from the executive, finance, education & exhibits, marketing, personnel, planning/facilities, and research & collections committees. Public comment will be received following approval of the minutes of the January meeting.

**Contact:** Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950/857-6951 or (703) 666-8638/TDD ☎

## BOARD OF NURSING

### Special Conference Committee

**April 23, 1992 - 8:30 a.m. – Open Meeting**

**April 24, 1992 - 8:30 a.m. – Open Meeting**

Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A special conference committee, comprised of three members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing.

Public comment will be not be received.

**Contact:** Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

## BOARD OF NURSING HOME ADMINISTRATORS

† **June 4, 1992 - 8:30 a.m. – Open Meeting**

1601 Rolling Hills Drive, Richmond, Virginia. ☒

A board meeting and formal conferences.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

## BOARDS OF NURSING AND MEDICINE

### Special Committee to Develop Regulations

**April 28, 1992 - 12:30 p.m. – Open Meeting**

Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Committee of the Joint Boards of Nursing and Medicine will conduct business related to the regulation of nurse practitioners. The Special Committee of the two Boards appointed to assist with the development of regulations for prescriptive authority for nurse practitioners will review comments received on proposed regulations, develop responses and prepare recommendations for consideration by the Boards of Nursing and Medicine. While no further public comment on regulations will be received, other public comment may be presented at 1:30 p.m.

**Contact:** Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

## DEPARTMENT OF STATE POLICE

**May 8, 1992 – 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 Department of State Police intends to amend regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.** The proposed amendment permits colored or tinted vent visors to be installed on motor vehicles, provided they do not extend more than two inches from the forward door post into the driver's viewing area.

Statutory Authority: §§ 46.2-1002, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

**Contact:** Captain J. P. Henries, Safety Officer, P.O. Box C-32008, Richmond, VA 23261, telephone (804) 674-2017.

## BOARD OF PROFESSIONAL COUNSELORS

† **April 23, 1992 - 10 a.m. – Open Meeting**

† **April 24, 1992 - 9 a.m. – Open Meeting**

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Formal administrative hearings before the full board.

† **April 24, 1992 - 1 p.m. – Open Meeting**

Department of Health Professions, 1601 Rolling Hills Drive,

Richmond, Virginia.

A meeting to (i) conduct general board business, including responding to committee reports; (ii) respond to correspondence; and (iii) conduct regulatory review.

**Contact:** Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9912.

## BOARD OF PSYCHOLOGY

### Examination Committee

**May 11, 1992 - 9 a.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to discuss and prepare examinations. No public comment will be received.

**Contact:** Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

## REAL ESTATE APPRAISER BOARD

**April 23, 1992 - 10 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

**Contact:** Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

## INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

**May 15, 1992 - 8:30 a.m. - Open Meeting**  
**June 19, 1992 - 8:30 a.m. - Open Meeting**  
Office of the Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☐

A regular meeting 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, Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

## RICHMOND METROPOLITAN AUTHORITY

**April 21, 1992 - 12:30 p.m. - Open Meeting**  
The Federal Reserve Bank of Virginia, 23rd Floor, Richmond, Virginia. ☐ (Interpreter for deaf provided upon request)

A monthly Board of Directors meeting.

**Contact:** Janet Tuero-Lopez, Administrative Assistant, 701 Byrd Street, Richmond, VA 23219, telephone (804) 649-8494.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**† June 19, 1992 - 10 a.m. - Public Hearing**  
Blair Building, Conference Room C, 8007 Discovery Drive, 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 615-08-1. Virginia Energy Assistance Program.** The purpose of the Virginia Energy Assistance Program is to provide assistance to eligible households to offset the costs of home energy that are excessive in relation to household income and to respond to energy-related, weather-related, and supply shortage emergencies.

The amendments to the crisis assistance component will clarify that routine maintenance such as chimney cleaning and that supplemental heating equipment such as oil tanks and stands will be provided. The second amendment to the crisis assistance component will further clarify the intent to provide fuel to respond to the crisis situation of households who did not receive fuel assistance in the current program year.

## STATEMENT

**Basis:** Section 63.1-25 of the Code of Virginia provides the statutory basis for the promulgation of regulations relative to the Energy Assistance Program.

**Substance:** The amendments to the Program are:

In the Crisis Assistance Component:

1. Provide assistance for routine maintenance costs of heating equipment and the purchase of supplemental heating equipment such as oil storage tanks and stands.

The maximum amount of assistance provided will be the cost of the service provided. Maximum amount allowable is \$200.

2. Assistance will be provided to households who did

# Calendar of Events

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not receive assistance in the current program year from fuel assistance to purchase a supply of home heating fuel sufficient to respond to the immediate crisis situation when the household is out of fuel or to pay to prevent the disconnection of a primary utility source.

The maximum amount of assistance provided will be the amount of the disconnection notice or the cost of a 30-day supply. Maximum amount allowable is \$200.

**Estimated impact:** The amendments will affect all households statewide who apply for crisis assistance. There are no projected costs to the public, recipients, or vendors.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until June 19, 1992, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, VA.

**Contact:** Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

\* \* \* \* \*

**May 22, 1992** – 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 Social Services intends to repeal regulations entitled: **VR 615-32-01. Administrative Procedures for Child Development Associate Scholarship Program.** This regulation addresses eligibility requirements and procedures to be used in applying for scholarships awarded through the federal Child Development Associate Scholarship Program, and is being repealed to allow for promulgation of new regulations which will address the availability of additional federal and state funding streams and different eligibility requirements for scholarship recipients. This current regulation is outdated.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

**Contact:** Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

## BOARD OF SOCIAL WORK

† **May 8, 1992 - 1 p.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) respond to correspondence; and (iii) certify oral examinations. No public comment will be received.

† **May 20, 1992 - 10 a.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to discuss current regulations for regulatory changes. No public comment will be received.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9914.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

† **May 20, 1992 - 2 p.m.** – Open Meeting  
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

**Contact:** John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

† **May 21, 1992 - 10 a.m.** – Open Meeting  
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting 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 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

**June 11, 1992 - 9 a.m.** – Public Hearing  
Salem District Office, Harrison Avenue, North of Main Street and East of VA 311, Salem, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Bristol, Salem,

Lynchburg, and Staunton Districts, as well as public transit.

**June 18, 1992 - 9 a.m. - Public Hearing**  
Virginia Department of Transportation, Auditorium, 1221 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Richmond, Fredericksburg, Suffolk, Culpeper, and Northern Virginia Districts, as well as public transit.

**Contact:** Mr. Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

\* \* \* \* \*

**April 20, 1992 - 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 Commonwealth Transportation Board intends to amend regulations entitled: **VR 385-01-09. Public Participation Guidelines.** The Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia requires the Department of Transportation to establish guidelines under which input from the public can be gathered during the adoption of regulations subject to the Act. The amendments to the Public Participation Guidelines update references in the text which are no longer correct.

The amendments also change the requirement that a 60-day time period must elapse between notice of the public hearing and a public hearing. As proposed, the 60-day period would extend from the date of public notice to the last date given in the notice for submission of any written comment, which is the requirement of the Act itself. This change was made to reduce the amount of time before a regulation becomes effective, thereby streamlining the process.

Statutory Authority: §§ 33.1-12 and 9.6-14:1 et seq. of the Code of Virginia.

Written comments may be submitted until April 20, 1992, to Larry D. Jones, Management Services Division, Room 712, Highway Annex, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

**Contact:** David L. Roberts, Management Lead Analyst, Management Services Division, Room 712, Highway Annex, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-3620.

## TRANSPORTATION SAFETY BOARD

† **May 1, 1992 - 1:30 p.m. - Open Meeting**  
The Holiday Inn Koger Center South, 1021 Koger Center Boulevard, Parlor A, Richmond, Virginia.

A meeting to discuss various transportation safety topics.

**Contact:** William H. Leighty, Deputy Commissioner, Transportation Safety, DMV, 2300 West Broad Street, Richmond, VA 23219, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

## DEPARTMENT OF THE TREASURY (STATE TREASURER AND TREASURY BOARD)

† **May 20, 1992 - 9 a.m. - Open Meeting**  
James Monroe Building, 101 North 14th Street, 3rd floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

**Contact:** Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

\* \* \* \* \*

**May 8, 1992 - 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 State Treasurer intends to adopt regulations entitled: **VR 640-04-1. Regulations Governing Escheats.** The proposed regulations address the annual reporting requirements for local government treasurers and escheators and outline the escheator's responsibilities for the disclosures to be made at escheat auctions, the collection and remittance of sale proceeds, and the notifications to be made to defaulting purchasers. In addition, the regulations stipulate the required bonding for escheators, specify the commission basis for escheators and auctioneers as well as the reimbursable expenses of auctioneers, and outline department charges for requests for information under the Freedom of Information Act.

Statutory Authority: § 55-200.1 of the Code of Virginia.

Written comments may be submitted until May 8, 1992.

**Contact:** Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-3131.

# Calendar of Events

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## BOARD OF VETERINARY MEDICINE

† April 22, 1992 - 8 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Room 4, Richmond,  
Virginia. ☒ (Interpreter for deaf provided upon request)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, 1601  
Rolling Hills Drive, Richmond, VA 23229, telephone (804)  
662-9915.

## VIRGINIA RACING COMMISSION

† March 20, 1992 - 9:30 a.m. - Open Meeting  
VSRS Building, 1200 East Main Street, Richmond, Virginia.  
☒

A regular meeting including discussion of proposed  
regulations pertaining to medication. There will be an  
opportunity for public participation.

Contact: William H. Anderson, Policy Analyst, Virginia  
Racing Commission, P.O. Box 1123, Richmond, VA 23208,  
telephone (804) 371-7363.

## VIRGINIA RESOURCES AUTHORITY

May 12, 1992 - 9 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 its  
previous meeting; (ii) review the Authority's operations  
for the prior months; and (iii) consider other matters  
and take other actions as it may deem appropriate.  
The planned agenda of the meeting will be available  
at the offices of the Authority one week prior to the  
date of the meeting.

Public comments will be received at the beginning of  
the meeting.

Contact: Mr. Shockley D. Gardner, Jr., 909 East Main  
Street, Suite 707, Mutual Building, Richmond, VA 23219,  
telephone (804) 644-3100 or FAX number (804) 644-3109.

## VIRGINIA VETERANS CARE CENTER

### Board of Trustees

† May 7, 1992 - 9:30 a.m. - Open Meeting  
State Capitol Building, House Room 1, Richmond, Virginia.  
☒

A regular meeting to continue discussion of agenda  
and programs for the Virginia Veterans Care Center.  
BL2★ Contact: Arlene Smith, Cabinet Support

Secretary, 633 Ninth Street Office Building, 200 N.  
Ninth Street, P.O. Box 1475, Richmond, VA 23212,  
telephone (804) 786-1201.

## VIRGINIA VOLUNTARY FORMULARY BOARD

May 7, 1992 - 10:30 a.m. - Open Meeting  
1100 Bank Street, Washington Building, 2nd Floor Board  
Room, Richmond, Virginia.

A meeting to consider public hearing comments and  
review new product data for products pertaining to  
the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of  
Pharmacy Services, 109 Governor Street, Room B1-9,  
Richmond, VA 23219, telephone (804) 786-4326.

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† May 6, 1992 - 8:30 a.m. - Open Meeting  
Comfort Inn of Lynchburg, Route 29, Lynchburg, Virginia.

8:30 a.m. - Orientation meeting for site visits.  
9:30 a.m. - Site visits to vocational education training  
sites in the area.  
1 p.m. - General session.  
2:30 p.m. - Committee meetings.

† May 7, 1992 - 8:30 a.m. - Open Meeting  
Comfort Inn of Lynchburg, Route 29, Lynchburg, Virginia.

Business session.

Contact: George S. Orr, Jr., Executive Director, Virginia  
Council on Vocational Education, 7420-A Whitepine Road,  
Richmond, VA 23237, telephone (804) 275-6218.

## DEPARTMENT OF WASTE MANAGEMENT

April 22, 1992 - 7 p.m. - Public Hearing  
Pepper's Ferry Conference Room, Route 1200 off Route  
114, Radford, Virginia.

Pursuant to the requirements of Part VII of the  
Virginia Solid Waste Management Regulations  
(Permitting of Solid Waste Management Facilities), the  
Department of Waste Management will hold a public  
hearing on the draft permit proposed by New River  
Resource Authority concerning the New River  
Resource Authority Yard Waste Composting Facility.

The public comment period will extend until May 4,  
1992. A copy of the proposed draft permit  
amendments may be obtained from Russell McAvoy  
Jr., Department of Waste Management, Sixth Floor,  
Monroe Building, 101 North 14th Street, Richmond, VA  
23219.

**Contact:** Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0515 or (804) 371-8737/TDD ☎

**April 27, 1992 - 7 p.m. – Public Hearing**  
Ivor Town Hall, Bell Avenue, Ivor, Virginia.

Pursuant to the requirements of Part VII, Permitting of Solid Waste Management Facilities, of the Virginia Solid Waste Management Regulations, the Department of Waste Management will hold a public hearing on the draft permit proposed by Southeastern Public Service Authority for a Transfer Station which shall be located in Southampton County.

The draft permit public comment period will extend until May 7, 1992. A copy of the proposed draft permit may be obtained from Debra Miller, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219.

**Contact:** Debra A. Miller, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-6983 or (804) 371-8737/TDD ☎

† **May 20, 1992 - 2 p.m. – Open Meeting**  
State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 672-01-1, Public Participation Procedures for Formation and Promulgation of Regulations, and adopting VR 672-01-1:1, Public Participation Guidelines.

**Contact:** Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-2966.

† **May 21, 1992 - 7 p.m. – Public Hearing**  
Amelia County High School Commons, Route 614, Amelia, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the Department of Waste Management will hold a public hearing on the proposed draft permit for a Sanitary Landfill to be located along State Route 360 approximately five miles west of the Township of Amelia. The permit was drafted by the Department of Waste Management for Chambers Waste Systems of Virginia, Inc., in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments concerning the technical merits of the permit as they pertain to the landfill design,

operation and closure.

The public comment period will extend until June 1, 1992. Comments concerning the draft permit must be in writing and addressed to Hassan Vakili, Permits Program Supervisor, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. Copies of the draft permit will be available for review in the Amelia County Administrator's Office, Room 106, Beopple Building, and the James L. Hamner Public Library during normal business hours. Copies of the draft permit may also be obtained by writing to Brian McReynolds of the Department of Waste Management at the following address.

**Contact:** Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-2520.

## STATE WATER CONTROL BOARD

† **May 20, 1992 - 2 p.m. – Open Meeting**  
State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 680-41-01, Public Participation Guidelines, and adopting VR 680-14-01:1, Public Participation Guidelines.

**Contact:** Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5158.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **June 25, 1992 - 10 a.m. – Public Hearing**  
Virginia 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 Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulation will adjust the fee structure of the board and bring the fee structure of the board in line with costs to cover the preparation of the examinations by an outside examination vendor.

## STATEMENT

Basis, purpose, summary and impact: Pursuant to §§ 54.1-113 and 54.1-201 of the Code of Virginia, the Board

# Calendar of Events

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for Waterworks and Wastewater Works Operators proposes to amend its regulations to adjust fees for original and reexamination applications. These regulations apply to approximately 4,500 licensed waterworks and wastewater works operators in Virginia.

The purpose of the proposed amendments is to adjust original and reexamination fees to assure that the variance between revenues and expenditures for the board does not exceed 10% in any biennium as required by § 54.1-113 of the Code.

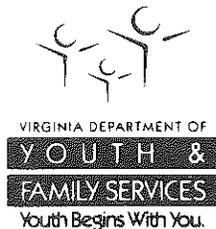
1. Proposed § 1.4 1 a will increase the fee for original applications from \$65 to \$95. The increase is a nominal \$30 and the impact on each regulant is minimal.

2. Proposed § 1.4 2 will increase the fee for reexamination from \$45 to \$65. The increase is a nominal \$20 and the impact on each regulant is minimal.

Statutory Authority: §§ 54.1-113, 54.1-201, 54.1-202, and 54.1-2301 B of the Code of Virginia.

Written comments may be submitted until June 22, 1992.

**Contact:** Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad Street, Richmond, Virginia 23230-4917, telephone (804) 367-8534.



## BOARD OF YOUTH AND FAMILY SERVICES

**May 22, 1992** – Written comments may be submitted until this date.

Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, 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 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Construction.** The proposed regulation establishes Board of Youth and Family Services Standards for reimbursement of local juvenile residential facility construction costs.

Statutory Authority: §§ 16.1-313, 16.1-322.5 through 16.1-322.7 and 66-10 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

\* \* \* \* \*

**May 13, 1992 - 4 p.m.** – Public Hearing  
Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, 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 690-10-001. Regulations Governing the Certification Process.** This proposed regulation establishes the board's procedures for the review and certification of facilities and programs which are under the regulatory authority of the board. It is a revision and update of similar standards issued by the Board of Corrections as VR 230-01-003.

Statutory Authority: §§ 16.1-233, 16.1-234, 16.1-311, 16.1-312 and 66-10 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

**May 14, 1992 - 10 a.m.** – Open Meeting  
Site to be announced. Richmond, Virginia.

A general business meeting.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208-1108, telephone (804) 371-0692.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### April 20

- Chesapeake Bay Local Assistance Board
  - Central Area Review Committee
- † Health Professions, Department of Medicine, Board of
  - Informal Conference Committee

#### April 21

- Accountancy, Board for
- † Agriculture and Consumer Services, Department of
  - Virginia Dark-fired Tobacco Board
- † Child Day Care and Early Childhood Programs, Council on
- Dentistry, Board of
- Education, Board of
- † Health Professions, Department of

# Calendar of Events

- Executive/Legislative Committee
- Historic Resources, Department of
- State Review Board
- Housing Development Authority, Virginia
- † Labor and Industry, Department of
- Apprenticeship Council
- Richmond Metropolitan Authority

## April 22

- Accountancy, Board for
- Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group
- Education, Board of
- Emergency Planning Committee, Local - Gloucester
- Historic Resources, Department of
- Virginia Historic Landmarks Board
- † Longwood College
- Finance Committee
- Mental Health, Mental Retardation and Substance Abuse Services Board, State
- † Veterinary Medicine, Board of

## April 23

- † Audiology and Speech Pathology, Board of
- † Compensation Board
- Education, Board of
- Environment, Council on the
- Fire Services Board, Virginia
- Fire/EMS Training and Education Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
- Nursing, Board of
- Special Conference Committee
- Real Estate Appraiser Board

## April 24

- Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Interior Designers
- † Conservation and Recreation, Department of
- Catoctin Creek Scenic Advisory Board
- Fire Services Board, Virginia
- Medicine, Board of
- Informal Conference Committee
- Nursing, Board of
- Special Conference Committee
- † Professional Counselors, Board of

## April 25

- Dentistry, Board of

## April 27

- † Alcoholic Beverage Control Board
- Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Longwood College
- Board of Visitors

## April 28

- † Arts, Commission for the

- † Aviation Board, Virginia
- † Conservation and Recreation, Department of
- Upper James Scenic River Advisory Board
- † Hazardous Materials Training Committee
- Health Services Cost Review Council, Virginia
- Marine Resources Commission
- Medicine, Board of
- Informal Conference Committee
- Nursing and Medicine, Boards of
- Special Committee to Develop Regulations

## April 30

- Medicine, Board of
- Informal Conference Committee

## May 1

- † Transportation Safety Board

## May 2

- Museum of Natural History, Virginia
- Board of Trustees

## May 4

- Commerce, Board of

## May 5

- † Chesapeake Bay Local Assistance Board
- Funeral Directors and Embalmers, Board of
- Hopewell Industrial Safety Council

## May 6

- Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
- Dentistry, Board of
- † Emergency Planning Committee, Local - Winchester
- Funeral Directors and Embalmers, Board of
- † Vocational Education, Virginia Council on

## May 7

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers
- † Chesapeake Bay Commission
- Emergency Planning Committee, Local - Chesterfield County
- Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board.
- † Virginia Veterans Care Center
- Board of Trustees
- † Vocational Education, Virginia Council on
- Voluntary Formulary Board, Virginia

## May 8

- Aging, Department for the
- Long-Term Care Council
- † Air Pollution Control Board, State
- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Landscape Architects
- † Chesapeake Bay Commission
- † Social Work, Board of

# Calendar of Events

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- May 9**  
Dentistry, Board of
- May 11**  
† Alcoholic Beverage Control Board  
† ASAP Policy Board - Valley  
Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
Psychology, Board of  
- Examination Committee
- May 12**  
Virginia Resources Authority
- May 13**  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
Corrections, Board of  
Interagency Coordinating Council on Early  
Intervention, Virginia
- May 14**  
Corrections, Board of  
- Liaison Committee  
† Emergency Planning Committee, Local - Fairfax  
County, the City of Fairfax and the Towns of Herndon  
and Vienna.  
Game and Inland Fisheries, Board of  
Youth and Family Services, Board of
- May 15**  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Game and Inland Fisheries, Board of  
Interdepartmental Regulation of Residential Facilities  
for Children  
- Coordinating Committee  
† Library Board  
Military Institute, Virginia  
- Board of Visitors
- May 16**  
Game and Inland Fisheries, Board of
- May 18**  
Agricultural Council, Virginia  
† Health Services Cost Review Council, Virginia
- May 19**  
Agricultural Council, Virginia
- May 20**  
† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
- Board for Land Surveyors (Executive Meeting)  
Chesapeake Bay Local Assistance Board  
- Regulatory Review Committee and Program Study  
Group  
† Forestry and Reforestation Board  
† Local Debt, State Council on  
† Social Work, Board of
- † Transportation Board, Commonwealth  
† Treasury Board  
† Virginia Racing Commission  
† Waste Management, Department of  
† Water Control Board, State
- May 21**  
† Agriculture and Consumer Services, Department of  
- Virginia Farmers' Market Board  
† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
† Transportation Board, Commonwealth
- May 22**  
† Conservation and Recreation, Department of  
- Virginia Soil and Water Conservation Board
- May 26**  
† Marine Resources Commission
- May 27**  
† Alcoholic Beverage Control Board  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
† Historic Resources, Board of  
† Mental Health, Mental Retardation and Substance  
Abuse Services Board, State
- May 28**  
† Compensation Board  
† Medicine, Board of
- June 3**  
Chesapeake Bay Local Assistance Board  
- Southern Area Review Committee
- June 4**  
Emergency Planning Committee, Local - Chesterfield  
County  
† Geology, Board for  
† Nursing Home Administrators, Board of
- June 5**  
† Geology, Board for
- June 8**  
† Alcoholic Beverage Control Board  
Chesapeake Bay Local Assistance Board  
- Central Area Review Committee
- June 10**  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee
- June 17**  
Chesapeake Bay Local Assistance Board  
- Regulatory Review Committee and Program Study  
Group
- June 19**  
Interdepartmental Regulation of Residential Facilities

for Children  
- Coordinating Committee

**June 20**

Dentistry, Board of  
† Medicine, Board of  
- Credentials Committee

**June 22**

† Alcoholic Beverage Control Board  
Chesapeake Bay Local Assistance Board  
- Central Area Review Committee

**June 23**

Library Board  
† Marine Resources Commission

**June 24**

Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee

**June 25**

† Compensation Board

**June 11**

Transportation, Department of

**June 18**

Transportation, Department of

**June 19**

† Social Services, Department of

**June 25**

† Waterworks and Wastewater Works Operators, Board  
for

## PUBLIC HEARINGS

**April 22**

Waste Management, Department of

**April 27**

Marine Resources Commission  
Waste Management, Department of

**April 28**

† Aviation, Department of

**May 11**

† Cosmetology, Board for

**May 13**

Youth and Family Services, Board of

**May 18**

Health, Department of

**May 19**

Education Assistance Authority, State  
Health, Department of

**May 20**

Health, Department of

**May 21**

Health, Department of  
† Waste Management, Department of

**May 27**

Health, Department of

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