

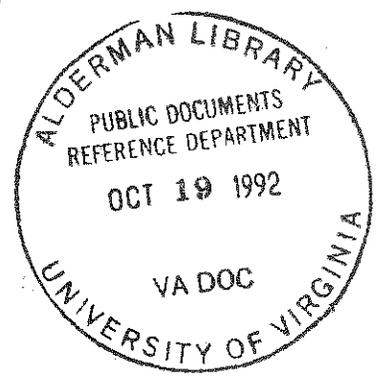
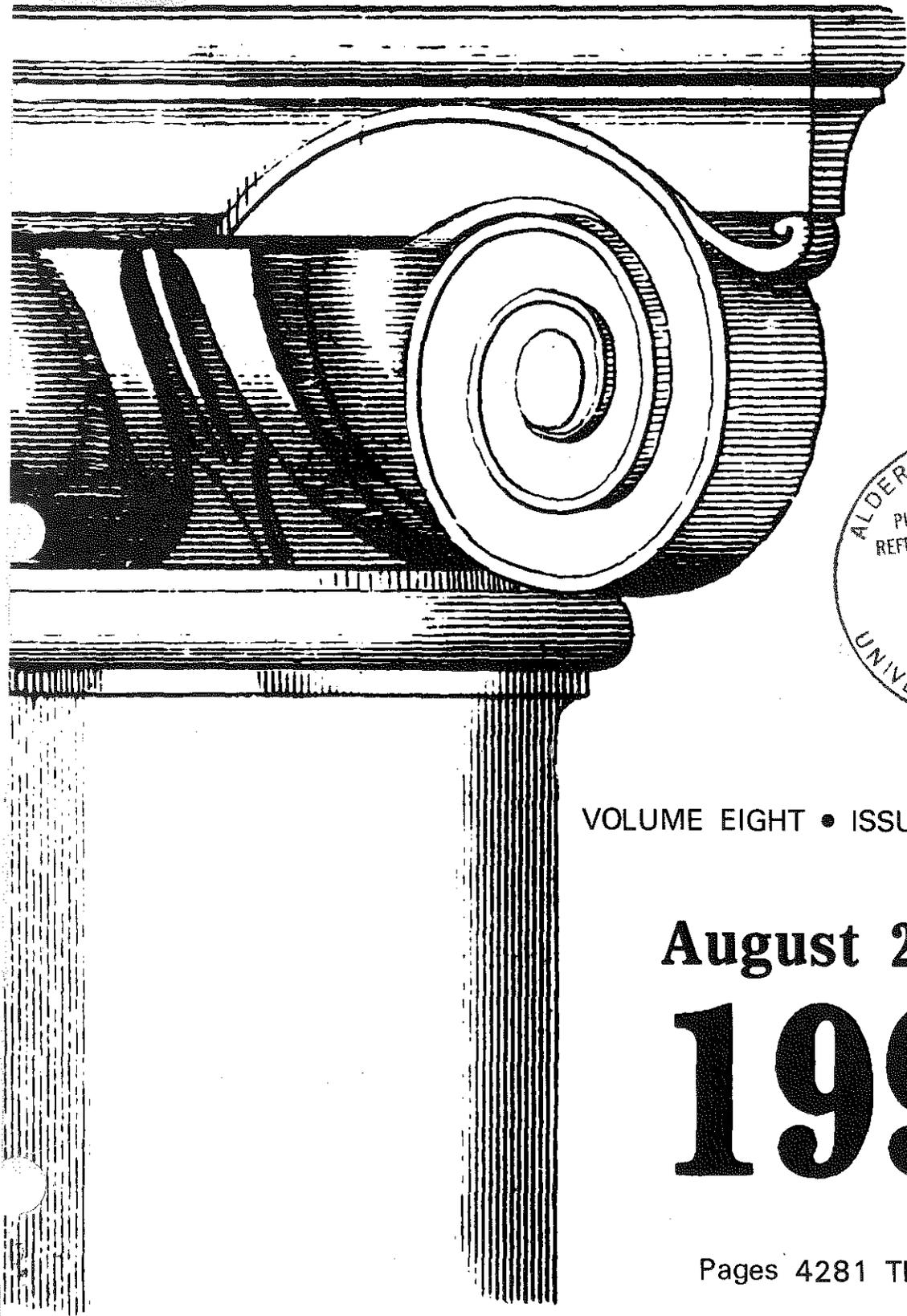
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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME EIGHT • ISSUE TWENTY-FOUR

August 24, 1992

1992

Pages 4281 Through 4498

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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Volume 8 - 1992

June 24	July 13
July 8	July 27
July 22	Aug. 10
Aug. 5	Aug. 24
Aug. 19	Sept. 7
Sept. 2	Sept. 21
Final Index - Volume 8	

Volume 9 - 1992-93

Sept. 16	Oct. 5
Sept. 30	Oct. 19
Oct. 14	Nov. 2
Oct. 28	Nov. 16
Nov. 11	Nov. 30
Nov. 25	Dec. 14
Dec. 9	Dec. 28
Index 1 - Volume 9	

Dec. 23	Jan. 11, 1993
Jan. 6	Jan. 25
Jan. 20	Feb. 8
Feb. 3	Feb. 22
Feb. 17	Mar. 8
Mar. 3	Mar. 22
Mar. 17	Apr. 5
Index 2 - Volume 9	

Mar. 31	Apr. 19
Apr. 14	May 3
Apr. 28	May 17
May 12	May 31
May 26	June 14
June 9	June 28
Index 3 - Volume 9	

Jun. 23	July 12
July 7	July 26
July 21	Aug. 9
Aug. 4	Aug. 23
Aug. 18	Sept. 6
Sept. 1	Sept. 20
Final Index - Volume 9	

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 4281

PROPOSED REGULATIONS

ALCOHOLIC BEVERAGE CONTROL BOARD

Advertising. (VR 125-01-2) 4294

Tied House. (VR 125-01-3) 4300

Requirements for Product Approval. (VR 125-01-4) .. 4305

Retail Operations. (VR 125-01-5) 4307

Other Provisions. (VR 125-01-7) 4318

DEPARTMENT OF HEALTH (STATE BOARD OF)

Waterworks Regulations - Surface Water Treatment and Total Coliform. (VR 355-18-000) 4326

Waterworks Operation Fee. (VR 355-18-014) 4327

BOARD OF PHARMACY

Virginia Board of Pharmacy Regulations. (VR 530-01-1) 4329

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation. (VR 615-01-49) 4351

FINAL REGULATIONS

STATE EDUCATION ASSISTANCE AUTHORITY

Regulations Governing the Edvantage Loan Program. (VR 275-02-1) 4355

BOARD OF NURSING HOME ADMINISTRATORS

Regulations of the Board of Nursing Home Administrators. (VR 500-01-2:1) 4363

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Interim Settlement/Prospective Rate Time Frames.

Nursing Home Payment System (PIRS). (VR 460-03-4.1940:1) 4374

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record. (VR 615-43-4) 4376

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Legislation Enacted by the 1992 Session of the General Assembly of Virginia. (1992-12) 4380

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDERS

Virginia's Twenty-Eighth Instant Game Lottery; "Money Tree," Final Rules for Game Operation. (1992-18) 4387

"Money Tree"; Promotional Game and Drawing Rules. (1992-19) 4387

Certain Director's Orders Rescinded. (1992-20) 4387

FINAL REGULATIONS

Administration Regulations. (VR 447-01-2) 4387

Instant Game Regulations. (VR 447-02-1) 4410

On-Line Game Regulations. (VR 447-02-2) 4423

GOVERNOR

GOVERNOR'S COMMENTS

STATE EDUCATION ASSISTANCE AUTHORITY

Regulations Governing the Edvantage Loan Program. (VR 275-02-1) 4443

Table of Contents

LEGISLATIVE

SB 506: Essential Services Panel.	4444
HJR 173: Joint Subcommittee Studying Virginia's Statutes of Limitations and the Rules for Accrual in Civil Actions.	4446
HJR 107: Blue Ridge Economic Development Commission.	4447
SB 500: Commission on Equity in Public Education.	4449
SJR 505: Joint Subcommittee to Study Land Transfers in the Shenandoah National Park.	4450
HJR 97: Joint Subcommittee Studying the Needs of Foreign-Born Individuals in the Commonwealth.	4451
HJR 71: A.L. Philpott Southside Economic Development Commission.	4454

GENERAL NOTICES/ERRATA

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

Regulations for the Approval of Field Tests for Detection of Drugs. (VR 330-05-01)	4456
--	------

DEPARTMENT OF HEALTH (STATE BOARD OF)

Board of Health/Waterworks Operation Fee General Notice for Requesting Additional Comment on Alternative Proposals for Developing a Fee Regulation.	4458
--	------

SJR 141 Study of Physician Ownership and Financial Interest in Health Care Facilities Request for Public Participation.	4458
--	------

Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1993.	4458
---	------

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Proposal to Amend Existing Air Contaminant Standards.	4459
--	------

Notice of Informal Public Hearings Concerning Proposal to Modify the Existing Provisions for Controlling Employee Exposure to Methylene Chloride.	4460
--	------

NOTICE TO STATE AGENCIES

Notice of change of address.	4460
Forms for filing material on dates for publication. ..	4461

ERRATA

DEPARTMENT OF HEALTH (BOARD OF)

Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children. (VR 355-28-300)	4461
--	------

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	4462
---	------

LEGISLATIVE

Open Meetings and Public Hearings	4492
---	------

CHRONOLOGICAL LIST

Open Meetings	4495
Public Hearings	4498

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-06-02. Rules and Regulations Pertaining to the Operation of Health Spas.** The purpose of the proposed action is to adopt regulations to implement the Virginia Health Spa Act.

Any person who would like to receive a copy of the proposed regulation, once it is developed, should contact J. Michael Wright.

Statutory Authority: § 59.1-308.2(E) of the Code of Virginia.

Written comments may be submitted until September 14, 1992.

Contact: J. Michael Wright, Supervisor, Office of Registrations, Virginia Department of Agriculture and Consumer Services, Division of Consumer Affairs, P.O. Box 1163, Richmond, VA 23209, telephone (804) 225-3924.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **VR 240-01-05. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The purpose of the proposed action is to amend and revise the Rules Relating to Compulsory Minimum Training Standards for Dispatchers.

Statutory Authority: § 9-170(8) of the Code of Virginia.

Written comments may be submitted until September 10, 1992, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

DEPARTMENT OF EDUCATION (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **VR 270-01-0002. Regulations Governing the Educational Program for Gifted Students.** The purpose of the proposed action is to amend the Regulations Governing the Educational Program for Gifted Students so as to reflect the defined mission of the Department of Education and the current research and literature relative to identification and programming for gifted students.

Statutory Authority: § 22.1-253:13.1 of the Code of Virginia.

Written comments may be submitted until September 24, 1992.

Contact: Ms. Valerie Barrett, Associate Specialist-Gifted Programs, Department of Education, P.O. Box 6-Q, 20th Floor, Richmond, VA 23216, telephone (804) 225-2652.

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES (BOARDS OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the Boards of Education; Mental Health, Mental Retardation and Substances Abuse Services; Social Services; and Youth and Family Services intend to consider amending regulations entitled: **VR 270-01-003; VR 470-02-01; VR 615-29-02; VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** The purpose of the proposed action is to amend the standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to amend those sections of the standards where dissonance exists between the standards and Virginia statutory law as a result of legislation enacted by the General Assembly.

Only those section of the standards which address (i) the duration and types of licenses/certificates and (ii) participation of residents as subjects in human research will be considered for amendment.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 10, 1992.

Contact: Rhonda M. Harrell, Assistant Coordinator, Office of the Corrdinator, Interdepartmental Regulation of Children's Residential Facilities, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF GENERAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of General Services intends to consider promulgating regulations entitled: **Aggressive Air Sampling Standards** to be utilized in final clearance inspections for asbestos projects in local education agencies and public colleges and universities in the Commonwealth of Virginia.

Statutory Authority: § 2.1-526.14:1 of the Code of Virginia.

Written comments may be submitted until September 23, 1992.

Contact: Henry G. Shirley, Director, Bureau of Capital Outlay Management, 805 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 786-3581.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-40-400. Regulations Governing the Virginia Medical Scholarship Program.** The purpose of the proposed action is to amend the regulation governing the Virginia Medical Scholarship Program in order to make scholarship funds available for three medical students from Southwest Virginia attending the James H. Quillan College of Medicine at East Tennessee State University during the forthcoming academic year.

The amendments identify the cities and counties of Southwest Virginia. Residents of Southwest Virginia that attend James H. Quillan College of Medicine at East Tennessee State University are eligible to receive three scholarships of those funded by the 1992 General Assembly. These regulations amend the regulations governing the Virginia Medical Scholarship Program which were adopted and became effective July 3, 1991.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Written comments may be submitted until August 28, 1992.

Contact: E. George Stone, Director, Virginia Medical

Scholarship Program, Virginia Department of Health, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-40-600. Regulations for the Conduct of Human Research.** The purpose of the proposed action is to establish regulations governing the conduct of research on human subjects by the Virginia Department of Health or any facilities or other entities operated, funded, or licensed by the Department.

Statutory Authority: § 32.1-12.1 of the Code of Virginia

Written comments may be submitted until September 25, 1992.

Contact: Rosanne Kolesar, Health Programs Analyst, Virginia Department of Health, Room 104 B, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-5214.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-01. College Scholarship Assistance Program Regulations.** The purpose of this action is to permit the State Council of Higher Education to promulgate new regulations governing the College Scholarship Assistance Program.

Statutory Authority: §§ 23-38.45 through 23-38.52 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-01:1. College Scholarship Assistance Program Regulations.** The purpose of this action is to establish policies and procedures for administering the College Scholarship Assistance Program.

Statutory Authority: §§ 23-38.45 through 23-38.52 of the

Notices of Intended Regulatory Action

Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-02. Virginia Work-Study Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Virginia Work-Study Program.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-02:1. Virginia Work-Study Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Virginia Work-Study Program.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-03. Virginia Scholars Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Virginia Scholars Program.

Statutory Authority: §§ 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-03:1. Virginia Scholars Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Virginia Scholars Program.

Statutory Authority: §§ 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-04. Tuition Assistance Grant Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Tuition Assistance Grant Program.

Statutory Authority: §§ 23-38.11 through 23-38.18 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-04:1. Tuition Assistance Grant Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Tuition Assistance Grant Program

Notices of Intended Regulatory Action

Statutory Authority: §§ 23-38.11 through 23-38.18 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-05. Virginia Guaranteed Assistance Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Guaranteed Assistance Program.

Statutory Authority: §§ 22.1-212.3, 22.1-212.4 and 23-38.53:4 through 23-38.53:7 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

Contact: Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider amending regulations entitled: **VR 425-02-11. Virginia Occupational Safety and Health Administrative Regulations Manual.** The purpose of the proposed action is to update the Virginia Occupational Safety and Health Administrative Regulations Manual to reflect legislative and administrative changes to the Virginia Occupational Safety and Health (VOSH) program.

Statutory Authority: § 40.1-6 of the Code of Virginia.

Written comments may be submitted until September 11, 1992.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, 13 S. Thirteenth St., Richmond, VA 23219, telephone (804) 786-2384.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Medicaid Drug Prior Authorization Program.** The purpose of the proposed action is to require that selected high cost drugs, including high cost anti-ulcer and non-steroidal anti-inflammatory drugs, be preauthorized for use by the Medicaid program in order for payment by Medicaid to be made.

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

Written comments may be submitted until September 7, 1992.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

DEPARTMENT OF SOCIAL 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 Social Services intends to consider amending regulations entitled: **VR 615-43-8. Agency Placement Adoption - Subsidy.** The purpose of the proposed action is to revise policy governing the individual circumstances that make a child eligible for subsidy and to clarify policy related to reasonable efforts to first place without subsidy.

Statutory Authority: § 63.1-238.5 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Brenda Kerr, 8007 Discovery Dr., Richmond, VA 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

† 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: **General Relief Program: Deeming Income from Alien Sponsors.** The purpose of the proposed regulation is to revise the policy in the General Relief Program to require that in determining eligibility for assistance for a sponsored alien, the income and resources of the alien's sponsor be considered as available to the alien for three years after the alien's entry into the United States.

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

Written comments may be submitted until September 23, 1992, to Diana Salvatore, Program Manager, Medical

Notices of Intended Regulatory Action

Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-0899, telephone (804) 662-9217.

† 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: **Food Stamp Program - Income Conversion Method.** The regulations are to implement federal regulations at 7 CFR 273.10(c)(2)(i) to select one method of calculating income for all cases when a full month's income is expected.

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

Written comments may be submitted until September 23, 1992.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

Notice is hereby given that the Department of State Police intends to consider promulgating regulations entitled: **Public Participation Policy.** The purpose of the proposed action is to establish guidelines for public participation in agency regulatory action.

Statutory Authority: §§ 9-6.14:7.1, 46.2-1165, 52.8-4, and 54.1-4009 of the Code of Virginia.

Written comments may be submitted until September 23, 1992.

Contact: Captain J.P. Henries, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

DEPARTMENT OF TAXATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-3-414. Sales Factor and VR 630-3-419. Construction corporation; apportionment.** The purpose of the proposed action is to clarify the sales apportionment treatment of installment sales and update the regulation to incorporate

changes under federal law relating to accounting methods for construction corporations.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until September 23, 1992.

Contact: Michael S. Melson, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-0033.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-3-446.2. Intercorporate Transactions.** The purpose of the proposed action is to set forth the instances in which the Department of Taxation may invoke the authority to make equitable adjustments under Virginia Code § 58.1-446.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until September 23, 1992.

Contact: Alvin H. Carpenter, Tax Policy Analyst, Department of Taxation, Office of Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-0963.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-10-9.1. Virginia Retail Sales and Use Tax Regulation: Audit Sampling.** The purpose of the proposed action is to establish criteria and guidelines for the use of sampling as an audit technique.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until September 1, 1992.

Contact: W. Bland Sutton, III, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-6358.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-10-73. Newspapers, magazines, periodicals and other publications.** The purpose of the proposed action is to clarify what constitutes taxable/exempt publications for purposes of the retail sales and use tax.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 24, 1992.

Contact: Terry M. Barrett, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-0964.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-10-74. Nonprofit Organizations.** The purpose of the proposed action is to clarify application of retail sales and use tax to purchases and sales by a nonprofit organization.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until September 24, 1992.

Contact: Lonnie T. Lewis, Jr., Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-0962.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-10-80. Penalties and Interest.** The purpose of the proposed action is to clarify application penalties and interest regarding the retail sales and use tax.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until September 24, 1992.

Contact: Valerie H. Marks, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-0964.

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Satellite Wagering Facilities.** The purpose of the proposed action is to establish conditions under which simulcast horse racing shall be conducted at satellite wagering facilities.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until September 28, 1992.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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 amending regulations entitled: **VR 672-40-01. Infectious Waste Management Regulations.** The purpose of the proposed action is to (i) amend the regulations to correct errors; (ii) improve and update existing exemptions, standards and procedures; (iii) add methods for the review of alternate technologies and tracking waste shipments; and (iv) consider mail shipments, reusable container management and other issues. The department may form an advisory panel to help it consider these amendments. Persons or organizations interested in being a member of the panel, please notify the department.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to the Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, ATTN: Infectious Waste Regulations. 5

Contact: Robert G. Wickline, Director of Research, Office of Science Services, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2321.

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 promulgating regulations entitled: **VR 680-01-01. Fees for Permits and Certificates.** The purpose of the proposed action is to adopt a regulation which establishes, in regulation, a schedule of fees based on the time and complexity associated with processing various categories of permits within the maximum amounts specified in § 62.1-44.15:6 and specifies the method to be used to collect such fees.

All entities which apply for new permits or certificates, apply for reissuance of permits or certificates, or have permits modified at their request or by an action initiated by the Board will be subject fees in amounts not to exceed maximums specified in Chapter 621 of the 1992 Acts of the General Assembly. Specifically, these maximum amounts for the issuance or reissuance of a permit or

Notices of Intended Regulatory Action

certificate, or the modification of a permit or certificate at the request of the permit or certificate holder are as follows:

ISSUANCE/REISSUANCE

Type of Permit/Certificate Category ... Maximum Amount

1. Virginia Pollutant Discharge Elimination System	
Major	\$8,000
Minor	\$3,500
General	\$ 400
2. Virginia Pollutant Abatement	
Agriculture/Concentrated	\$1,000
Agriculture/Intensified	\$ 500
Industrial/Wastewater	\$5,000
Industrial/Sludge	\$2,500
Municipal/Wastewater	\$5,000
Municipal/Sludge	\$2,500
Other	\$ 250
3. 401 Certification/Virginia Water Protection	
Individual	\$3,000
General	\$ 400
Waiver	\$ 400
4. Ground Water Withdrawal	
Agricultural Withdrawals	
Agricultural withdrawals not exceeding 150 million gallons in any single month	\$ 250
Agricultural withdrawals greater than 150 million gallons but less than 300 million gallons in any single month	\$ 400
Agricultural withdrawals of 300 million gallons or greater in any single month	\$ 600
All Other Withdrawals	\$2,000
5. Surface Water Withdrawal	
Agricultural Withdrawals	
Agricultural withdrawals not exceeding 150 million gallons in any single month	\$ 250
Agricultural withdrawals greater than 150 million gallons but less than 300 million gallons in any single month	\$ 400
Agricultural withdrawals of 300 million gallons or greater in any single month	\$ 600
All Other Withdrawals	\$4,000

The maximum fees for modification of a permit or certificate initiated by the board shall not exceed 75% of the maximum amount for issuance or reissuance of a permit or certificate, or modification of a permit or certificate at the request of the permit or certificate holder.

Payments to the Department of Game and Inland Fisheries and the Department of Conservation and Recreation for reviewing any permit application they are required to review pursuant to requirements of the Code of Virginia will be made from the maximum fee amounts specified above. These payments will be up to 25% of the total fee, but not more than \$100.

All issues related to implementation of Chapter 621 of the 1992 Acts of the General Assembly will be considered. Of particular interest are proposals related to fees for modifications of permits and certificates and options for the collection of fees.

The board will hold public meetings regarding the Fees for Permits and Certificates regulation. See Calendar of Events Section.

Applicable laws and regulations include Chapter 621 of the 1992 Acts of the General Assembly, 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: § 62-44.15:6 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5166.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the State Water Control Board intends to repeal regulations entitled: **VR 680-13-01. Rules of the Board and Standards for Water Wells.** The purpose of the proposed action is to repeal VR 680-13-01 Rules of the Board and Standards for Water Wells and promulgate VR 680-13-07 Ground Water Withdrawal Regulations pursuant to the Ground Water Management Act of 1992 (effective July 1, 1992).

Paragraph 2 of Chapter 812 of the 1992 Acts of the General Assembly repeals the Groundwater Act of 1973 (Code of Virginia Title 62.1, Chapter 3.4, § 62.1-44.83 through § 62.1-44.107; effective July 1, 1992). Legislative authority to promulgate VR 680-13-01 Rules of the Board and Standards for Water Wells was contained in Chapter 3.4 of Title 62.1 of the Code of Virginia. Concurrently with this action, the board is considering the adoption of VR 680-13-07 Ground Water Withdrawal Regulations in accordance with Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§§ 62.1-254 through 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992).

Public meetings will be held. See Calendar of Events

Notices of Intended Regulatory Action

Section.

Applicable laws and regulations include the Groundwater Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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 amending regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to incorporate the amendments enacted by the 1992 General Assembly in Chapters 819 and 456 (House Bills 1172 and 1043), establish revised financial responsibility compliance dates for owners and operators of underground storage tanks and petroleum storage tank vendors, and delete requirements for the Virginia Underground Petroleum Storage Tank Fund which are to be established concurrently with this proposed regulatory action in a new regulation.

The General Assembly's establishment of a sliding scale for financial responsibility (effective July 1, 1992) will reduce the amount of financial responsibility required of many owners and operators of underground storage tanks and petroleum storage tank vendors. Therefore, there would be no negative financial impact imposed on the regulated community. Extension of compliance dates will benefit the regulated community by providing owners and operators and vendors with more time in which to comply with financial responsibility requirements.

An issue under consideration is the amount and type of documentation necessary to establish the amount of petroleum pumped on an annual basis. This is required in order to determine the level of financial responsibility required for owners and operators.

See Calendar of Events section for schedule of public meetings.

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, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

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 680-13-06. Virginia Petroleum Storage Tank Fund Requirements.** The purpose of the proposed action is to adopt a regulation describing the requirements for the Virginia Petroleum Storage Tank Fund.

The amendments to the State Water Control Law enacted by the 1992 General Assembly (effective July 1, 1992) increased the number of persons who have access to the Fund and reduced the amount of financial responsibility required to certain categories of regulated owners and operators. Therefore, there would be no negative financial impact imposed on the regulated community and a substantial benefit may be conferred upon certain persons who are not part of the regulated community.

Issues under consideration include (1) the criteria which must be met prior to the board initiating State-Lead corrective actions at a site where a release has occurred; (2) limitations on access to the Fund by operators of facilities with aboveground storage tanks (regulated and unregulated); and (3) access to the Fund for subsequent property owners who discover/purchase abandoned tanks located on the property.

Public meetings will be held. See Calendar of Events Section.

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, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), the Underground Storage Tanks; Technical Standards and Corrective Action Requirements (VR 680-13-02), and Chapter 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

Notices of Intended Regulatory Action

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 680-13-07. Ground Water Withdrawal Regulation.** The purpose of the proposed action is to adopt regulations which establish administrative procedures for the establishment of ground water management areas and the issuance of ground water withdrawal permits within designated areas. The regulations will also establish technical criteria to be used when evaluating an application for a ground water withdrawal permit as well as enforcement procedures to assure compliance with the regulations.

Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§ 62.1-254 through § 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992). Chapter 25 is titled the Ground Water Management Act of 1992. Section 62.1-256.8 specifically requires the Board to adopt regulations necessary to administer and enforce the provisions of Chapter 25.

All ground water users who hold existing permits or certificates of ground water right in existing ground water management areas will be required to apply for new permits with terms not to exceed 10 years. An unknown number of agricultural users who were exempt from the Groundwater Act of 1973 will be required to apply for a permit. Any person wishing to initiate a withdrawal in excess of 300,000 gallons per month or expand an existing permitted withdrawal within existing ground water management areas will be required to apply for a ground water withdrawal permit. The Ground Water Management Act of 1992 establishes criteria for the creation of additional ground water management areas within which any user of greater than 300,000 gallons per day would be required to apply for a permit.

All issues related to the implementation of the Ground Water Management Act of 1992 will be open for consideration. Staff of the Board is especially interested in input on methodologies to determine historic ground water withdrawals from wells that were not metered, methodologies to determine the amount of ground water needed annually for drought relief wells, information necessary to document water withdrawal savings achieved by water conservation, information necessary to document additional ground water needed (in addition to existing use) during the term of a permit, strategies to assure that the maximum amount of ground water is preserved and protected for future beneficial uses, strategies for prioritizing types of water use when evaluating withdrawal applications, and establishment of criteria for the issuance or denial of ground water withdrawal permits.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Groundwater

Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

Statutory Authority: § 62.1-256.8 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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 680-14-12. Aboveground Storage Tanks Registration Requirements.** The purpose of this proposed regulatory action is to adopt new regulations which will allow the board to compile an inventory of facilities with an aboveground storage capacity of greater than 1320 gallons of oil or individual aboveground storage tanks having a storage capacity of greater than 660 gallons of oil.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of aboveground storage tanks to register their facilities and tanks with the board. This will impose minimum additional requirements as many of these facilities will be subject to a similar registration program under federal statute and regulation.

An issue under consideration is ensuring that the regulations consider similar requirements under federal statute or regulation. The board will determine the adequacy of the federal requirements when drafting these regulations.

Another issue under consideration is the establishment of administrative fees. Section 62.1-44.34:19.1 authorizes the board, if the board determines that registration under federal law or regulations is inadequate for the purpose of compiling its inventory and that additional registration requirements are necessary, to assess a fee, according to a schedule based on the size and type of the facility or tank, not to exceed \$100 per facility or \$50 per tank, whichever is less. The board seeks comments on the appropriateness of establishing a fee schedule for registration or reregistration.

Public meetings will be held. See Calendar of Events Section.

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 Chapter 456 of the 1992 Acts of Assembly.

Notices of Intended Regulatory Action

Statutory Authority: §§ 62.1-44.34:19.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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 680-14-13. Aboveground Storage Tanks Prevention Standards and Operational Requirements.** The purpose of this proposed regulatory action is to adopt regulations necessary to prevent pollution of state waters, lands, or storm drain systems from the discharge of oil from new and existing aboveground storage tanks. Section 62.1-44.34:15.1 states that the regulations shall provide:

1. For existing aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control, testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board) and formal tank inspections every five years in accordance with accepted industry practices and procedures approved by the board. Initial testing shall be on schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures, including an audible staged alarm with immediate and controlled shut down procedures, or equivalent measures established by the board;

c. To prevent leaks from piping, requirements for cathodic protection, and pressure testing to be conducted at least once every five years, or equivalent measures established by the board;

d. To prevent and identify leaks from any source, requirements (i) for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements, (ii) for monthly gauging and inspection of all ground water monitoring wells located at the facility, and monitoring of the well head space for the presence of vapors indicating the presence of petroleum, and (iii) for quarterly sampling and laboratory analysis of the fluids

present in each such monitoring well to determine the presence of petroleum or petroleum byproduct contamination; and

e. To ensure proper training of individuals conducting inspections, requirements for proper certification or training by operators relative to aboveground storage tanks.

2. For existing aboveground storage tanks at facilities with an aggregate capacity of less than one million gallons but more than 25,000 gallons:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control and testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board). Initial testing shall be on a schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures;

c. To prevent leaks from piping, requirements for pressure testing to be conducted at least once every five years or equivalent measures established by the board; and

d. To prevent and identify leaks from any source, requirements for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements developed in accordance with Item 1 above.

Further, the board shall establish performance standards for aboveground storage tanks installed, retrofitted or brought into use after the effective date of the regulations promulgated pursuant to this subsection that incorporate all technologies designed to prevent oil discharges that have been proved in accordance with accepted industry practices and shown to be cost-effective.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of aboveground storage tanks of oil to adhere to the prevention standards set by statute. These standards may require some upgrade and improvements to be made to facilities not already in substantial conformance with applicable federal statute and regulation. These regulations will also require additional operational procedures to be met.

An issue under consideration is ensuring that the regulations are in substantial conformance with the current codes and standards recommended by the National Fire Protection Association as well as practices contained in applicable American Petroleum Institute publications and

Notices of Intended Regulatory Action

other accepted industry standards. The board will also consider those pollution prevention standards mandated under federal statute and regulation.

Public meetings will be held. See Calendar of Events Section.

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 Chapter 456 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:15.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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 680-14-14. Aboveground Storage Tanks Financial Responsibility Requirements.** The purpose of this intended regulatory action is to adopt new regulations setting the amount of financial responsibility operators of facilities with aboveground storage tanks must demonstrate.

The amendments to the State Water Control Law enacted by General Assembly will require operators of aboveground storage tanks of oil to demonstrate financial responsibility based on the aggregate capacity of the facilities. This may require operators to obtain additional pollution insurance to meet the amount required by regulation. No governmental agency is required to comply with these regulations.

An issue under consideration is ensuring that the regulations consider those parameters established by statute prior to determining the amount of financial responsibility required to be demonstrated. In no instance will this amount exceed five cents per gallon of aboveground storage capacity or five million dollars for a pipeline.

Another issue under consideration is the establishment of administrative fees for acceptance of evidence of financial responsibility. Section 62.1-44.34:21 of the Code of Virginia authorizes the board to collect from any operator seeking acceptance of evidence of financial responsibility fees sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:16 as to an operator seeking acceptance of evidence of financial responsibility. The board seeks comments on the appropriateness of establishing a fee schedule for

acceptance of evidence of financial responsibility.

Public meeting will be held. See Calendar of Events Section.

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 Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

† 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 amending regulations entitled: **VR 680-16-03. James River Water Quality Management Plan.** The purpose of the proposed action is to amend the Upper James River Basin Water Quality Management Plan to increase the waste load allocation for the Town of Crewe Sewage Treatment Plant's discharge to an unnamed tributary to Deep Creek from 20 pounds per day of BOD5 to 50.1 pounds per day of CBOD5 and to change the recommended location of an upgraded plant outfall from Deep Creek to an unnamed tributary of Deep Creek.

The proposed amendment will only affect the Virginia Pollutant Discharge Elimination System (VPDES) permit for the Town of Crewe, which provides sewerage service to an estimated 2,300 people. The proposed amendment would form the basis of effluent limitations for the town's planned STP upgrade, to be funded through the Virginia Revolving Loan Fund. Water quality in the unnamed tributary will be improved because the upgraded STP is expected to achieve the new effluent limitations which are significantly more stringent than the town can currently attain with their existing STP. By increasing the waste load allocation the town will save an estimated \$477,000 in capital costs, thus allowing it to proceed to build the new STP much faster than it could afford to do if the current waste load allocation were maintained.

The Town of Crewe currently discharges into an unnamed tributary of Deep Creek. In order to meet the requirements of the National Municipal Policy, the STP needs to be upgraded, and the discharge must conform to the waste load allocation established in the Upper James River Basin Water Quality Management Plan. The Board's staff has surveyed and evaluated the receiving stream, and determined that an increase in waste load allocation from 20 pounds per day of BOD5 to 50.1 pounds per day of

Notices of Intended Regulatory Action

CBOD5 would be adequately protective of water quality. At issue is whether such an increase in waste load allocation is appropriate in this case.

The current water quality management plan also recommends that the Town of Crewe discharge location be moved to the main stem of Deep Creek, about two miles from the current discharge point. The Board's staff does not feel that such a change is advantageous in terms of BOD waste assimilation due to the hydrologic characteristics in that segment of Deep Creek. It is possible, however, that such a change in discharge location may be advantageous from a toxics management perspective. This will be evaluated after the new STP goes on line and sufficient monitoring data is obtained. At issue is whether or not the discharge location should be moved at this time.

The Executive Director has elected not to hold a public meeting, as is authorized by § III(c) of the board's Public Participation Guidelines.

The proposed action is authorized by the statute cited below and is governed by the State Water Control Law and Title 40, Parts 35 and 130 of the Code of Federal Regulations.

Statutory Authority: §§ 62.1-44.15(13), (10) and (3a) of the Code of Virginia.

Written comments may be submitted until September 9, 1992.

Contact: Mr. Curtis J. Linderman, Piedmont Regional Office, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5038.

† 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 amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to conduct the triennial review of water quality standards as required by federal and state law. As part of this triennial review, public meetings are being held to receive comments and suggestions which the State Water Control Board will consider in proposing specific changes in the standards that will be formally considered at public hearings during 1993.

The type of information which would help the board conduct this review includes information on the following Environmental Protection Agency requirements:

- information to update existing standards or to add new standards (especially for toxic pollutants),
- suggestions for a narrative biological criteria,
- evaluations of the 1986 Environmental Protection

Agency's bacteria and dissolved oxygen criteria, and

- provisions to ensure that standards apply to wetlands and appropriate numeric criteria for wetlands.

In addition, staff will be considering nominations previously received for water bodies to be included as exceptional waters under VR 680-21-01.3 C as well as seeking additional recommendations for this category. The nominations received thus far include the Rappahannock River from the headwaters to its confluence with Carter's Run, the Rappahannock River from the head of Kelly's Ford rapids to its confluence with Mott's Run and the Maury River from Goshen to Rockbridge Baths.

Finally, any other information which may indicate that modifications are necessary in other sections of the regulation will also be considered.

Any amendments to the water quality standards proposed as a result of this triennial review have the potential to impact every VPDES permit holder in the Commonwealth of Virginia. The impact on an individual VPDES permit hold would range from additional monitoring costs through upgrades to existing wastewater treatment facilities.

The board will hold six public meetings to receive views and comments and to answer questions of the public. (See Calendar of Events Section).

Applicable laws and regulations include § 303(c)(2)(B) and § 307(a) of the Clean Water Act, State Water Control Law, VR 680-21-00 (Water Quality Standards Regulation) and VR 680-14-01 (Permit Regulation).

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until November 16, 1992.

Contact: Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5091.

DEPARTMENT OF YOUTH AND FAMILY 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 Youth and Family Services intends to consider promulgating regulations entitled: **Standards for the Detention of Juveniles in Jails and Lockups.** The purpose of the proposed action is to:

1. Serve as criteria for use by staff of the Department

Notices of Intended Regulatory Action

of Youth and Family Services in monitoring jails and lockups holding juveniles.

2. Serve as guidelines for jails and lockups wishing to hold juveniles.

Statutory Authority: §§ 66-10 and 16.1-249 of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to Kathi Faber, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108.

Contact: Sheila Christian, Licensure/Certification Program Manager, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0571.

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.

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulations:

VR 125-01-2. Advertising.

VR 125-01-3. Tied House.

VR 125-01-4. Requirements for Product Approval.

VR 125-01-5. Retail Operations.

VR 125-01-7. Other Provisions.

Statutory Authority: § 4-7(1), 4-11, 4-36, 4-69, 4-69.2 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Public Hearing Date: October 28, 1992 - 10 a.m.

(See Calendar of Events section
for additional information)

Summary:

Numerous regulations are being amended, some of which relate to (i) the advertising of nonalcoholic beer and nonalcoholic wine; (ii) allowing combination packaging; (iii) manufacturers, bottlers and wholesalers supplying placemats, coasters, napkins and back-bar pedestals to retailers under limited conditions; (iv) permitting novelty and specialty items with alcoholic beverage advertising to be given to patrons on the premises of retail licensees; (v) no limitation on the number of distilled spirits brands which may be listed on clip-ons and table tents; (vi) allowing brewpubs to use growlers to sell their beer to consumers for off-premises consumption; (vii) prohibiting a licensed club from obtaining a banquet special events license or a mixed beverage special events license for use on its premises; (viii) the definition of "gift shop"; (ix) the acceptance of credit or debit cards by A.B.C. stores for the retail purchase of alcoholic beverages; and (x) keg registration.

VR 125-01-2. Advertising.

§ 1. Advertising; generally; cooperative advertising; federal laws; beverages and cider; restrictions.

A. Generally.

All alcoholic beverage and beverage advertising is permitted in this Commonwealth except that which is prohibited or otherwise limited or restricted by regulation of the board and such advertising shall not be blatant or obtrusive. Any editorial or other reading matter in any periodical, publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by or for the benefits of

any permittee or licensee does not constitute advertising.

B. Cooperative advertising.

There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of alcoholic beverages, except as may be authorized by regulation of the board pursuant to § 4-79.1 of the Code of Virginia. The term "cooperative advertising" shall mean the payment or credit, directly or indirectly, by any manufacturer, bottler, importer or wholesaler whether licensed in this Commonwealth or not to a retailer for all or any portion of advertising done by the retailer.

C. Beverages and cider.

Advertising of beverages and cider, as defined in §§ 4-99 and 4-27, respectively, of the Code of Virginia, shall conform with the requirements for advertising beer.

D. Exceptions.

The board may issue a permit authorizing a variance from any of its advertising regulations for good cause shown.

E. General restrictions.

No advertising shall contain any statement, symbol, depiction or reference that:

1. Would tend to induce minors to drink, or would tend to induce persons to consume to excess;
2. Is lewd, obscene or indecent or is suggestive of any illegal activity;
3. Incorporates the use of any present or former athlete or athletic team or implies that the product enhances athletic prowess;
4. Is false or misleading in any material respect, or implies that the product has a curative or therapeutic effect, or is disparaging of a competitor's product;
5. Implies or indicates, directly or indirectly, that the product is government endorsed by the use of flags, seals or other insignia or otherwise;
6. Makes any reference to the intoxicating effect of any alcoholic beverages;
7. Constitutes or contains a contest or sweepstakes

where a purchase is required for participation; or

8. Constitutes or contains an offer to pay or provide anything of value conditioned on the purchase of alcoholic beverages or beverages, except for refund coupons as provided in § 9 of this regulation and combination packaging .

F. The board shall not regulate advertising of nonalcoholic beverages or other nonalcoholic products so long as (i) a reasonable person by common observation would conclude that the advertising clearly does not represent any advertisement for alcoholic beverages or beverages and (ii) the advertising does not contain any statement, symbol, depiction or reference to the name of a brand or the name or logo of a manufacturer of alcoholic beverages.

However, if the nonalcoholic beverage's name makes reference to the name of a brand or manufacturer of alcoholic beverages and the advertising prominently states that the product is a nonalcoholic beer or nonalcoholic wine, then such advertising is permitted.

§ 2. Advertising; interior; retail licensees.

A. Definition.

As used in this § 2, the term "advertising materials" means any tangible property of any kind which utilizes words or symbols making reference to any brand or manufacturer of alcoholic beverages.

B. The use of advertising materials inside licensed retail establishments shall be subject to the following provisions:

1. Retail licensees may use any nonpermanent advertising material which is neither designed as, nor functions as, permanent point-of-sale advertising material including, but not limited to, nonmechanical advertising material consisting of printed matter appearing on paper, cardboard or plastic stock; however, plastic advertising materials shall be restricted to thin sheets or strips containing only two dimensional display surfaces. Such advertising materials may be obtained by such retailers from any source, including manufacturers, bottlers and wholesalers of alcoholic beverages who may sell, lend, buy for or give to such retailers such advertising materials; provided, however, that nonpermanent advertising material referring to any brand or manufacturer of distilled spirits may only be provided to mixed beverage licensees and may not be provided by beer and wine wholesalers, or their employees, unless they hold a distilled spirits solicitor's permit;

2. Retail on-premises and on-and-off-premises licensees may use any mechanical or illuminated devices which are designed or manufactured to serve as permanent point-of-sale advertising. Such advertising devices may be obtained and displayed by retailers provided that

any such devices do not make reference to brands of alcoholic beverages offered for sale in such retail establishment or to brands or the name of any manufacturer whose alcoholic beverage products are offered for sale in such retail establishment and, provided further, that such advertising materials are not supplied, installed, maintained or otherwise serviced by any manufacturers, bottlers or wholesalers of alcoholic beverages, and that no such advertising relating to distilled spirits shall be authorized in an establishment not licensed to sell mixed beverages; and

3. Notwithstanding subdivision B 2 above, retail on-premises and on- and off-premises licensees may display any permanent point-of-sale advertising pertaining to nonalcoholic beer or nonalcoholic wine as long as such advertising complies with VR 125-01-2 § 1 F. Any such brand of nonalcoholic beer or nonalcoholic wine may be offered for sale in the retail establishment. Such permanent point-of sale advertising may be obtained by retailers from any source, including manufacturers, bottlers and wholesalers of alcoholic beverages, provided that the total value of such advertising furnished by industry members may not exceed \$160 per brand in any one calendar year per retail establishment; and

3. 4. Advertising materials described in the following categories may be displayed inside a retail establishment by a retail licensee provided that any conditions or limitations stated in regard to a given category of advertising materials are observed:

a. Advertising materials, including those promoting responsible drinking or moderation in drinking, consisting of printed matter appearing on paper, cardboard or plastic stock supplied by any manufacturer, bottler or wholesaler of alcoholic beverages in accordance with the provisions of this section provided, however, that nonpermanent advertising materials referring to any brand or manufacturer of distilled spirits may only be provided to mixed beverage licensees and may not be provided by beer and wine wholesalers or their employees unless they hold a distilled spirits solicitors permit;

b. Works of art so long as they are not supplied by manufacturers, bottlers or wholesalers of alcoholic beverages;

c. Materials displayed in connection with the sale of over-the-counter novelty and specialty items in accordance with § 6 of this regulation;

d. Materials used in connection with the sponsorship of public events shall be limited to sponsorship of conservation and environmental programs, professional, semiprofessional or amateur athletic and sporting events, and events of a charitable or

Proposed Regulations

cultural nature by distilleries, wineries and breweries, subject to the provisions of § 10 B of this regulation;

e. Service items such as placemats, coasters and glasses so long as they are not supplied by manufacturers, bottlers or wholesalers of alcoholic beverages; *however, manufacturers, bottlers or wholesalers may supply to retailers napkins, placemats, coasters and back-bar pedestals which contain (i) a reference to the name of a brand of nonalcoholic beer or nonalcoholic wine as permitted under VR 125-01-2 § 1 F, or (ii) a message relating solely to and promoting moderation and responsible drinking, which message may contain the name, logo and address of the sponsoring manufacturer, bottler or wholesaler, provided such recognition is subordinate to the message, occupies no more than 10% of the space, and contains no reference to or pictures of the sponsor's brand or brands;*

f. Draft beer and wine knobs, bottle or can openers, beer, wine and distilled spirits clip-ons and table tents, subject to the provisions of § 8 of VR 125-01-3;

g. Beer and wine "neckers," recipe booklets and brochures relating to the wine manufacturing process, vineyard geography and history ~~of a wine manufacturing area ; which have been shipped in the ease ; and~~ point-of-sale entry blanks relating to contests and sweepstakes may be provided by beer and wine wholesalers to retail licensees for use on retail premises , if such items are offered to all retail licensees equally , and the wholesaler has obtained the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in Virginia may not put entry blanks on the package ~~at the wholesale premises and entry blanks may not be shipped in the ease to retailers ; and~~

~~i. h.~~ Refund coupons, if they are supplied, displayed and used in accordance with § 9 of VR 125-01-2;

C. Manufacturers, wholesalers, etc.

No manufacturer, bottler, wholesaler or importer of alcoholic beverages, whether licensed in this Commonwealth or not, may directly or indirectly sell, rent, lend, buy for, or give to any retailer any advertising materials, decorations or furnishings under any circumstances otherwise prohibited by law, nor may any retailer induce, attempt to induce, or consent to any such supplier of alcoholic beverages furnishing such retailer any such advertising.

D. Any advertising materials provided for herein, which may have been obtained by any retail licensee from any manufacturer, bottler or wholesaler of alcoholic beverages, may be installed in the interior of the licensed establishment by any such manufacturer, bottler or

wholesaler using any normal and customary installation materials, provided no such materials are installed or displayed in exterior windows or within the interior of the retail establishment in such a manner that such advertising materials may be viewed from the exterior of the retail premises. With the consent of the retail licensee, which consent may be a continuing consent, wholesalers may mark or affix retail prices on these materials.

E. Every retail on-premises and on- and off-premises licensee who, pursuant to ~~subdivision~~ subdivisions B 2 and 3 above, obtains any ~~mechanical or illuminated advertising devices which are designed or manufactured to serve as~~ permanent point-of-sale advertising material shall keep a complete, accurate and separate record of all such material obtained. Such records shall show: (i) the name and address of the person from whom obtained; (ii) the date furnished; (iii) the item furnished; and (iv) the price charged therefor. All such records, invoices and accounts shall be kept by each such licensee at the place designated in the license for a period of two years and shall be available for inspection and copying by any member of the board or its agents at any time during business hours.

§ 3. Advertising; exterior; signs; vehicles; uniforms.

Outdoor alcoholic beverage advertising shall be limited to signs and is otherwise discretionary, except as follows:

1. Manufacturers and wholesalers, including wineries and farm wineries:

a. No more than one sign upon the licensed premises, no portion of which may be higher than 30 feet above ground level on a wholesaler's premises;

b. No more than two signs, which must be directional in nature, not farther than 1/2 mile from the licensed establishment limited in dimension to 64 square feet with advertising limited to brand names;

c. If the establishment is a winery also holding a winery off-premises license or is a farm winery, additional directional signs limited in dimension to 64 square feet with advertising limited to brand names, and tour information, may be erected in accordance with state and local rules, regulations and ordinances; and

d. Only on vehicles and uniforms of persons employed exclusively in the business of a manufacturer or wholesaler, which shall include any antique vehicles bearing original or restored alcoholic beverage advertising used for promotional purposes. Additionally, any person whether licensed in this Commonwealth or not, may use and display antique vehicles bearing original or restored alcoholic beverage advertising.

2. Retailers, including mixed beverage licensees, other than carriers and clubs:

a. No more than two signs at the establishment and, in the case of establishments at intersections, three signs, the advertising on which, including symbols approved by the United States Department of Transportation relating to alcoholic beverages, shall be limited to 12 inches in height or width and not animated and, in the case of signs remote from the premises, subordinate to the main theme and substantially in conformance with the size and content of advertisements of other services offered at the establishment; and

b. Limited only to words and terms appearing on the face of the license describing the privileges of the license and, where applicable: "Mixed Drinks," "Mixed Beverages," "Cocktails," "Exotic Drinks," "Polynesian Drinks," "Cocktail Lounge," "Liquor," "Spirits," and not including any reference to or depiction of "Bar Room," "Saloon," "Speakeasy," "Happy Hour," or references or depictions of similar import, nor to prices of alcoholic beverages, including references to "special" or "reduced" prices or similar terms when used as inducements to purchase or consume alcoholic beverages. Notwithstanding the above, the terms "Bar," "Bar Room," "Saloon," and "Speakeasy" may be used in combination with other words that connote a restaurant as part of the retail licensee's trade name; and

c. No advertising of alcoholic beverages may be displayed in exterior windows or within the interior of the retail establishment in such a manner that such advertising materials may be viewed from the exterior of the retail premises, except on table menus or newspaper tear sheets.

3. Manufacturers, wholesalers and retailers may engage in billboard advertising within stadia, coliseums or racetracks that are used primarily for professional or semiprofessional athletic or sporting events.

§ 4. Advertising; newspaper, magazines, radio, television, trade publications, etc.

A. Generally.

Beer, wine and mixed beverage advertising in the print or electronic media is permitted with the following exceptions:

1. All references to mixed beverages are prohibited except the following: "Mixed Drinks," "Mixed Beverages," "Exotic Drinks," "Polynesian Drinks," "Cocktails," "Cocktail Lounges," "Liquor" and "Spirits";

2. The following terms or depictions thereof are prohibited unless they are used in combination with

other words that connote a restaurant and they are part of the licensee's trade name: "Bar," "Bar Room," "Saloon," "Speakeasy," or references or depictions of similar import; and

3. Any references to "Happy Hour" or similar terms are prohibited.

B. Further requirements and conditions:

1. All alcoholic beverage advertising shall include the name and address (street address optional) of the responsible advertiser;

Advertising placed by a manufacturer, bottler or wholesaler in trade publications of associations of retail licensees or college publications shall not constitute cooperative advertising;

3. Advertisements of beer, wine and mixed beverages are not allowed in college student publications unless in reference to a dining establishment, except as provided below. A "college student publication" is defined as any college or university publication that is prepared, edited or published primarily by students at such institution, is sanctioned as a curricular or extra-curricular activity by such institution and which is distributed or intended to be distributed primarily to persons under 21 years of age.

Advertising of beer, wine and mixed beverages by a dining establishment in college student publications shall not contain any reference to particular brands or prices and shall be limited only to the use of the following words: "A.B.C. on-premises," "beer," "wine," "mixed beverages," "cocktails," or any combination of these words; and

4. Advertisements of beer, wine and mixed beverages are prohibited in publications not of general circulation which are distributed or intended to be distributed primarily to persons under 21 years of age, except in reference to a dining establishment as provided in subdivision 3 above; notwithstanding the above mentioned provisions, all advertisements of beer, wine and mixed beverages are prohibited in publications distributed or intended to be distributed primarily to a high school or younger age level.

5. Notwithstanding the provisions of this or any other regulation of the board pertaining to advertising, a manufacturer, bottler or wholesaler of alcoholic beverages may place an advertisement in a college student publication which is distributed or intended to be distributed primarily to persons over 18 and under 21 years of age which has a message relating solely to and promoting public health, safety and welfare, including, but not limited to, moderation and responsible drinking messages, anti-drug use messages and driving under the influence warnings. Such advertisement may contain the name, logo and address

Proposed Regulations

of the sponsoring industry member, provided such recognition is at the bottom of and subordinate to the message, occupies no more than 10% of the advertising space, and contains no reference to or pictures of the sponsor's brand or brands, mixed drinks, or exterior signs. Any public service advertisement involving alcoholic beverages or beverages shall contain a statement specifying the legal drinking age in the Commonwealth.

§ 5. Advertising; newspapers and magazines; programs; distilled spirits.

A. ~~Distilled spirits~~ *Alcoholic beverage* advertising of products greater than 14% alcohol, except for alcoholic beverages subject to subsection B, by distillers, manufacturers, bottlers, importers or wholesalers via the media shall be limited to newspapers and magazines of general circulation, or similar publications of general circulation, and to printed programs relating to professional, semi-professional and amateur athletic and sporting events, conservation and environmental programs and for events of a charitable or cultural nature, subject to the following conditions:

1. Required statements.

a. Name. Name and address (street address optional) of the responsible advertiser.

b. Contents. Contents of the product advertised in accordance with all labeling requirements. If only the class of distilled spirits or wine, such as "whiskey," "whiskey" or "chardonnay" is referred to, statements as to contents may be omitted.

c. Type size. Any written, printed or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

2. Prohibited statement. Any reference to a *distilled spirits* price that is not the prevailing price at government stores, excepting references approved in advance by the board relating to temporarily discounted prices.

3. Further limitation. Distilled spirits may not be advertised in college student publications as defined in § 4 B 3 of this regulation nor in newspapers, programs or other written or pictorial matter primarily relating to intercollegiate athletic events.

B. *Advertising of alcoholic beverages containing more than 14% alcohol but less than 22% alcohol on the radio shall not depict or describe the consumption of alcoholic beverages for the effect their alcohol content may produce or appeal to persons below the legal drinking age. Such advertising shall emphasize that alcoholic beverages are traditionally served with meals or immediately before or following a meal.*

§ 6. Advertising; novelties and specialties.

Distribution of novelty and specialty items, including wearing apparel, bearing alcoholic beverage advertising, shall be subject to the following limitations and conditions:

1. Items not in excess of \$5.00 in wholesale value may be given away;

2. Manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give items not in excess of \$5.00 in wholesale value, limited to one item per retailer and, one item per employee; and one item per patron, per visit; which may not be displayed on the licensed premises. ~~Neither manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give such items to patrons on the premises of retail licensees; . Retailers and employees may not display such items on the licensed premises.~~

3. Items in excess of \$5.00 in wholesale value may be donated by distilleries, wineries and breweries only to participants or entrants in connection with the sponsorship of conservation and environmental programs, professional, semi-professional or amateur athletic and sporting events subject to the limitations of § 10 of VR 125-01-2, and for events of a charitable or cultural nature;

4. Items may be sold by mail upon request or over-the-counter at retail establishments customarily engaged in the sale of novelties and specialties, provided they are sold at the reasonable open market price in the localities where sold;

5. Wearing apparel shall be in adult sizes;

6. Point-of-sale order blanks, relating to novelty and specialty items, may be provided by beer and wine wholesalers to retail licensees for use on their premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in Virginia may not put order blanks on the package at the wholesale premises and order blanks may not be shipped in the case to retailers. Wholesalers may not be involved in the redemption process.

§ 7. Advertising; fairs and trade shows; alcoholic beverage displays.

Alcoholic beverage advertising at fairs and trade shows shall be limited to booths assigned to manufacturers, bottlers and wholesalers and to the following:

1. Display of alcoholic beverages and beverages in closed containers with informational signs provided such merchandise is not sold or given away except as permitted in VR 125-01-7, § 10;

2. Distribution of informational brochures, pamphlets, and the like, relating to alcoholic beverages and beverages; and

3. Distribution of novelty and specialty items bearing alcoholic beverage and beverage advertising not in excess of \$5.00 in wholesale value.

§ 8. Advertising; film presentations.

Advertising of alcoholic beverages by means of film presentations is restricted to the following:

1. Presentations made only to bona fide private groups, associations or organizations upon request; and

2. Presentations essentially educational in nature.

§ 9. Advertising; coupons.

A. Definitions.

"Normal retail price" shall mean the average retail price of the brand and size of the product in a given market, and not a reduced or discounted price.

B. Coupons may be advertised in accordance with the following conditions and restrictions:

1. Manufacturers of spirits, wine and beer may use only refund, not discount, coupons. The coupons may not exceed 50% of the normal retail price and may not be honored at a retail outlet but shall be mailed directly to the manufacturer or its designated agent. Such agent may not be a wholesaler or retailer of alcoholic beverages. Coupons are permitted in the print media, by direct mail to consumers or as part of, or attached to, the package. *Beer refund* coupons may be part of, or attached to, the package only if the winery or brewery put them on at the point of manufacture; however, beer and wine wholesalers may provide coupon pads to retailers for use by retailers on their premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale *beer* licensees in Virginia may not put them on the package at the ~~wholesale premises and coupons may not be shipped in the case to retailers~~. *Wholesale wine licensees may attach refund coupons to the package and wholesale wine licensees may provide coupon pads to retailers for use by retailers on their premises, if done for all retail licensees equally and after obtaining the consent which may be a continuing consent for each retailer or his representative.*

2. Manufacturers offering coupons on distilled spirits and wine sold in state government stores shall notify the board at least 45 days in advance of the issuance of the coupons of its amount, its expiration date and the area of the Commonwealth in which it will be

primarily used, if not used statewide.

3. Wholesale licensees of the board are not permitted to offer coupons.

4. Retail licensees of the board may offer coupons, including their own discount or refund coupons, on wine and beer sold for off-premises consumption only. Retail licensees may offer their own coupons in the print media, at the point-of-sale or by direct mail to consumers.

5. No retailer may be paid a fee by manufacturers or wholesalers of alcoholic beverages for display or use of coupons and the name of the retail establishment may not appear on any refund coupons offered by manufacturers. No manufacturer or wholesaler may furnish any coupons or materials regarding coupons to retailers which are customized or designed for discount or refund by the retailer.

6. Retail licensees or employees thereof may not receive refunds on coupons obtained from the packages before sale at retail.

7. No coupons may be honored for any individual below the legal age for purchase.

§ 10. Advertising; sponsorship of public events; restrictions and conditions.

A. Generally.

Alcoholic beverage advertising in connection with the sponsorship of public events shall be limited to sponsorship of conservation and environmental programs, professional, semi-professional, or amateur athletic and sporting events and events of a charitable or cultural nature by distilleries, wineries, and breweries.

B. Restrictions and conditions:

1. Any sponsorship on a college, high school or younger age level is prohibited;

2. Cooperative advertising, as defined in § 1 of these regulations, is prohibited;

3. Awards or contributions of alcoholic beverages are prohibited;

4. Advertising of alcoholic beverages shall conform in size and content to the other advertising concerning the event and advertising regarding charitable events shall place primary emphasis on the charitable fund raising nature of the event;

5. A charitable event is one held for the specific purpose of raising funds for a charitable organization which is exempt from federal and state taxes;

Proposed Regulations

6. Advertising in connection with the sponsorship of an event may be only in the media, including programs, tickets and schedules for the event, on the inside of licensed or unlicensed retail establishments and at the site of the event;

7. Advertising materials as defined in VR 125-01-3 § 8 F, table tents as defined in VR 125-01-3 § 8 G and canisters are permitted;

8. Prior written notice shall be submitted to the board describing the nature of the sponsorship and giving the date, time and place of it; and

9. Manufacturers may sponsor public events and wholesalers may only cosponsor charitable events.

VR 125-01-3. Tied House.

§ 1. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

A. Permitted acts.

For the purpose of maintaining the freshness of the stock and the integrity of the products sold by him, a wholesaler may perform, except on Sundays, the following services for a retailer upon consent, which may be a continuing consent, of the retailer:

1. Rotate, repack and rearrange wine or beer in a display (shelves, coolers, cold boxes, and the like, and floor displays in a sales area);

2. Restock beer and wine;

3. Rotate, repack, rearrange and add to his own stocks of wine or beer in a storeroom space assigned to him by the retailer;

4. Transfer beer and wine between storerooms, between displays, and between storerooms and displays; and

5. Create or build original displays using wine or beer products only.

B. Prohibited acts.

A wholesaler may not:

1. Alter or disturb in any way the merchandise sold by another wholesaler, whether in a display, sales area or storeroom except in the following cases:

a. When the products of one wholesaler have been erroneously placed in the area previously assigned by the retailer to another wholesaler; or

b. When a floor display area previously assigned by a retailer to one wholesaler has been reassigned by

the retailer to another wholesaler;

2. Mark or affix retail prices to products; or

3. Sell or offer to sell alcoholic beverages to a retailer with the privilege of return, except for ordinary and usual commercial reasons as set forth below:

a. Products defective at the time of delivery may be replaced;

b. Products erroneously delivered may be replaced or money refunded;

c. Products that a manufacturer discontinues nationally may be returned and money refunded;

d. Resaleable draft beer or beverages may be returned and money refunded;

e. Products in the possession of a retail licensee whose license is terminated by operation of law, voluntary surrender or order of the board may be returned and money refunded upon permit issued by the board;

f. Products which have been condemned and are not permitted to be sold in this state may be replaced or money refunded upon permit issued by the board; or

g. Beer wine may be exchanged on an identical quantity, brand and package basis for quality control purposes. Any such exchange shall be documented by the word "exchange" on the proper invoice.

§ 2. Interests in the businesses of licensees.

Persons to whom licenses have been issued by the board shall not allow any other person to receive a percentage of the income of the licensed business or have any beneficial interest in such business; provided, however, that nothing in this section shall be construed to prohibit:

1. The payment by the licensee of a franchise fee based in whole or in part upon a percentage of the entire gross receipts of the business conducted upon the licensed premises, where such is reasonable as compared to prevailing franchise fees of similar businesses; or

2. Where the licensed business is conducted upon leased premises, and the lease when construed as a whole does not constitute a shift or device to evade the requirements of this section:

a. The payment of rent based in whole or in part upon a percentage of the entire gross receipts of the business, where such rent is reasonable as compared to prevailing rentals of similar businesses; and

b. The landlord from imposing standards relating to the conduct of the business upon the leased premises, where such standards are reasonable as compared to prevailing standards in leases of similar businesses, and do not unreasonably restrict the control of the licensee over the sale and consumption of mixed beverages, other alcoholic beverages, or beverages.

§ 3: § 2. Restrictions upon employment; exceptions.

No retail licensee of the board shall employ in any capacity in his licensed business any person engaged or employed in the manufacturing, bottling or wholesaling of alcoholic beverages or beverages; nor shall any manufacturer, bottler or wholesaler licensed by the board employ in any capacity in his licensed business any person engaged or employed in the retailing of alcoholic beverages or beverages.

This section shall not apply to banquet licensees or to off-premises winery licensees.

§ 4: § 3. Certain transactions to be for cash; "cash" defined; checks and money orders; electronic fund transfers; records and reports by sellers; payments to the board.

A. Generally.

Sales of wine, beer or beverages between wholesale and retail licensees of the board shall be for cash paid and collected at the time of or prior to delivery, except where payment is to be made by electronic fund transfer as hereinafter provided. Each invoice covering such a sale or any other sale shall be signed by the purchaser at the time of delivery and shall specify the manner of payment.

B. "Cash" defined.

"Cash," as used in this section, shall include (i) legal tender of the United States, (ii) a money order issued by a duly licensed firm authorized to engage in such business in Virginia (iii) a valid check drawn upon a bank account in the name of the licensee or permittee or in the trade name of the licensee or permittee making the purchase, or (iv) an electronic fund transfer, initiated by a wholesaler pursuant to subsection D of this section, from a bank account in the name, or trade name, of the retail licensee making a purchase from a wholesaler or the board.

C. Checks, money orders and electronic fund transfers.

If a check, money order or electronic fund transfer is used, the following provisions apply:

1. If only alcoholic beverage merchandise is being sold, the amount of the checks, money orders or electronic fund transfers shall be no larger than the purchase price of the alcoholic beverages or

beverages; and

2. If nonalcoholic merchandise is also sold to the retailer, the check, money order or electronic fund transfer may be in an amount no larger than the total purchase price of the alcoholic beverages and nonalcoholic beverage merchandise. A separate invoice shall be used for the nonalcoholic merchandise and a copy of it shall be attached to the copies of the alcoholic beverage invoices which are retained in the records of the wholesaler and the retailer.

D. Electronic fund transfers.

If an electronic fund transfer is used for payment by a licensed retailer or a permittee for any purchase from a wholesaler or the board, the following provisions shall apply:

1. Prior to an electronic fund transfer, the retail licensee shall enter into a written agreement with the wholesaler specifying the terms and conditions for an electronic fund transfer in payment for the delivery of wine, beer or beverages to that retail licensee. The electronic fund transfer shall be initiated by the wholesaler no later than one business day after delivery and the wholesaler's account shall be credited by the retailer's bank no later than the following business day. The electronic fund transfer agreement shall incorporate the requirements of this subdivision, but this subdivision shall not preclude an agreement with more restrictive provisions. For purposes of this subdivision, the term "business day" shall mean a business day of the respective bank.

2. The wholesaler must generate an invoice covering the sale of wine, beer or beverages and shall specify that payment is to be made by electronic fund transfer. Each invoice must be signed by the purchaser at the time of delivery.

3. Nothing in this subsection shall be construed to require that the board or any licensee must accept payment by electronic fund transfer.

E. Records and reports by sellers.

Wholesalers shall maintain on their licensed premises records of all invalid checks received from retail licensees for the payment of wine, beer or beverages, as well as any stop payment order, insufficient fund report or any other incomplete electronic fund transfer reported by the retailer's bank in response to a wholesaler initiated electronic fund transfer from the retailer's bank account. Further, wholesalers shall report to the board any invalid checks or incomplete electronic fund transfer reports received in payment of wine, beer or beverages when either (i) any such invalid check or incomplete electronic fund transfer is not satisfied by the retailer within seven days after notice of the invalid check or a report of the incomplete electronic fund transfer is received by the

Proposed Regulations

wholesaler, or (ii) the wholesaler has received, whether satisfied or not, either more than one such invalid check from any single retail licensee or received more than one incomplete electronic fund transfer report from the bank of any single retail licensee, or any combination of two, within a period of 180 days. Such reports shall be upon a form provided by the board and in accordance with the instructions set forth in such form.

F. Payments to the board.

Payments to the board for the following items shall be for cash, as defined in subsection B of this section:

1. State license fees;
2. Purchases of alcoholic beverages from the board by mixed beverage licensees;
3. Wine taxes collected pursuant to § 4-22.1 of the Code of Virginia;
4. Beer and beverage excise taxes pursuant to Chapter 4 (§ 4-127 et seq.) of Title 4 of the Code of Virginia;
5. Registration and certification fees collected pursuant to these regulations;
6. Monetary penalties and costs imposed on licensees and permittees by the board; and
7. Forms provided to licensees and permittees at cost by the board.

§ 5: § 4. Deposits on containers required; records; redemption of deposits; exceptions.

A. Minimum deposit.

Wholesalers shall collect in cash, at or prior to the time of delivery of any beer or beverages sold to a retail licensee, the following minimum deposit charges on the containers:

Bottles having a capacity of not more than 12 oz.	\$02
Bottles having a capacity of more than 12 oz. but not more than 32 oz.	\$04
Cardboard, fibre or composition cases other than for 1 1/8-or 2 1/4-gallon kegs	\$02
Cardboard, fibre or composition cases for 1 1/8-or 2 1/4-gallon kegs	\$50
Kegs, 1 1/8-gallon	\$1.75
Kegs, 2 1/4-gallon	\$3.50
Kegs, 1/4-barrel	\$4.00

Kegs, 1/2-barrel	\$6.00
Keg covers, 1/4-barrel	\$4.00
Keg covers, 1/2-barrel	\$6.00
Tapping equipment for use by consumers	\$10.00
Cooling tubs for use by consumers	\$5.00
Cold plates for use by consumers	\$15.00

B. Records.

The sales ticket or invoice shall reflect the deposit charge and shall be preserved as a part of the licensee's records.

C. Redemption of deposits.

Deposits shall be refunded upon the return of the containers in good condition.

D. Exceptions.

Deposits shall not be required on containers sold as nonreturnable items.

§ 6: § 5. Solicitation of licensees by wine, beer and beverage solicitor salesmen or representatives.

A. Generally.

A permit is not required to solicit or promote wine, beer or beverages to wholesale or retail licensees of the board, including mixed beverage licensees, by a wine, beer or beverage solicitor salesman who represents any winery, brewery, wholesaler or importer licensed in this Commonwealth engaged in the sale of wine, beer and beverages. Further, a permit is not required to sell (which shall include the solicitation or receipt of orders) wine, beer or beverages to wholesale or retail licensees of the board, including mixed beverage licensees, by a wine, beer or beverage solicitor salesman who represents any winery, brewery or wholesaler licensed in this Commonwealth engaged in the sale of wine, beer and beverages.

B. Permit required.

A permit is required to solicit or promote wine, beer or beverages to wholesale or retail licensees of the board, including mixed beverage licensees, by a wine, beer or beverage solicitor salesman or representative of any wholesaler engaged in the sale of wine, beer or beverages, but not holding a license therefor in this Commonwealth, or of any manufacturers, wholesalers or any other person outside this Commonwealth holding a wine or beer importer's license issued by the board. A permit under this section shall not authorize the sale of wine and wine coolers by the permittee, the direct solicitation or receipt of orders for wine and wine coolers, or the negotiation of

any contract or contract terms for the sale of wine and wine coolers unless such sale, receipt or negotiations are conducted in the presence of a licensed Virginia wholesaler or importer or such Virginia wholesaler's or importer's solicitor salesman or representative. In order to obtain a permit, a person shall:

1. Register with the board by filing an application on such forms as prescribed by the board;
2. Pay a fee of \$125, which is subject to proration on a quarterly basis, pursuant to the provisions of § 4-26(b) of the Code of Virginia; and
3. Be 18 years old or older to solicit or promote the sale of wine, beer or beverages, and may not be employed at the same time by a nonresident person engaged in the sale of wine, beer or beverages at wholesale and by a licensee of the board to solicit the sale of or sell wine, beer or beverages, and shall not be in violation of the provisions of § 5 § 3.

C. Each permit shall expire yearly on June 30 unless sooner suspended or revoked by the board.

D. Solicitation and promotion under this regulation may include educational programs regarding wine, beer or beverages for mixed beverage licensees, but shall not include the promotion of, or educational programs related to, distilled spirits or the use thereof in mixed drinks unless a distilled spirits solicitor's permit has been obtained in addition to a solicitor's permit.

E. For the purposes of this regulation, the soliciting or promoting of wine, beer or beverages shall be distinguished from the sale of such products, the direct solicitation or receipt of orders for alcoholic beverages or the negotiation of any contract or contract terms for the sale of alcoholic beverages. This regulation shall not be deemed to regulate the representative of a manufacturer, importer or wholesaler from merely calling on retail licensees to check on market conditions, the freshness of products on the shelf or in stock, the percentage or nature of display space, or the collection of similar information where solicitation or product promotion is not involved.

§ 7. § 6. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; paper, cardboard or plastic advertising materials; clip-ons and table tents.

A. Beer tapping equipment.

Any manufacturer, bottler or wholesaler may sell, rent, lend, buy for or give to any retailer, without regard to the value thereof, the following:

1. Draft beer knobs, containing advertising matter which shall include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are

not essential in the dispensing of draft beer; and

2. Tapping equipment, defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet, excluding the following:

- a. The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold;
- b. Gas pressure gauges (may be sold at cost);
- c. Draft arms or standards;
- d. Draft boxes; and
- e. Refrigeration equipment or components thereof.

Further, a manufacturer, bottler or wholesaler may sell, rent or lend to any retailer, for use only by a purchaser of draft beer in kegs or barrels from such retailer, whatever tapping equipment may be necessary for the purchaser to extract such draft beer from its container.

B. Wine tapping equipment.

Any manufacturer, bottler or wholesaler may sell to any retailer and install in the retailer's establishment tapping accessories such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves, if the tapping accessories are sold at a price not less than the cost of the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale.

Wine tapping equipment shall not include the following:

1. Draft wine knobs, which may be given to a retailer;
2. Carbonic acid gas, nitrogen gas, or compressed air in containers, except that such gases may be sold in accordance with the reasonable open market prices in the locality where sold and if the price is collected within 30 days of the date of the sales; or
3. Mechanical refrigeration equipment.

C. Any beer tapping equipment may be converted for wine tapping by the beer wholesaler who originally placed the equipment on the premises of the retail licensee, provided that such beer wholesaler is also a wine wholesaler licensee. Moreover, at the time such equipment is converted for wine tapping, it shall be sold, or have previously been sold, to the retail licensee at a price not less than the initial purchase price paid by such wholesaler.

D. Bottle or can openers.

Proposed Regulations

Any manufacturer, bottler or wholesaler of wine or beer may sell or give to any retailer, bottle or can openers upon which advertising matter regarding alcoholic beverages may appear, provided the wholesale value of any such openers given to a retailer by any individual manufacturer, bottler or wholesaler does not exceed \$5.00. Openers in excess of \$5.00 in wholesale value may be sold, provided the reasonable open market price is charged therefor.

E. Banquet licensees.

Manufacturers or wholesalers of wine or beer may sell at the reasonable wholesale price to banquet licensees paper or plastic cups upon which advertising matter regarding wine or beer may appear.

F. Paper, cardboard and plastic advertising materials.

Any manufacturers, bottlers or wholesalers of alcoholic beverages may not provide alcoholic beverage advertising to retail licensees except in accordance with VR 125-01-2 § 2.

G. Permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine.

Manufacturers, bottlers or wholesalers of alcoholic beverages may provide retail licensees with permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine only in accordance with VR 125-01-2 § 2.

G. H. Clip-ons and table tents.

Any manufacturer, bottler or wholesaler of wine, beer or distilled spirits may sell, lend, buy for or give to any retail licensee clip-ons and table tents containing the listing of not more than four wines ; or four beers ~~and four brands of distilled spirits~~ . *There is no limitation on the number of distilled spirits brands which may be listed on clip-ons and table tents.*

H. I. Cleaning and servicing equipment.

Any manufacturer, bottler or wholesaler of alcoholic beverages may clean and service, either free or for compensation, coils and other like equipment used in dispensing wine and beer, and may sell solutions or compounds for cleaning wine and beer glasses, provided the reasonable open market price is charged.

I. J. Sale of ice.

Any manufacturer, bottler or wholesaler of alcoholic beverages licensed in this Commonwealth may sell ice to retail licensees provided the reasonable open market price is charged.

J. K. Sanctions and penalties.

Any licensee of the board, including any manufacturer, bottler, importer, broker as defined in § 4-79.1 A of the Code of Virginia, wholesaler or retailer who violates, solicits any person to violate or consents to any violation of this section shall be subject to the sanctions and penalties as provided in § 4-79.1 D of the Code of Virginia.

~~§ 8.~~ § 7. Routine business entertainment; definition; permitted activities; conditions.

A. Generally.

Nothing in this regulation shall prohibit a wholesaler or manufacturer of alcoholic beverages licensed in Virginia from providing a retail licensee of the board "routine business entertainment" which is defined as those activities enumerated in subsection B.

B. Permitted activities:

1. Meals and beverages;
2. Concerts, theatre and arts entertainment;
3. Sports participation and entertainment;
4. Entertainment at charitable events; and
5. Private parties.

C. Conditions.

The following conditions apply:

1. Such routine business entertainment shall be provided without a corresponding obligation on the part of the retail licensee to purchase alcoholic beverages or to provide any other benefit to such wholesaler or manufacturer or to exclude from sale the products of any other wholesaler or manufacturer;
2. Wholesaler or manufacturer personnel shall accompany the personnel of the retail licensee during such business entertainment;
3. Except as is inherent in the definition of routine business entertainment as contained herein, nothing in this regulation shall be construed to authorize the providing of property or any other thing of value to retail licensees;
4. Routine business entertainment that requires overnight stay is prohibited;
5. No more than \$200 may be spent per 24-hour period on any employee of any retail licensee, including a self-employed sole proprietor, or, if the licensee is a partnership, or any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director, shareholder of 10% or more of the stock or other employee, such as a buyer.

Expenditures attributable to the spouse of any such employee, partnership or stockholder, and the like, shall not be included within the foregoing restrictions;

6. No person enumerated in subdivision C 5 may be entertained more than six times by a wholesaler and six times by a manufacturer per calendar year;

7. Wholesale licensees and manufacturers shall keep complete and accurate records for a period of three years of all expenses incurred in the entertainment of retail licensees. These records shall indicate the date and amount of each expenditure, the type of entertainment activity and retail licensee entertained; and

8. This regulation shall not apply to personal friends of wholesalers as provided for in VR 125-01-7 § 10.

VR 125-01-4. Requirements for Product Approval.

§ 1. Distilled spirits; definitions and standards of identity.

Distilled spirits sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. In addition, the prior approval of the board must be obtained as to the spirits, containers and labels. Applicants shall furnish the board a certified copy of the approval of the label by such federal agency.

Subsequent sales under an approved label shall conform to the analysis of the spirits originally approved by the board, and be packaged in approved types and sizes of containers.

§ 2. Wines, qualifying procedures; disqualifying factors; samples; exceptions.

A. Qualifying procedures.

All wines sold in the Commonwealth shall be first approved by the board as to content, container and label.

1. A certification acceptable to the board or on a form prescribed by the board describing the merchandise may accompany each new brand and type of wine offered for sale in the Commonwealth. A certification fee and a registration fee in such amounts as may be established by the board shall be included with each new certification.

2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the board; provided, however, that wine already offered for sale by another state with which this Commonwealth has an analysis and certification exchange agreement and wine sold through government stores shall be subject only to a registration fee in such amount as may be established

by the board.

3. All wine sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

4. Subsequent sales under an approved label shall conform to the certification and analysis of the wine originally approved by the board.

5. The board may approve a wine without benefit of a certification or analysis for good cause shown. Good cause includes, but is not limited to, wine which is rare.

B. Disqualifying factors as to contents.

While not limited thereto, the board shall withhold approval of any wine:

1. Which is an imitation or substandard wine as defined under regulations of the appropriate federal agency;
2. If the alcoholic content exceeds 21% by volume;
3. Which is a wine cocktail containing any ingredient other than wine.

C. Disqualifying factors as to labels.

While not limited thereto, the board shall withhold approval of any label:

1. Which contains the name of a cocktail generally understood to contain spirits;
2. Where the name of a state is used as a designation of the type of wine, but the contents do not conform to the wine standards of that state;
3. Which contains the word "cocktail" without being used in immediate conjunction with the word "wine" in letters of the same dimensions and characteristics, except labels for sherry wine;
4. Which contain the word "fortified" or implies that the contents contain spirits, except that the composition and alcoholic content may be shown if required by regulations of an appropriate federal agency;
5. Which contains any subject matter or illustration of a lewd, obscene or indecent nature;
6. Which contains subject matter designed to induce minors to consume alcoholic beverages, or is suggestive of the intoxicating effect of wine;

Proposed Regulations

7. Which contains any reference to a game of chance;
8. Which contains any design or statement which is likely to mislead the consumer.

D. Samples.

A person holding a license as a winery, farm winery or a wholesale wine distributor shall upon request furnish the board without compensation a reasonable quantity of such brand sold by him for chemical analysis; provided, however, that the board may require recertification of the merchandise involved in lieu of analysis of such a sample. A fee in such amount as may be established by the board shall be included with each recertification.

E. Exceptions.

Any wine whose content, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such wine was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container.

§ 3. Wine containers; sizes and types; on- and off-premises limitations; cooler dispensers; novel containers; carafes and decanters.

A. Sizes generally.

Wine may be sold at retail only in or from the original containers of the sizes of 1.7 ounces (50 ml. if in a metric sized package) or above which have been approved by the appropriate federal agency.

B. On-premises consumption.

Wine sold for on-premises consumption shall not be removed from the licensed premises except in the original package with closure.

C. Off-premises consumption.

Wine shall not be sold for off-premises consumption in any container upon which the original closure has been broken.

D. Cooler-dispensers.

The sale of wine from cooler-dispensers is prohibited unless the device is designed so that the original container becomes a part of the equipment, except that frozen drink dispensers or containers used in automatic dispensing may be used if approved by the board.

E. Novel or unusual containers.

Novel or unusual containers are prohibited except upon special permit issued by the board. In determining whether a container is novel or unusual the board may consider, but is not limited to, the following factors: nature

and composition of the container; length of time it has been employed for the purpose; the extent to which it is designed or suitable for those uses; the extent to which the container is a humorous representation; whether the container is dutiable for any other purpose under custom laws and regulations.

F. Carafes or decanters.

Wine may be served for on-premises consumption in carafes or decanters not exceeding 52 fluid ounces (1.5 liters) in capacity.

§ 4. Beer and beverage containers; sizes; off- and on-premises limitations; novel containers; opening devices.

A. Generally.

Beer and beverages may be sold at retail only in or from the original containers of the sizes which have been approved by the appropriate federal agency.

B. Off- and on-premises limitations.

No beer or beverages shall be sold by licensees for off-premises consumption in any container upon which the original closure has been broken, *except for a growler or reusable container that is federally approved to hold a malt beverage, has a resealable closure and is properly labeled. Growlers may only be used by brewpubs.* Further, licensees shall not allow beer or beverages dispensed for on-premises consumption to be removed from authorized areas upon the premises.

C. Novel or unusual containers.

Novel or unusual containers are prohibited except upon special permit issued by the board. In determining whether a container is novel or unusual the board may consider, but is not limited to, the factors set forth in § 3 of this regulation.

D. Opening devices.

No retail beer licensee shall sell at retail any beer or beverage packaged in a metal container designed and constructed with an opening device that detaches from the container when the container is opened in a manner normally used to empty the contents of the container.

§ 5. Beer and beverages; qualifying procedures; samples; exceptions; disqualifying label factors.

A. Qualifying procedures.

Beer and beverages sold in this Commonwealth shall be first approved by the board as to content, container and label.

1. A certification acceptable to the board or on a form prescribed by the board describing the

merchandise may accompany each new brand and type of beer or beverages offered for sale in the state. A certification fee and a registration fee in such amounts as may be established by the board shall be included with each new certification.

2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the board; provided, however, that beer and beverages offered for sale in another state with which this Commonwealth has an analysis and certification exchange agreement shall be subject only to a registration fee in such amounts as may be established by the board.

3. All beer and beverages sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

4. Subsequent sales under an approved label shall conform to the certification or analysis of the beer or beverages originally approved by the board.

B. Samples.

A person holding a license as a brewery or as a wholesale beer distributor shall upon request furnish the board without compensation a reasonable quantity of each brand of beer or beverage sold by him for chemical analysis; provided, however, that the board may require recertification of the merchandise involved in lieu of analysis of such a sample. A fee in such amount as may be established by the board shall be included with each recertification.

C. Exceptions.

Any beer or beverage whose contents, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such beer or beverage was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container.

D. Disqualifying factors as to labels.

While not limited thereto, the board may withhold approval of any label which contains any statement, depiction or reference that:

1. Implies or indicates that the product contains wine or spirits;
2. Implies the product contains above average alcohol for beer;
3. Is suggestive of intoxicating effects;

4. Would tend to induce minors to consume;
5. Would tend to induce persons to consume to excess;
6. Is obscene, lewd or indecent;
7. Implies or indicates that the product is government (federal, state or local) endorsed;
8. Implies the product enhances athletic prowess or implies such by any reference to any athlete, former athlete or athletic team;
9. Implies endorsement of the product by any prominent living person;
10. Makes any humorous or frivolous reference to any intoxicating drink.

VR 125-01-5. Retail Operations.

§ 1. Restrictions upon sale and consumption of alcoholic beverages and beverages.

A. Prohibited sales.

Except as may be otherwise permitted under §§ 4-48 or 4-50 of the Code of Virginia, no licensee shall sell any alcoholic beverage or beverage to a person whom he shall know, or have reason at the time to believe, is:

1. Under the age of 21 years;
2. Intoxicated; or
3. An interdicted person.

B. Prohibited consumption.

No licensee shall allow the consumption of any alcoholic beverage or beverage upon his licensed premises by any person to whom such alcoholic beverage or beverage may not lawfully be sold under this section.

§ 2. Determination of legal age of purchaser.

A. In determining whether a licensee, or his employee or agent, has reason to believe that a purchaser is not of legal age, the board will consider, but is not limited to, the following factors:

1. Whether an ordinary and prudent person would have reason to doubt that the purchaser is of legal age based on the general appearance, facial characteristics, behavior and manner of the purchaser; and
2. Whether the seller demanded, was shown and acted in good faith in reliance upon bona fide evidence of legal age, as defined herein, and that evidence contained a photograph and physical description

Proposed Regulations

consistent with the appearance of the purchaser.

B. Such bona fide evidence of legal age shall include a valid motor vehicle driver's license issued by any state of the United States or the District of Columbia, armed forces identification card, United States passport or foreign government visa, valid special identification card issued by the Virginia Department of Motor Vehicles, or any valid identification issued by any other federal or state government agency, excluding student university and college identification cards, provided such identification shall contain a photograph and signature of the subject, with the subject's height, weight and date of birth.

C. It shall be incumbent upon the licensee, or his employee or agent, to scrutinize carefully the identification, if presented, and determine it to be authentic and in proper order. Identification which has been altered so as to be apparent to observation or has expired shall be deemed not in proper order.

§ 3. Restricted hours; exceptions.

A. Generally.

The hours during which licensees shall not sell or permit to be consumed upon their licensed premises any wine, beer, beverages or mixed beverages shall be as follows:

1. In localities where the sale of mixed beverages has been authorized:

a. For on-premises sale and consumption: 2 a.m. to 6 a.m.

b. For off-premises sale: 12 a.m. to 6 a.m.

2. In all other localities: 12 a.m. to 6 a.m. for on-premises sales and consumption and off-premises sales, except that on New Year's Eve the licensees shall have an additional hour in which to exercise the on-premises privileges of their licenses.

B. Exceptions:

1. Club licensees: No restrictions at any time;

2. Individual licensees whose hours have been more stringently restricted by the board shall comply with such requirements; and

3. Licensees in the City of Danville are prohibited from selling wine and beer for off-premises consumption between the hours of 1 a.m. and 6 a.m.

§ 4. Designated managers of licensees; appointment generally; disapproval by board; restrictions upon employment.

A. Generally.

Each licensee, except a licensed individual who is on the premises, shall have a designated manager present and in actual charge of the business being conducted under the license at any time the licensed establishment is kept open for business, whether or not the privileges of the license are being exercised. The name of the designated manager of every retail and mixed beverage licensee shall be kept posted in a conspicuous place in the establishment, in letters not less than one inch in size, during the time he is in charge.

The posting of the name of a designated manager shall qualify such person to act in that capacity until disapproved by the board.

B. Disapproval of designated manager.

The board reserves the right to disapprove any person as a designated manager if it shall have reasonable cause to believe that any cause exists which would justify the board in refusing to issue such person a license, or that such person has committed any act that would justify the board in suspending or revoking a license.

Before disapproving a designated manager, the board shall accord him the same notice, opportunity to be heard, and follow the same administrative procedures accorded a licensee cited for a violation of the Alcoholic Beverage Control Act.

C. Restrictions upon employment.

No licensee of the board shall knowingly permit a person under 21 years of age, nor one who has been disapproved by the board within the preceding 12 months, to act as designated manager of his business.

§ 5. Restrictions upon employment of minors.

No person licensed to sell alcoholic beverages or beverages at retail shall permit any employee under the age of 18 years to sell, serve or dispense in any manner any alcoholic beverage or beverage in his licensed establishment for on-premises consumption, nor shall such person permit any employee under the age of 21 years to prepare or mix alcoholic beverages or beverages in the capacity of a bartender. "Bartender" is defined as a person who sells, serves or dispenses alcoholic beverages for on-premises consumption at a counter, as defined in § 11 of this regulation, and does not include a person employed to serve food and drink to patrons at tables as defined in that section. However, a person who is 18 years of age or older may sell or serve beer for on-premises consumption at a counter in an establishment that sells beer only.

§ 6. Procedures for mixed beverage licensees generally; mixed beverage restaurant licensees; sales of spirits in closed containers; employment of minors.

A. Generally.

No mixed beverage restaurant or carrier licensee shall:

1. Preparation to order. Prepare, other than in frozen drink dispensers of types approved by the board, or sell any mixed beverage except pursuant to a patron's order and immediately preceding delivery to him.
2. Limitation on sale. Serve as one drink the entire contents of any spirits containers having a greater capacity than a "miniature" of two fluid ounces or 50 milliliters, nor allow any patron to possess more than two drinks of mixed beverages at any one time. "Miniatures" may be sold by carriers and by retail establishments licensed as hotels, or restaurants upon the premises of a hotel, to sell mixed beverages. However, such licensees, other than carriers, may sell miniatures only for consumption in bedrooms and in private rooms during a scheduled private function.
3. Types of ingredients. Sell any mixed beverage to which alcohol has been added.

B. Mixed beverage restaurant licensees.

No mixed beverage restaurant licensee shall:

1. Stamps and identification. Allow to be kept upon the licensed premises any container of alcoholic beverages of a type authorized to be purchased under his license which does not bear the required mixed beverage stamp imprinted with his license number and purchase report number.
2. Source of ingredients. Use in the preparation of a mixed beverage any alcoholic beverage not purchased from the board or a wholesale wine distributor.
3. Empty container. Fail to obliterate the mixed beverage stamp immediately when any container of spirits is emptied.
4. Miniatures. Sell any spirits in a container having a capacity of two fluid ounces or less, or 50 milliliters.

C. Sales of spirits in closed containers.

If a restaurant for which a mixed beverage restaurant license has been issued under § 4-98.2 of the Code of Virginia is located on the premises of and in a hotel or motel, whether the hotel or motel be under the same or different ownership, sales of mixed beverages, including sales of spirits packages in original closed containers purchased from the board, as well as other alcoholic beverages and beverages, for consumption in bedrooms and private rooms of such hotel or motel, may be made by the licensee subject to the following conditions in addition to other applicable laws:

1. Spirits sold by the drink as mixed beverages or in original closed containers must have been purchased under the mixed beverage restaurant license upon

purchase forms provided by the board;

2. Delivery of sales of mixed beverages and spirits in original closed containers shall be made only in the bedroom of the registered guest or to the sponsoring group in the private room of a scheduled function. This section shall not be construed to prohibit a licensee catering a scheduled private function from delivering mixed beverage drinks to guests in attendance at such function;
3. Receipts from the sale of mixed beverages and spirits sold in original closed containers, as well as other alcoholic beverages and beverages, shall be included in the gross receipts from sales of all such merchandise made by the licensee; and
4. Complete and accurate records of sales of mixed beverages and sales of spirits in original closed containers to registered guests in bedrooms and to sponsors of scheduled private functions in private rooms shall be kept separate and apart from records of all mixed beverage sales.

D. Employment of minors.

No mixed beverage licensee shall employ a person less than 18 years of age in or about that portion of his licensed establishment used for the sale and consumption of mixed beverages; provided, however, that this shall not be construed to prevent the licensee from employing such a person in such portion of his establishment for the purpose of:

1. Seating customers or busing tables when customers generally are purchasing meals;
2. Providing entertainment or services as a member or staff member of an otherwise adult or family group which is an independent contractor with the licensee for that purpose; or
3. Providing entertainment when accompanied by or under the supervision of a parent or guardian.

§ 7. Restrictions on construction, arrangement and lighting of rooms and seating of licensees.

The construction, arrangement and illumination of the dining rooms and designated rooms and the seating arrangements therein of a licensed establishment shall be such as to permit ready access and reasonable observation by law enforcement officers and by agents of the board. The interior lighting shall be sufficient to permit ready discernment of the appearance and conduct of patrons in all portions of such rooms.

§ 8. Entreating, urging or enticing patrons to purchase prohibited.

No retail licensee shall entreat, urge or entice any

Proposed Regulations

patron of his establishment to purchase any alcoholic beverage or beverage; nor shall such licensee allow any other person to so entreat, urge or entice a patron upon his licensed premises. Entreating, urging or enticing shall include, but not be limited to, placing alcoholic beverages in containers of ice which are visible, located in public display areas and available to patrons of retail establishments for off-premises sales. Knowledge by a manager of the licensee of a violation of this section shall be imputed to the licensee.

This section shall not be construed to prohibit the taking of orders in the regular course of business, the purchase of a drink by one patron for another patron as a matter of normal social intercourse, nor advertising in accordance with regulations of the board.

§ 9. Storage of alcoholic beverages and beverages generally; permits for storage; exception.

A. Generally.

Alcoholic beverages and beverages shall not be stored at any premises other than those described in the license, except upon a permit issued by the board.

B. Procedures under permits.

The licensee shall maintain at all times as a part of the records required by VR 125-01-7, § 9, an accurate inventory reflecting additions to and withdrawals of stock. Withdrawals shall specify:

1. The name of the person making the withdrawal who shall be the licensee or his duly authorized agent or servant;
2. The amount withdrawn; and
3. The place to which transferred.

C. Exception.

Draft beer and draft beverages may be stored without permit by a wholesaler at a place licensed to do a warehousing business in Virginia.

§ 10. Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.

A. Wine and beer.

Retail off-premises wine and beer licenses may be issued to persons operating the following types of establishments provided the total monthly sales and inventory (cost) of the required commodities listed in the definitions are not less than those shown:

1. "Delicatessen." An establishment which sells a variety of prepared foods or foods requiring little

preparation such as cheeses, salads, cooked meats and related condiments:

Monthly sales \$2,000

Inventory (cost) \$2,000

2. "Drugstore." An establishment selling medicines prepared by a registered pharmacist according to prescription and other medicines and articles of home and general use;

Monthly sales \$2,000

Inventory (cost) \$2,000

3. "Grocery store." An establishment which sells edible items intended for human consumption, including a variety of staple foodstuffs used in the preparation of meals:

Monthly sales \$2,000

Inventory (cost) \$2,000

4. "Convenience grocery store." An establishment which has an enclosed room in a permanent structure where stock is displayed and offered for sale, and which sells edible items intended for human consumption, consisting of a variety of such items of the type normally sold in grocery stores, and does not sell any petroleum related service with the sale of petroleum products:

Monthly sales \$2,000

Inventory (cost) \$2,000

In regard to both grocery stores and convenience grocery stores, "edible items" shall mean such items normally used in the preparation of meals, including liquids, and which shall include a variety (at least five) of representative items from each of the basic food groups: dairy, meat, grain, vegetables and fruit.

5. "Specialty shop." An establishment provided with adequate shelving and storage facilities which sell products such as cheese and gourmet foods:

Monthly sales \$2,000

Inventory (cost) \$2,000

B. Beer.

Retail off-premises beer licenses may be issued to persons operating the following types of establishments provided the total monthly sales and inventory (cost) of the required commodities listed in the definitions are not less than those shown:

1. "Delicatessen." An establishment as defined in subsection A:

Monthly sales\$1,000
Inventory (cost)\$1,000

2. "Drugstore." An establishment as defined in subsection A:

Monthly sales\$1,000
Inventory (cost)\$1,000

3. "Grocery store." An establishment as defined in subsection A:

Monthly sales\$1,000
Inventory (cost)\$1,000

4. "Marina store." An establishment operated by the owner of a marina which sells food and nautical and fishing supplies:

Monthly sales\$1,000
Inventory (cost)\$1,000

C. Exceptions.

The board may grant a license to an establishment not meeting the qualifying figures in subsections A and B provided it affirmatively appears that there is a substantial public demand for such an establishment and that public convenience will be promoted by the issuance of the license.

D. Further conditions.

The board in determining the eligibility of an establishment for a license shall give consideration to, but shall not be limited to, the following:

- 1. The extent to which sales of required commodities are secondary or merely incidental to sales of all products sold in such establishment;
- 2. The extent to which a variety of edible items of the types normally found in grocery stores are sold; and
- 3. The extent to which such establishment is constructed, arranged or illuminated to allow reasonable observation of the age and sobriety of purchasers of alcoholic beverages.

E. Temporary licenses.

Notwithstanding the above, the board may issue a temporary license for any of the above retail operations.

Such licenses may be issued only after application has been filed in accordance with the provisions of § 4-30 of the Code of Virginia and in cases where the sole objection to issuance of a license is that the establishment will not be qualified in terms of the sale of food or edible items. If a temporary license is issued, the board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. Should the business be qualified, the license applied for may be issued. If the business is not qualified, the application will become the subject of a hearing if the applicant so desires. No further temporary license shall be issued to the applicant or to any other person with respect to that establishment for a period of one year from the expiration and, once the application becomes the subject of a hearing, no temporary license may be issued.

§ 11. Definitions and qualifications for retail on-premises and on- and off-premises licenses generally; mixed beverage licensee requirements; exceptions; temporary licenses.

A. Generally.

The following definitions shall apply to retail licensees and mixed beverage licensees where appropriate:

- 1. "Designated room." A room or area in which a licensee may exercise the privilege of his license, the location, equipment and facilities of which room or area have been approved by the board. The facilities shall be such that patrons may purchase food prepared on the premises for consumption on the premises at substantially all times that alcoholic beverages are offered for sale therein. The seating capacity of such room or area shall be included in determining eligibility qualifications for a mixed beverage restaurant.
- 2. "Dining car, buffet car or club car." A vehicle operated by a common carrier of passengers by rail, in interstate or intrastate commerce and in which food and refreshments are sold.
- 3. "Meals." In determining what constitutes a "meal" as the term is used in this section, the board may consider the following factors, among others:
 - a. The assortment of foods commonly offered for sale;
 - b. The method and extent of preparation and service required; and
 - c. The extent to which the food served would be considered a principal meal of the day as distinguished from a snack.
- 4. "Habitual sales." In determining what constitutes "habitual sales" of specific foods, the board may consider the following factors, among others:

Proposed Regulations

a. The business hours observed as compared with similar type businesses;

b. The extent to which such food or other merchandise is regularly sold; and

c. Present and anticipated sales volume in such food or other merchandise.

5. "Sale" and "sell." The definition of "sale" and "sell" in VR 125-01-7, § 9 shall apply to this section.

B. Wine and beer.

Retail on- or on-and off-premises licenses may be granted to persons operating the following types of establishments provided the total monthly food sales for consumption in dining rooms and other designated rooms on the premises are not less than those shown:

1. "Boat." A common carrier of passengers operating by water on regular schedules in interstate or intrastate commerce, habitually serving in a dining room meals prepared on the premises food :

Monthly sales \$2,000

2. "Restaurant." A bona fide dining establishment habitually selling meals with entrees and other foods prepared on the premises:

Monthly sales \$2,000

3. "Hotel." Any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, meals with entrees and other food prepared on the premises and lodging are habitually furnished to persons and which has 10 or more bedrooms:

Monthly sales \$2,000

In regard to both restaurants and hotels, at least \$1,000 of the required monthly sales must be in the form of meals with entrees.

C. Beer.

Retail on- or on- and off-premises licenses may be granted to persons operating the following types of establishments provided the total monthly food sales for consumption in dining rooms on the premises are not less than those shown:

1. "Boat." A common carrier of passengers operating by water on regular schedules in interstate or intrastate commerce, habitually serving in a dining room food prepared on the premises food :

Monthly sales \$2,000

2. "Restaurant." An establishment habitually selling food prepared on the premises:

Monthly sales \$2,000

3. "Hotel." See subdivision B 3;

Monthly sales \$2,000

4. "Tavern." An establishment where food and refreshment, including beer or beverages, are habitually sold for on-premises consumption.

D. Mixed beverage licenses.

The following shall apply to mixed beverage licenses where appropriate:

1. "Bona fide, full-service restaurant." An established place of business where meals with substantial entrees are habitually sold to persons and which has adequate facilities and sufficient employees for cooking, preparing and serving such meals for consumption at tables in dining rooms on the premises. In determining the qualifications of such restaurant, the board may consider the assortment of entrees and other food sold. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

2. "Monetary sales requirements." The monthly sale of food prepared on the premises shall not be less than \$4,000 of which at least \$2,000 shall be in the form of meals with entrees.

3. "Dining room." A public room in which meals are regularly sold at substantially all hours that mixed beverages are offered for sale therein.

4. "Outside terraces or patios." An outside terrace or patio, the location, equipment and facilities of which have been approved by the board may be approved as a "dining room" or as a "designated room" in the discretion of the board. A location adjacent to a public sidewalk, street or alley will not be approved where direct access is permitted from such sidewalk, street or alley by more than one well-defined entrance therefrom. The seating capacity of an outside terrace or patio if used regularly by those operations which are seasonal in nature, shall be included in determining eligibility qualifications. For purposes of this subdivision, the term "seasonal operations" is defined as an establishment that voluntarily surrenders its license to the board for part of its license year.

5. "Tables and counters."

a. A "table" shall include any article of furniture, fixture or counter generally having a flat top surface supported by legs, a pedestal or a solid base, designed to accommodate the serving of food

and refreshments (though such food and refreshments need not necessarily be served together), and to provide seating for customers. If any table is located between two-backed benches, commonly known as a booth, at least one end of the structure shall be open permitting an unobstructed view therein. In no event, shall the number of individual seats at free standing tables and in booths be less than the number of individual seats at counters.

b. This subdivision shall not be applicable to a room otherwise lawfully in use for private meetings and private parties limited in attendance to members and guests of a particular group.

E. Exceptions.

The board may grant a license to an establishment not meeting the qualifying figures in this section, provided the establishment otherwise is qualified under the applicable provisions of the Code of Virginia and this section, if it affirmatively appears that there is a substantial public demand for such an establishment and that the public convenience will be promoted by the issuance of the license.

F. Temporary licenses.

Notwithstanding the above, the board may issue a temporary license for any of the above retail operations. Such licenses may be issued only after application has been filed in accordance with the provisions of § 4-30 of the Code of Virginia, and in cases where the sole objection to issuance of a license is that the establishment will not be qualified in terms of the sale of food or edible items. If a temporary license is issued, the board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. Should the business be qualified, the license applied for may be issued. If the business is not qualified, the application will become the subject of a hearing if the applicant so desires. No further temporary license shall be issued to the applicant or to any other person with respect to the establishment for a period of one year from expiration and, once the application becomes the subject of a hearing, no temporary license may be issued.

§ 12. Fortified wines; definitions and qualifications.

A. Definition.

"Fortified wine" is defined as wine having an alcoholic content of more than 14% by volume but not more than 21%.

B. Qualifications.

Fortified wine may be sold for off-premises consumption by licensees authorized to sell wine for such consumption.

§ 13. Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.

A. Applications.

Each applicant for a club license shall furnish the following information:

1. A certified copy of the charter, articles of association or constitution;
2. A copy of the bylaws;
3. A list of the officers and directors showing names, addresses, ages and business employment;
4. The average number of members for the preceding 12 months. Only natural persons may be members of clubs; and
5. A financial statement for the latest calendar or fiscal year of the club, and a brief summary of the financial condition as of the end of the month next preceding the date of application.

B. Qualifications.

In determining whether an applicant qualifies under the statutory definition of a club, as well as whether a club license should be suspended or revoked, the board will consider, but is not limited to, the following factors:

1. The club's objectives and its compliance with the objectives;
2. The club's qualification for tax exempt status from federal and state income taxes; and
3. The club's permitted use of club premises by nonmembers, including reciprocal arrangements.

C. Nonmember use.

The club shall limit nonmember use of club premises according to the provisions of this section and shall notify the board each time the club premises are used in accordance with this subdivision 1 below. The notice shall be received by the board at least two business days in advance of any such event.

1. A licensed club may allow nonmembers, who would otherwise qualify for a banquet or banquet special events license, to use club premises, where the privileges of the club license are exercised, 12 times per calendar year for public events held at the licensed premises, such events allowing nonmembers to attend and participate in the event at the licensed premises;
2. A member of a licensed club may sponsor private functions on club premises for an organization or

Proposed Regulations

group of which he is a member, such attendees being guests of the sponsoring member; or

3. Notwithstanding subdivisions C 1 and C 2 above, a licensed club may allow its premises to be used no more than a total of 12 times per calendar year by organizations or groups who obtain banquet or banquet special events licenses.

Additionally, there shall be no limitation on the numbers of times a licensed club may allow its premises to be used by organizations or groups if alcoholic beverages are not served at such functions.

D. Special events licenses.

A licensed club may not obtain a banquet special events license or a mixed beverage special events license for use on its premises.

~~D~~. E. Reciprocal arrangements.

Persons who are resident members of other clubs located at least 100 miles from the club licensed by the board (the "host club") and who are accorded privileges in the host club by reason of bona fide, prearranged reciprocal arrangements between the host club and such clubs shall be considered guests of the host club and deemed to have members' privileges with respect to the use of its facilities. The reciprocal arrangements shall be set out in a written agreement and approved by the board prior to the exercise of the privileges thereunder.

The mileage limitations of this subsection notwithstanding, members of private, nonprofit clubs or private clubs operated for profit located in separate cities which are licensed by the board to operate mixed beverage restaurants on their respective premises and which have written agreements approved by the board for reciprocal dining privileges may be considered guests of the host club and deemed to have members' privileges with respect to its dining facilities.

E. F. Changes.

Any change in the officers and directors of a club shall be reported to the board within 30 days, and a certified copy of any change in the charter, articles of association or by-laws shall be furnished the board within 30 days thereafter.

F. G. Financial statements.

Each club licensee shall prepare and sign an annual financial statement on forms prescribed by the board. The statement may be on a calendar year or fiscal year basis, but shall be consistent with any established tax year of the club. The statement must be prepared and available for inspection on the club premises no later than 120 days next following the last day of the respective calendar or fiscal year, and each such statement must be maintained

on the premises for a period of three consecutive years. In addition, each club holding a mixed beverage license shall be required to prepare and timely submit the mixed beverage annual review report required by VR 125-01-7 § 9 C.

§ 14. Lewd or disorderly conduct.

While not limited thereto, the board shall consider the following conduct upon any licensed premises to constitute lewd or disorderly conduct:

1. The real or simulated display of any portion of the genitals, pubic hair or buttocks, or any portion of the breast below the top of the areola, by any employee, or by any other person; except that when entertainers are on a platform or stage and reasonably separated from the patrons of the establishment, they shall be in conformity with subdivision 2;

2. The real or simulated display of any portion of the genitals, pubic hair or anus by an entertainer, or any portion of the areola of the breast of a female entertainer. When not on a platform or stage and reasonably separate from the patrons of the establishment, entertainers shall be in conformity with subdivision 1;

3. Any real or simulated act of sexual intercourse, sodomy, masturbation, flagellation or any other sexual act prohibited by law, by any person, whether an entertainer or not; or

4. The fondling or caressing by any person, whether an entertainer or not, of his own or of another's breast, genitals or buttocks.

§ 15. Off-premises deliveries on licensed retail premises; "drive through" establishments.

No person holding a license granted by the board which authorizes the licensee to sell wine or beer at retail for consumption off the premises of such licensee shall deliver such wine or beer to a person on the licensed premises other than in the licensed establishment. Deliveries of such merchandise to persons through windows, apertures or similar openings at "drive through" or similar establishments, whether the persons are in vehicles or otherwise, shall not be construed to have been made in the establishments. No sale or delivery of such merchandise shall be made to a person who is seated in a vehicle.

The provisions of this section shall be applicable also to the delivery of beverages.

§ 16. Happy hour and related promotions; definitions; exceptions.

A. Definitions.

1. "Happy Hour." A specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by a retail licensee.

2. "Drink." Any beverage containing the amount of alcoholic beverages customarily served to a patron as a single serving by a retail licensee.

B. Prohibited practices.

No retail licensee shall engage in any of the following practices:

1. Conducting a happy hour between 9 p.m. of each day and 2 a.m. of the following day;

2. Allowing a person to possess more than two drinks at any one time during a happy hour;

3. Increasing the volume of alcoholic beverages contained in a drink without increasing proportionately the customary or established retail price charged for such drink;

4. Selling two or more drinks for one price, such as "two for one" or "three for one";

5. Selling pitchers of mixed beverages;

6. Giving away drinks;

7. Selling an unlimited number of drinks for one price, such as "all you can drink for \$5.00"; or

8. Advertising happy hour in the media or on the exterior of the licensed premises.

C. Exceptions.

This regulation shall not apply to prearranged private parties, functions, or events, not open to the public, where the guests thereof are served in a room or rooms designated and used exclusively for private parties, functions or events.

§ 17. Caterer's license.

A. Qualifications.

Pursuant to § 4-98.2(e) of the Code of Virginia, the board may grant a caterer's license to any person:

1. Engaged on a regular basis in the business of providing food and beverages to persons for service at private gatherings, or at special events as defined in § 4-2 of the Code of Virginia or as provided in § 4-98.2(c) of the Code of Virginia, and

2. With an established place of business with catering gross sales average of at least \$4,000 per month and

who has complied with the requirements of the local governing body concerning sanitation, health, construction or equipment and who has obtained all local permits or licenses which may be required to conduct such a catering business.

B. Privileges.

The license authorizes the following:

1. The purchase of spirits, vermouth and wine produced by farm wineries from the board;

2. The purchase of wine and cider from licensed wholesalers or farm wineries or the purchase of beer or 3.2 beverages from licensed wholesalers;

3. The retail sale of alcoholic beverages or mixed beverages to persons who sponsor the private gatherings or special events described in subsection A or directly to persons in attendance at such events. No banquet or mixed beverage special events license is required in either case; and

4. The storage of alcoholic beverages purchased by the caterer at the established and approved place of business.

C. Restrictions and conditions.

In addition to other applicable statutes and regulations of the board, the following restrictions and conditions apply to persons licensed as caterers:

1. Alcoholic beverages may be sold only for on-premises consumption to persons in attendance at the gathering or event;

2. The records required to be kept by § 9 of VR 125-01-7 shall be maintained by caterers. If the caterer also holds other alcoholic beverages licenses, he shall maintain the records relating to his caterer's business separately from the records relating to any other license. Additionally, the records shall include the date, time and place of the event and the name and address of the sponsoring person or group of each event catered;

3. The annual gross receipts from the sale of food cooked and prepared for service at gatherings and events referred to in this regulation and nonalcoholic beverages served there shall amount to at least 45% of the gross receipts from the sale of mixed beverages and food;

4. The caterer shall notify the board in writing at least 2 calendar days in advance of any events to be catered under his license for the following month. The notice shall include the date, time, location and address of the event and the name of the sponsoring person, group, corporation or association;

Proposed Regulations

5. Persons in attendance at a private event at which alcoholic beverages are served but not sold under the caterer's license may keep and consume their own lawfully acquired alcoholic beverages;

6. The private gathering referred to in subsection A above shall be a social function which is attended only by persons who are specifically and individually invited by the sponsoring person or organization, not the caterer;

7. The licensee shall insure that all functions at which alcoholic beverages are sold are ones which qualify for a banquet license, for a special event license or a mixed beverage special events license. Licensees are entitled to all services and equipment now available under a banquet license from wholesalers;

8. A photocopy of the caterer's license must be present at all events at which the privileges of the license are exercised; and

9. The caterer's license shall be considered a retail license for purposes of § 4-79.1 of the Code of Virginia.

§ 18. Volunteer fire departments or volunteer rescue squads; banquet facility licenses.

A. Qualifications.

Pursuant to § 4-25(pl) of the Code of Virginia, the board may grant banquet facility licenses to volunteer fire departments and volunteer rescue squads:

1. Providing volunteer fire or rescue squad services;
2. Having as its premises a fire or rescue squad station regularly occupied by such fire department or rescue squad; and
3. Being duly recognized by the governing body of the city, county or town in which it is located.

B. Privileges.

The license authorizes the following:

The consumption of legally acquired alcoholic beverages on the premises of the licensee or on premises other than such fire or rescue squad station which are occupied and under the control of the licensee while the privilege of its license is being exercised, by any person, association, corporation or other entity, including the fire department or rescue squad, and bona fide members and guests thereof, otherwise eligible for a banquet license and entitled to such privilege for a private affair or special event.

C. Restrictions and conditions.

In addition to other applicable statutes and regulations of the board, the following restrictions and conditions apply to persons holding such banquet facility licenses:

1. Alcoholic beverages cannot be sold or purchased by the licensee;

2. Alcoholic beverages cannot be sold or charged for in any way by the person, association, corporation or other entity permitted to use the premises;

3. The private affair referred to in subdivision B 1 shall be a social function which is attended only by persons who are members of the association, corporation or other entity, including the fire department or rescue squad, and their bona fide guests;

4. The volunteer fire department or rescue squad shall notify the board in writing at least two calendar days in advance of any affair or event at which the license will be used away from the fire department or rescue squad station. The notice shall include the date, time, location and address of the event and the identity of the group, and the affair or event. Such records of off-site affairs and events should be maintained at the fire department or rescue squad station for a period of two years;

5. A photocopy of the banquet facility license shall be present at all affairs or events at which the privileges of the license are exercised away from the fire or rescue squad station; and

6. The fire department or rescue squad shall comply with the requirements of the local governing body concerning sanitation, health, construction or equipment and shall obtain all local permits or licenses which may be required to exercise the privilege of its license.

§ 19. Bed and breakfast licenses.

A. Qualifications.

Pursuant to § 4-25(A)(22) of the Code of Virginia, the board may grant a bed and breakfast license to any person who operates an establishment consisting of:

1. No more than 15 bedrooms available for rent;
2. Offering to the public, for compensation, transitory lodging or sleeping accommodations; and
3. Offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

B. Conditions.

In addition to other applicable statutes and regulations

of the board, the following restrictions and conditions apply to persons licensed as bed and breakfast establishments:

1. Alcoholic beverages served under the privileges conferred by the license must be purchased from a Virginia A.B.C. store, wine or beer wholesaler or farm winery;
2. Alcoholic beverages may be served for on-premises consumption to persons who are registered, overnight guests and are of legal age to consume alcoholic beverages;
3. Lodging, meals and service of alcoholic beverages shall be provided at one general price and no additional charges, premiums or surcharges shall be exacted for the service of alcoholic beverages;
4. Alcoholic beverages may be served in dining rooms and other designated rooms, including bedrooms, outside terraces or patios;
5. The bed and breakfast establishment upon request or order of lodgers making overnight reservations, may purchase and have available for the lodger upon arrival, any alcoholic beverages so ordered, provided that no premium or surcharge above the purchase price of the alcoholic beverages may be exacted from the consumer for this accommodation purchase;
6. Alcoholic beverages purchased under the license may not be commingled or stored with the private stock of alcoholic beverages belonging to owners of the bed and breakfast establishment; and
7. The bed and breakfast establishment shall maintain complete and accurate records of the purchases of alcoholic beverages and provide sufficient evidence that at least one meal per day is offered to persons to whom overnight lodging is provided.

§ 20. Specialty stores and gift shops ; wine and beer off-premises and wine off-premises licenses; conditions; records; inspections.

A. Qualifications.

Pursuant to the provisions of § 4-25 A 13 and 4-25 A 23 of the Code of Virginia, the board may grant (i) retail wine and beer off-premises licenses to persons operating a registered historical site or museum specialty store or (ii) retail wine off-premises licenses to persons operating gift shops .

B. Restrictions and conditions:

1. A historical site or museum specialty store shall be defined as (i) any bona fide retail store selling, predominately, gifts, books, souvenirs and specialty items relating to history, in general, or to the site or

any exhibits ~~(i)~~ ; (ii) located on the premises or grounds of a government registered national, state or local historic building or site and which is open to the public on a regular basis ; or ~~(ii)~~ (iii) which is located within the premises of a museum which is open to the public on a regular basis ; and (iv) provided in either case that such store is located within a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer.

2. A gift shop shall be defined as any bona fide retail store selling, predominately, (i) floral arrangements or handmade arts and crafts, which may include a combination of gifts, books, specialty items, collectibles, or other original and handmade products; and (ii) which is open to the public on a regular basis in a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine.

3. The board may consider the purpose, characteristics, nature, and operation of the applicant establishment in determining whether it shall be considered as a specialty store or gift shop within the meaning of this section.

4. Specialty store and gift shop retail licenses, pursuant to this regulation, shall be granted only to persons who have places of business which have been in operation for no less than 12 months next preceding the filing of the application.

5. A Specialty store and gift shop retail license shall authorize the licensee licensees to sell at retail alcoholic beverages in accordance with their license privileges, which have been purchased from and received at the establishment from farm winery or wholesale licensees of the board, to sell such alcoholic beverages only in closed packages for consumption off the premises, to sell such alcoholic beverages only within the interior premises of the store, and to deliver or ship the same to purchasers thereof in accordance with Title 4 of the Code of Virginia and regulations of the board. No chilled alcoholic beverages may be sold under the privileges of the specialty store or gift shop retail license.

6. In granting licenses under the provisions of this regulation, the board may impose restrictions and conditions upon purchases and sales of wine and beer in accordance with this regulation or as may be deemed reasonable by the board to ensure that the distribution of alcoholic beverages is orderly, lawful and only incidental to the principal business of the licensee. In no event may the sale of such alcoholic beverages exceed 25% of total annual gross sales at the establishment.

7. Every person licensed to sell alcoholic beverages under the provisions of this regulation shall comply

Proposed Regulations

with VR 125-01-7 § 9.

§ 21. Manner of compensation of employees of retail licensees.

Employees of a retail licensee shall not receive compensation based directly, in whole or in part, upon the volume of alcoholic beverages or beverages sales only; provided, however, that in the case of retail wine and beer or beer only licensees, nothing in this section shall be construed to prohibit a bona fide compensation plan based upon the total volume of sales of the business, including receipts from the sale of alcoholic beverages or beverages.

§ 22. *Interests in the businesses of licensees.*

Persons to whom licenses have been issued by the board shall not allow any other person to receive a percentage of the income of the licensed business or have any beneficial interest in such business; provided, however, that nothing in this section shall be construed to prohibit:

1. *The payment by the licensee of a franchise fee based in whole or in part upon a percentage of the entire gross receipts of the business conducted upon the licensed premises, where such is reasonable as compared to prevailing franchise fees of similar businesses; or*

2. *Where the licensed business is conducted upon leased premises, and the lease when construed as a whole does not constitute a shift or device to evade the requirements of this section:*

a. *The payment of rent based in whole or in part upon a percentage of the entire gross receipts of the business, where such rent is reasonable as compared to prevailing rentals of similar businesses; and*

b. *The landlord from imposing standards relating to the conduct of the business upon the leased premises, where such standards are reasonable as compared to prevailing standards in leases of similar businesses, and do not unreasonably restrict the control of the licensee over the sale and consumption of mixed beverages, other alcoholic beverage, or beverages.*

VR 125-01-7. Other Provisions.

§ 1. Transportation of alcoholic beverages and beverages; noncommercial permits; commercial carrier permits; refusal, suspension or revocation of permits; exceptions; out-of-state limitation not affected.

A. Permits generally.

The transportation within or through this Commonwealth of alcoholic beverages or beverages lawfully purchased

within this Commonwealth is prohibited, except upon a permit issued by the board, when in excess of the following limits:

1. Wine and beer. No limitation.

2. Alcoholic beverages other than those described in subdivision A 1. Three gallons; provided, however, that not more than one gallon thereof shall be in packages containing less than 1/5 of a gallon.

3. Beverages. No limitation.

If any part of the alcoholic beverages being transported is contained in a metric-sized package, the three-gallon limitation shall be construed to be 12 liters, and not more than four liters shall be in packages smaller than 750 milliliters.

The transportation within, into or through this Commonwealth of alcoholic beverages or beverages lawfully purchased outside of this Commonwealth is prohibited, except upon a permit issued by the board, when in excess of the following limits:

1. Alcoholic beverages, including wine and beer. One gallon (four liters if any part is in a metric-sized package).

2. Beverages. One case of not more than 384 ounces (12 liters if in metric-sized packages).

If satisfied that the proposed transportation is otherwise lawful, the board shall issue a transportation permit, which shall accompany the alcoholic beverages or beverages at all times to the final destination.

B. Commercial carrier permits.

Commercial carriers desiring to engage regularly in the transportation of alcoholic beverages or beverages within, into or through this Commonwealth shall, except as hereinafter noted, file application in writing for a transportation permit upon forms furnished by the board. If satisfied that the proposed transportation is otherwise lawful, the board shall issue a transportation permit. Such permit shall not be transferable and shall authorize the carrier to engage in the regular transportation of alcoholic beverages or beverages upon condition that there shall accompany each such transporting vehicle:

1. A bill of lading or other memorandum describing the alcoholic beverages or beverages being transported, and showing the names and addresses of the consignor and consignee, who shall be lawfully entitled to make and to receive the shipment; and

2. Except for express companies and carriers by rail or air, a certified photocopy of the carrier's transportation permit.

C. Refusal, suspension or revocation of permits.

The board may refuse, suspend or revoke a carrier's transportation permit if it shall have reasonable cause to believe that alcoholic beverages or beverages have been illegally transported by such carrier or that such carrier has violated any condition of a permit. Before refusing, suspending or revoking such permit, the board shall accord the carrier involved the same notice, opportunity to be heard, and follow the same administrative procedures accorded an applicant or licensee under the Alcoholic Beverage Control Act.

D. Exceptions.

There shall be exempt from the requirements of this section:

1. Common carriers by water engaged in transporting lawfully acquired alcoholic beverages for a lawful consignor to a lawful consignee;
2. Persons transporting wine, beer, cider or beverages purchased from the board or a licensee of the board;
3. Persons transporting alcoholic beverages or beverages which may be manufactured and sold without a license from the board;
4. A licensee of the board transporting lawfully acquired alcoholic beverages or beverages he is authorized to sell in a vehicle owned or leased by the licensee;
5. Persons transporting alcoholic beverages or beverages to the board, or to licensees of the board, provided that a bill of lading or a complete and accurate memorandum accompanies the shipment, and provided further, in the case of the licensee, that the merchandise is such as his license entitles him to sell;
6. Persons transporting alcoholic beverages or beverages as a part of their official duties as federal, state or municipal officers or employees; and
7. Persons transporting lawfully acquired alcoholic beverages or beverages in a passenger vehicle, other than those alcoholic beverages or beverages referred to in subdivisions D 2 and D 3, provided the same are in the possession of the bona fide owners thereof, and that no occupant of the vehicle possesses any alcoholic beverages in excess of the maximum limitations set forth in subsection A.

E. One-gallon (four liters if any part in a metric-sized package) limitation.

This regulation shall not be construed to alter the one-gallon (four liters if any part is in a metric-sized package) limitation upon alcoholic beverages which may be brought into the Commonwealth pursuant to § 4-84(d)

of the Code of Virginia.

§ 2. Procedures for handling cider; authorized licensees; containers; labels; markup; age limits.

A. Procedures for handling cider.

The procedures established by regulations of the board for the handling of wine having an alcoholic content of not more than 14% by volume shall, with the necessary change of detail, be applicable to the handling of cider, subject to the following exceptions and modifications.

B. Authorized licensees.

Licensees authorized to sell beer and wine, or either, at retail are hereby approved by the board for the sale of cider and such sales shall be made only in accordance with the age limits set forth below.

C. Containers.

Containers of cider shall have a capacity of not less than 12 ounces (375 milliliters if in a metric-sized package) nor more than one gallon (three liters if in a metric-sized package).

D. Labels.

If the label of the product is subject to approval by the federal government, a copy of the federal label approval shall be provided to the board.

E. Markup.

The markup or profit charged by the board shall be \$.08 per liter or fractional part thereof.

F. Age limits.

Persons must be 21 years of age or older to purchase or possess cider.

§ 3. Sacramental wine; purchase orders; permits; applications for permits; use of sacramental wine.

A. Purchase orders.

Purchase orders for sacramental wine shall be on separate order forms prescribed by the board and provided at cost if supplied by the board.

B. Permits.

Sales for sacramental purposes shall be only upon permits issued by the board without cost and on which the name of the wholesaler authorized to make the sale is designated.

C. Applications for permits.

Proposed Regulations

Requests for permits by a religious congregation shall be in writing, executed by an officer of the congregation, and shall designate the quantity of wine and the name of the wholesaler from whom the wine shall be purchased.

D. Use of sacramental wine.

Wine purchased for sacramental purposes by a religious congregation shall not be used for any other purpose.

§ 4. Alcoholic beverages for culinary purposes; permits; purchases; restrictions.

A. Permits.

The board may issue a culinary permit to a person operating an establishment where food is prepared on the premises. The board may refuse to issue or may suspend or revoke such a permit for any reason that it may refuse to issue, suspend or revoke a license.

B. Purchases.

Distilled spirits shall be purchased from ABC retail stores. Wine and beer may be purchased from retail licensees when the permittee does not hold any retail on- or off-premises licenses. A permittee possessing a retail on- or off- premises license must purchase its wine and beer from a wholesaler. However, a permittee who only has an on- or on- and off-premises beer license may purchase its wine from a retail licensee.

C. Records.

Permittees shall keep complete and accurate records of their purchases of alcoholic beverages and beverages at the permittee's place of business for two years. The records shall be available for inspection and copying by any member of the board or its agents at any time during business hours.

D. Restrictions.

Alcoholic beverages purchased for culinary purposes shall not be sold or used for any other purpose. They shall be stored at the permittee's place of business, separate and apart from all other commodities.

§ 5. Procedures for druggists and wholesale druggists; purchase orders; records.

A. Purchase orders.

Purchases of alcohol by druggists or wholesale druggists shall be executed only on orders on forms supplied by the board. In each case the instructions on the forms relative to purchase and transportation shall be complied with.

B. Records.

Complete and accurate records shall be kept at the

place of business of each druggist and wholesale druggist for a period of two years, which records shall be available at all times during business hours for inspection by any member of the board or its agents. Such records shall show:

1. The amount of alcohol purchased;
2. The date of receipt; and
3. The name of the vendor.

In addition, records of wholesale druggists shall show:

1. The date of each sale;
2. The name and address of the purchaser; and
3. The amount of alcohol sold.

§ 6. Alcoholic beverages for hospitals, industrial and manufacturing users.

A. Permits.

The board may issue a yearly permit authorizing the shipment and transportation direct to the permittee of orders placed by the board for alcohol or other alcoholic beverages for any of the following purposes:

1. For industrial purposes;
2. For scientific research or analysis;
3. For manufacturing articles allowed to be manufactured under the provisions of § 4-48 of the Code of Virginia; or
4. For use in a hospital or home for the aged (alcohol only).

Upon receipt of alcohol or other alcoholic beverages, one copy of the bill of lading or shipping invoice, accurately reflecting the date received and complete and accurate records of the transaction, shall be forwarded to the board by the permittee.

The application for such permits shall be on forms provided by the board.

B. Permit fees.

Applications for alcohol shall be accompanied by a fee of \$10, where the order is in excess of 110 gallons during a calendar year, or a fee of \$5.00 for lesser amounts. Applications for other alcoholic beverages shall be accompanied by a fee of 5.0% of the delivered cost to the place designated by the permittee. No fee shall be charged agencies of the United States or of the Commonwealth of Virginia or eleemosynary institutions.

C. Storage.

A person obtaining a permit under this section shall:

1. Store such alcohol or alcoholic beverages in a secure place upon the premises designated in the application separate and apart from any other articles kept on such premises;
2. Maintain accurate records of receipts and withdrawals of alcohol and alcoholic beverages at the permittee's place of business for a period of two years ; and
3. Furnish to the board within 10 days after the end of the calendar year for which he was designated a permittee, a statement setting forth the amount of alcohol or alcoholic beverages on hand at the beginning of the previous calendar year, the amount purchased during the year, the amount withdrawn during the year, and the amount on hand at the end of the year.

D. Refusal of permit.

The board may refuse to designate a person as a permittee if it shall have reasonable cause to believe either that the alcohol or alcoholic beverages would be used for an unlawful purpose, or that any cause exists under § 4-31 of the Code of Virginia for which the board might refuse to grant the applicant any license.

E. Suspension or revocation of permit.

The board may suspend or revoke the designation as a permittee if it shall have reasonable cause to believe that the permittee has used or allowed to be used any alcohol or alcoholic beverages obtained under the provisions of this section for any purpose other than those permitted under the Code of Virginia, or has done any other act for which the board might suspend or revoke a license under § 4-37 of the Code of Virginia.

F. Access to storage and records.

The board and its agents shall have free access during business hours to all places of storage and records required to be kept pursuant to this section for the purpose of inspection and examining such place and such records.

§ 7. Permits for persons having alcoholic beverages distilled.

A. Permits.

Any person who contracts with or engages a licensed distiller or fruit distiller to manufacture distilled spirits from grain fruit, fruit products or other substances grown or lawfully produced by such person shall obtain a board permit before withdrawing the distilled spirits from the

distillery's premises. The permit shall accompany the shipment at all times. The application for the permit shall include the following:

1. The name, address and license number (if any) of the consignee;
2. The kind and quantity in gallons of alcoholic beverages; and
3. The name of the company employed to transport the shipment.

B. Limitations on permits.

Permits shall be issued only for (i) distilled spirits shipments to the board, (ii) sales and shipments to a lawful consignee outside the Commonwealth under a bona fide written contract, or (iii) shipments of distilled spirits samples to the person growing or producing the substance distilled. Samples shall be packaged in containers of 375 or 750 milliliters and the words "Sample-Not for Sale" shall be printed in letters of reasonable size on the label.

§ 8. Manufacture, sale, etc., of "sterno," and similar substances for fuel purposes.

No license from the board is required for the manufacture, sale, delivery and shipment of "Sterno," canned heat and similar substances intended for fuel purposes only.

§ 9. Records to be kept by licensees generally; additional requirements for certain retailers; "sale" and "sell" defined; gross receipts; reports.

A. Generally.

All licensees of the board shall keep complete and accurate records at the licensee's place of business for a period of two years. The records shall be available for inspection and copying by any member of the board or its agents at any time during business hours. Licensees of the board may use microfilm, microfiche, disks or other available technologies for the storage of their records, provided the records so stored are readily subject to retrieval and made available for viewing on a screen or in hard copy by the board or its agents.

B. Retail licensees.

Retail licensees shall keep complete and accurate records, including invoices, of the purchases and sales of alcoholic beverages, and beverages, food and other merchandise. The records of alcoholic beverages and beverages shall be kept separate from other records.

C. Mixed beverage restaurant licensees.

In addition to the requirements of subsections A and B above, mixed beverage restaurant licensees shall keep

Proposed Regulations

records of all alcoholic beverages purchased for sale as mixed beverages and records of all mixed beverage sales. The following actions shall also be taken:

1. On delivery of a mixed beverage restaurant license by the board, the licensee shall furnish to the board or its agents a complete and accurate inventory of all alcoholic beverages and beverages currently held in inventory on the premises by the licensee; and

2. Once a year, each licensee shall submit on prescribed forms to the board an annual review report. The report is due within 30 days after the end of the mixed beverage license year and shall include:

a. A complete and accurate inventory of all alcoholic beverages and beverages purchased for sale as mixed beverages and held in inventory at the close of business at the end of the annual review period;

b. An accounting of the annual purchases of food, nonalcoholic beverages, alcoholic beverages, and beverages, including alcoholic beverages purchased for sale as mixed beverages, and miscellaneous items; and

c. An accounting of the monthly and annual sales of all merchandise specified in subdivision C 2 b.

D. "Sale" and "sell."

The terms "sale" and "sell" shall include exchange, barter and traffic, and delivery made otherwise than gratuitously, by any means whatsoever, of mixed beverages, other alcoholic beverages and beverages, and of meals or food.

E. Gross receipts; food, hors d'oeuvres, alcoholic beverages, etc.

In determining "gross receipts from the sale of food" for the purposes of Chapter 1.1 (§ 4-98.1 et seq.) of Title 4 of the Code of Virginia, a licensee shall not include any receipts for food for which there was no sale, as defined in this section. Food which is available at an unwritten, non-separate charge to patrons or employees during Happy Hours, private social gatherings, promotional events, or at any other time, shall not be included in the gross receipts. Food shall include hors d'oeuvres.

If in conducting its review pursuant to § 4-98.7 of the Code of Virginia, the board determines that the licensee has failed or refused to keep complete and accurate records of the amounts of mixed beverages, other alcoholic beverages or beverages sold at regular prices, as well as at all various reduced and increased prices offered by the licensee, the board may calculate the number of mixed drinks, alcoholic beverage and beverage drinks sold, as determined from purchase records, and presume that such sales were made at the highest posted menu prices

for such merchandise.

F. Reports.

Any changes in the officers, directors or shareholders owning 10% or more of the outstanding capital stock of a corporation shall be reported to the board within 30 days; provided, however, that corporations or their wholly owned subsidiaries whose corporate common stock is publicly traded and owned shall not be required to report changes in shareholders owning 10% or more of the outstanding capital stock.

§ 10. Gifts of alcoholic beverages or beverages generally; exceptions; wine tastings; taxes and records.

A. Generally.

Gifts of alcoholic beverages or beverages by a licensee to any other person are prohibited except as otherwise provided in this section.

B. Exceptions.

Gifts of alcoholic beverages or beverages may be made by licensees as follows:

1. Personal friends. Gifts may be made to personal friends as a matter of normal social intercourse when in no wise a shift or device to evade the provisions of this section.

2. Samples. A wholesaler may give a retail licensee a sample serving or a package not then sold by such licensee of wine, beer or beverages, which such wholesaler otherwise may sell to such retail licensee, provided that in a case of packages the package does not exceed 52 fluid ounces in size (1.5 liter if in a metric-sized package) and the label bears the word "Sample" in lettering of reasonable size. Such samples may not be sold. For good cause shown the board may authorize a larger sample package.

3. Hospitality rooms; conventions. A person licensed by the board to manufacture wine, beer or beverages may:

a. Give samples of his products to visitors to his winery or brewery for consumption on premises only in a hospitality room approved by the board, provided the donees are persons to whom such products may be lawfully sold; and

b. Host an event at conventions of national, regional or interstate associations or foundations organized and operated exclusively for religious, charitable, scientific, literary, civil affairs, educational or national purposes upon the premises occupied by such licensee, or upon property of the licensee contiguous to such premises, or in a development contiguous to such premises, owned and operated by

the licensee or a wholly owned subsidiary.

4. Conventions; educational programs, including wine tastings; research; licensee associations. Licensed manufacturers, bottlers and wholesalers may donate beer, beverages or wines to:

a. A convention, trade association or similar gathering, composed of licensees of the board, and their guests, when the alcoholic beverages or beverages donated are intended for consumption during the convention;

b. Retail licensees attending a bona fide educational program relating to the alcoholic beverages or beverages being given away;

c. Research departments of educational institutions, or alcoholic research centers, for the purpose of scientific research on alcoholism;

d. Licensed manufacturers and wholesalers may donate wine to official associations of wholesale wine licensees of the board when conducting a bona fide educational program concerning wine, with no promotion of a particular brand, for members and guests of particular groups, associations or organizations.

5. Conditions. Exceptions authorized by subdivisions B 3 b and B 4 are conditioned upon the following:

a. That prior written notice of the activity be submitted to the board describing it and giving the date, time and place of such; and

b. That the activity be conducted in a room or rooms set aside for that purpose and be adequately supervised.

C. Wine tastings.

Wine wholesalers may participate in a wine tasting sponsored by a wine specialty shop licensee for its customers and may provide educational material, oral or written, pertaining thereto, as well as participate in the pouring of such wine.

D. Taxes and records.

Any gift authorized by this section shall be subject to the taxes imposed on sales by Title 4 of the Code of Virginia, and complete and accurate records shall be maintained.

§ 11. Release of alcoholic beverages from customs and internal revenue bonded warehouses; receipts; violations; limitation upon sales.

A. Release generally.

Alcoholic beverages held in a United States customs bonded warehouse may be released therefrom for delivery to:

1. The board;

2. A person holding a license authorizing the sale of the alcoholic beverages at wholesale;

3. Ships actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or trade between the United States and any of its possessions outside of the several states and the District of Columbia; or

4. Persons for shipment outside this Commonwealth to someone legally entitled to receive the same under the laws of the state of destination.

Releases to any other person shall be under a permit issued by the board and in accordance with the instructions therein set forth.

B. Receipts.

A copy of the permit, if required, shall accompany the alcoholic beverages until delivery to the consignee. The consignee, or his duly authorized representative, shall acknowledge receipt of delivery upon a copy of the permit, which receipted copy shall be returned to the board by the permittee within 10 days after delivery.

C. Violations.

The board may refuse to issue additional permits to a permittee who has previously violated any provision of this section.

D. Limitation upon sales.

A maximum of six imperial gallons of alcoholic beverages may be sold, released and delivered in any 30-day period to any member of foreign armed forces personnel.

§ 12. Approval of warehouses for storage of alcoholic beverages not under customs or internal revenue bond; segregation of merchandise; release from storage; records; exception.

A. Certificate of approval.

Upon the application of a person qualified under the provisions of § 4-84.1 of the Code of Virginia, the board may issue a certificate of approval for the operation of a warehouse for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond, if satisfied that the warehouse is physically secure.

B. Segregation.

Proposed Regulations

The alcoholic beverages of each owner shall be kept separate and apart from merchandise of any other person.

C. Release from storage.

Alcoholic beverages shall be released for delivery to persons lawfully entitled to receive the same only upon permit issued by the board, and in accordance with the instructions therein set forth. The owner of the alcoholic beverages, or the owner or operator of the approved warehouse as agent of such owner, may apply for release permits, for which a charge may be made by the board.

D. Records.

Complete and accurate records shall be kept at the warehouse for a period of two years, which records shall be available at all times during business hours for inspection by a member of the board or its agents. Such records shall include the following information as to both receipts and withdrawals:

1. Name and address of owner or consignee;
2. Date of receipt or withdrawal, as the case may be; and
3. Type and quantity of alcoholic beverage.

E. Exceptions.

Alcoholic beverages stored by licensees pursuant to VR 125-01-5, § 9 are excepted from the operation of this regulation.

§ 13. Special mixed beverage licenses; locations; special privileges; taxes on licenses.

A. Location.

Special mixed beverage licenses may be granted to persons by the board at places primarily engaged in the sale of meals where the place to be occupied is owned by the government of the United States, or any agency thereof, is located on land used as a port of entry or egress to and from the United States, and otherwise complies with the requirements of § 7.1-21.1 of the Code of Virginia, which licenses shall convey all of the privileges and be subject to all of the requirements and regulations pertaining to mixed beverage restaurant licensees, except as otherwise altered or modified herein.

B. Special privileges.

"Meals" need not be "full meals," but shall at least constitute "light lunches," and the gross receipts from the sale of food and nonalcoholic beverages at such establishment shall be not less than 45% of the gross receipts from the sale of mixed beverages and food.

C. Taxes on licenses.

The annual tax on a special mixed beverage license shall be \$500 and shall not be prorated; provided, however, that if application is made for a license of shorter duration, the tax thereon shall be \$25 per day.

§ 14. Definitions and requirements for beverage licenses.

A. Definition.

Wherever the term "beverages" appears in these regulations, it shall mean beverages as defined in § 4-99 of the Code of Virginia. Section 4-99 defines beverages as beer, wine, similar fermented malt, and fruit juice, containing 0.5% or more of alcohol by volume, and not more than 3.2% of alcohol by weight.

B. Beverage licenses may be issued to carriers, and to applicants for retailers' licenses pursuant to § 4-102 of the Code of Virginia for either on-premises, off-premises, or on-and-off premises consumption, as the case may be, to persons meeting the qualifications of a licensee having like privileges with respect to the sale of beer. The license of a person meeting only the qualifications for an off-premises beer license shall contain a restriction prohibiting the consumption of beverages on premises.

§ 15. Wholesale alcoholic beverage and beverage sales; discounts, price-fixing; price increases; price discrimination; inducements.

A. Discounts, price-fixing.

No winery as defined in § 4-118.43 or brewery as defined in § 4-118.4 of the Code of Virginia shall require a person holding a wholesale license to discount the price at which the wholesaler shall sell any alcoholic beverage or beverage to persons holding licenses authorizing sale of such merchandise at retail. No winery, brewery, bottler or wine or beer importer shall in any other way fix or maintain the price at which a wholesaler shall sell any alcoholic beverage or beverage.

B. Notice of price increases.

No winery as defined in § 4-118.43 or brewery as defined in § 4-118.4 of the Code of Virginia shall increase the price charged any person holding a wholesale license for alcoholic beverages or beverages except by written notice to the wholesaler signed by an authorized officer or agent of the winery, brewery, bottler or importer which shall contain the amount and effective date of the increase. A copy of such notice shall also be sent to the board and shall be treated as confidential financial information, except in relation to enforcement proceedings for violation of this section.

No increase shall take effect prior to 30 calendar days following the date on which the notice is postmarked; provided that the board may authorize such price increases to take effect with less than the aforesaid 30 calendar days' notice if a winery, brewery, bottler or

importer so requests and demonstrates good cause therefor.

C. No price discrimination by breweries and wholesalers.

No winery as defined in § 4-118.43 or brewery as defined in § 4-118.4 of the Code of Virginia shall discriminate in price of alcoholic beverages between different wholesale purchasers and no wholesale wine or beer licensee shall discriminate in price of alcoholic beverages or beverages between different retail purchasers except where the difference in price charged by such winery, brewery or wholesale licensee is due to a bona fide difference in the cost of sale or delivery, or where a lower price was charged in good faith to meet an equally low price charged by a competing winery, brewery or wholesaler on a brand and package of like grade and quality. Where such difference in price charged to any such wholesaler or retail purchaser does occur, the board may ask and the winery, brewery or wholesaler shall furnish written substantiation for the price difference.

D. Inducements.

No person holding a license authorizing sale of alcoholic beverages or beverages at wholesale or retail shall knowingly induce or receive a discrimination in price prohibited by subsection C of this section.

§ 16. Farm wineries; percentage of Virginia products; other agricultural products; remote outlets.

A. No more than 25% of the fruits, fruit juices or other agricultural products used by the farm winery licensee shall be grown or produced outside this state, except upon permission of the board as provided in § 4-25.1 B of the Code of Virginia. This 25% limitation applies to the total production of the farm winery, not individual brands or labels.

B. The term "other agricultural products," as used in subsection A of this section, includes wine.

C. A farm winery license limits retail sales to the premises of the winery and to two additional retail establishments which need not be located on the premises. These two additional retail outlets may be moved throughout the state as long as advance board approval is obtained for the location, equipment and facilities of each remote outlet.

§ 17. Credit and debit cards.

Government stores may accept credit or debit cards from consumers for the retail purchase of alcoholic beverages. The board may establish policies to set purchase requirements, determine the credit or debit cards that will be accepted, provide for the collection of related fees, penalties or service charges where appropriate, establish credit procedures for returned merchandise and make any other decisions to carry out the purpose of this

regulation.

§ 18. Regulation of the sale of alcoholic beverages in kegs and other containers; permit and registration; other requirements.

A. Generally.

The following definitions shall apply for purposes of this section:

1. "Keg." Any container capable of holding four gallons or more of beer, wine or beverages and which is designed to dispense beer, wine or beverages directly from the container for purposes of consumption; and

2. "Registration seal." Any document, stamp, declaration, seal, decal, sticker or device approved by the board which is designed to be affixed to kegs and which displays a registration number and such other information as may be prescribed by the board.

B. Permits.

The board may grant to any person licensed to sell wine, beer or beverages at retail for off-premises consumption, a permit to sell such alcoholic beverages or beverages in kegs for off-premises consumption. Such permit shall be subject to suspension or revocation as provided in § 4-37 of the Code of Virginia. No permit shall be required, however, to sell alcoholic beverages or beverages in kegs to banquet licensees or to retail licensees for on-premises consumption.

C. Restrictions.

1. No person licensed by the board to sell wine, beer or beverages at retail for off-premises consumption, or any officer, agent or employee thereof, shall sell any such alcoholic beverage or beverages in a keg without having (i) obtained a permit pursuant to subsection B of this section authorizing such sales, (ii) registered the sale on a form prescribed by the board, and (iii) affixed a registration seal on the keg at the time of sale; provided, if the purchaser takes possession of the keg at the premises of the wholesale licensee pursuant to subsection G of this section, the wholesale licensee shall affix the registration seal.

2. Prior to the sale of alcoholic beverages in kegs, the keg registration declaration and receipt form provided by the board shall be properly completed and shall contain:

a. The name and address of the purchaser verified by valid identification as defined in VR 125-01-5 § 2 B.

b. The type and number of the identification presented by the purchaser;

Proposed Regulations

c. A sworn statement, signed by the purchaser, that the purchaser is 21 years of age or older, does not intend to allow persons under 21 years of age to consume the alcoholic beverages purchased, and that the purchaser will not remove or obliterate the key registration tag affixed to the keg or allow its removal or obliteration; and

d. The particular address or location where the keg will be consumed, and the date or dates on which it will be consumed.

3. Where the purchaser obtains more than one keg for consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction shall contain the registration number from the full completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed keg registration and declaration receipt.

4. The keg registration seal affixed to the keg may serve as the purchaser's receipt. Upon receipt of a properly registered keg from a consumer, the retail licensee shall remove the keg registration seal from the keg and attach it to the copy of the keg registration declaration and receipt form to be retained by the retail licensee on the licensed premises. The retail licensee shall issue to the consumer a returned keg receipt containing (i) the reference number of the fully completed keg registration declaration and receipt form, and (ii) the date upon which the retail licensee received the returned kegs. Kegs made of disposable packaging do not have to be returned to the retail licensee. The retailer shall indicate on the keg declaration and receipt form that the keg was not returnable due to its disposable packaging.

D. For the purpose of tracing the kegs and purchaser responsibility, it shall be the responsibility of the seller to affix the properly completed and signed keg registration seal to all containers of four gallons or more of alcoholic beverages prior to the container leaving control of the seller.

E. The retail licensee shall immediately notify the board when the purchaser obtains more than one keg for consumption at the same location and on the same date.

F. Except in accordance with these regulations, no person shall remove, alter, deface, or obliterate the registration seal affixed to a keg pursuant to this regulation. Throwing away empty kegs made of disposable packaging shall not constitute obliteration of the keg registration seal. If any nonlicensee of the board is in

possession of a keg containing alcoholic beverages, and which keg does not bear the registered seal, or upon which keg the registration seal has been altered, defaced or obliterated, there shall be a presumption that such person unlawfully removed, altered, defaced or obliterated the registration seal.

G. Any retail licensee granted a permit by the board pursuant to subsection B of this section shall maintain a complete and accurate record of all registration forms and other documentation of the sale of kegs at the place of business designated in his license for a period of one year. Such records shall include the registration seal for nondisposable kegs, which the retail licensee shall remove from the keg upon its return by the purchaser. Moreover, such records regarding keg sales shall at all reasonable times be open to inspection by the board or its authorized representatives, and other law-enforcement officers. If any person returns a keg to the retail licensee which keg does not bear the registration seal, or upon which keg the registration seal has been altered, defaced or obliterated, the retail licensee shall report the same on a form prescribed by the board.

H. Before a purchaser may take possession of a keg at the premises of the wholesale licensee after purchasing such keg from a retail licensee, the purchaser shall be required to (i) complete the registration of the transaction at the premises of the retail licensee and (ii) deliver the registration seal to the wholesale licensee who shall affix it to the keg.

I. Except as authorized by the board, no person shall transfer possession of or give the registered keg or container to another person. This prohibition shall not apply, however, to the return of the registered container to the seller.

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the Waterworks Regulation filed by the State Board of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Health.

Title of Regulation: VR 355-18-000. Waterworks Regulations - Surface Water Treatment and Total Coliform.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Public Hearing Dates:

September 28, 1992 - 1 p.m.

September 30, 1992 - 1 p.m.

(See Calendar of Events section for additional information)

Summary:

The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain USEPA mandates to retain this authority. These amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Total Coliform Rule and Surface Water Treatment Rule. Also, new design criteria for slow sand filtration (§ 3.25 C) and diatomaceous earth filtration (§ 3.25 D) have been added. These amendments will conform the Virginia Waterworks Regulations to federal law and should allow Virginia to retain primary enforcement authority (primacy) for the Safe Drinking Water Act.

The proposed regulation will supersede an emergency regulation effective June 24, 1992, and published July 13, 1992.

* * * * *

Title of Regulation: VR 355-18-014. Waterworks Operation Fee.

Statutory Authority: §§ 32.1-170 and 32.171.1 of the Code of Virginia.

Public Hearing Dates:

- September 22, 1992 - 10 a.m.
- September 29, 1992 - 7 p.m.
- October 7, 1992 - 7 p.m.
- October 22, 1992 - 7 p.m.
- October 27, 1992 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

This proposed regulation assesses an annual operations fee (not to exceed \$160,000) on the owners of waterworks. The amount of the fee is based on the number of persons served, number of connections or the classification of the waterworks. The revenue generated by this regulation will supplement funding to implement the 1986 amendments to the federal Safe Drinking Water Act (SWDA) and will be deposited into the Waterworks Technical Assistance Fund established in the state treasury by § 32.1-171.1 B.

In fiscal year 1994 each community waterworks will be charged \$2.40 per customer account per year; each nontransient will be charged \$100 per year. In fiscal years thereafter the community fee will be \$3.61; the nontransient fee will be \$150. Without this proposed regulation and the resulting authorized revenue, VDH will not have adequate resources needed to implement the additional workload related to the federal mandates and the associated state regulations.

VR 355-18-014. Waterworks Operation Fee.

PART I
DEFINITIONS.

§ 1.1. Definitions.

As used in this regulation, unless otherwise defined, words and terms are the same as those in § 32.1-167 of the Code of Virginia or in § 1.2 of VR 355-18-001 (Waterworks Regulations) and shall have the following meaning, unless the context clearly indicates otherwise:

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner who is the executive officer of the State Board of Health.

"Community waterworks" means a waterworks which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Customer account" means (i) a metered or unmetered potable water service connection to the customer's property which is billed separately by the waterworks owner; or (ii) where any community waterworks sends no billing, the customer accounts shall be defined as equal to the population served divided by four.

"Department" means the Virginia Department of Health.

"Due" means received or postmarked by the stated date.

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

"Nontransient noncommunity waterworks (NTNC)" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.

"Owner" or "water purveyor" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity or the federal government, which supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

"Service connection" means the point of delivery of water to a customer's building service line as follows:

1. If a meter is installed, the service connection is the downstream side of the meter;
2. If a meter is not installed, the service connection is the point of connection to the waterworks;
3. When the water purveyor is also the building owner, the service connection is the entry point to the building.

Proposed Regulations

"Waterworks" means a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

PART II. GENERAL INFORMATION.

§ 2.1. Purpose of the regulation.

The board proposes to establish a waterworks operation fee schedule where the number of customer accounts of a community waterworks is the basis for assessing charges to the community waterworks. The fee schedule for nontransient noncommunity waterworks is based on the waterworks classification as a nontransient noncommunity waterworks. No waterworks owner shall pay more than \$160,000 per year per waterworks, nor is it the intent that an owner be charged this fee on water transferred to another waterworks.

§ 2.2. Compliance with the Administrative Process Act.

The provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall govern the promulgation and administration of this regulation.

§ 2.3. Powers and procedure of regulation not exclusive.

The commissioner may enforce this regulation through any means lawfully available including, but not limited to, the revocation of the waterworks operation permit (§ 32.1-174 of the Code of Virginia).

PART III. WATERWORKS OPERATION FEES.

§ 3.1. Community waterworks.

A. An annual waterworks operation fee, not to exceed \$160,000, shall be charged as of July 1 of each fiscal year to the owner of each community waterworks in an amount as follows:

1. Fiscal year 1994 (starting July 1, 1993): the number of customer accounts multiplied by \$2.40.
2. Fiscal years thereafter: the number of customer accounts multiplied by \$3.61.

B. The fee shall be paid to the department and be due as follows:

1. If the fee established in § 3.1 A is \$400 or less, the fee shall be due in a lump sum on August 1;
2. If the fee established in § 3.1 A is more than \$400,

the fee shall be due in a lump sum or equal quarterly installments each year as follows:

- a. August 1 - The lump sum or first quarterly installment.
- b. November 1 - The second quarterly installment.
- c. February 1 - The third quarterly installment.
- d. May 1 - The fourth quarterly installment.

C. Data verification.

The number of customer accounts will be based on the best available data for a maximum period of six months prior to the close of business on June 30 each year as provided by the waterwork's owner or chief administrative officer to the department. This verification shall be provided to the department by the owner of each community waterworks at the address specified in § 3.6 and is due by August 1 of each year with the appropriate payment.

§ 3.2. Nontransient noncommunity waterworks (NTNC).

A. An annual waterworks operation fee shall be charged as of July 1 of each fiscal year to the owner of each NTNC waterworks as follows:

1. Fiscal year 1994 (starting July 1, 1993): an amount of \$100 per nontransient noncommunity waterworks.
2. Fiscal years thereafter: an amount of \$150 per nontransient noncommunity waterworks.

B. The fee shall be due to the department every November 1.

§ 3.3. Notice.

The department will send to each waterworks owner a payment form/data verification notice as prescribed by the department on or before June 1 of each year. Failure to receive this notice does not relieve the responsibility of the waterworks owner from providing payments or verification.

§ 3.4. Refundability.

The fees established in §§ 3.1 and 3.2 are nonrefundable but are credited to any new owner of the same waterworks.

§ 3.5. Exemptions.

Customer accounts through which water is sold or delivered to another waterworks are exempted from the fee calculated in § 3.1.

§ 3.6. Payments.

Payments are to be made payable to: VDH - Waterworks Technical Assistance Fund and sent to:

Virginia Department of Health
Division of Water Supply Engineering
1500 E. Main Street
Room 109
P.O. Box 2448
Richmond, VA 23218

§ 3.7. Late fees and administrative charges.

In addition to the powers in § 2.3, operation fees not received or postmarked by the due date shall be subject to interest, administrative charges, and late penalty fees in accordance with § 2.1-732 of the Code of Virginia.

BOARD OF PHARMACY

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

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

Public Hearing Date: September 4, 1992 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

The following amendments to VR 530-01-1 are proposed by the Virginia Board of Pharmacy in order to implement the legislation passed by the 1992 General Assembly. By Chapters 667, 737, and 868 of the Acts of Assembly, the board is required to promulgate regulations to require continuing education for relicensure for pharmacists, to implement a 30-day requirement for notification of a pharmacy closing, and to relicense and regulate wholesale distributors of pharmaceuticals. The Notice of Intended Regulatory Action also proposed to act on all related fees for licenses and permits as required by the board.

In proposing regulations for mandatory continuing education, the board has followed the requirements of the legislation in determining the number of hours required for annual renewal, the conditions for an extension or exemption, the necessary record-keeping and documentation, and the acceptance of hours from another state. The legislation required the creation of an inactive license, which the board has also addressed in the sections on fees and renewals.

In order to establish criteria for approval of continuing education hours, the board proposes the acceptance of credits offered and certified by the American Council on Pharmaceutical Education, which is the nationally recognized accrediting body in that field. The board also proposes an approval process and fee schedule for entities seeking approval in the

Commonwealth to provide an individual CE program or to become a provider of CE programs. The approval process sets requirements necessary to assure compliance and quality in continuing pharmaceutical education.

To implement legislation on the 30-day notice of pharmacy closing, the board has cited the requirements of the Code of Virginia and set out exceptions to the notice as required by the statute. The board further proposes that the current 10-day notice to the board of a pharmacy closing be amended to a 30-day notice to coincide with the notice to the public.

In response to a federal mandate requiring and establishing conditions for state licensure of wholesale distributors of prescription drugs, the 1992 legislation repealed the category of wholesaler in current regulation and established three new categories of licensure. The board is proposing regulations to implement the legislation with regard to storage, handling, and distribution of drugs, devices and paraphernalia.

In amendments to current fees, the board proposes a reduction of fees in some categories of licensure in recognition of a surplus in the board's budget and in an effort to more equitably reflect the actual administrative costs in each category. New fees are proposed for an inactive license, for delinquency in payment of fees, and for new categories of warehouse or medical equipment supplier. Likewise, fees are proposed for board approval of continuing education programs or providers.

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

PART I. GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.
3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may

Proposed Regulations

do so by writing the board. In addition, the board may, in 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 subsection A of this section. Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. After 30 days, the names of the persons who do not respond will be deleted from the list.

C. Notice of intent.

At least 30 days prior to the publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 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 the 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 of Regulations for inclusion in the Virginia Register of Regulations.

D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational 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 on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

At any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

§ 1.2. Definitions.

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

"ACPE" means the American Council of Pharmaceutical Education.

"Board" means the Virginia State Board of Pharmacy.

"CE" means continuing education as required for renewal of licensure by the Board of Pharmacy.

"CEU" means a continuing education unit awarded for credit as the equivalent of 10 contact hours.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

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

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

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

"Hospital" or *"nursing home"* means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Inactive license" means a license which is registered with the Commonwealth but does not entitle the licensee to practice, the holder of which is not required to submit documentation of CE necessary to hold an active license.

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

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act(s) being performed. Neither prior nor future instructions shall be

Proposed Regulations

sufficient nor, shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

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

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

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

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

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

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

1. *"Cold"* means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).
2. *"Room temperature"* means the temperature prevailing in a working area.
3. *"Controlled room temperature"* is a temperature maintained thermostatically between 15° and 30°C (59° and 86°F).
4. *"Warm"* means any temperature between 30° and 40°C (86° and 104°F).

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

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

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

"Unit-dose container" means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a pharmacy coordinated method of drug dispensing and control in which drugs are distributed in properly labeled unit-dose containers or single-unit containers in ready to administer form as far as possible, in a supply for not more than seven days.

"U.S.P.-N.F." means the United States Pharmacopoeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

§ 1.3. Fees.

The fee which shall accompany an application or a renewal for a license, permit, registration or the charge for the delinquent payment of a renewal shall be as follows:

A. The application fee for pharmacist examination shall be \$300. If applicant withdraws the application after the deadline for filing, all but \$25 of the fee will be refunded.

Unless otherwise stated, all fees listed in this section are not refundable.

A. Fee for initial pharmacist licensure.

Proposed Regulations

1. The application and initial examination fee for a pharmacist license shall be \$300. If an applicant withdraws the application prior to taking the examination, all but \$25 of the fee will be refunded. If the applicant wishes to take portions of the examination on separate dates, the fees shall be as follows:

a. The National Association of Boards of Pharmacy Examination shall be \$200.

b. The Federal Drug Law Examination shall be \$75.

c. The State Drug Law Examination shall be \$75.

2. The application and State Drug Law Examination fee for licensure by endorsement shall be \$150. The fee for retaking the examination shall be \$75.

3. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$300.

B. The application fee for a pharmacist license by endorsement shall be \$300.

C. B. Renewal of pharmacist license shall be \$50 .

1. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$300.

If a pharmacist does not maintain a license within the Commonwealth, all back renewal fees and a \$25 delinquent fee shall be paid before a renewal of the license will be issued.

1. The annual fee for renewal of a pharmacist license shall be \$50.

2. The annual fee for renewal of an inactive pharmacist license shall be \$35.

3. If a pharmacist fails to renew his license within the Commonwealth by the renewal date, he must pay the back renewal fee and a \$25 late fee within 60 days of expiration.

4. Failure to renew a pharmacist license within 60 days following expiration shall cause the license to lapse and shall require the submission of a reinstatement application, payment of all unpaid renewal fees, and a delinquent fee of \$50.

D. Permit to conduct a pharmacy shall be \$200 annually.

E. Physician drug dispensing license shall be \$200 annually.

F. Manufacturing permits:

1. Nonrestricted manufacturing permit shall be \$300

annually.

2. Restricted manufacturing permit shall be \$300 annually.

3. Wholesaler or distributor shall be \$300 annually.

G. Controlled substances registration shall be \$20 annually.

H. If a licensee fails to renew a required license, registration or permit prior to the expiration date for the license or registration, a \$25 late fee shall be assessed.

C. Other licenses or permits.

1. The annual permit fee to conduct a pharmacy shall be \$200.

2. The annual license fee for a permitted physician to dispense drugs shall be \$200.

3. An application for a change of the pharmacist-in-charge shall be accompanied by a fee of \$25.

4. An application for a change of location or a remodeling which requires an inspection shall be accompanied by a fee of \$100.

5. A nonrestricted manufacturing permit shall be \$200 annually.

6. A restricted manufacturing permit shall be \$150 annually.

7. A wholesale distributor license shall be \$200 annually.

8. A warehouse permit shall be \$200 annually.

9. A permit for a medical equipment supplier shall be \$150 annually.

10. If a licensee fails to renew a required license or permit prior to the expiration date, a \$25 late fee shall be assessed.

11. If a required license or permit is not renewed within 60 days after its expiration, the license or permit shall lapse, and continued practice or operation of business with a lapsed license or permit shall be illegal. Thereafter, reinstatement shall be at the discretion of the board upon submission of an application accompanied by all unpaid renewal fees and a delinquent fee of \$50.

D. Controlled substances registration.

1. The annual fee for a controlled substances registration as required by § 54.1-3422 of the Code of

Virginia shall be \$20.

2. If a registration is not renewed within 60 days of the expiration date, the back renewal fee and a \$10 late fee shall be paid prior to renewal.

3. If a controlled substance registration has been allowed to lapse for more than 60 days, all back renewal fees and a \$25 delinquent fee must be paid before a current registration will be issued. Engaging in activities requiring a controlled substance registration without holding a current registration is illegal, and reinstatement of a lapsed registration is at the discretion of the board.

I. Duplicate certificate of registration for a pharmacist or the certification of grades and registration for a pharmacist shall be \$25.

E. Other fees.

1. A request for a duplicate wall certificate shall be accompanied by a fee of \$25.

2. A request for certification of grades to another board shall be accompanied by a fee of \$25.

F. Board approval of continuing education programs and providers.

1. The application fee for approval of an individual CE program is \$100.

2. The application fee for approval of provider status is \$300.

3. Renewal of approved provider status is \$300 paid biennially.

PART II. ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Practical experience required.

A. Each applicant for licensure by examination shall have gained practical experience in prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. During the six months of practical experience required, the applicant shall accumulate a minimum of 1,000 hours. For purposes of this regulation, credit will not be given for more than 40 hours in any one week.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy

practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience needed toward fulfilling the six months of experience required.

E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.

§ 2.2. Procedure for gaining practical experience.

A. Each pharmacy student, except those enrolled in an approved college clerkship program, who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged. This requirement shall also apply to students gaining practical experience within the Commonwealth for licensure in another state. The student shall be called a "student externe."

B. Graduates in pharmacy of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne." Experience gained in another state must be certified by the board in the state in which the experience was gained.

C. The applicant shall be supervised by a pharmacist who holds an unrestricted license and assumes full responsibility for the training, supervision and conduct of the externe or the interne. The supervising pharmacist shall not supervise more than one interne or externe during the same time period for experience during or after the last professional year.

D. The practical experience of the student externe shall be gained nonconcurrent with the school year excepting that gained in any program of a pharmacy school which meets the requirements of § 54.1-3312 of the Code of Virginia.

E. Any practical experience gained within any state by a student externe or a pharmacy interne who has not registered with the board in the state in which the experience is being gained will not be accepted by this board nor certified to another state by the board.

F. All practical experience of the student externe shall be evidenced by an affidavit which shall be filed with the application for examination for licensure.

G. An applicant for examination shall file the certificate of experience no less than 30 days prior to the date of the examination, and such certificates required in G and H of this section shall be on a form prescribed by the board.

H. The registration of a student externe shall be valid only while the student is enrolled in a school of

Proposed Regulations

pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

§ 2.3. Curriculum and approved colleges of pharmacy.

A. Length of curriculum.

The following educational requirements for licensure for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.

2. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

3. On and after June 1, 1964, the applicant for licensure shall have been graduated from a five-year course of study with a Bachelor of Science degree in pharmacy awarded.

B. First professional degree required.

In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a college of pharmacy which meets the requirements of § 54.1-3312 of the Code of Virginia.

§ 2.4. Content of the examination and grades required.

A. The examination for licensure as a pharmacist shall consist of an integrated examination of pharmacy practice, pharmacology, pharmacy mathematics, and such other subjects as are necessary to assure that the candidate possesses the necessary knowledge and skills to practice pharmacy. Additional examination of the candidates' knowledge of federal and state laws related to pharmacy practice shall be provided by the board.

B. Passing requirements.

The passing grade on the integrated pharmacy examination shall be not less than 75. The passing grade on the law examination shall be not less than 75.

C. Limitation on admittance to examination.

When an applicant for licensure by examination fails to meet the passing requirements of paragraph B of this section on three occasions, he shall not be readmitted to the examinations until he has completed an additional six months of practical experience as a pharmacy interne as set forth in § 2.2.

§ 2.5. Renewal of license.

A. Pharmacist licenses expire on December 31 and shall be renewed annually prior to that date by the submission of a renewal fee, renewal form, and statement of compliance with continuing education requirements.

B. A pharmacist newly licensed on or after October 1 shall not be required to renew that license until December 31 of the following year.

C. A pharmacist who fails to renew his license by the expiration date has 60 days in which to renew by submission of the renewal and late fee, renewal form, and statement of compliance with continuing education requirements.

D. If a pharmacist fails to renew within the 60 days of expiration, his license will lapse, and he must submit an application for reinstatement of license along with payment of all back renewal fees, a delinquent fee, and statement of compliance with continuing education requirements. Practice of pharmacy with a lapsed license shall be illegal, and reinstatement shall be at the discretion of the board.

E. A pharmacist who has been registered as inactive for more than one year must apply for reinstatement, comply with CE requirements, and pay the current year renewal fee in order to resume active licensure.

§ 2.6. Requirements for continuing education.

A. On and after December 31, 1993, a licensee shall be required to have completed a minimum of 1.5 CEU's or 15 contact hours of continuing pharmacy education in an approved program for each annual renewal of licensure. CEU's or hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing pharmacy education program is:

1. One that is approved by the American Council on Pharmacy Education and carries the provider logo and number of the ACPE; or
2. One that is approved by the board.

C. A licensee is exempt from completing CE requirements and considered in compliance on the first renewal date following his initial licensure.

D. The board may grant an extension of up to one year for the completion of CE requirements upon a written request from the licensee prior to the renewal date. Any subsequent extension shall be granted only for good cause shown. Such an extension shall not relieve the licensee of the requirement for CEU's or hours.

E. The board may grant an exemption for all or part of the CE requirements due to circumstances beyond the control of the pharmacist, such as temporary disability, mandatory military service, or officially declared disasters.

F. A licensee is required to provide information on compliance with CE requirements in their annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their CE requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity, the CEU's or contact hours, and certification from an approved provider. Documentation shall be maintained for a period of two years following renewal in a file available to inspectors at the pharmacists' principal place of practice.

H. A pharmacist who holds an inactive license, who has allowed his license to lapse or who has had his license suspended or revoked must submit evidence of completion of CEU's or hours equal to the requirements for the number of years in which his license has not been active.

I. Pharmacists who are licensed by other states and who have obtained a minimum of 1.5 CEU's or 15 contact hours of approved CE programs of such other states need not obtain additional hours.

§ 2.7. Approval of continuing education programs and providers.

A. The board will approve without application or further review any program offered by a ACPE-approved provider and will accept for credit certificates bearing the official ACPE logo and program number.

B. The board may approve an individual CE program or may grant approved provider status under the following provisions:

1. Approval of an individual CE program.

a. An approved individual program is a course, activity, or lecture which includes subject matter related to the competency of the practice of pharmacy and which has been approved for CE credit by the board.

b. In order to receive approval for an individual program, the sponsor or provider must make application prior to the program offering on a form provided by the board. The information which must be provided shall include but not be limited to: name of provider, location, date and time of program, charges to participants, description of program content and objectives, credentials of

speaker or author, method of delivery, evaluation procedure, evidence of a pre and post test, credits requested, mechanism for record-keeping, and any such information as the board deems necessary to assure quality and compliance.

c. The sponsor making application for board approval of an individual program must pay a fee as required in § 1.3 F of this regulation.

d. The board shall notify the provider or sponsor within 60 days following the receipt of a completed application of approval or disapproval of a program and the number of credits which may be awarded.

2. Approval of CE provider status.

a. An approved provider is any person, corporation, school, association, or other entity who has demonstrated an ability to provide qualified CE programs and has met the requirements of the board for approved provider status.

b. An applicant for approved provider status must have sponsored at least three individually board approved programs for a minimum period of two years immediately preceding the submission of application for approved status.

c. The application for approved provider status shall include but not be limited to: information on the entity making application, a listing of approved CE programs offered during the last two years, accreditation, methods of promotion and delivery of programs, assessment process, maintenance of records, policy on grievances and tuition, standards for selection of speakers, program goals and objectives, and a description of facilities adequate to meet those objectives.

d. The application for approved provider status shall be accompanied by a fee as required in § 1.3 F.

e. An applicant who has been granted approved provider status is permitted to offer CE programs by submitting to the board information on that offering at least 10 days prior to the program. The approved provider is not required to submit application for approval of each individual program nor to pay the fee for such approval.

f. An approved provider must have that status renewed every two years, must pay the renewal fee, and must provide information on program offerings to the board for review.

g. The board may revoke or suspend an approval of a provider or refuse to renew such approval if the provider fails to maintain the necessary standards and requirements.

Proposed Regulations

3. *Certificate of completion.* The provider of an approved program shall provide to each participant who completes the required hours and passes the post test a certification with the name of the provider, name of the participant, description of course and method of delivery, number of hours credited, date of completion, and program identification number.

4. *Maintenance of records.* The provider of an approved program shall maintain all records on that program, its participants, and hours awarded for a period of three years and shall make those records available to the board upon request.

5. *Monitoring of programs.* The board shall periodically review and monitor programs. The provider of a CE program shall waive registration fees for a representative of the board for that purpose.

6. *Changes in programs or providers.* Any changes in the information previously provided about an approved program or provider must be submitted to the board and may withdraw its approval.

PART III. PHARMACIES.

§ 3.1. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty by nonpharmacist personnel shall be deemed the practice of pharmacy.

C. When the pharmacist-in-charge ceases practice at a pharmacy, an application for a new pharmacy permit shall be filed within 10 days.

§ 3.2. Special or limited-use pharmacy permits.

For good cause shown, the board may issue a special or limited-use pharmacy permit, when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited or unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and method of operation, hours of operation, and method of documentation of continuing pharmacist control must accompany the application.

2. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

§ 3.3. Pharmacies going out of business.

~~For~~ A. At least 30 days prior to the closing date, the board shall be notified by the pharmacist-in-charge or other responsible person of the closing of the pharmacy owner. At that time, The disposition of all Schedule II through VI drugs shall be reported to the board. If the pharmacy drug stock is to be transferred to another licensee, the pharmacist-in-charge or other responsible person owner shall inform the board of the name and address of the licensee to whom the drugs are being transferred and the date of transfer.

B. Exceptions to the 30-day public notice as required in § 54.1-3434.01 of the Code of Virginia and the notice required in § 3.3 A of these regulations shall be sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances as approved by the board.

C. In the event of an exception to the 30-day notice as required in § 54.1-3434.01 of the Code of Virginia and in § 3.3 A of these regulations, the pharmacist-in-charge shall provide notice as far in advance of closing as allowed by the circumstances.

§ 3.4. New pharmacies.

A. Inspection and notice required for new pharmacies.

1. The proposed location of a pharmacy practice area shall be inspected by an agent of the board prior to the issuance of a permit.

2. Pharmacy permit applications which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

B. At the time of the inspection, the dispensing area shall comply with §§ 3.5, 3.6, 3.7, 3.8, and 3.10 of these regulations.

C. Drugs shall not be stocked within the proposed pharmacy until adequate safeguards against diversion have been provided and approved by the board or its authorized agent.

§ 3.5. Physical standards for all pharmacies.

A. Space requirements.

The area which is to be used for the storage, compounding, and preparation of prescriptions for Schedule II through VI drugs shall not be less than 240 square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

B. Access to dispensing area.

Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the dispensing area or drug storage area. This subsection shall not apply to dispensing areas which are established prior to the effective date of this regulation.

C. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

D. The entire area of the location of the pharmacy practice, including all areas where drugs are stored shall be well lighted and well ventilated; the proper storage temperature shall be maintained to meet U.S.P.-N.F. specifications for drug storage.

E. The counter work space shall be used only for the compounding and dispensing of drugs and necessary record keeping.

F. A sink with hot and cold running water shall be within the immediate compounding and dispensing area.

G. Adequate refrigeration facilities for the storage of drugs requiring cold storage temperature shall be maintained within the compounding and dispensing area.

§ 3.6. Sanitary conditions.

A. The entire area of any place bearing the name of a pharmacy shall be maintained in a clean and sanitary manner and in good repair and order.

B. The dispensing area and work counter space and equipment in the dispensing area shall be maintained in a clean and orderly manner.

C. Adequate trash disposal facilities and receptacles shall be available.

§ 3.7. Required minimum equipment.

The pharmacist-in-charge shall be responsible for maintaining the following equipment:

A- 1. A current copy of the United States Pharmacopeia Dispensing Information Reference Book.

B- 2. A set of Prescription Balances, sensitive to 15

milligrams, and weights.

C- 3. A refrigerator with a monitoring thermometer.

D- 4. A copy of the current Virginia Drug Control Act and board regulations.

E- 5. A current copy of the Virginia Voluntary Formulary.

F- 6. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).

§ 3.8. Safeguards against diversion of drugs.

A device for the detection of breaking shall be installed in each dispensing and drug storage area of each pharmacy. The installation and the device shall be based on accepted burglar alarm industry standards, and shall be subject to the following conditions:

A- 1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

B- 2. The device shall be maintained in operating order.

C- 3. The device shall fully protect the immediate drug compounding, dispensing and storage areas and shall be capable of detecting breaking by any means whatsoever in the area when the pharmacy or other business in which the pharmacy is located is closed.

D- 4. The alarm system must have an auxiliary source of power.

E- 5. This regulation shall not apply to pharmacies which have been granted a permit prior to the effective date of this regulation provided a previously approved security alarm system is in place and provided further that a breaking and loss of drugs does not occur.

§ 3.9. Special security requirements.

A. If the compounding and dispensing area is to be closed while the remainder of the pharmacy or business in which the dispensing area is located is open for the conduct of business, an alarm system shall be installed in the dispensing area and be subject to the following requirements:

1. The alarm system is activated and operated separately from any other alarm system in the pharmacy or the business in which the dispensing area is located.

2. The alarm system will detect breaking in the dispensing area when it is closed.

Proposed Regulations

3. The alarm system is controlled only by the pharmacist.

B. An emergency key or access code to the system shall be maintained as set forth in § 3.10 of these regulations.

C. If the dispensing and drug storage area is enclosed from floor to ceiling, the separately activated alarm system referred to in this regulation shall not be required.

§ 3.10. Dispensing area enclosures.

A. The drug dispensing and drug storage areas of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be of sufficient height as to prevent anyone from reaching over to gain access to the drugs.

3. Entrances to the enclosed area must have a door which extends from the floor and which is at least as high as the adjacent counters or adjoining partitions.

4. Doors to the area must have locking devices which will prevent entry in the absence of the pharmacist.

B. The door keys to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in possession of any keys to the locking device on the door to such enclosure.

2. The pharmacist may place a key in an envelope or other container which contains a seal and a signature placed by the pharmacist on the envelope or container in a safe or vault within

3. The key may be used to allow emergency entrance to the dispensing area by other pharmacists.

C. Restricted access to the dispensing area.

The prescription drug compounding and dispensing area is restricted to pharmacists, externes, and internes who are practicing at the pharmacy. Clerical assistants and other persons designated by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

§ 3.11. Drugs outside of dispensing area.

Any Schedule II through VI drug not stored within the prescription compounding and dispensing area and kept for

stock replenishing shall be secured and access to it shall be restricted to the pharmacist and persons authorized by the pharmacist.

§ 3.12. Prescriptions awaiting delivery.

Prescriptions prepared for delivery to the patient may be placed in a secure place outside of the compounding and dispensing area and access to the prescriptions restricted by the pharmacist to designated clerical assistants. The prepared prescriptions may be transferred to the patient whether or not a pharmacist is on duty.

§ 3.13. Dispersion of Schedule II drugs.

Schedule II drugs may be dispersed with other schedules of drugs or shall be maintained within a locked cabinet, drawer, or safe.

§ 3.14. Safeguards for controlled paraphernalia.

Controlled paraphernalia shall not be placed on open display or in an area completely removed from the drug compounding and dispensing area whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

§ 3.15. Expired drugs; security.

Any drug which has exceeded the expiration date shall be separated from the stock used for dispensing and may be maintained in a designated area with the unexpired stock prior to the disposal of the expired drug.

§ 3.16. Destruction of Schedule II through V drugs in pharmacies.

If a pharmacist-in-charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing, in lieu of returning the drugs to the Drug Enforcement Administration (DEA), he shall use the following procedures for the drug destruction:

A. 1. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

1. a. Date, time, and manner or place of destruction.

2. b. The names of the pharmacists who will witness the destruction process.

B. 2. If the destruction date is to be changed or the destruction does not occur, a new notice must be provided to the board office as set forth above in this subsection.

C. 3. The DEA Drug Destruction Form No. 41 must be used to make a record of all drugs to be destroyed.

~~D.~~ 4. The drugs must be destroyed by burning in an incinerator; an alternate method of flushing may be used if incineration is not possible and if permitted by the municipality.

~~E.~~ 5. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

~~F.~~ 6. Each form shall show the following information:

~~1.~~ a. Legible signatures of the pharmacist-in-charge and the witnessing pharmacist;

~~2.~~ b. The license numbers of the pharmacists destroying the drugs; and

~~3.~~ c. The date of the destruction.

~~G.~~ 7. At the conclusion of the destruction of the drug stock:

~~1.~~ a. Two copies of the completed destruction form shall be sent to Drug Enforcement Administration, Washington Field Division, Room 2558, 400 - 6th Street S.W., Washington, D.C. 20024, Attn: Diversion Control Group.

~~2.~~ b. A copy of the completed destruction form shall be sent to the office of the board.

~~3.~~ c. A copy of the completed destruction form shall be retained with the pharmacy inventory records.

PART IV. NUCLEAR PHARMACIES.

§ 4.1. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist. In emergency situations, in the pharmacist's absence, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

B. Pharmacies providing ordinary pharmacy services in addition to radiopharmaceutical services shall comply with all regulations applicable to pharmacies in general. Pharmacies providing only radiopharmaceutical services shall comply with all regulations related to physical standards, sanitary conditions and security.

C. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25

square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

D. A prescription order for a radiopharmaceutical shall be dispensed in a unit-dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

E. In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution-Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in milliliters; (vii) the requested calibration time for the amount of radioactivity contained; and (viii) the practitioner's name and the assigned lot number.

F. The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution-Radioactive Material"; and (iii) the prescription number.

G. The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

H. Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product packaging.

§ 4.2. Qualification as a nuclear pharmacist.

In order to practice as a nuclear pharmacist, a pharmacist shall possess the following qualifications:

1. Meet Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material.

2. Have received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy.

3. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved college of pharmacy.

4. Submit an affidavit of experience and training to the board.

PART V. DRUG INVENTORY AND RECORDS.

§ 5.1. Manner of maintaining records, prescriptions,

Proposed Regulations

inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.

3. Location of records. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain.

4. Inventory after drug theft. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54.1-3404 of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

B. Prescriptions.

1. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

2. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs.

§ 5.2. Automated data processing records of prescriptions.

A. An automated data processing system may be used for the storage and retrieval of original and refill dispensing information for prescriptions instead of manual record keeping requirements, subject to the following conditions:

1. Any computerized system shall provide retrieval (via CRT display or printout) of original prescription information for those prescriptions which are currently authorized for dispensing.

2. Any computerized system shall also provide

retrieval via CRT display or printout of the dispensing history for prescriptions dispensed during the past two years.

3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription for a drug is correct shall be provided by the individual pharmacist who makes use of such system. If the system provides a printout of each day's prescription dispensing data, the printout shall be verified, dated and signed by the individual pharmacist who dispensed the prescription. The individual pharmacist shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith).

In place of such printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day, in the manner previously described, attesting to the fact that the dispensing information entered into the computer that day has been reviewed by him and is correct as shown.

B. Printout of dispensing data requirements.

Any computerized system shall have the capability of producing a printout of any dispensing data which the user pharmacy is responsible for maintaining under the Drug Control Act.

§ 5.3. Pharmacy repackaging of drug; records required.

A. Records required.

Pharmacies in which bulk reconstitution of injectables, bulk compounding or the prepackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used, strength, if any, quantity prepared, initials of the pharmacist supervising the process, manufacturer's or distributor's name, control number or the assigned number, and an expiration date.

B. Expiration date.

The drug name, strength, if any, the manufacturer's or distributor's name and control number or assigned control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted units.

2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.

3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted units.

PART VI. PRESCRIPTION ORDER AND DISPENSING STANDARDS.

§ 6.1. Distribution of a prescription device.

Any person, except those persons who are registered under the provisions of § 54.1-3434 of the Drug Control Act, who sells or distributes a Schedule VI device which under the applicable federal or state law may be sold, dispensed, or distributed only by or on the order of prescription of a practitioner, shall maintain every such prescription or order on file for two years.

§ 6.2. Emergency prescriptions for Schedule II drugs.

In case of an emergency situation, a pharmacist may dispense a drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period;
2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54.1-3410 of the Drug Control Act, except for the signature of the prescribing practitioner;
3. If the pharmacist does not know the practitioner, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity; and
4. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54.1-3410 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcement Administration

and the board if the prescribing practitioner fails to deliver a written prescription to him. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

§ 6.3. Partial dispensing of Schedule II prescriptions.

A. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription, and he makes a notation of the quantity supplied on the face of the written prescription. The remaining portion of the prescription may be dispensed within 72 hours of the first partial dispensing; however, if the remaining portion is not or cannot be dispensed within the 72-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

B. Prescriptions for Schedule II drugs written for patients in nursing homes may be dispensed in partial quantities, to include individual dosage units. For each partial dispensing, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial dispensing, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of Schedule II drugs in all partial dispensing shall not exceed the total quantity prescribed. Schedule II prescriptions shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

C. Information pertaining to current Schedule II prescriptions for patients in a nursing home may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original prescription number, date of issue, identification of prescribing practitioner, identification of patient, identification of the nursing home, identification of drug authorized (to include dosage form, strength, and quantity), listing of partial dispensing under each prescription and the information required in subsection B of this section.
2. Immediate (real time) updating of the prescription record each time a partial dispensing of the prescription is conducted.

§ 6.4. Dispensing of prescriptions; acts restricted to pharmacists.

A. The following acts shall be performed by a pharmacist, or by a student externe or pharmacy interne, provided a method for monitoring such acts of the externe or interne is provided:

Proposed Regulations

1. The accepting of an oral prescription from a practitioner and the reducing of such oral prescription to writing.

2. The personal supervision of the compounding of extemporaneous preparations.

3. The providing of drug information, including notice of changes or substitution of medication, to practitioners and to the patients.

4. The interpretation of the information contained in medication profile records.

B. Persons assisting pharmacist.

The following shall apply to persons present in the compounding and dispensing area:

1. Only one person who is not a pharmacist may be present in the immediate compounding and dispensing area at any given time with each pharmacist for the purpose of assisting the pharmacist in preparing and packaging of prescriptions.

2. In addition to the person authorized in ~~paragraph~~ *subdivision 1* of this section, personnel authorized by the pharmacist may be present in the immediate compounding and dispensing area for the purpose of performing clerical functions.

C. Certification of completed prescription.

After the prescription has been prepared and prior to the delivery of the order, the pharmacist shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction.

§ 6.5. Refilling of prescriptions.

A. Schedule II drugs.

A prescription for a Schedule II drug shall not be refilled.

B. Schedule III through V drugs.

A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. Partial dispensing of prescriptions. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

C. Schedule VI drugs.

1. A prescription for a drug listed in Schedule IV shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled.

2. A prescription for a Schedule VI drug or device shall not be refilled if the prescription is more than two years old. In instances where the drug or device is to be continued, authorization shall be obtained from the prescriber and a new prescription shall be filed.

D. As an alternative to all manual record-keeping requirements provided for in subsections A, B and C of this section, an automated data processing system as provided in § 5.2 may be used for the storage and retrieval of dispensing information for prescription for drugs dispensed.

PART VII. LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.

§ 7.1. Labeling of prescription as to content and quantity.

~~A.~~ Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription shall bear on the label of the container, in addition to other requirements, the following information:

1. The drug name and strength, when applicable;

a. If a trade name drug is dispensed, the trade name of the drug or the generic name of the drug.

b. If a generic drug is dispensed in place of a trade name drug, in addition to the requirements of § 32.1-87.A of the Code of Virginia, one of the following methods shall be used:

(1) The generic name, or

(2) A name for the product dispensed which appears on the generic manufacturer's label.

(3) The generic name followed by the words "generic for" followed by the trade name of the drug for which the generic drug is substituted.

2. The number of dosage units, or if liquid, the number of milliliters dispensed.

§ 7.2. Packaging standards for dispensed prescriptions.

A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such packaging standard for that drug, it shall be dispensed in a well-closed container.

§ 7.3. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970.

B. Each pharmacy may have a sign posted near the compounding and dispensing area advising the patients that nonspecial packaging may be requested.

PART VIII. STANDARDS FOR PRESCRIPTION TRANSACTIONS.

§ 8.1. Issuing a copy of a prescription that can be refilled.

A. A copy of a prescription for a drug which pursuant to § 54.1-3411 of the Code of Virginia, can be refilled at the time the copy is issued shall be given upon request to another pharmacist.

B. The transfer of original prescription information for a drug listed in Schedules III through VI for the purpose of refill dispensing is permissible between pharmacies if the transfer is communicated directly between two pharmacists, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription;

2. Records on the reverse of the invalidated prescription the name, address, and the Drug Enforcement Administration (DEA), registry number of the pharmacy to which it was transferred, except for a prescription for a Schedule VI drug, and the name of the pharmacist receiving the prescription information; and

3. Records the date of the transfer and the name of the pharmacist transferring the information.

C. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription.

2. Provide all information required to be on a prescription and include:

a. Date of issuance of original prescription;

b. Original number of refills authorized on the original prescription;

c. Date of original dispensing;

d. Number of valid refills remaining and date of last refill;

e. Pharmacy name, address, DEA registry number except for Schedule VI prescriptions, and original prescription number from which the prescription information was transferred; and

f. Name of transferring pharmacist.

3. Both the original and transferred prescription shall be maintained for a period of two years from the date of last refill.

D. Nothing in this regulation shall prevent the giving of a prescription marked "For Information Only" to a patient.

§ 8.2. Issuing a copy of a prescription that cannot be refilled.

A. A copy of a prescription for a drug which, pursuant to § 54.1-3411 of the Drug Control Act, cannot be refilled at the time the copy is issued, shall be given on request of a patient but such copy shall be marked with the statement "FOR INFORMATION ONLY," the patient's name and address, the date of the original prescription, and the date the copy was given.

B. A copy marked in this manner is not a prescription, as defined in § 54.1-3400 of the Drug Control Act, and shall not be refilled.

C. The original prescription shall indicate that a copy has been issued, to whom it was issued, and the issuing date.

§ 8.3. Confidentiality of patient information.

A pharmacist shall not exhibit, dispense, or reveal any prescription or discuss the therapeutic effects thereof, or the nature or extent of, or the degree of illness suffered by or treatment rendered to, any patient served by the pharmacist with any person other than the patient or his authorized representative, the prescriber, or other licensed practitioner caring for this patient, or a person duly authorized by law to receive such information.

§ 8.4. Kickbacks, fee-splitting, interference with supplier.

Proposed Regulations

A. A pharmacist shall not solicit or foster prescription practice by secret agreement with a prescriber of drugs or any other person providing for rebates, "kickbacks", fee-splitting, or special charges in exchange for prescription orders.

B. A pharmacist shall not interfere with the patient's right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medications.

§ 8.5. Returning of drugs and devices.

Drugs or devices shall not be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed unless such drug or devices are in the manufacturer's original sealed containers or in unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement.

§ 8.6. Physician licensed by the board.

Physicians licensed by the board to dispense drugs shall be subject to the following sections of these regulations:

§ 3.8. Safeguards against diversion of drugs.

§ 5.1. Manner of maintaining records, prescriptions, inventory records.

§ 6.4. Filling of prescriptions.

§ 6.5. Refilling of prescriptions.

§ 7.1. Labeling of prescriptions.

§ 7.2. Packaging standards for dispensed prescriptions.

§ 7.3. Special packaging.

§ 8.5. Returning of drugs and devices.

PART IX. UNIT DOSE DISPENSING SYSTEMS.

§ 9.1. Unit dose dispensing system.

A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or nursing home. The following requirements shall apply:

A. If a unit dose system is utilized by a pharmacy, no more than a seven-day supply of drugs shall be dispensed at any one given time.

B. A signed order by the prescribing practitioner shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a Schedule II controlled substance may be transmitted to a licensed

nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.

C. Properly trained personnel may transcribe the physician's drug orders to a patient profile card, fill the medication carts, and perform other such duties related to a unit dose distribution system provided these are done under the personal supervision of a pharmacist.

D. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

E. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

F. All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray unless special storage conditions are necessary.

G. A back-up dose of a drug of not more than one dosage unit may be maintained in the patient's drawer, tray, or special storage area provided that the dose is maintained in the patient's drawer, tray, or special storage area with the other drugs for that patient.

H. A record shall be made and maintained within the pharmacy for a period of one year showing:

1. The date of filling of the drug cart;
2. The location of the drug cart;
3. The initials of person who filled the drug cart; and
4. The initials of the pharmacist checking the drug cart.

I. A patient profile record or medication card will be accepted as the dispensing record of the pharmacy for unit dose dispensing systems only, subject to the following conditions:

1. The record of dispensing must be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.
2. In the case of Schedule II through V drugs, after the patient profile record or medication card has been completed, the card must be maintained for two years.
3. In the case of the computer-based distribution system, a uniformly maintained "fill list" or other document may be accepted as the dispensing record for Schedule II through VI drugs. Records of disposition/administration for floor stock drugs as provided in § 10.5.B will be accepted for drugs distributed as floor stock. A separate record for

Schedule VI is not required if disposition records of Schedule II through V are maintained.

PART X. HOSPITAL PHARMACIES.

§ 10.1. Hospital pharmacies: chart order not a prescription.

A chart order is an order for a medication to be dispensed for an inpatient in a hospital. It is not a prescription order as defined in the Drug Control Act.

§ 10.2. Standards for hospital pharmacies.

A. Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or drugs transferred from one container to another, shall obtain a pharmacy permit with a part-time pharmacist designed to perform such functions or to provide personal supervision of such functions.

B. If there is no formally organized pharmacy department, the pharmacy service shall be obtained from another hospital having such a service or from a community pharmacy. Properly labeled and prepackaged drugs may then be distributed from the storage area under the supervision and direction of the pharmacist-in-charge of the service provider.

§ 10.3. Labeling of drugs; preparation and storage of drugs.

A. Labeling.

All medications issued as floor stock shall be labeled with the name of the drug, strength, assigned lot number and expiration date when applicable. In the case of a drug order sent to a nursing unit in a multiple dose container for subsequent administration to a particular patient, the drug shall be labeled with the name and the strength of the drug and the name and the location of the patient.

B. Equipment.

There shall be adequate equipment, properly maintained, and supplies provided to ensure proper professional and administrative services as may be required for patient safety through proper storage, compounding, dispensing, distribution and administration of drugs. When sterile products are prepared in the pharmacy, the product shall be prepared by qualified personnel in the environment of a laminar flow hood.

C. Storage.

All drugs within the pharmacy and throughout the hospital shall be under the supervision of the pharmacist-in-charge. The drugs shall be stored under proper conditions of temperature, light, sanitation and security.

§ 10.4. After-hours access to the pharmacy.

When authorized by the pharmacist-in-charge, a supervisory nurse may have access to the pharmacy in the absence of the pharmacist in order to obtain emergency medication, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist and provided further that a separate record shall be made and left within the pharmacy on a form prescribed by the pharmacist-in-charge and such records are maintained within the pharmacy for a period of one year showing:

1. The date of withdrawal;
2. The patient's name;
3. The name of the drug, strength, dosage form and dose prescribed;
4. Number of doses removed; and
5. The signature of the authorized nurse.

§ 10.5. Floor stock drugs.

A. Proof of delivery.

A delivery receipt shall be obtained for Schedule II through V drugs supplied as floor stock. Receipts shall be maintained in the pharmacy for a period of two years.

B. Distribution records.

A record of disposition/administration shall be used to document administration of Schedule II through V drugs when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The pharmacist-in-charge or his designee shall:

1. Match returned records with delivery receipts to verify that all records are returned;
2. Periodically audit returned administration records for completeness as to patient's names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;
3. Verify that all additions to inventory are recorded, that all additions to and deductions from inventory are correctly calculated, that sums carried from one record to the next are correctly recorded, and periodically verify that doses documented on administration records are reflected in the medical record;
4. Initial or sign the returned record and retain for two years from the date of return; and
5. Establish a system of documentation of administration of drugs in all areas where drugs are

Proposed Regulations

stored or administered.

C. Repackaging.

Drugs repackaged for floor stock shall comply with § 5.3.

§ 10.6. Securing the pharmacy.

The pharmacy shall be locked in the absence of a pharmacist prior to, and after, routine hours of operation and shall be secured from access to other personnel except as provided in § 10.4 of these regulations.

§ 10.7. Emergency room.

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

A. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

B. Oral orders for medications shall be reduced to writing and shall be signed by the practitioner.

C. In the emergency room, a medical practitioner may dispense drugs for the immediate need of his patient if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of these regulations and the Drug Control Act.

D. A record shall be maintained of all drugs administered in the emergency room.

E. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of two years showing:

1. Date dispensed;
2. Patient's name;
3. Physician's name;
4. Name of drug dispensed, strength, dosage form, quantity dispensed, and dose.

§ 10.8. Outpatient pharmacy permit.

A. An outpatient pharmacy of a hospital shall be operated under a separate pharmacy permit issued to a specific pharmacy-in-charge of each such operation; if the pharmacy dispensed drugs to walk-in customers who are not patients of the hospital, the outpatient pharmacies shall be governed by laws and regulations as they apply to pharmacies in general and shall be operated in a space separated from the hospital pharmacy.

B. An outpatient pharmacy of a hospital may be operated under the permit of the hospital pharmacy, if the drugs are dispensed only:

1. To patients who receive treatments or consultations on the premises;
2. To inpatients, outpatients, or emergency patients upon discharge for their personal use away from the hospital; and
3. To the hospital employees, medical staff members, or students for personal use or for the use of their dependents.

4. Nothing in this regulation shall prohibit a hospital pharmacy not operated under a separate outpatient pharmacy permit from providing such services or drugs, or both, as are not readily available in the community to patients who may not otherwise be served by the hospital pharmacy.

§ 10.9. Mechanical devices for dispensing drugs.

A hospital may utilize mechanical devices for the dispensing of drugs pursuant to § 54.1-3301 of the Drug Control Act, provided the utilization of such mechanical devices is under the personal supervision of the pharmacist. Such supervision shall include:

A. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.

B. The placing of previously packaged and labeled drug units into the mechanical dispensing device.

C. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.

D. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical device.

§ 10.10. Certified emergency medical technician program.

The pharmacy may prepare a drug kit for a Certified Emergency Medical Technician Program provided:

1. The pharmacist-in-charge of the hospital shall be responsible for all controlled drugs contained in this drug kit.
2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.
3. Drugs may be administered by a technician upon an oral order of an authorized medical practitioner. The oral order shall be reduced to writing by the

technician and shall be signed by the physician.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. A record signed by the physician for the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations.

§ 10.11. Identification for interne or resident prescription form in hospitals.

The prescription form for the prescribing of drugs for use by medical interns or residents who prescribe only in a hospital shall bear the prescriber's signature, the legibly printed name, address, and telephone number of the prescriber and an identification number assigned by the hospital. The identification number shall be the Drug Enforcement Administration number assigned to the hospital pharmacy plus a suffix assigned by the institution. The assigned number shall be valid only within the course of duties within the hospital.

PART XI. PHARMACY SERVICES TO NURSING HOMES.

§ 11.1. Drugs in nursing homes.

Drugs, as defined in the Drug Control Act, shall not be floor stocked by a nursing home, except those in the stat drug box or emergency drug box provided for within these regulations.

§ 11.2. Pharmacist's responsibilities to nursing homes.

The pharmacist serving a nursing home shall ascertain:

A. That a valid order exists prior to the dispensing of any drug.

B. That the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.

C. That each cabinet utilized for the storage of the drugs for individual patients is locked and accessible only to authorized personnel.

D. That the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is of the appropriate temperature.

E. That poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

F. That discontinued drugs are destroyed under the following conditions:

1. The drugs are destroyed on the premises of the facility.

2. The drugs are destroyed in the presence of the pharmacist supplying pharmacy service to the facility and the director of nurses of the facility.

3. A complete and accurate record of the drugs destroyed shall be maintained and signed by the pharmacist and director of nurses.

4. All destruction of the drugs is done without 30 days of the time the drug was discontinued.

5. The records of destruction shall be made a part of the records on all Schedule II through V drugs administered in the nursing home.

6. This procedure does not apply to discontinued drugs in unit-dose containers which meet U.S.P.-N.F. Class A or Class B container requirements or the manufacturer's sealed containers. Such drugs may be returned to the issuing pharmacist for reuse.

G. That drug reference materials are available on the nursing units.

H. That a monthly review of a drug therapy by a pharmacist is conducted for each patient. Such review shall be used to determine any irregularities. The pharmacist shall sign and date the notation of the review. An irregularity shall include such therapy which is not right and proper, and may include drug interactions or drug administration or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

§ 11.3. Emergency drug kit.

The pharmacist may prepare an emergency kit for a facility served by the pharmacy provided:

A. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

B. The contents of the kit shall be determined by the Pharmacy and Therapeutics Committee of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

C. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

D. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for

Proposed Regulations

replenishing.

E. Any drug used from the kit shall be covered by a prescription, signed by the physician, when legally required, within 72 hours.

§ 11.4. Stat-drug box.

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy and shall be subject to the following conditions:

A. The box is sealed in such a manner that will preclude the loss of drugs.

B. When the stat-drug box has been opened, it is returned to the pharmacy.

C. Any drug used from the box shall be covered by a drug order signed by the practitioner, when legally required, within 72 hours.

D. There shall not be more than one box per 200 patients in a facility.

E. There shall be a listing of the contents of the box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

F. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

G. Contents of the stat-drug box.

The contents of the box shall be limited to the following classes of drugs, the drug strengths to be selected by the drug committee of the facility in consultation with the providing pharmacist:

1. Antibiotics (injectable) - Not more than five doses of each of four different antibiotics.
2. Antibiotics (oral) - Not more than five doses each of five different antibiotics including two strengths of each antibiotic.
3. Antiemetics - Not more than five doses each of three different antiemetics.
4. Antihistamines - Not more than five doses each of two different antihistamines.
5. Antihypertensives - Not more than five doses each of two different antihypertensives.
6. Antipyretics - Not more than five doses each of two antipyretics.

7. Antipsychotic - Not more than five doses each of five antipsychotics.

8. Diuretics - Not more than five doses each of two diuretics.

9. Antidiarrheals - Not more than five doses of two oral antidiarrheal products.

10. Anticonvulsants - Not more than five doses of two oral anticonvulsants.

11. Analgesics - Not more than five doses of one oral narcotic drug in Schedule III or IV and five doses of one nonnarcotic drug in Schedule III or IV.

PART XII.

OTHER INSTITUTIONS AND FACILITIES.

§ 12.1. Drugs in industrial infirmaries/first aid rooms.

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs will be maintained and secured in a suitable locked facility, the key to which will be in the possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a physician in an emergency situation when the timely prior verbal or written order of a physician is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this regulation, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

D. A nurse may, in the absence of a practitioner, administer nonprescription drugs and provide same in unit dose containers in quantities which in the professional judgment of the nurse and the existing circumstances will maintain the person at an optimal comfort level until the employee's personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.

§ 12.2. Licensed humane societies and animal shelters; use of pentobarbital.

A humane society or animal shelter, after having obtained the proper permits pursuant to state and federal laws, may purchase, possess and administer Sodium Pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that:

1. The facility shall be under the general supervision of a veterinarian.
2. The person(s) responsible for administering the drug shall have been trained by a veterinarian in the manner of administration.
3. The drug shall be stored in a secure place and only the person responsible for administering the drug may have access to the drug.
4. The drug shall be obtained and administered in the injectable form only.
5. All invoices and order forms shall be maintained for a period of two years.
6. Complete and accurate records shall be maintained on the administration of the drug; the record shall show the date of administration, the species of the animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

§ 12.3. Drugs in correctional institutions.

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. The prescription orders shall be initiated by the physician or his agent.
2. The number of doses on each prescription order shall be specified.
3. All prepared drugs shall be maintained in a suitable locked facility with only the person responsible for administering the drugs having access.
4. All drugs shall be taken in the presence of the person administering the drug.
5. Drug administration record. Complete and accurate records shall be maintained on all drugs received, administered and discontinued. This record shall consist of a two-part drug administration record. The administration record shall show the:
 - a. Prescription number;
 - b. Drug name and strength;

c. Number of dosage units received;

d. Physician's name; and

e. Date, time and signature of person administering the individual dose of drug.

6. Disposal of unused drugs. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with Part 2 of the drug administration record within seven days. The drug shall be returned by the same means as it was originally sent.

a. The provider pharmacy shall compare the number of drug dosage units dispensed against Part 2 of the drug administration record, the number of dosage units administered and the number of dosage units returned to the issuing pharmacy.

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or, at the option of the facility, the records may be returned by the provider pharmacy to the facility.

c. The returned drugs shall be destroyed at least every 30 days. This destruction shall be carried out by the provider pharmacy and a responsible witness. The Board of Pharmacy shall be notified two weeks prior to the destruction in order that the board may witness any such destruction. An agent of the board shall, from time to time, witness a destruction of such drugs and, prior to the destruction, randomly reconcile the contents of selected containers against the drug administration record.

d. Drugs in the manufacturer's original sealed container may be returned to the stocks of the provider pharmacy.

7. Emergency and stat-drug box.

An emergency box and a stat-drug box may be prepared for the facility served by the pharmacy pursuant to §§ 11.3 and 11.4 of the regulations provided:

a. The facility employs one or more full-time physicians, registered nurse, licensed practical nurse or correctional health assistant;

b. No drugs are to be administered from the emergency box or stat-drug box unless authorized by the physician either in writing or orally. If orally, the order must be signed by the physician within 72 hours.

c. Only the physician, nurse, licensed practical nurse

Proposed Regulations

or correctional health assistant may administer a drug from the emergency box or stat-drug box.

d. The emergency drug box or stat-drug box must be sealed in such a manner that it will preclude any possibility of loss of drugs. Any drug box which has been opened must be returned to the pharmacy within 72 hours.

PART XIII. EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

§ 13.1. Excluded substances.

The list of excluded substances, which may be lawfully sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Control Act (21.U.S.C. 301), as set forth in the Code of Federal Regulations, Title 21, Part 1308.22, is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act.

§ 13.2. Exempted chemical preparations.

The list of exempt chemical preparations set forth in the Code of Federal Regulations, Title 21, Part 1308.24 is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act.

§ 13.3. Excepted compounds.

The list of excepted compounds set forth in the Code of Federal Regulations, Title 21, Part 1308.32 is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452; the excepted compounds are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act.

PART XIV. MANUFACTURERS, WHOLESALERS, AND WHOLESALE DISTRIBUTORS, WAREHOUSERS, AND MEDICAL EQUIPMENT SUPPLIERS.

§ 14.1. ~~Manufacturers, wholesalers and distributors~~ Licenses and permits generally .

A license or permit shall not be issued to any manufacturer ~~or~~ , wholesale distributor , warehouse, or medical equipment supplier to operate from a private dwelling, unless a separate business entrance is provided, and the place of business is open for inspection at all times during normal business hours. ~~In any case, The applicant shall comply with all other federal, state and local laws and ordinances shall be complied with before any license or permit is issued.~~

§ 14.2. ~~Manufacturers and wholesalers~~ Safeguards against diversion of drugs.

The following requirements shall ~~comply~~ apply to

manufacturers ~~or~~ wholesaler , wholesale distributors, or warehouse of prescription drugs:

1. The holder of the permit shall restrict all areas in which ~~Schedule H-V~~ ~~prescription~~ drugs are manufactured, stored, or kept for sale, to a limited number of ~~only~~ designated and necessary persons.

2. The holder of the permit shall ~~take provide~~ reasonable security measures ~~to prevent any person from pilfering for all drugs from in~~ the restricted area.

3. The holder of the permit shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally ~~process~~ possess such drugs.

4. The holder of a ~~the~~ permit ~~to manufacture or wholesale only~~ Schedule VI drugs shall comply with the security requirements set forth in § 3.8.

5. This regulation shall not apply to the holder of a permit to manufacture or ~~wholesale~~ distribute only medical gases.

§ 14.3. Manufacturing of cosmetics.

A. The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:

1. Provide adequate space for the orderly placement of equipment and materials used.
2. Provide adequate lighting and ventilation.
3. Provide adequate washing, cleaning, and toilet facilities.

PART XV. GOOD MANUFACTURING PRACTICES.

§ ~~15.1.~~ § 14.4. Good manufacturing practices.

A. The Good Manufacturing Practices regulations set forth in the Code of Federal Regulations, Title 21, Part 211 and effective April 1, 1986, are adopted by reference.

B. Each manufacturer of drugs shall comply with the requirements set forth in the federal regulations referred to in subsection A of this section.

§ 14.5. Prescription drug marketing act.

A. ~~The requirements for wholesale distribution of prescription drugs set forth in the federal Prescription~~

Proposed Regulations

Drug Marketing Act of 1987 and Title 21, Part 205 of the Code of Federal Regulations are adopted by reference.

B. Each wholesale distributor of prescription drugs shall comply with minimum requirements for qualifications, personnel, storage, handling, and records as set forth in the federal regulations referred to in subsection A of this section.

§ 14.6. Medical equipment suppliers.

A. A medical equipment supplier may dispense to the ultimate consumer the following: prescription devices, medicinal oxygen, Schedule VI drugs which have no medicinal properties and are used in the operation and cleaning of medical devices, and hypodermic needles and syringes as authorized by § 54.1-3435.3 of the Drug Control Act.

B. A medical equipment supplier shall receive a valid order from a practitioner prior to dispensing and shall maintain this order on file for a period of two years from date of last dispensing.

C. Medical equipment suppliers shall make a record at the time of dispensing. This record shall be maintained for two years from date of dispensing and shall include:

1. Name and address of patient;
2. Name and address of physician ordering;
3. Item dispensed and quantity, if applicable; and
4. Date of dispensing.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

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

Public Hearing Date: N/A - Written comments may be submitted until October 23, 1992.

(See Calendar of Events section for additional information)

Summary:

This regulation is being promulgated to establish disqualification penalties in the AFDC program for individuals found to have committed an intentional program violation by a court or pursuant to an administrative disqualification hearing and to establish procedures for administrative disqualification hearings.

VR 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program

Violation.

PART I. DEFINITIONS.

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

"Aid to Families with Dependent Children Program" means the program administered by the Virginia Department of Social Services through which a relative can receive a monthly assistance payment for the support of his children.

"Administrative disqualification hearing (ADH)" means an impartial review by a hearing officer of an individual's actions involving an alleged intentional program violation for the purpose of rendering a decision of guilty or not guilty of committing an intentional program violation.

"Hearing officer" means an impartial representative of the Department of Social Services to whom requests for administrative disqualification hearings are assigned and by whom they are heard. The hearing officer has the authority to conduct and control hearings and to render decisions.

"Intentional program violation (IPV)" means any action by an individual for the purpose of establishing or maintaining the family's eligibility for Aid to Families with Dependent Children (AFDC) or for increasing or preventing a reduction in the amount of the grant which is intentionally a false or misleading statement or misrepresentation, concealment or withholding of facts or any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.

PART II. REFERRAL OF ALLEGED INTENTIONAL PROGRAM VIOLATIONS.

§ 2.1. The agency shall ensure and document that a clear and full explanation is given to the applicant/recipient of the eligibility requirements for the type of assistance he is requesting or receiving; of his responsibility to give complete and accurate information related to his eligibility and to report promptly and fully any changes in his circumstances; and of the provisions of the law with respect to giving false information knowingly or deliberately withholding information that would affect his eligibility for assistance or the amount thereof. The worker shall explain fully what types of changes in his circumstances would have an effect on the grant.

§ 2.2. The local agency shall conduct an investigation of an allegation that an individual has committed an IPV, regardless of the AFDC payment status. A determination as to whether IPV has occurred shall be based on careful consideration of the particular circumstances. A determination shall be made that there has been a

Proposed Regulations

deliberate misrepresentation on the part of the applicant/recipient. Consideration should be given to: (i) whether the correct or unreported information was, in fact, known to the applicant/recipient and (ii) whether the applicant/recipient understood the eligibility and reporting requirements.

§ 2.3. An individual may be charged with an IPV even if the individual's application for assistance was denied. It is not required that an overpayment actually exist for there to be a determination of IPV.

§ 2.4. The local agency is required to proceed against any individual alleged to have committed an IPV by referring the matter to the appropriate authorities for criminal action in a federal or state court or through an administrative disqualification hearing (ADH).

§ 2.5. The local agency shall refer a case for prosecution or initiate an ADH regardless of the current eligibility of the individual.

§ 2.6. The local agency must coordinate its actions with any corresponding actions being taken against the individual under the Food Stamp program if the factual issues involved arise out of the same or related circumstances.

§ 2.7. The local agency shall confer with the appropriate legal authorities to determine the types of cases that will be accepted for prosecution, and cases of alleged IPV will be referred for prosecution in accordance with the agreement established between the legal authority and the local agency. This agreement shall include information on how and under what circumstances cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overpayment which resulted from the IPV. The local agency is encouraged to refer for prosecution those individuals suspected of committing an IPV where large amounts of overpaid benefits are involved or more than one act of IPV is suspected.

PART III. INTENTIONAL PROGRAM VIOLATION PENALTIES.

§ 3.1. Individuals found to have committed an IPV by either of the following:

1. A court of appropriate jurisdiction
2. Pursuant to an administrative disqualification hearing
3. Waiving his right to an administrative disqualification hearing

shall be ineligible to participate in the AFDC program for the following time periods:

1. Six months for the first offense

2. Twelve months for the second offense

3. Permanently for the third offense

§ 3.2. The disqualification penalty imposed on an individual in one state or locality shall be used in determining the appropriate disqualification penalty.

§ 3.3. Only the individual found guilty of committing an IPV shall be disqualified. The local agency shall not take the individual's needs into account when determining the assistance unit's need and the amount of assistance. However, any resources and income of the disqualified individual will be considered available to the assistance unit.

§ 3.4. The period of disqualification shall begin no later than the first day of the second month which follows the court's decision of guilty or the date on the notice of ADH decision by the hearing officer. If the individual is not eligible for the program at the time the disqualification is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

§ 3.5. The disqualification penalty shall be in addition to, and cannot substitute for, any other sanctions or penalties which may be imposed by law for the same offense.

§ 3.6. The disqualification penalty cannot substitute for other sanctions under the AFDC program.

§ 3.7. Any period for which a disqualification period is imposed shall remain in effect, without possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction. In no event shall the duration of the period for which such penalty is imposed be subject to review in a fair hearing.

§ 3.8. The local agency shall provide all applicants with a written notice of the disqualification penalties for IPV at the time of application.

PART IV. INITIATION OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 4.1. In order to request an ADH, the local agency shall ensure that a prehearing investigation has occurred and that the evidence supports the charge of intentional program violation. There must be clear and convincing evidence which demonstrates the individual committed or intended to commit an IPV. Examples of evidence include:

1. Written verification of unreported income or resources received by the individual;
2. Verification that the individual understands his reporting responsibilities by signature on the application/redetermination form or some other form;

3. An application, monthly report or change report submitted during the period the IPV is alleged to have occurred that omits the information in question; and

4. Documented contacts with the individual during the period the IPV is alleged to have occurred in which the individual failed to report the information in question

§ 4.2. Prior to submitting the request for an ADH to the state hearing authority, the local agency shall provide written notification to the individual suspected of an intentional program violation that the individual can waive his right to an ADH by signing a waiver request and returning it to the local agency within 10 days from the date notification is sent to the individual in order to avoid submission of the request for an ADH.

§ 4.3. If a signed waiver is received, no ADH is conducted and the disqualification period is imposed in accordance with federal regulations.

§ 4.4. If a case is referred for an ADH, it shall not be simultaneously referred for prosecution. Cases dismissed in court or individuals acquitted by the court shall not be referred for an ADH.

§ 4.5. The local agency shall request an ADH be scheduled by submitting a written request to the state hearing authority. The form must include the following information:

1. Identifying information;
2. Summary of the allegation(s);
3. Summary of the evidence; and
4. Copies of documents supporting the allegation(s).

The referral is to be signed and dated by the supervisor or local agency director.

§ 4.6. The local agency may combine a fair hearing and an ADH into a single hearing if the factual issues arise out of the same or related circumstances provided that the individual receives prior notice of the consolidation.

PART V. ADVANCE NOTICE OF AN ADH.

§ 5.1. Upon receipt of the request for an ADH from the local agency, the state hearing authority will forward the request to the appropriate regional hearing officer.

§ 5.2. The hearing officer will schedule a date for the ADH and provide written notice to the individual suspected of committing an IPV at least 30 days in advance of the date the ADH has been scheduled.

PART VI.

TIME AND PLACE OF THE ADH.

§ 6.1. The time and place of the ADH shall be arranged so that the hearing is accessible to the individual suspected of committing an IPV. The individual may request a postponement of the ADH if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. The ADH shall not be postponed for more than a total of 30 days and the state hearing authority may limit the number of postponements.

PART VII. FAILURE OF INDIVIDUAL TO APPEAR AT THE ADH.

§ 7.1. The ADH can be held even if the individual fails to appear. The individual has 10 days after the date of the scheduled ADH to present reasons indicating good cause for failure to appear.

§ 7.2. Even though the individual is not represented, the hearing officer shall carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence.

§ 7.3. If the household member is found to have committed an IPV but a hearing officer later determines there was good cause for not appearing, the previous decision is no longer valid and a new ADH shall be conducted. The hearing officer who conducted the original hearing may conduct the new hearing. The good cause decision shall be entered into the hearing record by the hearing officer.

PART VIII. PARTICIPATION WHILE AWAITING A HEARING.

§ 8.1. A pending ADH shall not affect the individual's right to participate in the AFDC program. The local agency may not disqualify an individual until the hearing officer finds that the individual has committed an IPV. This does not preclude, however, the local agency from reducing, suspending or terminating assistance for other reasons.

PART IX. CONDUCT OF THE ADH.

§ 9.1. The ADH is attended by persons directly concerned with the issue at hand. This normally means a representative of the local agency and the individual alleged to have committed the IPV.

§ 9.2. The hearing officer shall:

1. Identify those present for the record;
2. Advise the individual that he may refuse to answer questions during the hearing and that anything said or signed by the individual concerning the charge(s) may be used against him in a court of law;

Proposed Regulations

3. Explain the purpose of the ADH, the procedure, how and by whom a decision will be reached and communicated, and the option of either the individual or the local agency to request state board review of the hearing officer's decision;

4. Consider all relevant issues. Even if the individual is not present, the hearing officer is to carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence;

5. Request, receive and make part of the record all evidence determined necessary to render a decision;

6. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing; and

7. Advise the local agency to obtain a medical assessment at local agency expense if the hearing officer considers it necessary.

§ 9.3. The individual alleged to have committed an IPV shall be given adequate opportunity to:

1. Examine all documents and records to be used at the ADH at a reasonable time prior to the ADH as well as during the ADH. The contents of the case file, including the application form and documents of verification used by the local agency to establish the alleged IPV, shall be made available;

2. Present his own case or with the aid of an authorized representative;

3. Bring witnesses;

4. Establish all pertinent facts and circumstances;

5. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses; and

6. Advance arguments without any undue influence.

PART X. NOTIFICATION OF DECISION OF THE ADH.

§ 10.1. The hearing officer is responsible for rendering a decision based on clear and convincing evidence from the facts as presented in the hearing. The hearing officer must substantiate his decision by identifying supporting evidence and applicable regulations.

§ 10.2. The hearing officer shall prepare a written report of the hearing which shall include findings, conclusions, decisions and appropriate recommendations. The decision shall specify the reasons for the decision, identify the supporting evidence, identify pertinent AFDC regulations and respond to reasoned arguments made by the individual or representative.

§ 10.3. The hearing officer shall notify the individual of the decision in writing and of the individual's right to request state board review of the decision.

§ 10.4. If the individual is found guilty of committing an IPV, the written decision shall advise the individual that disqualification shall occur.

§ 10.5. The determination of IPV by the hearing officer cannot be reversed by a subsequent fair hearing.

PART XI. IMPLEMENTATION OF THE HEARING DECISION.

§ 11.1. Upon receipt of the notice of a decision from the hearing officer finding the individual guilty of an IPV, the local agency shall inform the individual of the reason for the disqualification and the date the disqualification will take effect.

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.

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: VR 275-02-1. Regulations Governing the Edvantage Loan Program.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Effective Date: September 23, 1992.

Summary:

These amendments delete some lender and school requirements for certifying loan applications, alter time frames for loan collection activities, allow the capitalization of interest in certain cases, delete certain school options that have been unused, alter some disbursement requirements, require timely claim submission and update the operational guidelines to reflect changes in the federal student loan program.

VR 275-02-1. Regulations Governing the Edvantage Loan Program.

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.

"Bankruptcy" means the judicial action to declare a person insolvent and take his assets, if any, under court administration.

"Borrower" means all comakers on a loan note, collectively.

"Cost of attendance" means the cost of tuition and fees related to the loan period reported on the loan application. Costs may also include reasonable education-related expenses for books, supplies, room and board, transportation and personal expenses. Costs may not include the purchase of a motor vehicle. ~~Costs may not include expenses or costs associated with correspondence study.~~

"Default" means, for the purposes of these regulations, a condition of delinquency that persists for 90 days; ~~or the death, total and permanent disability, or bankruptcy of the borrower.~~

"Delinquency" means the failure to make an installment payment when due, failure to comply with other terms of the note, or failure to make an interest payment when due.

"Disbursement" means the issuance of proceeds of a loan under the Edvantage program.

"Due diligence" means reasonable care and diligence in processing, making, servicing, and collecting loans.

"Enrollment" means the period during which the student is attending or plans to attend school; as defined by Title IV regulations the status of a student who has completed the registration requirements (except for the payment of tuition and fees) at the institution he or she is attending.

"Forbearance" means a delay of repayment of principal for a short period of time on terms agreed upon in writing by the lender and the borrower.

"Guarantee" means the legal obligation of the SEAA to repay the holder the outstanding principal balance plus accrued interest in case of a duly filed claim for default, bankruptcy, total and permanent disability, or death of the borrower.

"Guarantee fee" means the fee paid to the SEAA in consideration of for its guarantee.

"Guaranteed Student Loan (GSL) Program" means the program established under Title IV, Part B, of the Higher Education Act, as amended, to make low-interest loans available to students to pay for their costs of attending eligible post-secondary schools by providing loan insurance. For purposes of these regulations, references applicable to GSL shall incorporate the PLUS and Supplemental Loans for Students (SLS) programs administered by the SEAA.

"Interest" means the charge made to the borrower for the use of a lender's money.

"Lender" means the Virginia Education Loan Authority or any bank, savings and loan association or credit union having a participation agreement with the SEAA; or the Virginia Education Loan Authority.

"Limit" means the authority of the SEAA to limit school and lender loan volume or numbers of loans in accordance with the provisions of these regulations.

"Loan" means any loan made under the Edvantage program.

Final Regulations

"*Loan period*" means the period of time during which the student expects to be enrolled, not to exceed 12 months.

"*Participation agreement*" means the contract setting forth the rights and responsibilities of the lender and the SEAA for the Edvantage program.

"*Pell Grant*" means the program established under Title IV, Part A of the Higher Education Act, as amended, to provide grants to students attending eligible post-secondary schools.

"*Permanent and total disability*" means the inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

"*Primary borrower*" means the borrower on whose income or net worth the lender is making its determination of credit-worthiness.

"*Program*" means the Edvantage program.

"*Promissory note*" or "*note*" means the legally binding contract between the lender and the borrower which contains the terms and conditions of the loan.

"*Repayment period*" means the period of time from the day the first payment of principal is due to the time which begins within 60 days of disbursement and ends when a loan is paid in full or a claim is filed due to default or the borrower's death, total and permanent disability, or discharge in bankruptcy. For the Edvantage program, the repayment period normally begins within 60 days of disbursement, or within 60 days of departure from school for those borrowers electing the in-school interest-only option.

"*School*" means any post-secondary institution which is eligible to participate in the Edvantage program as specified in these regulations.

"*Stafford Student Loan Program*" means the program established under Title IV, Part B of the Higher Education Act that authorizes long-term low-interest loans available to independent undergraduate, graduate and professional students to help them meet the cost of education.

"*State Education Assistance Authority (SEAA)*" means the designated guarantor for the ~~GSL~~ Title IV, Part V loan program in the Commonwealth of Virginia, and the administrator and guarantor of the Edvantage program.

"*Suspend*" means the authority of the SEAA temporarily to terminate school and lender program participation in accordance with the provisions of these regulations.

"*Terminate*" means the authority of the SEAA to terminate school and lender program participation in

accordance with the provisions of these regulations.

"*Title IV*" means Title IV of the Higher Education Act of 1965, as amended. *Part B of Title IV refers to the federally guaranteed student loan programs including Stafford, PLUS, SLS and Consolidation loans.*

PART II. PARTICIPATION.

§ 2.1. Borrower eligibility.

A. Requirements.

1. Eligible borrowers are students, parents, legal guardians or other responsible individuals who elect to borrow on behalf of the student. In the event that a parent, legal guardian or other responsible individual is the borrower all cases, the student is required to sign the note as a co-maker borrower.

2. Every borrower must be

a. A U.S. citizen or national, or

b. An eligible noncitizen as defined by Title IV regulations.

3. The primary borrower on the loan must be a U.S. citizen, national or permanent resident.

4. 3. At least one borrower must be a Virginia resident if the student is attending a non-Virginia school or the loan must be obtained through a lender headquartered in Virginia having a participation agreement with the SEAA.

5. 4. The student must be pursuing an undergraduate, graduate or professional program toward a degree or certificate, or a program designed to lead to teacher certification.

6. 5. At least one borrower or a combination of borrowers on the loan must pass a credit test administered by the lender as defined in these regulations.

7. 6. All borrowers must be free from default on any previous Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation Title IV or Edvantage loan.

8. 7. Incarcerated students are not eligible for the Edvantage program.

B. Rights.

Discrimination on the basis of race, creed, color, sex, age, national origin, marital status, or physically handicapped condition is prohibited in the Edvantage

program.

§ 2.2. Lender participation.

A. Eligibility.

An eligible lender is any lender participating in the Virginia Guaranteed Student Loan Title IV, Part B Program administered by the SEAA. An eligible lender may participate in the Edvantage program by executing an Edvantage participation agreement with the SEAA.

B. Program review.

The SEAA reserves the right to conduct periodic program reviews of the lender to determine the lender's adherence to these regulations.

C. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any lender in the Edvantage program under terms consistent with regulations of the SEAA, VR 275-01-2, which became effective on February 1, 1984.

2. Any lender school under limitation, suspension or termination in the Virginia GSL Title IV, Part B program will be placed automatically under the same status in the Edvantage program.

D. Edvantage default rate.

Should the lender's default rate exceed 3.0%, the SEAA reserves the right to limit, suspend or terminate the lender's participation in the program under terms consistent with regulations of the SEAA. The default rate shall be calculated based on the following formula:

Total cumulative amount of default claims paid by the SEAA on loans disbursed by the lender, divided by total outstanding principal of all loans disbursed by the lender.

§ 2.3. School participation.

A. Eligible Virginia schools.

An eligible school is any post-secondary institution located within Virginia which is eligible to participate in the federal Guaranteed Student Loan and Pell Grant Title IV Programs and which is participating in the SEAA GSL Stafford program.

B. Eligible non-Virginia schools.

An eligible non-Virginia school must be an accredited degree-granting post-secondary institution located within the United States and eligible to participate in the federal Guaranteed Student Loan and Pell Grant Title IV Programs. Non-Virginia school participation is limited to

non-profit two- and four-year public and private institutions, graduate and professional schools, and non-graduate health schools.

C. Program review.

The SEAA reserves the right to conduct periodic program reviews of the school to determine the school's adherence to these regulations.

D. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any school in the Edvantage program under terms consistent with SEAA's Limitation, Suspension and Termination Regulations of the SEAA, VR 275-01-2, which became effective on February 1, 1984.

2. Any school under limitation, suspension or termination in the Virginia GSL Title IV Part B program will be placed automatically under the same status in the Edvantage program.

PART III. LOAN TERMS.

§ 3.1. Loan terms.

A. Loan amounts.

1. The minimum loan amount is \$1,000. The maximum amount for any one student is \$15,000 per eight seven month (~~240~~ 210 day) period. The aggregate maximum for any one student is \$60,000.

2. Subject to the credit test administered by the lender and defined in these regulations § 4.2 B, the borrower may obtain a loan under the program in an amount up to the student's cost of attendance, less other financial aid received by the student.

3. The borrower may apply for a loan in an amount up to the aggregate maximum, within his maximum credit-worthiness, if the school certifies a prepaid tuition amount consistent with the school's prepaid tuition policy. Such prepaid tuition shall represent a discount from payment of tuition annually, and the SEAA shall approve such loan application in advance.

4. All approved loan amounts must be in whole dollars.

B. Interest rate.

1. The interest rate may be fixed, or variable no more than once monthly and tied to the stated Prime Rate of the lender. The Prime Rate of the Virginia Education Loan Authority shall be that quoted in The Wall Street Journal.

Final Regulations

2. The maximum interest rate charged shall be the Prime Rate of the lender plus two percentage points.

C. Fees.

1. The borrower shall be charged a guarantee fee in an amount specified by the SEAA which shall be set from time to time by the SEAA Board of Directors and which shall be deducted from the loan proceeds and remitted to the SEAA.

2. The borrower may, at his option, elect to purchase credit life insurance on the loan.

D. Repayment terms.

1. The borrower shall repay the loan in monthly installments of principal and interest of at least \$50 over a maximum repayment period of 15 years from the date the first payment of principal and interest is due, under the terms described in § 4.3 A 1.

2. While the student is enrolled, the borrower has the option to make monthly payments of interest-only, under the terms described in § 4.3 A 2.

3. New Serial loans will automatically may be consolidated with prior loans of the same borrowers. In such cases, the repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due on the consolidated loan.

4. Repayment may not be deferred *once the student is no longer enrolled*. In the event of hardship, the borrower may request and the lender may grant a forbearance of principal, and interest-only payments may be accepted for a reasonable and limited period of time.

5. Interest may not be capitalized *except as necessary to accommodate up to 45 days accrued but unpaid interest when an existing loan is consolidated with a new loan. In addition, to accommodate the sale of loans, interest may be capitalized for up to 45 days from the date of the last payment to the date of sale*.

6. There is no penalty for prepayment under this program.

PART IV. LOAN PROCESS.

§ 4.1. School procedures.

A. School requirements.

1. The school shall complete the school section of the Edvantage program application after the borrower sections are completed.

2. The school shall document that it has made maximum effort to utilize all other sources of Title IV aid available to the student that would be less costly to the student (e.g., grant aid, lower cost loans) before certifying the loan application. Documentation indicating the student's ineligibility for other sources of aid, based either on need or other criteria for making the award, shall suffice as demonstration of this effort. Actual application for a specific program is not required; however, such application and a resultant award or denial would also serve as documentation of the school's effort. The school shall report any Pell Grant amount the student is eligible to receive as financial aid, whether or not the student applies for a Pell award.

3. 2. The school shall not collect from applicants any additional fees or charges to cover the cost of originating loans under the program.

4. 3. The school shall report to the lender within 30 days of the date the school becomes aware of the student's withdrawal from school.

a. Any refund amount shall be determined by the school's stated policy. The refund shall be forwarded, along with notification, to the lender, within 30 days from the date the school became aware of the change in status warranting a refund.

b. Such early termination or withdrawal shall signify the beginning of principal repayment for those borrowers having an in-school deferment of principal.

B. School options.

1. The school has the option, subject to the approval of the SEAA, to serve as co-borrower on any or all loans made for attendance at that school. If the school elects to exercise this option, the school shall file in advance with the SEAA, and receive approval upon, its most recent audited financial statement; and thereafter file its annual audited financial statements with the SEAA showing such loans as a contingent liability.

2. The school has the option to pay all or part of any borrower's payments on the loan.

3. The school has the option to pay the guarantee fee on behalf of any borrower.

C. B. Certification.

1. The school shall certify the application no later than the last day of the loan period.

2. The signature of the financial aid officer in the school section of the Edvantage program application certifies that the Virginia regulations governing the

school's procedures have been met.

3. The certification of the financial aid officer's own loan application, the application of a spouse or dependent of a financial aid officer, or an application where conflict of interest exists, is not sufficient. In any of these cases, the application shall be accompanied by certification of the immediate supervisor of the financial aid officer.

D. Disbursement. [*C. Delivery of loan proceeds.*

1. Any loan proceeds remaining after the school has subtracted the amount owed to it for the loan period may be] disbursed [*delivered to the student borrower or retained on account at the written request of the student borrower.*

2. The school shall return] undisbursed [*undelivered loan proceeds to the lender within 30 days of receipt of such proceeds.*]

§ 4.2. Lender procedures - origination.

A. Lender responsibilities.

In making and collecting loans under the program, the lender shall treat the loan as if there were no guarantee. In making and collecting loans under the program, lenders shall exercise due diligence described in § 5.2 and shall make no less effort than it would use on an unsecured debt in the ordinary course of business.

B. Credit criteria.

The lender shall obtain credit information from each applicant on the lender's credit application(s) and evaluate the credit of the primary borrower and any co-borrowers borrowers on whose income or net worth the lender is making the credit-worthiness determination, by performing at a minimum :

1. Employment and income verification. Credit analysis for unsecured debt.
2. Verification of a minimum of two years' credit history.
3. Assessment of satisfactory credit bureau reports or lender documentation to report exception to derogatory items.
4. Verification of monthly debt obligation of home mortgage(s) and, in cases where credit worthiness is determined on net worth criteria, verification of home mortgage debt.
5. Assessment of the most recent federal income tax return or most recent financial statement of self-employed applicants.

6. a. 2. Assessment of monthly debt obligation as a percentage of monthly gross income no greater than 45% 40% , including the obligation on the loan applied for under this program ; or .

b. Assessment of net worth no less than 10 times the amount of the loan applied for under this program.

Documented exceptions to the debt or net worth test may be made only with the prior written approval of the SEAA.

3. In addition, for all applicants, the lender shall satisfy verify the absence of default on any Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan Title IV or Edvantage loan .

C. Disbursement.

1. a. Loan proceeds for a student borrower shall be disbursed in a check or checks made [*copayable payable*] to the borrower on whom the credit analysis was based [and the school] and mailed to the financial aid office of the school named on the application borrower's permanent address indicated on the application .

b. Loan proceeds for a parent or other non-student borrower shall be disbursed in a check or checks payable to the non-student borrower and mailed to the borrower's address as listed on the application.

2. Disbursement may be made in single or multiple installments at the option of the lender.

3. Loan proceeds may be disbursed by other funds transfer method approved by the SEAA.

4. Loan proceeds shall not be disbursed more than 30 days before the start of the loan period.

D. Guarantee fee.

1. The guarantee insures the lender against loss due to death, bankruptcy, total and permanent disability, or default of the borrower. At present the guarantee fee is 4.0% of the loan amount, but may be raised or lowered The schedule of guarantee fees for Edvantage loans shall be set from time to time by the SEAA Board of Directors with 90 60 days written notice by the SEAA to the lender .

2. The lender shall deduct the guarantee fee from the loan proceeds at disbursement.

3. The lender shall remit to the SEAA, at minimum monthly, the amount of guarantee fees charged on all disbursements.

Final Regulations

4. The guarantee fee will be rebated if the loan check is returned uncashed to the lender, or if the loan is repaid in full by the institution within 120 days of disbursement by a check or funds transfer drawn on the institution in cases where the loan check was originally made co-payable .

E. Death and disability insurance.

E. The lender may offer and charge a reasonable fee, if the borrower agrees, for death ~~or~~ and disability insurance on the loan.

F. Credit bureau reporting.

The lender shall report loan repayment information on ; ~~at minimum, the primary borrower~~ all borrowers to one or more credit bureau organizations.

§ 4.3. Lender procedures - active loan.

A. Repayment.

1. Immediate repayment option.

Repayment of the loan shall begin within 60 days of disbursement. Repayment shall be over a maximum period of 15 years, in monthly installments of at least \$50. The repayment period shall be extended to a maximum of 20 years only if necessary to amortize total interest, as determined by upward adjustments in the interest rate. If 20 years becomes insufficient to amortize the loan fully at the original monthly payment amount, the monthly payment shall increase. There will be no penalty for prepayment.

2. In-school principal deferment option.

While the student is enrolled, the borrower has the option to make monthly payments of interest-only for a maximum of 48 months. When this option is selected, the lender shall collect interest monthly from the borrower from the date of disbursement, beginning within 60 days of disbursement. Interest shall not be capitalized *except as provided in § 3.1 B 5* . Repayment of principal and interest shall begin within 60 days of the lender's receipt of notice of the student's withdrawal or graduation from school, or at the expiration of the maximum 48 months' interest-only option. The repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due, and shall be consistent with the minimum payment and maximum term described in § 4.3 A.1 above. If, after conversion to repayment of principal because of the student's withdrawal or graduation from school, the student re-enrolls at an eligible school, repayment of principal may again be deferred, provided that the cumulative deferment does not exceed 48 months.

3. The lender shall notify the borrower of any interest

rate changes in accordance with Federal Banking Regulations .

B. Forbearance.

1. Forbearance may be considered, at the lender's option, for circumstances such as family illness, financial hardship, unemployment or temporary disability. If during such a period the borrower is unable to make regular principal and interest payments, the lender may forbear principal payments; interest payments may be neither forborne nor capitalized.

2. Payment of the regular monthly installment must be sought from all borrowers on the loan before forbearance is granted.

3. All borrowers on the loan must be eligible for forbearance before a forbearance may be granted.

4. Forbearance may be granted for a maximum of six months at a time, but only when necessary to prevent default. If the borrower requests it, forbearance may be extended, but *all periods of forbearance* may not exceed a total of 12 months during the repayment period.

5. The SEAA reserves the right to require approval in advance of all forbearances.

6. The SEAA reserves the right to disallow any forbearance.

C. Reporting and forms.

1. The lender shall provide the SEAA on at least a monthly basis, in a format mutually agreeable to both parties, loan application data and the guarantee fees relating to its disbursements.

2. The lender shall provide the SEAA, on at least a monthly basis, reports of the outstanding balances on all loans.

3. The lender shall provide the SEAA, on at least a monthly basis, a report of any forbearances granted during the period, unless the SEAA has given approval in advance for such forbearances.

4. The lender shall use the standard promissory note, applications and brochures for the program unless otherwise agreed in writing by the SEAA.

5. The SEAA shall provide the lender, on at least a monthly basis, a report of all loans guaranteed during the period.

6. The SEAA ~~shall~~ reserves the right to perform student status verification confirmation .

7. The SEAA shall provide the lender with periodic listings of schools approved for the program. The SEAA shall advise the lender, in writing, of any school for which approval has been revoked. Such revocation shall not affect the guarantee fee on loans previously committed.

PART V. CLAIMS.

§ 5.1. General.

A. Filing deadline.

Claims must be submitted to the SEAA within 30 days of the qualifying death, disability, bankruptcy or default. [However, bankruptcy claims must be submitted within 10 days if the lender receives notice that the borrower has filed an adversary proceeding seeking to have a loan balance discharged for undue hardship.]

B. Eligibility of multiple borrowers.

Claims may be filed only after the lender has determined that all borrowers meet the conditions for a claim.

C. Due diligence.

The SEAA guarantee is contingent of the lender's due diligence for all claims.

§ 5.2. Default claims.

A. Due diligence.

~~The SEAA guarantee is contingent on the lender's due diligence.~~ The lender shall attempt to collect delinquent loans using every effort short of litigation that it would use on a conventional loan in the ordinary course of business. If the lender so desires, it may take legal action, but this is not required. Due diligence for default claims requires the following actions:

1. *1 - 15 Days.* Sending *one* written notice to the primary borrower *receiving monthly billing notices* when the loan is ~~5 to 10~~ *to 15* days delinquent.

2. *16 - 30 Days.* Sending written notice to ~~the borrower and any co-makers~~ *all borrowers* when the loan becomes 20 to 30 days delinquent. Such letters should warn the borrower that, if the delinquency is not cured, the lender will assign the loan to the SEAA, which in turn will report the default to a credit bureau, thereby damaging the borrower's credit rating, and may bring suit against the borrower to compel repayment of the loan. In addition, ~~one telephone call~~ *contact or two attempts at telephone contact* shall be made to the ~~borrower,~~ *borrowers.* The lender shall contact parents, references, ~~or~~ *and* employers, as necessary, to collect on the loan or locate the

borrower. All information available to the lender shall be pursued.

3. *31 - 50 Days.* Requesting preclaims assistance from the SEAA when the loan becomes ~~30 to 40~~ *31 to 50* days delinquent.

4. Continuing all written correspondence and telephone calls to appropriate persons when the loan is ~~30 to 60~~ *31 to 50* days delinquent.

5. *51 - 60 Days.* Sending final demand letter to borrower when the loan is ~~60~~ *51 to 60* days delinquent.

6. Preparing and submitting a claim to SEAA when the loan is 90 days delinquent; however, the lender may attempt collection on the loan for up to 120 days if the lender can document in writing its reasonable expectation that an additional 30 days of collection will prevent a default.

Minimum due diligence shall be ~~five~~ *four* letters. In addition to these requirements, ~~within 10 days of its~~ *once the lender is in* receipt of information indicating it does not know the borrower's current address, the lender must diligently attempt to locate the borrower through the use of standard skip-tracing techniques. These efforts shall include, but not be limited to, contacting the co-maker(s), relatives, references, and any other individuals and entities identified in the borrower's loan file. In order to file a default claim at the conclusion of the 90 to 120 day period, the lender must complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments, where applicable, and proof of due diligence by the lender.

B. Credit bureau notification.

In the event of default, the SEAA shall report the default of all borrowers on the loan to one or more credit bureau organizations.

§ 5.3. Death or disability insurance.

If the borrower has purchased death or disability insurance, the lender may not file a death or disability claim with the SEAA without first exhausting the opportunity for reimbursement from the insurer. If the borrower has not purchased such insurance, in the event of death or disability, the SEAA, after reimbursing the lender, may file a claim against the borrower or the borrower's estate.

§ 5.4. Death claims.

~~To receive payment in the event of~~ *To file a claim*

Final Regulations

arising from the death of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), a certified copy of the death certificate, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish.

§ 5.5. Total and permanent disability claims.

To file a claim arising from the total and permanent disability of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish. In addition, the lender shall submit an affidavit from a qualified physician (either an M.D. or D.O.) certifying that the borrower is unable to engage in any gainful activity or employment due to a medical impairment that is expected to continue indefinitely or result in death; the date the borrower became unable to be employed or otherwise qualified for a total and permanent disability claim; and providing a description of the diagnosis.

§ 5.6. Bankruptcy claims.

A. Chapter 7 bankruptcy.

The lender determines that a borrower has filed bankruptcy petition on the basis of a notice received from the bankruptcy court of the first meeting of creditors. Upon receiving such notice, the lender shall:

1. ~~Notify the SEAA by telephone of the impending bankruptcy.~~

2. 1. Immediately cease collection efforts on the loan.

3. 2. If the loan has not been in repayment for a least ~~five~~ seven years (exclusive of any applicable suspension of the repayment period) on the date the lender receives notice of the first meeting of creditors, and the lender has no knowledge that the borrower has filed a hardship petition, the lender must hold the loan and not attempt collection until the bankruptcy action has concluded. The lender shall treat the loan as if it is in forbearance from the date of the borrower's filing of the bankruptcy petition until the date the lender is notified that the bankruptcy action is concluded.

3. For Chapter 7 bankruptcies in which the loan has been in repayment for more than ~~five~~ seven years, or when the borrower has filed a hardship petition, the lender shall follow the procedures listed in § 5.6 B, below.

4. Once the bankruptcy action has concluded, if the loan has not been discharged, the lender must resume collection efforts. The borrower is responsible for the interest that has accrued during the automatic stay period. The lender should proceed through a standard 90-day due diligence period as with any other loan. The automatic stay period is not included in the 90-day due diligence period.

B. All other bankruptcies.

When the lender receives notice from bankruptcy court of any other bankruptcy, the lender shall immediately file a *proof of claim with the court along with notice assigning the debt to the SEAA and shall file a bankruptcy claim with the SEAA if:*

1. The borrower has filed a petition for relief under Chapter 13 of the Bankruptcy Code;

2. The borrower has filed a petition for relief under Chapter 7 of the Bankruptcy Code and the loan has been in repayment for more than ~~five~~ seven years (exclusive of any applicable suspension of the repayment period); or

3. The borrower has filed a ~~hardship petition an adversary proceeding seeking to have a loan balance discharged for undue hardship~~.

C. Documentation

The bankruptcy claim shall include the appropriate completed SEAA form, the notice of bankruptcy, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, a *copy of assignment of the proof of claim* and any support documents the lender may be able to furnish, as well as any other information that may help the SEAA form the basis for an objection or an exception to the bankruptcy discharge.

§ 5.7. Claim interest payment .

The SEAA will pay interest for no more than ~~15~~ 30 days from the date that the lender is officially notified of the death, total and permanent disability or bankruptcy, or no more than ~~15~~ 30 days from the 90th day of delinquency in the event of default, or from the 120th day in the event that the lender has elected to pursue an additional 30 days of collection as outlined in § 5.2 A 6 above. No interest is paid for the period of time during which an incomplete claim has been returned to the lender *except as described in § 5.8* . In addition, the SEAA pays interest on the claim for the number of days required for review ~~by the SEAA claims staff~~ *plus 10 days of the claim and for check processing.*

§ 5.8. Return of claims for inadequate documentation.

Lenders must resubmit returned claims within 30 days of the date the incomplete claim was denied by the SEAA. If the lender shows that the claim was denied incorrectly, he may appeal and will be granted up to an additional 30 days interest. Lenders may not resubmit a claim that has been denied for inadequate documentation more than once.

PART VI. ASSIGNMENT TO SERVICER OR SECONDARY MARKET.

§ 6.1. Servicing.

The lender may negotiate the servicing of loans under this program with a servicing agency. ~~The SEAA must approve the use of any servicer.~~ The servicer will be regarded as the lender's agent, and the lender will continue to be bound by the terms of these regulations.

§ 6.2. Secondary market.

The lender may negotiate the sale of these loans to a secondary market. ~~The lender must obtain SEAA approval of the use of any secondary market, and~~ No loan may be sold to any entity that is not party to a ~~guarantee an Edvantage participation~~ agreement with the SEAA except with the written permission of the SEAA. The lender shall notify the SEAA promptly of the assignment of any loans to a secondary market.

§ 6.3. Notification to borrower in the event of sale.

If the sale or servicing of an Edvantage loan is to result in a change in the identity of the party to whom the borrower must send subsequent payments, the purchaser or servicer of the loan must notify the borrower within 30 days of the sale or transfer. The notice shall include:

1. An announcement of the sale or transfer;
2. The identify of the owner of the loan;
3. The name and address of the party to whom subsequent payments must be sent; and
4. The telephone number of the purchaser or servicer.

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Effective Date: September 24, 1992.

Summary:

The Board of Nursing Home Administrators is amending its regulations in order to delete outdated requirements, clarify continuing education requirements, provide an additional route to licensure, and revise reinstatement requirements which were overly stringent.

The regulations are amended from the proposed regulations only for clarity, cross-referencing, and ease of compliance. No content changes were made in the final regulation.

VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

PART I. GENERAL PROVISIONS.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the content indicates otherwise:

"*Applicant*" means a person applying to sit for an examination or applying for licensure by the board.

"*Administrator-in-training program (A.I.T.)*" means the apprenticeship program which consists of 2,080 hours of continuous training in nursing home administration in a licensed nursing home.

"*Administrator-of-record*" means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility's licensing agency.

"*Administrator-in-training applicant*" means a person applying for approval to enter the administrator-in-training (A.I.T.) program.

"*Continuing education*" means the educational activities which serve to maintain, develop, or increase the knowledge, skills, and performance generally recognized as relevant to the nursing home administrator's professional responsibilities.

"*Department*" means the Department of Health Professions.

"*Direct supervision*" means directing the activities and course of a subordinate's performance.

"*Executive director*" means the board administrator for the Board of Nursing Home Administrators.

"*Full-time employment*" means employment of at least 37 1/2 hours per week.

"*N.A.B.*" means the National Association of Boards of

Final Regulations

Examiners for Nursing Home Administrators.

"National examination" means a test used by the board to determine competency of candidates for licensure.

"Nursing home administrator" means any individual licensed by the Board of Nursing Home Administrators.

"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

"Practicum" means a course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as nursing home administrators that involves supervision by an accredited college or university of the practical application of previously studied theory. The practicum shall be served under a preceptor registered with the board.

"Preceptor" means a nursing home administrator currently licensed in Virginia approved by the board to conduct an administrator-in-training (A.I.T.) program.

"State examination" means a test used by the Board of Nursing Home Administrators to determine competency of a candidate relevant to regulations and laws in Virginia for purposes of licensure.

Article 2. Legal Base.

§ 1.2. The following legal base describes the authority of the Board of Nursing Home Administrators to prescribe regulations governing nursing home administrators in the Commonwealth of Virginia:

Title 54.1:

Chapter 1 (§ 54.1-100 through 54.1-114);

Chapter 24 (§ 54.1-2400 through 54.1-2403);

Chapter 25 (§ 54.1-2500 through 54.1-2510); and

Chapter 31 (§ 54.1-3100 through 54.1-3103)

of the Code of Virginia.

Article 3. Purpose.

§ 1.3. These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as administrators-in-training; nursing home administrators; and preceptors in the Commonwealth of Virginia.

Article 4.

Applicability.

§ 1.4. Individuals subject to these regulations are (i) nursing home administrators, (ii) applicants, (iii) administrators-in-training, and (iv) preceptors.

Article 5. Public Participation Guidelines.

§ 1.5. Mailing list.

The executive director of the board shall maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. Notice of intent to promulgate regulations;
2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and
3. Final regulations when adopted.

§ 1.6. Additions and deletions to mailing list.

A. Any person wishing to be placed on the mailing list shall have his name added by writing to the board.

B. The board may, in 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.

C. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list.

D. When mail is returned as undeliverable, persons shall be deleted from the list.

§ 1.7. Notice of intent.

A. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board shall publish a notice of intent.

B. The notice shall contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any persons to provide written comment on the subject matter.

C. The notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.8. Informational proceedings or public hearings for existing rules.

A. At least once each biennium, the board shall conduct an informational proceeding, which may take the form of

a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Notice of such proceeding shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. The proceeding may be held separately or in conjunction with other informational proceedings.

§ 1.9. Petition for rulemaking.

A. Any person may petition the board to adopt, amend, or delete any regulation.

B. Any petition received within 10 days prior to a board meeting shall appear on the agenda of that meeting of the board.

C. The board shall have sole authority to dispose of the petition.

§ 1.10. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.11. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for citizen and professional participation in the formation, promulgation, adoption, and review of regulations.

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License and Licensure.

§ 2.1. An individual shall have a valid nursing home administrator's license issued by the Board of Nursing Home Administrators in order to engage in the general administration of a nursing home.

§ 2.2. Each licensee shall post his license in a main entrance or place conspicuous to the public in the facility in which the licensee is administrator-of-record.

Article 2. Records.

§ 2.3. Accuracy of information.

A. All changes of mailing address or name shall be

furnished to the board within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, or preceptor of the obligation to comply.

PART III. FEES.

Article 1. Initial Fees.

§ 3.1. The applicant shall submit ALL fees below which apply:

- 1. Application for A.I.T. program \$150
2. Preceptor application fee \$100
3. Application fee for license to practice nursing home administration \$125
4. Fee to sit for state examination \$100
5. Fee to sit for national examination \$150
6. Verification of licensure requests from other states \$ 50

Article 2. Renewal Fees.

§ 3.2. Renewal fees received by the board no later than the expiration date (see § 4.1).

The following annual fees shall be paid as applicable and received by the board no later than the expiration date for license and preceptor registration renewal (see § 4.1 § 4.4) :

- Nursing home administrator license renewal \$100
Preceptor registration renewal \$ 50

§ 3.3. Late renewal fees.

The following late fees shall be paid as applicable and received by the board within six months following the initial expiration date (see § 4.4):

- 1. Nursing home administrator late license renewal \$150 (\$100 renewal and \$50 penalty fee)
2. Preceptor late registration renewal \$75. (\$50 renewal and \$25 penalty fee)

Article 3.

Final Regulations

Reinstatement Fees.

~~§ 3.3.~~ § 3.4. The board, in its discretion, may reinstate a license that was not renewed within six months of the initial expiration date provided certain conditions are met [(see § 4.5)] .

NOTE: There may be additional fees for nursing home administrator license reinstatement depending upon the conditions approved by the board for reinstatement (see § [4.5 4.7]).

The board, in its discretion, may reinstate a preceptor registration that was not renewed within six months of the initial expiration date [(see § 4.8)] .

~~The~~ If the board approves reinstatement the following applicable reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or preceptorship up to three years following expiration .

Nursing home administrator reinstatement (See NOTE under § 3.4)	\$200
Preceptor reinstatement	\$ 50 \$100

Article 4. Other Fees.

~~§ 3.4.~~ § 3.5. Duplicates.

Duplicate licenses or wall certificates shall be issued by the board after the licensee submits to the board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.

Duplicate license	\$ 25
Duplicate wall certificates	\$ 50

~~§ 3.5.~~ § 3.6 [Other Additional fee information] .

There shall be a fee of \$25 for returned checks.

Fees shall not be refunded once submitted.

PART IV. RENEWALS.

Article 1. Expiration Dates.

§ 4.1. The following shall expire on December 31, 1991. The license will be renewed until March 31, 1992. Each such license or approval renewed by December 31, 1991, shall expire on March 31, 1992. Effective March 31, 1992, licenses shall be renewed on March 31 of each calendar year:

1. Nursing home administrator license; and

2. Preceptor approval registration .

§ 4.2. A licensee who fails to renew his license by the expiration date shall have an invalid license. See §§ 4.5 and [~~4.6~~ 4.7] .

§ 4.3. A preceptor who fails to renew his approval registration by the expiration date shall not serve as a preceptor. See §§ [~~4.5 and~~] 4.6 [and 4.8] .

Article 2.

Renewal and Reinstatement.

§ 4.4. Renewal received by the board no later than the expiration date .

A. A person who desires to renew his license or preceptor approval registration for the next year shall, not later than the expiration date:

1. Return the renewal notice;
2. Submit the applicable fee(s) prescribed in § 3.2;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through ~~8.10~~ 8.8 of these regulations.

B. The requirements in subsection A above shall be received in the board office or the bank lock box no later than the expiration date. Postmarks shall not be considered.

§ 4.5. Reinstatement.

A. Reinstatement up to three years following expiration.

The board in its discretion may reinstate a nursing home administrator license or preceptor approval within three years of its expiration date. The licensee or preceptor shall do the following:

1. Apply for reinstatement (licensee and preceptor);
2. Submit the applicable fee prescribed in § 3.2 (licensee and preceptor);
3. Submit the annual renewal fee prescribed in § 3.2 for each year of expiration (licensee and preceptor);
4. Present evidence of attendance at 20 classroom hours per year of continuing education for each year of expiration OR take and pass the national examination (licensee only); and
5. Take and pass the state examination (licensee only).

B. Reinstatement after three years following expiration.

When a license or approval as a preceptor is not reinstated within three years of its expiration date, an applicant for licensure or approval as a preceptor shall:

1. Reapply as a new candidate for licensure or preceptor approval;
2. Take and pass the national examination (licensee only);
3. Take and pass the state examination (licensee only); and
4. Meet all qualifications of the regulations at the time of reapplication.

§ 4.5. Late renewal [for nursing home administrator license] .

A. A person who fails to renew his license by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.8 for the previous calendar year.

[B.] The requirements in [this] subsection A [above] shall be received in the board office within six months of the initial expiration date. Postmarks shall not be considered.

[B. A candidate for late renewal who does not meet the requirements in subsection A above shall reinstate as prescribed in § 4.7.]

[§ 4.6. Late renewal for preceptor registration.

A. A person who fails to renew his preceptor registration by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3; and
3. Notify the board of any changes in name and address.

The requirements of this subsection A shall be received

in the board office within six months of the initial expiration date. Postmarks shall not be considered.

B. A preceptor who fails to renew within six months of the initial expiration date shall reinstate as prescribed in § 4.8.]

§ [4.6. 4.7.] Reinstatement [for nursing home administrator license] .

The board, in its discretion, may reinstate a license [or preceptor registration] that was not renewed [within six months of the initial expiration date under certain conditions: as prescribed in §§ 4.4 and 4.5 as follows:]

[A.] An applicant for nursing home administrator license reinstatement shall:

1. Apply as a new applicant on forms provided by the board; and
2. Submit the applicable reinstatement fee prescribed in § 3.4; and
3. Meet one or more of the following requirements as determined by the board at the time of application for reinstatement. All applications for reinstatement shall be reviewed by the Credentials Committee and the applicant shall be notified of which of the following requirements must be met:

a. Submit evidence of attendance at 20 classroom hours of continuing education for each year of expiration and for the year preceding expiration if continuing education requirements were not met for that year. (NOTE: See § 8.3 B and C for possible exception to the 20 hour requirement);

b. Requalify for licensure under the requirements for initial licensure in effect at the time of application for reinstatement (see § 5.1). NOTE: Such requalification does not include retaking of the state and national examinations but may include more stringent qualifications than were in effect at the time of original application for licensure);

c. Retake and pass the state and national examinations (see fees under § 3.1).

[§ 4.8. Reinstatement of preceptor registration.

The board, in its discretion, may reinstate a preceptor registration that was not renewed as prescribed in § 4.6 as follows:]

[B.] An applicant for preceptor registration reinstatement shall:

1. Apply as a new applicant on forms provided by the board;

Final Regulations

2. Meet the current requirements for preceptor approval in effect at the time of application for reinstatement (see §§ 6.8 through 6.9); and

3. Submit the applicable reinstatement fee prescribed in § 3.4.

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Qualifications.

§ 5.1. One of the following sets of qualifications is required for licensure:

1. Degree and practicum experience.

a. Applicant holds a baccalaureate or higher degree in nursing home administration or a health administration field from an accredited college or university; and

b. Applicant has completed a 400-hour practicum ~~experience~~ (see § 1.1) in nursing home administration as part of the degree program under the supervision of a ~~licensed nursing home administrator~~ preceptor registered by the board; and

c. Applicant has received a passing grade on the state examination and the national examination.

OR

2. Certificate program.

a. Applicant holds a baccalaureate or higher degree from an accredited college or university; and

b. Applicant has completed successfully a program with a minimum of 21 semester hours study in long-term care administration from an accredited college or university. The program shall be one that has been recognized by the board and shall include a minimum of 15 semester hours of academic courses related to long-term care administration; and

c. Applicant has completed successfully a 400-hour practicum (see § 1.1) as part of the certificate program under the supervision of a preceptor registered by the board; and

d. Applicant has received a passing grade on the state examination and the national examination.

OR

2. 3. Administrator-in-training program.

a. Applicant has successfully completed 2,080 hours,

or the approved equivalent thereof (see § 6.3), of continuous training in an A.I.T. program; and

b. Applicant has received a passing grade on the state examination and the national examination.

OR

3. 4. Endorsement. The board may issue a Virginia license to any person by endorsement when the person:

a. Holds a current unencumbered license from any state or the District of Columbia;

b. Meets one of the following:

(1) Has practiced nursing home administration for one year; or

(2) Complies with all regulations of the Board of Nursing Home Administrators governing nursing home administration licensure in Virginia; or

(3) Has education and experience equivalent to qualifications required by these regulations and has provided written evidence of those qualifications at the time of application for licensure; and

c. Has successfully completed the state examination.

Article 2. Application Process.

§ 5.2. An individual seeking licensure as a nursing home administrator, approval as a preceptor, or seeking examination/reexamination shall submit simultaneously:

1. ~~Completed and signed application~~ Application provided by the board;

2. Additional documentation as may be required by the board to determine eligibility of the applicant; and

3. The applicable fee(s) prescribed in § 3.1.

§ 5.3. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

National examination scores will also be accepted from the examining authority.

§ 5.4. An applicant for examination shall submit the application package not less than 45 days prior to an examination date. *The application package shall be received in the board office on the examination*

application deadline date. Postmarks will not be considered.

§ 5.5. Waiver of time limits.

The board may, for good cause, waive the time requirement in § 5.4 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

Article 3. General Examination Requirements.

§ 5.6. Failure to appear.

The applicant shall forfeit the examination fee if unable to sit for the examination for any reason.

§ 5.7. Reexamination.

Any person failing an examination may reapply for a subsequent examination, and shall pay the examination fee prescribed in § 3.1 with each application filed.

§ 5.8. Scheduling early examinations.

A. An applicant may request to take the scheduled examination most closely preceding the expected completion of the required formal education requirement or the A.I.T. program.

B. All such requests shall be in writing.

C. Approval of the written request by the board shall be required prior to submitting the application and fee for examination (see §§ 5.2, 5.4 and 3.1).

D. Application for licensure shall be submitted after the applicant completes the qualifications for licensure.

PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

Article 1. Trainee Requirements and Application Process.

§ 6.1. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited college or university;
2. Obtain a preceptor currently approved by and registered with the board to provide training;
3. Submit the fee prescribed in subdivision 4 of § 3.1;
4. Submit the completed and signed application provided by the board ; and

5. Submit additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

Article 2. Training Program.

§ 6.2. The A.I.T. program shall consist of 2,080 hours or its approved equivalent (see § 6.3) of continuous training to be completed within 24 months. Extension may be granted by the board on an individual case basis.

§ 6.3. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 1,000 hours of credit toward the total 2,080 hours as follows:

1. Applicant shall have been employed full-time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.

2. The employment described above shall have been in a facility as prescribed in § 6.4.

3. Applicants with experience as a hospital administrator shall have been employed full-time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:

- a. Regulatory;
- b. Fiscal;
- c. Supervisory;
- d. Personnel; and
- e. Management.

§ 6.4. Training shall be conducted only in:

1. A nursing home, licensed by the Department of Health, Commonwealth of Virginia; or
2. An institution licensed by the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided; or
3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or

Final Regulations

of the United States government; or

4. A certified nursing home unit located in and operated by a general or special hospital licensed under procedures of Rules and Regulations for Licensure of General and Special Hospitals of the Virginia Department of Health.

§ 6.5. Training shall be under the direct supervision of a certified preceptor (see §§ 6.8 and 6.9).

§ 6.6. Not more than two A.I.T.'s may be supervised per approved *and registered* preceptor at any time.

§ 6.7. An A.I.T. shall be required to serve full time weekday, evening, and weekend shifts to receive training in all areas of nursing home operation.

Article 3.

Qualifications and Application Process to Train: Preceptors.

§ 6.8. An individual shall be approved by *and registered with* the board prior to serving as a preceptor.

§ 6.9. The board shall approve *and register* only preceptors to give training who:

1. Have a full, unrestricted, and current Virginia nursing home administrator license;
2. Are employed full-time in the facility where training occurs (see § 6.4);
3. Have served for a minimum of two of the past three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state;
4. Submitted the fee prescribed in subdivision 2 of § 3.1;
5. Submitted the ~~completed and signed~~ applications *provided by the board*; and
6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Preceptors submitting information which documents preceptorship served in another state, may have the other state send information directly to the licensing authority. That policy is acceptable to the board.

Article 4.

Administration of A.I.T. program.

§ 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act and published in the Federal Register on February 2, 1989, and the Domains of Practice as appended to these regulations. (See Appendices I and II.) The training plan developed by the board or an alternate plan may be used.

§ 6.11. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.

§ 6.12. The A.I.T.'s certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the A.I.T. program.

§ 6.13. If the preceptor fails to submit the reports required in § 6.12, the A.I.T. shall forfeit all credit for training. The board may waive such forfeiture.

§ 6.14. If the A.I.T. program is terminated prior to completion, the trainee and the preceptor shall submit the following information to the board within five working days:

1. Preceptor.

- a. All required monthly progress reports prescribed in § 6.11; and
- b. Written explanation of the causes of program termination.

2. A.I.T. The A.I.T. shall submit written explanation of the causes of program termination.

§ 6.15. If the program is interrupted because the approved *and registered* preceptor is unable to serve, the A.I.T. shall notify the board within five working days and shall obtain a new preceptor *who is registered with the board*.

§ 6.16. Credit for training shall resume when a new preceptor is obtained and approved *and registered* by the board.

§ 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval before A.I.T. resumes training.

PART VII. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

Article 1. Unprofessional Conduct.

§ 7.1. The board may refuse to admit a candidate to any

examination; refuse to issue or renew a license or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of Nursing Homes in Virginia;
3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;
4. Conviction of a felony related to the practice for which the license was granted;
5. Failure to comply with any regulations of the board;
6. Failure to comply with continuing education requirements;
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse ;
8. Failure to comply with board's regulations on preceptorship while serving as a preceptor.

PART VIII. CONTINUING EDUCATION.

§ 8.1. As a prerequisite to renewal of a license or reinstatement of a license, each licensee shall be required to take continuing education related to health care administration.

§ 8.2. Continuing education shall consist of training programs, seminars, and workshops directly related to the following:

1. Nursing home administration;
2. Long term care;
3. Resident care;
4. Physical resource management;
5. Laws, regulatory codes, and governing boards;
6. Courses to gain knowledge in departmental areas;

7. Core of Knowledge in Appendix I; and

8. Domains of Practice in Appendix II.

§ 8.3. Requirements for the licensure period beginning January 1, 1990, and ending December 31, 1991.

Section 8.3 expires and will be deleted from the regulations effective December 31, 1991.

A. An administrator whose initial date of licensure was on or before May 31, 1990, shall attend 35 classroom hours of continuing education for the licensure period ending December 31, 1991.

B. An administrator whose initial date of licensure was between June 1, 1990, and March 31, 1991, shall attend 20 classroom hours of continuing education for the licensure period ending December 31, 1991.

C. An administrator whose initial date of licensure was between April 1, 1991, and July 31, 1991, shall attend 10 classroom hours of continuing education for the licensure period ending December 31, 1991.

D. An administrator whose initial date of licensure was between August 1, 1991, and December 31, 1991, shall not be required to attend classroom hours of continuing education for the licensure period ending December 31, 1991.

§ 8.4. § 8.3 Requirements for licensure periods beginning January 1, 1992, and each annual licensure period thereafter. Continuing education requirements for each calendar year.

A. An administrator who holds a license on January 1 of any calendar year shall attend 20 classroom hours of continuing education for that calendar year.

B. An administrator whose initial date of licensure is between April 1 and July 31 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure takes place.

C. An administrator whose initial date of licensure is between August 1 and December 31 of any calendar year shall not be required to attend continuing education for the calendar year in which initial licensure takes place.

§ 8.5. § 8.4. Continuing education hours, documentation, and signed completed affidavit of completion shall be submitted to the as one package and received in the board office no later than January 15 of the calendar year following the December 31 deadline requirement year in which the courses were required to be taken. Postmarks will not be considered.

§ 8.6. § 8.5. Administrators shall submit evidence of having obtained continuing education credit by:

Final Regulations

1. Forwarding copies of certificates or transcripts issued, signed, and dated by the course provider showing the classroom hours attended; and

2. Forwarding an affidavit of completion signed by the administrator on forms provided by the board.

§ 8-7. § 8.6. Only classroom hours shall be accepted.

§ 8-8. § 8.7. Credit shall only be given for 30-minute increments.

§ 8-9. § 8.8. The continuing education hours shall be current to the calendar year in which they were required.

APPENDIX I. CORE OF KNOWLEDGE.

The Core of Knowledge referred to in this program consists of the disciplines under the federal guidelines:

A. Applicable standards of environmental health and safety.

1. Knowledge of local, state and federal regulations applicable to nursing homes.

2. Resources: Local and state health departments, local state regulatory agencies, and federal regulatory agencies.

B. Local and state health and safety regulations.

C. General administration.

D. Psychology of patient care.

Resources: Staff, patient, and advisory physicians; social worker and patient's social history; principles and techniques of long term care nursing (director of nursing, nursing supervisors).

E. Principles of medical care.

1. Resources: Medical director, staff, patient, and advisory physicians/medical colleges, especially those offering degree programs in health care administration or long-term health care.

F. Personal and social care.

G. Therapeutics and supportive care and services in long term care.

1. Resources: Dietary, physical therapy, occupational therapy, clinic, social services, volunteers, family, and pharmacist.

H. Departmental organization and management administrator, advisor physicians, director of nursing, food service manager, laundry and housekeeping supervisor, and

maintenance supervisor.

I. Community Interrelationships.

1. Hospitals
2. Hospice programs
3. Other nursing homes
4. Home for adults
5. Retirement or life care communities
6. Home health care
7. Health Department
8. Social service agencies
9. Department for the Aging
10. Area Agencies on Aging
11. Clinics
12. Physicians
13. Medical societies
14. Regulatory agencies
15. Long term care professional associations
16. Advocates for the aged
17. Ombudsman
18. Volunteers
19. Educators
20. Schools
21. Religious communities

APPENDIX II. DOMAINS OF PRACTICE.

CODE	SUBJECT CATEGORY
10.00	PATIENT CARE
10.10	Nursing Services
10.20	Social Services
10.30	Food Services
10.40	Physician Services

- 10.50 Social and Therapeutic
Recreational Activities
- 10.60 Medical Records
- 10.70 Pharmaceutical Services
- 10.80 Rehabilitation Services
- 20.00 PERSONNEL MANAGEMENT
- 20.10 Maintaining positive
atmosphere
- 20.20 Evaluation Procedures
- 20.30 Recruitment of Staff
- 20.40 Interviewing Candidates
- 20.50 Selecting Future Candidates
- 20.60 Selecting Future Employees
- 20.70 Providing Staff Development &
Training Activities
- 20.80 Health and Safety
- 30.00 FINANCIAL MANAGEMENT
- 30.10 Budgeting
- 30.20 Financial Planning
- 30.30 Asset Management
- 30.40 Accounting
- 40.00 MARKETING AND PUBLIC RELATIONS
- 40.10 Public Relations Activities
- 40.20 Marketing Program
- 50.00 PHYSICAL RESOURCE MANAGEMENT
- 50.10 Building & Grounds Maintenance
- 50.20 Environmental Services
- 50.30 Safety Procedures and Programs
- 50.40 Fire and Disaster Plans
- 60.00 LAWS, REGULATORY CODES &
GOVERNING BOARDS
- 60.10 Rules and Regulations
- 60.20 Governing Boards

NOTICE: The forms used in administering the Regulations of the Board of Nursing Home Administrators 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 Health Professions, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Application for Administrator-in-Training (DHP-14-0102 Rev. 3/18/92)

Application for Preceptor Certification (DHP-14-0104)

Application for Nursing Home Administrators (DHP-14-0101 Rev. 3/18/92)

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance
Relating to Interim Settlement/Prospective Rate Time
Frames.

VR 460-03-4.1940:1. Nursing Home Payment System
(PIRS).

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

Effective Dates: August 3, 1992 through August 2, 1993.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Interim Settlement/Prospective Rate Time Frames. This policy will enable the Department to use resources cost effectively in carrying out its mandate.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Interim Settlement/Prospective Rate Time Frames. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski
Director

Date: July 20, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: July 31, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: August 3, 1992

DISCUSSION

6. BACKGROUND: The section of the State Plan for Medical Assistance affected by this emergency regulation is the Supplement to Attachment 4.19 D, the Nursing Home Payment System Patient Intensity Rating System.

Current Department regulations and policy require that providers' cost reports be interim settled and a prospective rate set within 90 days after an acceptable cost report is received. Providers, prompted in part by changes in the Internal Revenue Code, are increasingly changing their

fiscal year periods to a calendar year cost reporting period. At the present time, 40% of all providers, and, due to recent changes by major chains, 51% of all nursing facilities now report using a calendar year period.

As a result, approximately 42% of the total cost reports must be interim settled and have prospective rates set during the second calendar quarter of each year, with an additional 29% during the fourth calendar quarter. Conversely, only 11% are required during the third calendar quarter, and 18% during the first calendar quarter.

Despite increasing the Cost Settlement staff in recent years, the Department has been unable to meet regulatory and policy timelines in the face of the increasingly lopsided filing periods. After review, the Department has concluded that adding more staff to meet a seasonal workload would not be a cost effective use of resources. However, the Auditor of Public Accounts has issued an audit point on timeliness and providers and their attorneys have expressed concerns about the failure to meet regulatory mandates.

Medicare regulations at 42 CFR 405.1803 and 405.1835(c) define a reasonable period of time for issuing notices of amount of program reimbursement as within 12 months of receiving an acceptable cost report. The Department does not believe it needs to go that far, instead its review indicates that extending the time frames an additional 90 days should be a reasonable solution. This extension of time should permit the Department to even out the workload by moving some of it from the peak workload periods during the second and fourth calendar quarters to the lower workload periods in the third and first calendar quarters. The amendment should also increase provider confidence in the rate-setting process and enhance staff morale.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, §§ 32.1-324 and 32.1-325, authorizes the Director of the Department of Medical Assistance Services to administer and amend the Plan for Medical Assistance. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(c)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. To resolve current problems and eliminate future ones, therefore, an emergency regulation is needed to enable an August 1, 1992, effective date.

8. FISCAL/BUDGETARY IMPACT: No fiscal or budgetary impact is expected. There is an unknown cost avoidance

by not having to hire temporary staff during the seasonal peaks. Providers are not expected to be adversely affected.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective August 1, 1992. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department lacks the ability to manage its current and future seasonal overloads on a cost effective basis.

10. Approval Sought for VR 460-03-4.1940:1.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-03-4.1940:1. Nursing Home Payment System (PIRS).

D. Owner/administrator employment documentation.

1. Owners who perform services for a NF as an administrator and also perform additional duties must maintain adequate documentation to show that the additional duties were performed beyond the normal 40 hour week as an administrator. The additional duties must be necessary for the operation of the NF and related to patient care.

2. Services provided by owners, whether in employee capacity, through management contracts, or through home office relationships shall be compared to the cost and services provided in arms-length transactions.

3. Compensation for such services shall be adjusted where such compensation exceeds that paid in such arms-length ~~transaction~~ transactions or where there is a duplication of duties normally rendered by an administrator. No reimbursement shall be allowed for compensation where owner services cannot be documented and audited.

§ 2.12. Depreciation.

The allowance for depreciation shall be restricted to the straight line method with a useful life in compliance with AHA guidelines. If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.

§ 2.13. Rent/Leases.

Rent or lease expenses shall be limited by the provisions of Appendix II.

§ 2.14. Provider payments.

A. Limitations.

1. Payments to providers, shall not exceed charges for covered services except for (i) public providers furnishing services free of charge or at a nominal charge (ii) nonpublic provider whose charges are 60% or less of the allowable reimbursement represented by the charges and that demonstrates its charges are less than allowable reimbursement because its customary practice is to charge patients based on their ability to pay. Nominal charge shall be defined as total charges that are 60% or less of the allowable reimbursement of services represented by these charges. Providers qualifying in this section shall receive allowable reimbursement as determined in this Plan.

2. Allowable reimbursement in excess of charges may be carried forward for payment in the two succeeding cost reporting periods. A new provider may carry forward unreimbursed allowable reimbursement in the five succeeding cost reporting periods.

3. Providers may be reimbursed the carry forward to a succeeding cost reporting period (i) if total charges for the services provided in that subsequent period exceed the total allowable reimbursement in that period (ii) to the extent that the accumulation of the carry forward and the allowable reimbursement in that subsequent period do not exceed the providers' direct and indirect care operating ceilings plus allowable plant cost.

B. Payment for service shall be based upon the rate in effect when the service was rendered.

C. For cost reports filed on or after August 1, 1992, an interim settlement shall be made by DMAS within 90 180 days after receipt and review of the cost report. The 180-day time frame shall similarly apply to cost reports filed but not interim settled as of August 1, 1992. The word "review," for purposes of interim settlement, shall include verification that all financial and other data specifically requested by DMAS is submitted with the cost report. Review shall also mean examination of the cost report and other required submission for obvious errors, inconsistency, inclusion of past disallowed costs, unresolved prior year cost adjustments and a complete signed cost report that conforms to the current DMAS requirements herein.

However, an interim settlement shall not be made when one of the following conditions exists.

1. Cost report filed by a terminated provider;
2. Insolvency of the provider at the time the cost report is submitted;
3. Lack of a valid provider agreement and decertification;
4. Moneys owed to DMAS;

Emergency Regulations

5. Errors or inconsistencies in the cost report; or

6. Incomplete/nonacceptable cost report.

§ 2.15. Legal fees/accounting.

A. Costs claimed for legal/accounting fees shall be limited to reasonable and customary fees for specific services rendered. Such costs must be related to patient care as defined by Medicare principles of reimbursement and subject to applicable regulations herein. Documentation for legal costs must be available at the time of audit.

* * * * *

B. Extraordinary circumstances do not include:

1. Absence or changes of chief finance officer, controller or bookkeeper;
2. Financial statements not completed;
3. Office or building renovations;
4. Home office cost report not completed;
5. Change of stock ownership;
6. Change of intermediary;
7. Conversion to computer; or
8. Use of reimbursement specialist.

§ 2.24. Fiscal year changes.

All fiscal year end changes must be approved 90 days prior to the beginning of a new fiscal year.

Article 6.
Prospective Rates.

§ 2.25. Time frames.

A. For cost reports filed on or after August 1, 1992, a prospective rate shall be determined by DMAS within 90 180 days of the receipt of a complete cost report. (See § 2.20 A.) The 180-day time frame shall similarly apply to cost reports filed but for which a prospective rate has not been set as of August 1, 1992. Rate adjustments shall be made retroactive to the first day of the provider's new cost reporting year. Where a field audit is necessary to set a prospective rate, the DMAS shall have an additional 90 days to determine any appropriate adjustments to the prospective rate as a result of such field audit. This time period shall be extended if delays are attributed to the provider.

B. Subsequent to establishing the prospective rate DMAS shall conclude the desk audit of a providers' cost report

and determine if further field audit activity is necessary. The DMAS will seek repayment or make retroactive settlements when audit adjustments are made to costs claimed for reimbursement.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-43-4. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record.

Statutory Authority: §§ 63.1-25, 63.1-223, 63.1-226, 63.1-228, 63.1-229, 63.1-236 and 63.1-236.1 of the Code of Virginia.

Effective Dates: September 1, 1992 through August 31, 1993.

Summary:

Request: The Governor's approval is hereby requested to adopt the emergency regulations entitled "Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record."

PURPOSE OF THE REQUEST: The purpose of this request is to implement legislation enacted by the 1992 General Assembly amending Chapter 11, § 36.1-236 of the Code of Virginia. The statutory changes, which are effective July 1, 1992, allow adults adopted in Virginia to apply to the Commissioner of Social Services rather than the circuit court for identifying information on their birth families.

PERSONS AFFECTED BY THESE REGULATIONS: Adult adoptees who seek the identity and whereabouts of their birth families will be impacted by these regulations.

BACKGROUND: The emergency regulations have been developed to implement legislation which amends Chapter 11, § 63.1-236 of the Code of Virginia. The statutory changes allow adults adopted in Virginia to apply to the Commissioner of Social Services, rather than the circuit court, for identifying information on their birth families. The procedures for the search will be generally consistent with procedures that are in place for the court-ordered process. The determination of "good cause" is consistent with the courts' criteria when deciding whether to grant or deny an adult adoptee's petition for identifying information on the birth family.

Preamble:

This emergency regulation is needed in order to implement legislation enacted by the 1992 General Assembly. The statutory changes, effective July 1, 1992, amend Chapter 11 of the Code of Virginia. The statutory changes allow adults adopted in Virginia to apply to the Commissioner of Social Services, rather

Emergency Regulations

than the circuit court, for identifying information on their birth families. A petition to the circuit court may be made by the adult adoptee in certain cases. These cases involve those situations where the Commissioner fails, within 30 days of receipt of the application, to designate a person or agency to attempt to locate the birth family, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report.

VR 615-43-4. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record.

PART I. DEFINITIONS.

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

"Adoption" means the legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Adoptee Application for Disclosure" means the adult adoptee's formal request, on a prescribed notarized application form, to receive identifying information on specific birth family members.

"Agency" means a local department of social services or a licensed child-placing agency.

"Agency Letter of Appointment" means a letter from the Commissioner or his designee appointing a designated person or agency to do a search for certain birth family member(s) and to report the findings back to the Commissioner within an established period of time.

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Designated person or agency" means the person or agency whom the Commissioner of Social Services or his designee has appointed to conduct a search for the birth family member(s) about whom the adult adoptee wants identifying information.

"Final Disposition" means the letter in which the Commissioner of Social Services or his designee grants or denies the Adoptee Application for Disclosure

"Identifying information" means that information which would identify the birth family of the adult adoptee such as names and addresses. Identifying information may also mean that information which would identify the adoptee to the birth family.

"Person" means any natural person or association, partnership or corporation.

"Search" means an attempt by a designated person or agency to locate and advise specific members of the adoptee's birth family of the Adoptee Application for Disclosure and to ascertain the birth family member(s) feelings about having their identity and whereabouts disclosed to the adoptee.

PART II. POLICY.

§ 2.1. Responsibilities of the Commissioner.

The Commissioner shall:

1. Upon receiving the Adoptee Application for Disclosure, designate the person or agency which made the investigation required by § 63.1-223 or § 63.1-228 to attempt to locate and advise the application member(s) of the birth family of the request for identifying information. Such designation is to be made within thirty days of receipt of the Adoptee Application for Disclosure. The time frame for the search is eight months unless otherwise determined by the Commissioner. If the agency needs additional time, this will be granted if such need is documented in writing by the searching agency to the Commissioner.

2. Assist the agency in the search by providing technical assistance and case material from the adoption record(s).

3. Upon receipt of the agency's report to the Commissioner, make a determination as to whether good cause exists for the release of identifying information and send the adoptee and searching agency a copy of the Final Disposition granting or denying the Adoptee Application for Disclosure. The disclosure of identifying information will be granted when the birth family member(s) for whom the agency searched was located and consented to having his identity and whereabouts disclosed to the adoptee. However, the following extenuating circumstances are to be considered:

a. If the birth parent is deceased, and other family members who knew about the birth and adoption of the adoptee want their names and addresses disclosed, good cause may exist for identifying information on these family members to be given to the adoptee if the adoptee wishes this.

b. If one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not have their identity disclosed. Exceptions are:

(1) if the other birth parent of the adoptee and sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child (in such a case,

Emergency Regulations

the sibling(s) could be contacted by the searching agency and could give informed consent relative to the disclosure of his identity and whereabouts); or

(2) If the birth parent was deceased and the sibling was contacted by the designated person or agency doing the search because the record of other information indicated that the sibling(s) knew the circumstances surrounding the child's placement and adoption, and the sibling(s) consented to disclosure.

c. If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he had contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.

4. Advise the adoptee of his right to file a petition with the appropriate circuit court if the Commissioner fails to designate within thirty days a person or agency to do the search or if the Commissioner denies the Adoptee Application for Disclosure after receiving the designated person's or agency's report.

§ 2.2. Responsibilities of the designated person or agency conducting the search.

The designated person or agency conducting the search shall, upon receiving an Agency Letter of Appointment:

1. Attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.

a. If the adoptee applies for identifying information on birth relatives other than his birth parent(s), the birth parent(s), unless deceased, must still be contacted and consent to having identifying information on themselves disclosed. An exception would be if the adoptee does not want identifying information on his birth parents but does want identifying information on birth siblings adopted by non-relatives.

b. If one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not be contacted. Exceptions are:

(1) If the other birth parent of the adoptee and the sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child; or

(2) If the birth parent is deceased and information in the record or other information indicates that the sibling(s) knew about the circumstances surrounding the child's placement and adoption.

c. If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he has contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.

d. In contacting relatives or persons who know the birth parent/sibling and can aid in the search, the searching agency is to use discretion. The confidential nature of the inquiry is not to be revealed unless it is clear from the record or other information that the contacted person know the circumstances surrounding the child's placement and adoption.

2. Report to the Commissioner, or the court if applicable, the results of the attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.

a. The agency's report shall be in a format prescribed by the Commissioner and shall not include identifying information on the birth family. No identifying information is to be disclosed to the adoptee, the birth family, or any attorney representing the parties without proper authorization from the Commissioner or the court.

b. Resources used to locate the birth family member(s) should be fully documented in the agency's report in those cases where agency efforts were unsuccessful.

c. If the birth family member(s) about whom the adoptee wants identifying information can be located, the agency's report shall include updated non-identifying information about him. The report should also indicate his wishes regarding having his identity disclosed and being contacted by the adoptee.

d. The agency's report shall include a recommendation regarding disclosure based on their findings. If the agency recommends that identifying information be disclosed, the agency may wish to offer its services as an intermediary or suggest some other agency or person be appointed.

e. If there is a fee, the agency's report shall include

a statement indicating the amount of the fee assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.

f. If the agency needs additional time to conduct the search, the agency shall document this need in writing to the Commissioner. The agency shall inform the adoptee of the need for additional time and obtain the adoptee's written consent for an extension. The agency shall inform the Commissioner in writing that the adoptee has agreed to the extension.

g. If disclosure of identifying information is granted by the Commissioner, the searching agency is responsible for providing the identifying information to the adoptee.

/s/ Larry D. Jackson
Commissioner
Date: July 8, 1992

/s/ L. Douglas Wilder
Governor
Date: July 27, 1992

/s/ Joan W. Smith
Registrar of Regulations
Date: July 28, 1992

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

July 16, 1992

ADMINISTRATIVE LETTER 1992-12

TO: All Insurance Companies, Health Services Plans, Health Maintenance Organizations, and Other Interested Parties

RE: Legislation enacted by the 1992 Session of the General Assembly of Virginia

Attached are summaries of certain statutes enacted or amended and re-enacted by the General Assembly of Virginia during the 1992 Session.

The effective date of these statutes is July 1, 1992 except as otherwise indicated in the attachment.

Each organization to which this letter is being sent should review the attachment carefully and see that notice of these laws is directed to the proper persons (including its appointed representatives) to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a summary of legislation and is neither a legal review and interpretation nor a full description of legislative amendments made to insurance-related laws during the 1991 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Steven T. Foster
Commissioner of Insurance

(All Bills Effective July 1, 1992 Unless Otherwise Noted)

Life and Health Insurance

House Bill 181 (Senate Bill 113)

Life, accident and sickness insurance; insurable interests of charitable organizations.

Declares that a charitable organization as defined by 501(c) of the U.S. Internal Revenue Code has an insurable interest in the life, health, and bodily safety of an individual whenever the latter (i) transfers ownership rights in an existing policy to that organization or (ii) consents to the issuance of a policy to that organization, and the organization is named as owner or beneficiary in the policy. This legislation thus validates a common income and estate tax planning device in which a donor gives the proceeds of a life insurance policy on his life to a charitable organization. The individual deducts the premium payments on the policies as charitable contributions for income tax purposes. When the individual dies and the policy proceeds are paid to the charity, the proceeds are excluded from the donor's taxable estate. This legislation was prompted by a recent Internal

Revenue Service private letter ruling suggesting that states should expressly declare the insurable interests of charitable organizations vis-a-vis donations of insurance policy proceeds to eliminate potential confusion about the tax status of premium payments and proceeds. This bill responds to that suggestion and further states that it is simply declaratory of existing law.

House Bill 491

Accident and sickness insurance; assignment of benefits.

Permits a nonstock corporation, after its conversion to a domestic mutual insurer, to deny a policyholder the right to assign his accident and sickness benefit only in cases where such benefit is 80 percent or greater of covered charges.

House Bill 722

Insurance; credit life insurance and credit accident and sickness insurance.

Repeals Chapter 37 and adds Chapter 37.1 to Title 38.2 of the Code regarding credit life and credit accident and sickness insurance. Provides that initially the credit life monthly outstanding balance rate will be \$.7519 per \$1,000 of outstanding indebtedness. The initial credit accident and sickness rate shall be based on a morbidity study performed by the Bureau of Insurance to achieve a fifty percent loss ratio. As of January 1, 1995, the rates for credit life and credit accident and sickness shall be adjusted to achieve a sixty percent loss ratio. The rates shall be adjusted thereafter on a triennial basis to achieve a sixty percent loss ratio. The bill also provides that refunds for prepayments must be made based on the actuarial method, as defined, for loans whose terms are in excess of sixty months. The bill provides that the Commission may use discretion in applying the provisions of this chapter if no specific charge is made to a debtor for the insurance. The bill also provides for additional disclosure in connection with the sale of this insurance.

House Bill 872

Health maintenance organizations; limited health care services plans.

Authorizes health maintenance organizations to offer limited health care services e.g., dental, pharmacy, vision care, and other such services. These services would be made available as supplemental coverage to those groups or individuals whose primary health care coverage plans exclude such services or provide only limited coverage of such services.

House Bill 1013

Health maintenance organizations.

Redefines "health care plan" within the chapter of Title

38.2 governing health maintenance organizations (§ 38.2-4300 et seq.). The bill provides that at least 90 percent of a plan's total cost of health care services shall consist of arranging for or providing health care services which, under the provisions of this legislation, include emergency services and services rendered by nonparticipating referral providers, as defined by the bill.

House Bill 1014

Health maintenance organizations; interest on claim proceeds.

Provides specific law in the Health Maintenance Organization Act which addresses the payment of interest on claim proceeds due July 16, 1992 under a health care services plan. The provisions are almost exactly the same as the "interest on claim proceeds" provisions that apply to commercial insurers and Blue Cross/Blue Shield corporations, except the new provisions give the health maintenance organizations thirty calendar days to pay the claim before interest accrues, rather than the fifteen working days applicable to other insurers.

Senate Bill 96

Medicare supplement policies; Health Maintenance Organizations; regulations.

Conforms Virginia law governing Medicare supplement policies to the provisions of federal law under the Omnibus Budget Reconciliation Act of 1990. The bill amends the definition of "Medicare supplement policy" to include health maintenance organization subscription contracts as well as certificates under group contracts even if the group contracts are not issued in Virginia. The bill also permits the Commission to amend Virginia's Medicare supplement regulations in the future whenever necessary to conform them to federal standards established by the U.S. Department of Health and Human Services. Under the bill, the Commission is required to inform the appropriate standing committees of the General Assembly of such changes.

Senate Bill 505

Small employer market provisions.

SB 505 was introduced as the result of a study conducted by the State Corporation Commission's Bureau of Insurance for the Commission on Health Care for All Virginians.

The study report (Senate Document No. 9) recommended that certain market reforms be introduced in the small group market. Small group was defined as 2-49 employees. This bill defines "small employer market" as persons engaged in a business employing 2-49 employees. The bill applies to insurers, health service plans, health organizations and multiple employer arrangements (MEWAs). The bill includes definitions of the following terms: dependent, eligible employee, initial enrollment

period, late enrollee and premium. The bill provides that a pre-existing conditions provision cannot extend beyond 12 months (18 months for a late enrollee). If the insured person was previously covered under a similar policy, they must receive credit towards a pre-existing conditions period under the new contract (*continuous coverage). The bill requires that policies be renewable at the option of the employer (*guaranteed renewability).

Coverage must be extended to all employees of the employer and all dependents (*anti-dumping provision).

The bill contains an exclusion from the requirement of a credit for a previous pre-existing conditions period for a nonstock corporation offering open enrollment pursuant to § 38.2-4216.1 (*Blues) until all carriers in the small group market are required to make available and guarantee issue policies in the small employer market.

The bill also creates § 38.2-3540.1 regarding claims experience for all group accident and sickness policies. The provision requires that, upon request, insurers provide a policyholder with records of their claims experience under the group policy. The record is to be made available to the policyholder promptly upon request made at least 60 days prior to the date the contract is amended or premiums due. The section does not require the disclosure of personal or privileged information about an individual protected under Chapter 6 of Title 38.2. (Insurance Information and Privacy Protection Act) or any other federal or state law or regulation. The provisions of § 38.2-3540.1 are not effective until July 1, 1993.

Financial Regulation

House Bill 335

Insurers and health maintenance organizations; deposit of securities with State Treasurer.

Requires insurers and health maintenance organizations conducting business in the Commonwealth to deposit securities (guaranteeing performance of their obligations to policyholders and plan enrollees, respectively) in book-entry form with the State Treasurer. Current law requires insurers and health maintenance organizations to deposit such securities, principally requiring that the securities be legal investments under the laws of the Commonwealth in the case of insurers, and, in the case of health maintenance organizations, that they be acceptable to the State Corporation Commission in an amount acceptable to the Commission. This bill will codify an administrative practice of the State Treasurer adopted in January 1991 requesting insurers to deposit securities in book-entry form. The administrative costs of maintaining bearer and registered securities are reportedly greater than the cost associated with book-entry securities. The former must be adequately safeguarded, insured, and administered, e.g., substituting securities, processing interest

State Corporation Commission

coupons, etc. These provisions will become effective in January 1993 for insurers and for health maintenance organizations with physical July 16, 1992 securities in the custody of the State Treasurer. The bill also provides express statutory authorization for the State Treasurer's annual assessment levied on health maintenance organizations to defray the expense of administering the program. The provision will codify authority for assessments that health maintenance organizations are reportedly paying voluntarily.

House Bill 660

Insurance: modified guaranteed life and modified guaranteed annuity contracts.

Authorizes the issuance of modified guaranteed life and modified guaranteed annuity insurance contracts. The bill defines both to mean that the benefits are guaranteed if held for specified periods and nonforfeiture values are based upon a market-value adjustment formula if held for shorter periods. The bill provides for regulation of the investment of amounts received for these contracts and allows for separate accounts to be set up for these types of contracts. An insurer must be licensed to sell these types of contracts, and the bill sets forth general character and business criteria which the insurer must meet. Under the bill, the provisions of §§ 38.2-3220 through 38.2-3229 will not apply to modified guaranteed annuity contracts.

House Bill 755

Insurers and health maintenance organizations: protection against insolvency.

Requires that the securities deposited with the State Treasurer by every insurer and every health maintenance organization licensed to conduct business in the Commonwealth be held as a special fund in trust. The deposits are used to protect policyholders and enrollees in the event an insurer or health maintenance organization fails to meet its obligations incurred in the Commonwealth.

House Bill 760

Continuing care retirement facilities.

Requires a provider of continuing care pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 to furnish, in its disclosure statement, information about the procedure a resident should follow when making a complaint. In addition, the bill prohibits retaliatory conduct against any resident for filing such complaint.

House Bill 1011

Health maintenance organizations: provider contracts.

Authorizes health maintenance organizations to use intermediary organizations in administering health care plans. Contracts between health maintenance organizations,

intermediary organizations and health care providers must be kept on file for five years to facilitate review by the State Corporation Commission. Health maintenance organizations subscribers and enrollees are not liable for health care provider charges not paid by health maintenance organizations or intermediary organizations when the same are contractually obligated to do so. Moreover, the health care provider is prohibited from maintaining any civil action against subscribers or enrollees to receive the amounts unpaid. Any agreements to administer a health care plan between a health maintenance organization and an intermediary organization cannot be cancelled unless 60 days' advance notice is given. Similarly, health care providers' agreements with health maintenance organizations or intermediary organizations cannot be cancelled unless advance notice of 60 days is given. Finally, the bill eliminates the current requirement that health care provider contracts with health maintenance organizations be kept on file with the SCC. The bill requires instead that the health maintenance organizations provide a list of all providers with whom they have contracts and that the list be updated on a quarterly basis.

House Bill 1012

Insurance regulation; financial regulation of insurers.

Addresses the State Corporation Commission's (SCC) oversight of the solvency and soundness of Virginia's insurance industry. Many of the bill's provisions are based on model legislation of the National Association of Insurance Commissioners (NAIC). Sections 38.2-1300 through 38.2-1310.1 clarify standards for compiling and reporting annual statement data, valuing investments, and admitting assets. Sections 38.2-1317 through 38.2-1321.1 concern regulatory examinations. Sections 38.2-1322 through 38.2-1334 and 38.2-4230 through 38.2-4234 concern holding companies. These provisions strengthen the fairness test by which affiliated transactions are judged, heighten the level of regulator scrutiny to be accorded extraordinary dividends, and provide for the application of a competitive standard when evaluating the merits of a proposed acquisition or merger. Sections 38.2-1400 through 38.2-1447 concern investments of insurance companies. Specific provisions are aimed at filling the gaps which have developed due to changes in industry and the surrounding financial and economic climates. For example, July 16, 1992 provisions provide a better framework for handling mortgage pass-through securities and real estate. Sections 38.2-1846 through 38.2-1865 pertain to managing general agents and reinsurance intermediaries, and impose new licensing requirements for managing general agents and reinsurance intermediaries. Sections 38.2-3126 through 38.2-3144 comprise the standard valuation law for life insurers' reserves. The bill's provisions better integrate statutory and administrative requirements concerning actuarial opinions by focusing on the sufficiency of cash flow in the matching of assets and liabilities. Sections 38.2-5100 through 38.2-5115 affect risk retention and purchasing groups. Procedures which will enable

identification and classification of risk retention and purchasing groups chartered in Virginia are clarified. The bill also makes technical and nonsubstantive changes to various provisions in the insurance title.

Senate Bill 194

Virginia Life, Accident and Sickness Insurance Guaranty Association.

Expands the Guaranty Association's coverage of annuities to include those issued in connection with a structured settlement. The bill also expands coverage to include life insurance benefits payable to any person by an insurer.

Property and Casualty Insurance

House Bill 210

Replacement Cost Coverage.

This bill adds a new subsection B to § 38.2-2119. Fire insurance policies or policies of fire insurance in combination with other coverages which provide replacement cost coverage must permit the insured to make a claim for the actual cash value of the property without prejudicing the insured's right to later make a claim for the difference between the actual cash value and the full replacement cost of the property. Such claims must be made within six months of the latter of (i) the last date the insured received payment for the actual cash value, or (ii) the date of entry of a final order declaring the right of the insured to full replacement cost coverage.

House Bill 455

Appointment of Umpire.

This bill amends § 38.2-2121 which sets forth the requirements for requesting the judge of a circuit court to select an umpire to determine the amount of loss or damage sustained when two appraisers cannot agree on an umpire. Under current law, when appraisers fail or neglect to agree upon and select an umpire within a specified time, the judge must appoint one immediately. The amended language requires the judge to give all parties 21 days advance notice of his selection.

House Bill 493

Liability Coverage for Loaned or Leased Vehicles.

This bill clarifies the intent of House Bill 1531 which was enacted in 1985. Under § 38.2-2205 any valid and collectible insurance covering a person using a loaned or leased vehicle during the repairing or servicing of that person's vehicle will be primary, regardless of whether the servicing or repairing is done by the business which loans or leases the vehicle. This bill makes it clear that the

shift in primary liability coverage to the customer's insurance policy will occur even if the loaned or leased vehicle is owned by a business other than the one repairing or servicing the vehicle.

House Bill 499

Birth Injury Fund Assessments.

This bill adds a new subsection to § 38.2-5020 which requires the State Corporation Commission to enter an order suspending the annual \$250 non-participating physician assessment if the Commission determines that the Birth-Related Neurological Injury Compensation Fund is actuarially sound. The bill calls for the Commission to reinstate the annual assessment in an amount up to \$250 if the assessment is required to maintain the Fund's actuarial soundness. The bill also exempts from the \$250 assessment any physician who is employed by the federal government and whose income from professional fees is less than 10% of the physician's annual salary.

House Bill 632 and House Bill 989

Unfair Settlement Practices.

These bills add a new section to Chapter 5 (Unfair Trade Practices) making it unlawful for anyone to require or coerce an insured or claimant to use a specific replacement or repair facility or service, or the products of a specific manufacturer, as a prerequisite to settling or paying a claim.

House Bill 647

Notification of Title Insurance

This bill amends Chapter 46 (Title Insurance) by requiring a settlement agent to notify a purchaser of residential real estate that the purchaser may wish to obtain owner's title insurance with affirmative mechanics' lien coverage, if available, and to advise the purchaser of the general nature of such coverage. The purchaser's acceptance or rejection of coverage must be in writing. Notification must also include language that the value of subsequent improvements to the property may not be covered. Failure of the settlement agent to provide the notice, however, does not give rise to a cause of action.

House Bill 659

Certification Requirements.

This bill amends §§ 38.2-231, 38.2-2113, and 38.2-2208 pertaining to the certification requirements on retained copies of notices of cancellations, non-renewals, reductions in coverage, and increases in rates. The insurer will no longer be required to endorse a certification on the retained copy of the notice that is sent to the insured and lienholder. Copies of the notices must still be retained by

State Corporation Commission

the insurer for at least one year, but "copy" is now defined to include photographs, microphotographs, photostats, microfilm, microcard, printouts or other reproductions of electronically stored data, or copies from optical disks, electronically transmitted facsimiles, or any other reproduction of an original from a process which forms a durable medium for its recording, storing, and reproducing.

House Bill 686 (Effective January 1, 1993)

Medical Expense Notice.

This bill amends § 38.2-2202 pertaining to the notice which must be given to insureds regarding medical expense and loss of income coverage. The changes in this bill make the notice consistent with the revisions made in § 38.2-2201 last year.

House Bill 739

Workers' Compensation Self-Insurers.

This bill requires the Workers' Compensation Commission to establish reasonable requirements and standards for approval of an employer as a self-insurer and to require proof of the solvency of such employer and the financial ability of the employer to meet its obligations and pay compensation. Standards for approval must include (i) the quality and amount of security deposits, bonds, or indemnity; (ii) the amount of advance payments and reserves required; (iii) the investment of such funds; and (iv) the form and content of financial information to be submitted by the employer and the frequency of such submissions. The Workers' Compensation Commission may request the Bureau of Insurance to assist it in establishing these standards for approval and certification.

House Bill 790

Limited Liability Companies.

This bill amends § 38.2-1837 by including within the definition of an insurance consultant a "limited liability company" which is defined in Title 13.1 as an entity that is an unincorporated association, without perpetual duration, having two or more members that is organized and existing under Chapter 12 of Title 13.1. It must also contain in its name the words "limited company," "limited liability company," "L.C.," or "L.L.C." § 38.2-1838 is amended to require any individual who acts as an insurance consultant for a limited liability company to be licensed as an insurance consultant. Section 38.2-1841, which has to do with license renewal, termination, suspension, or revocation, is also amended to include licenses issued to limited liability companies.

House Bill 794

Omnibus Clause Exclusion.

This bill amends § 38.2-2204 which governs policies of insurance covering liability arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft. The bill allows an insurer to add an endorsement onto a policy excluding coverage which would inure to the benefit of the United States Government or any of its agencies or subdivisions under the provisions of the Federal Tort Claims Act, the Federal Drivers Act, and the District of Columbia Non-Liability Act.

With the implementation of H.B. 794, two private passenger automobile standard forms - "District of Columbia Employees Using Automobiles In Government Business" and "Federal Employees Using Automobiles In Government Business" will be updated and approved for use. These forms had previously been withdrawn by Administrative Order 10383 since there was a conflict between the standard forms and § 38.2-2204.

House Bill 838 (Effective January 1, 1993)

Salvage Vehicles and Non-Repairable Vehicles.

This bill amends Title 46.2 (Motor Vehicle Code) by requiring an insurance company, which acquires a vehicle title as a result of a claim, to obtain either a salvage certificate or a non-repairable certificate from DMV. Each insurer must notify DMV of each late model vehicle (as defined in the code) which is titled in the Commonwealth of Virginia on which a claim has been paid if (i) the estimated cost of repair exceeds 75% of its actual cash value and (ii) the vehicle is to be retained by its owner. No such notification is required for a vehicle when a supplemental claim has been paid for the cost of repairs to the engine, transmission, or drive axle assembly if such components are replaced by components of like kind and quality.

House Bill 965

Home Protection Companies.

This bill amends § 38.2-2601 by exempting from Chapter 26 any home protection company that has a net worth of more than \$100 million. Such companies will no longer have to comply with the licensing requirements, unfair trade practices provisions, reserve requirements, or rate and form filing requirements of Chapter 26.

House Bill 972 and Senate Bill 462 (Effective June 1, 1992)

Mechanics' Lien Agents.

These bills stipulate that no person may claim a mechanics' lien on a one or two family residential dwelling unless proper notice has first been given to a mechanics' lien agent. A mechanics' lien agent is defined as a person designated in writing by the owner of real estate, or a person authorized to act on behalf of the

owners, who agrees in writing to act as the owner's designee for purposes of receiving notice of labor performed or materials furnished by subcontractors and suppliers. A mechanics' lien agent may be an attorney, a title company or its subsidiary, a title agent, or a bank or savings institution or service corporation, subsidiary or affiliate of such financial institution.

The bills also require an owner/developer or owner/contractor to provide the purchaser, at the time of settlement, with an affidavit stating that all subcontractors and suppliers have been paid in full or provide the purchaser with the names, addresses, and amounts payable to any person who has performed labor or furnished materials. Willful failure to provide such a statement or willful material misrepresentation with respect to such a statement which causes a monetary loss to a financial institution, title company, contractor, subcontractor, supplier, owner, mechanics' lien agent, or any other person or institution will result in a Class 5 felony.

Senate Bill 499

Birth Injury Fund Assessments.

This bill amends § 38.2-5020 by exempting from the \$250 annual assessment any physician whose active clinical practice is limited to providing health care services voluntarily and without compensation to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in Title 54.1 of the Code of Virginia.

Miscellaneous

House Bill 142

Insurance; sale of insurance by lending institutions.

Provides technical amendments in Title 38.2 necessitated by the enactment of HB 335 in 1991 authorizing lending institutions in July 16, 1992 the Commonwealth to sell insurance. For example, the amendment to § 38.2-501 adds a definition of "lending institution."

House Bill 498 (Effective January 1, 1993)

Continuing Education for Agents.

This bill adds a new article to Chapter 18 of Title 38.2 which sets forth continuing education requirements for agents on a biennial basis. Key portions of the bill include the following:

1. Agents with one license must receive 16 educational credits by December 31, starting in 1994 and every even numbered year thereafter. Those with more than one license must complete 24 hours of credits with a minimum of 8 credits for each license.
2. Self-study courses may qualify if a written test is

passed.

3. An advisory board, including representatives of the insurance industry and the Bureau, will approve or disapprove courses and instructors, set fees, allow exceptions in the event of emergencies, etc. Please note that it will be the Advisory Board, and not the Bureau of Insurance that will have the responsibility for designing the continuing education program and for its administration. The Bureau's formal involvement does not commence until it is time to commence enforcement proceedings for non-compliance.

4. The Bureau of Insurance will discipline agents who do not earn the required credits, giving 30 days notice before terminating licenses for non-compliance and requiring a waiting period of 90 days and completion of a pre-licensing study course and licensing exam in order for each license to be re-issued.

5. The law will go into effect on January 1, 1993, in order to give the Bureau and the advisory board time for preparation.

The bill also makes certain exceptions to the continuing education requirements:

1. Consultants do not have to have an additional 8 hours of credit if they have an agent's license.
2. Agents who are at least 65 who have held a license for 20 consecutive years are exempt provided they have submitted a request for permanent exemption.
3. Those who have limited licenses, such as travel insurance, baggage insurance, etc., are exempt.
4. Non-resident agents whose state of residence accepts our continuing education requirements need to only show proof that they have met the requirements in their home states.

Senate Bill 98

Fiduciary Accounts.

This bill amends § 38.2-1813 by requiring all insurance agents and surplus lines brokers, on and after January 1, 1993, to maintain a separate fiduciary account for all premiums, return premiums, or other funds received by such agent or surplus lines broker with the exception of premium funds made payable to insurers or insureds. The bill stipulates that the fiduciary account may not be commingled or combined with other funds except for the purposes of advancing premiums, establishing reserves for the payment of return premiums, or establishing funds to maintain a minimum balance or to guarantee the adequacy of the account. The commission portion of any premiums deposited to the fiduciary account may be withdrawn at the agent's or broker's discretion. The bill

State Corporation Commission

does not require any agent who is a duly appointed agent of an insurer who has a written contract which provides for the remittance of funds to maintain the separate fiduciary account. However, such funds are required to be held separately from any personal or nonbusiness funds and must be reasonably ascertainable from the agent's books of accounts and records.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDERS

DIRECTOR'S ORDER NUMBER EIGHTEEN (92)

VIRGINIA'S TWENTY-EIGHTH INSTANT GAME LOTTERY; "MONEY TREE," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's twenty-eighth instant game lottery, "Money Tree." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: July 27, 1992

DIRECTOR'S ORDER NUMBER NINETEEN (92)

"MONEY TREE"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Money Tree" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, July 30, 1992. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until August 31, 1992, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: July 27, 1992

DIRECTOR'S ORDER NUMBER TWENTY (92)

CERTAIN DIRECTOR'S ORDERS RESCINDED

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby rescind the following Director's Orders:

Order Number	Date Issued	Subject
13(90)	06/27/90	General Standards for Licensing; Additional Factors.
27(90)	09/14/90	Virginia's Fourteenth Instant Game Lottery; "The Big Deal," Final Rules for Game Operation.
34(91)	12/24/91	Virginia's Fourteenth Instant Game Lottery; "The Big Deal," End of Game.
01(92)	01/10/92	"Lotto By Mail Sweepstakes"; Final Rules for Game Operation.
03(92)	01/14/92	"Hidden Treasure"; Virginia Lottery Retailer Sales Promotional Program Rules.
04(92)	01/17/92	"Lotto By Mail Sweepstakes"; Final Rules for Game Operation; Revised.
08(92)	03/03/92	"Go For The Gold"; Virginia Lottery Retailer Sales Promotional Program Rules.
10(92)	03/31/92	"Cash Vault" Instant Ticket Giveaway; Final Rules for Game Operation.
17(92)	07/02/92	"Watch 'n Win"; Final Rules for Game Operation.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: August 3, 1992

FINAL REGULATIONS

Title of Regulation: VR 447-01-2. Administration Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: September 24, 1992.

Summary:

State Lottery Department

The State Lottery Department is amending numerous sections of the Administration Regulations which set out the general operational parameters for the department and the board. They include industry-related definitions, requirements for the approval of banks and depositories, board procedures for the conduct of business and promulgation of regulations, procedures for appeals on licensing actions, standards for agency procurement action, and procedures for procurement appeals and disputes.

The amendments to the procurement procedures establish new definitions, establish age requirements for persons ineligible to purchase or to receive prizes of the lottery, identify the establishment of an interest-free line of credit available to the department by the State Comptroller, and give preference to Virginia products and firms during procurement activities. There are numerous housekeeping and technical changes throughout each section of these regulations.

Subsequent to publication of the regulations in proposed form, revisions were made to § 4.24 to add a requirement that preference for Virginia products and firms include "proposals" and "offerors."

VR 447-01-2. Administration Regulations.

PART I. GENERAL PARAMETERS.

§ 1.1. Definitions.

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

"Altered ticket" means a lottery ticket which has been forged, counterfeited or altered.

"Appeal" means a request presented by a retailer, vendor or individual for an informal or formal hearing contesting the director's decision to refuse to issue or renew, suspend or revoke a lottery license for the appellant or award a contract to another vendor.

"Award" means a decision to contract with a specific vendor for a specific contract.

"Bank" means and includes any commercial bank, savings bank, savings and loan association, credit union, trust company, and any other type or form of banking institution organized under the authority of the Commonwealth of Virginia or of the United States of America whose principal place of business is within the Commonwealth of Virginia and which is designated by the State Treasurer to perform functions, activities or services in connection with the operations of the lottery for the deposit and handling of lottery funds, the accounting of those funds and the safekeeping of records.

"Bearer instrument" means a lottery ticket which has not been signed by or on behalf of a person or a legal entity. Any prize won on an unsigned ticket is payable to the holder, or bearer, of that ticket.

"Bid" means a competitively priced offer made by an intended seller, usually in reply to an invitation for bids.

"Bid bond" means an insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a specific bidder fails to accept the contract as bid.

"Board" means the State Lottery Board established by the state lottery law.

"Book," "ticket book," or "pack" generally means a set quantity of individually wrapped unbroken, consecutively numbered, fanfolded instant game tickets which all bear an identical book or pack number which is unique to that book or pack among all the tickets printed for a particular game.

"Competitive bidding" means the offer of firm bids by individuals or firms competing for a contract, privilege, or right to supply specified services or goods.

"Competitive negotiation" means a method for purchasing goods and services, usually of a highly complex and technical nature where qualified individuals or firms are solicited by using a Request For Proposal. Discussions are held with selected vendors and the best offer, as judged against criteria contained in the Request For Proposal, is accepted.

"Consideration" means something of value given for a promise to make the promise binding. It is one of the essentials of a legal contract.

"Contract" means an agreement, enforceable by law, between two or more competent parties. It includes any type of agreement or order for the procurement of goods or services.

"Contract administration" means the management of all facets of a contract to assure that the contractor's total performance is in accordance with the contractual commitments and that the obligations of the purchase are fulfilled.

"Contracting officer" means the person(s) authorized to sign contractual documents which obligate the State Lottery Department and to make a commitment against State Lottery Department funds.

"Contractor" means an individual or firm which has entered into an agreement to provide goods or services to the State Lottery Department.

"Department" means the State Lottery Department created by the state lottery law.

State Lottery Department

"Depository" means any person, including a bonded courier service, armored car service, bank, central or regional offices of the department, or state agency, which performs any or all of the following activities or services for the lottery:

1. The safekeeping and distribution of tickets to retailers,
2. The handling of lottery funds,
3. The deposit of lottery funds, or
4. The accounting for lottery funds.

"Director" means the Director of the State Lottery Department or his designee.

"Electronic funds transfer (EFT)" means a computerized transaction that withdraws or deposits money against a bank account.

"Erroneous ticket" means a lottery ticket which contains an unintentional manufacturing or printing defect. A player holding such a lottery ticket is entitled to a replacement ticket of equal value.

"Game" means any individual or particular type of lottery authorized by the board.

"Goods" means any material, equipment, supplies, printing, and automated data processing hardware and software.

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature.

"Household" means members of a group who live together as a family unit. It includes, but is not limited to, members who may be claimed as dependents for income tax purposes.

"Informalities" means defects or variations of a bid from the exact requirements of the Invitation for Bid which do not affect the price, quality, quantity, or delivery schedule for the goods or services being purchased.

"Inspection" means the close and critical examination of goods and services delivered to determine compliance with applicable contract requirements or specifications. It is the basis for acceptance or rejection.

"Instant game" means a game that uses preprinted tickets with a latex covering over a portion of the ticket. The covering is scratched off by the player to reveal immediately whether the player has won a prize or entry into a prize drawing. An instant game may include other types of non-on-line lottery games.

"Instant ticket" means an instant game ticket with a latex covering the game symbols located in the play area.

Each ticket has a unique validation number and ticket number.

"Invitation for Bids (IFB)" means a document used to solicit bids for buying goods or services. It contains or references the specifications or scope of work and all contractual terms and conditions.

"Kickbacks" means gifts, favors or payments to improperly influence procurement decisions.

"Legal entity" means an entity, other than a natural person, which has sufficient existence in legal contemplation that it can function legally, sue or be sued and make decisions through agents, as in the case of a corporation.

"Letter contract" means a written preliminary contractual instrument that authorizes a contractor to begin immediately to produce goods or perform services.

"License approval notice" means the form sent to the retailer by the lottery department notifying him that his application for a license has been approved and giving him instructions for obtaining the required surety bond and setting up his lottery bank account.

"Lottery" or *"state lottery"* means the lottery or lotteries established and operated in response to the provisions of the state lottery law.

"Lottery license" or *"retailer license"* means the official document issued by the department to a person authorizing him to sell or dispense lottery tickets, materials or lottery games at a specified location in accordance with all regulations, terms and conditions, and instructions and directives issued by the board and the director.

"Lottery retailer" or *"lottery sales retailer"* or *"retailer"* means a person licensed by the director to sell and dispense lottery tickets, materials or lottery games for instant lottery games or for both instant and on-line lottery games.

"Low-tier winner" or *"low-tier winning ticket"* means an instant game ticket which carries a cash prize of \$25 or less or a prize of additional unplayed instant tickets.

"Negotiation" means a bargaining process between two or more parties, each with its own viewpoints and objectives, seeking to reach a mutually satisfactory agreement on, or settlement of, a matter of common concern.

"Noncompetitive negotiations" means the process of arriving at an agreement through discussion and compromise when only one procurement source is practicably available or competitive procurement procedures are otherwise not applicable.

State Lottery Department

"Nonprofessional services" means personal services not defined as "professional services."

"Notice of Award" means a written notification to a vendor stating that the vendor has received a contract with the department.

"Notice of Intent to Award" means a written notice which is publicly displayed, prior to signing of a contract, that shows the selection of a vendor for a contract.

"Pack" means the same thing as "book."

"Performance bond" means a contract of guarantee executed in the full sum of the contract amount subsequent to award by a successful bidder to protect the department from loss due to his inability to complete the contract in accordance with its terms and conditions.

"Personal interest," "personal interest in a contract," or "personal interest in a transaction" means financial benefit or liability accruing to an officer or employee or to a member of his immediate family in any matter considered by the department.

"Person" means a natural person and may extend and be applied to bodies politic and corporate unless the context indicates otherwise.

"Personal services contract" means a contract in which the department has the right to direct and supervise the employee(s) of outside business concerns as if the person(s) performing the work were employees of the department or a contract for personal services from an independent contractor.

"Prize" means any cash or noncash award to holders of winning tickets.

"Procurement" means the procedures for obtaining goods or services. It includes all activities from the planning steps and preparation and processing of a request through the processing of a final invoice for payment.

"Professional services" means services within the practice of accounting, architecture, behavioral science, dentistry, insurance consulting, land surveying, landscape architecture, law, medicine, optometry, pharmacy, professional engineering, veterinary medicine and lottery on-line and instant ticket services.

"Protest" means a complaint about an administrative action or decision brought by a vendor to the department with the intention of receiving a remedial result.

"Purchase order" (signed by the procuring activity only) means the form which is used to procure goods or services when a bilateral contract document, signed by both parties, is unnecessary, particularly for small purchases. The form may be used for the following:

1. To award a contract resulting from an Invitation For Bids (IFB).

2. To establish a blanket purchase agreement.

3. As a delivery order to place orders under state contracts or other requirements-type contracts which were established for such purpose.

"Request for Information (RFI)" means a document used to get information from the general public or potential vendors on a good or service. The department may act upon the information received to enter into a contract without issuing an IFB or an RFP.

"Request for Proposals (RFP)" means a document used to solicit offers from vendors for buying goods or services. It permits negotiation with vendors (to include prices) as compared to competitive bidding used in the invitation for bids.

"Responsible vendor" means a person or firm who has the capability in all respects to fully satisfy the requirements of a contract as well as the business integrity and reliability to assure good faith performance. In determining a responsible vendor, a number of factors including but not limited to the following are considered. The vendor should:

1. Be a regular dealer or supplier of the goods or services offered;

2. Have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments;

3. Have a satisfactory record of performance; and

4. Have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the contract.

"Responsive vendor" means a person or firm who has submitted a bid, proposal, offer or information which conforms in all material respects to the solicitation.

"Sales," "gross sales," "annual sales" and similar terms mean total ticket sales including any discount allowed to a retailer for his compensation and, any discount or adjustment allowed for the retailer's payment of prizes of less than \$600 \$601 .

"Services" means any work performed by a vendor where the work is primarily labor or duties and is other than providing equipment, materials, supplies or printing.

"Sole source" means that only one source is practicably available to furnish a product or service.

"Solicitation" means an Invitation for Bids (IFB), a Request for Proposals (RFP), a Request for Information

(RFI) or any other document issued by the department or telephone calls by the department to obtain bids or proposals or information for the purpose of entering into a contract.

"Surety bond" means an insurance agreement in which a third party agrees to be liable to pay a specified amount of money to the department in the event the retailer fails to meet his obligations to the department.

"Ticket number" means the preprinted unique number or combination of letters and numbers which identifies that particular ticket as one within a particular game or drawing.

"Validation code" means the multiletter or multinumber code which appears among the play symbol under the latex covering on the play area of an instant ticket. The validation code, also known as retailer validation code, is used to verify prize winning tickets.

"Validation number" means the unique number or number and letter code printed on the front of an instant ticket sometimes under a latex covering bearing the words "Do not remove," "Void if removed" or similarly worded label, or the unique number assigned by the on-line central computer and printed on the front of each on-line ticket.

"Vendor" means one who can sell, supply or install goods or services for the department.

§ 1.2. Generally.

The purpose of the state lottery is to produce revenue consistent with the integrity of the Commonwealth and the general welfare of its people. The operations of the State Lottery Board and the State Lottery Department will be conducted efficiently, honestly and economically.

§ 1.3. State Lottery Board.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the operation and administration of the lottery and to take official action. It may also request information from the public. The board may have additional meetings as needed. (See Part III, Board Procedures.)

B. Inspection of department records.

At the board's request, the department shall produce for review and inspection the department's books, records, files and other information and documents.

§ 1.4. Director.

The director shall administer the operations of the State Lottery Department following the authority of the Code of

Virginia and these regulations.

§ 1.5. Ineligible players of the lottery.

Board members, officers or employees of the lottery, or any 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, or any person under the age of 18 years may not purchase tickets or receive prizes of the lottery.

§ 1.6. Advertising.

A. Generally.

Advertising may include but is not limited to print advertisements, radio and television advertisements, billboards, point of purchase and point of sale display materials. The department will not use funds for advertising which is for the primary purpose of inducing people to play the lottery.

B. Lottery retailer advertising.

Any lottery retailer may use his own advertising materials if the department has approved its use in writing before it is shown to the public. The department shall develop written guidelines for giving such approval.

C. Information provided by department.

The department may provide information displays or other material to the retailer. The retailer shall position the material so it can be seen easily by the general public.

D. Special advertising.

The department may produce special posters, brochures or flyers describing various aspects of the lottery and provide these to lottery retailers to post or distribute.

E. Winner advertising.

The department may use interviews, pictures or statements from people who have won lottery prizes to show that prizes are won and awarded; however, in no case shall the use of interviews, pictures or statements be for the primary purpose of inducing persons to participate in the lottery.

F. Other advertising.

The department may use other informational and advertising items which may include any materials deemed appropriate advertising, informational, and educational media which are not for the primary purpose of inducing people to play the lottery.

State Lottery Department

§ 1.7. Operations of the department.

A. Generally.

The department shall be operated in a manner which considers the needs of the Commonwealth, lottery retailers, the public, the convenience of the ticket purchasers, and winners of lottery prizes.

B. Employment.

The department shall hire people without regard to race, sex, color, national origin, religion, age, handicap, or political affiliation.

1. All employees shall be recruited and selected in a manner consistent with the policies which apply to classified positions.

2. Sales and marketing employees are exempt from the Virginia Personnel Act.

C. Internal operations.

The department will operate under the internal administrative, accounting and financial controls specifically developed for the State Lottery Department under the applicable policies required by the Departments of Accounts, Planning and Budget, Treasury, State Internal Auditor and by the Auditor of Public Accounts.

1. Internal operations include, but are not limited to, ticket controls, money receipts and payouts, payroll and leave, budgeting, accounting, revenue forecasting, purchasing and leasing, petty cash, bank account reconciliation and fiscal report preparation.

2. Internal operations apply to automated and manual systems.

D. External operations.

The department will conduct business with the public, lottery retailers, vendors and others with integrity and honesty.

E. Apportionment of lottery revenue.

Moneys received from lottery sales will be divided approximately as follows:

50%	Prizes
45%	State Lottery Fund Account (On and after July 1, 1989, administrative costs of the lottery shall not exceed 10% of total annual estimated gross revenues to be generated from lottery sales.)
5.0%	Lottery retailer discounts

F. State Lottery Fund Account.

The State Lottery Fund will be established as an account in the Commonwealth's accounting system. The account will be established following usual procedures and will be under regulations and controls as other state accounts. Funding will be from gross sales.

1. Within the State Lottery Fund, there shall be established a "Special Reserve Fund" which shall contain the following subaccounts:

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. On June 30, 1989, \$1 million dollars shall be transferred into the Operations Special Reserve Fund. Thereafter, 1.7% of gross monthly revenues from sales shall be transferred to the Operations Special Reserve Fund until the Operations Special Reserve equals not less than 1.7% of estimated annual gross lottery revenues from sales.

b. a "Lottery Prize Special Reserve Fund" subaccount will be created in the State Lottery Fund account and which will be used when lottery prize pay-outs exceed department cash on hand. Immediately prior to initial lottery sales, \$500,000 shall be transferred to the Lottery Prize Special Reserve Fund from start-up treasury loan funds in the State Lottery Fund. Thereafter, 5.0% of monthly gross sales shall be transferred to the Lottery Prize Special Reserve Fund until the amount of the Lottery Prize Special Reserve Fund reaches 5.0% of the gross lottery revenue from the previous year's annual sales or \$5 million dollars, whichever is less.

(1) a. The calculation of the 5.0% will be made for each instant or on-line game.

(2) b. The funding of this subaccount may be adjusted at any time by the board.

2. Reserved.

3. Other subaccounts may be established in the State Lottery Fund account as needed at the direction of the board upon the request of the director with concurrence of the State Comptroller and the Auditor of Public Accounts.

4. In accordance with the Appropriation Acts of Assembly, the State Comptroller provides an interest-free line of credit not to exceed \$25,000,000 to the department. This line of credit is in lieu of the Operations Special Reserve Fund required to be established by the Comptroller in accordance with § 58.1-4022 B of the Code of Virginia. Draw-downs against this line of credit are available immediately upon request of the department.

G. Administrative and operations costs.

Lottery expenses include, but are not limited to, ticket costs, vendor fees, consultant fees, advertising costs, salaries, rents, utilities, and telecommunications costs.

H. Audit of lottery revenues.

The cost of any audit shall be paid from the State Lottery Fund.

1. The Auditor of Public Accounts or his designee shall conduct a monthly post-audit of all accounts and transactions of the department. When, in the opinion of the Auditor of Public Accounts, monthly post-audits are no longer necessary to ensure the integrity of the lottery, the Auditor of Public Accounts shall notify the board in writing of his opinion and fix a schedule of less frequent post-audits. The schedule of post-audits may, in turn, be further adjusted by the same procedure to require either more or less frequent audits in the future.

2. Annually, the Auditor of Public Accounts shall conduct a fiscal and compliance audit of the department's accounts and transactions.

I. Other matters.

The board and director may address other matters not mentioned in these regulations which are needed or desired for the efficient and economical operation and administration of the lottery.

PART II. BANKS AND DEPOSITORIES.

§ 2.1. Approval of banks.

The State Treasurer, with the concurrence of the director, and in accordance with applicable Treasury directives, shall approve a bank or banks to provide services to the department.

A. A bank or banks shall serve as agents for electronic funds transfers between the department and lottery retailers as required by these regulations and by contracts between the department, the State Treasury, retailers, and the banks.

B. In selecting the bank or banks to provide these services, the State Treasurer and the director shall consider quality of services offered, the ability of the banks to guarantee the safekeeping of department accounts and related materials, the cost of services provided and the sophistication of bank systems and products.

C. There shall be no limit on the number of banks approved under this section.

§ 2.2. Approval of depositories.

The director may contract with depositories to distribute lottery tickets and materials from the department's central warehouse to the department's regional offices and from the department to retailers, and to collect funds, lottery tickets and lottery materials from retailers. *Additionally, the director may contract for other financial services to process subscriptions and other deposit applications.*

§ 2.3. Compensation.

A. The contract between each bank or depository and the department shall fix the compensation for services rendered to the department.

B. Compensation of banks will be in the form of compensating balances, direct fees, or some combination of these methods, at the discretion of the department.

C. Depositories will be compensated based on vouchers for services rendered.

§ 2.4. Depository for transfer of tickets.

A. The department may designate one or more depositories to transfer lottery tickets, lottery materials, and related documents between the department and lottery retailers.

B. Reserved.

C. In determining whether to use depositories for transferring tickets, materials and documents between the department and lottery retailers, the department may consider any relevant factor including, but not limited to, cost, security, timeliness of delivery, marketing concerns, sales objectives and privatization of governmental services.

PART III. LOTTERY BOARD PROCEDURES.

Article 1.

Board Procedures for the Conduct of Business.

§ 3.1. Officers of the board.

A. Chairman and vice-chairman.

The board shall have a chairman and a vice-chairman who shall be elected by the board members.

B. Term of officers.

The board will elect its officers annually at its January meeting to serve for the calendar year.

§ 3.2. Board meetings.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the

State Lottery Department

operation and administration of the lottery and to take official action. The board may also request information from the public.

B. Special meetings.

The board may hold additional meetings as may be necessary to carry out its work. The chairman may call a special meeting at any time and shall call a special meeting when requested to do so by at least two board members or at the request of the director. Notice of special meetings shall be given to all board members at least two calendar days before the meeting. Written notice is preferred but telephonic notice may be accepted by any board member in lieu of written notice.

C. Quorum.

Three or more board members shall constitute a quorum for the conduct of business at both regular and special meetings of the board. A simple majority vote at a regular meeting is sufficient to take official action but official action at a special meeting requires three affirmative votes. The chairman is eligible to vote at all meetings.

D. Conflict of Interest.

If any board member determines that he has a conflict of interest or potential conflict relating to a matter to be considered, that board member shall not take part in such deliberations.

§ 3.3. Committees of the board.

A. Ad hoc committees.

The board chairman may at his discretion appoint such ad hoc committees as he deems necessary to assist the board in its work.

B. Purpose of committees.

An ad hoc committee may be established to advise the board on a matter referred to it or to act on a matter on behalf of the board if so designated.

1. A committee established to act on a matter on behalf of the board shall be composed entirely of board members and shall have at least three members.

a. Three members shall constitute a quorum.

b. Official action of such a committee shall require not fewer than three affirmative votes with each member including the chairman having one vote.

c. If a committee's vote results in an affirmative vote of only two members, the committee shall present a recommendation to the board and the

board shall then take action on the matter.

2. A committee established to act in an advisory capacity to the board may include members of the general public. At least two members shall be board members and the chairman shall be a board member appointed by the board chairman.

a. A majority of the members appointed to an advisory committee constitutes a quorum.

b. Recommendations of an advisory committee may be adopted by a majority vote of those present and voting. The chairman of an advisory committee shall be eligible to vote on all recommendations.

c. All actions of advisory committees shall be presented to the board in the form of recommendations.

Article 2.

Procedures for Appeals on Licensing Actions.

§ 3.4. Hearings on denial, suspension or revocation of a retailer's license.

A. Generally.

An instant lottery retailer applicant or an instant lottery retailer surveyed for an on-line license who is denied a license or a retailer whose license is denied for renewal or is suspended or revoked may appeal the licensing decision and request a hearing on the licensing action.

B. Hearings to conform to Administrative Process Act provisions.

The conduct of license appeal hearings will conform to the provisions of Article 3 (§ 9-6.14:11 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia relating to Case Decisions.

1. An initial hearing consisting of an informal fact finding process will be conducted by the director in private to attempt to resolve the issue to the satisfaction of the parties involved.

2. If an appeal is not resolved through the informal fact finding process, a formal hearing will be conducted by the board in public. The board will then issue its decision on the case.

3. Upon receipt of the board's decision on the case, the appellant may elect to pursue court action in accordance with the provisions of the Administrative Process Act (APA) relating to Court Review.

§ 3.5. Procedure for appealing a licensing decision.

A. Form for appeal.

Upon receiving a notice that (i) an application for an *instant game license*, or the *survey of an instant retailer for licensing as an on-line retailer*, or the renewal of a license, has been denied by the director, or (ii) the director intends to or has already taken action to suspend or revoke a current license, the applicant or licensed retailer may appeal in writing for a hearing on the licensing action. The appeal shall be submitted within 30 days of receipt of the notice of the licensing action.

1. Receipt is presumed to have taken place not later than the third day following mailing of the notice to the last known address of the applicant or licensed retailer. If the third day falls upon a day on which mail is not delivered by the United States Postal Service, the notice is presumed to have been received on the next business day. The "last known address" means the address shown on the application of an applicant or licensed retailer.

2. The appeal will be timely if it bears a United States Postal Service postmark showing mailing on or before the 30th day prescribed in § 3.5 A.

B. Where to file appeal.

An appeal to be mailed shall be addressed to:

State Lottery Director
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

An appeal to be hand delivered shall be delivered to:

State Lottery Director
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

1. An appeal delivered by hand will be timely only if received at the headquarters of the State Lottery Department within the time allowed by § 3.5 A.

2. Delivery to State Lottery Department regional offices or to lottery sales personnel by hand or by mail is not effective.

3. The appellant assumes full responsibility for the method chosen to file the notice of appeal.

C. Content of appeal.

The appeal shall state:

1. The decision of the director which is being appealed;

2. The basis for the appeal;

3. The retailer's license number or the Retailer License Application Control Number; and

4. Any additional information the appellant may wish to include concerning the appeal.

§ 3.6. Procedures for conducting informal fact finding licensing hearings.

A. Director to conduct informal hearing.

The director will conduct an informal fact finding hearing with the appellant for the purpose of resolving the licensing action at issue.

B. Hearing date and notice.

The director will hold the hearing as soon as possible but not later than 30 days after the appeal is filed. A notice setting out the hearing date, time and location will be sent to the appellant, *by certified mail, return receipt requested*, at least 10 days before the day set for the hearing.

C. Place of hearings.

All informal hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

D. Conduct of hearings.

The hearings shall be informal. They shall not be open to the public.

1. The hearings will be electronically recorded. The recordings will be kept until any time limits for any subsequent appeals have expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.

3. The appellant may appear in person or may be represented by counsel to present his facts, argument or proof in the matter to be heard and may request other parties to appear to present testimony.

4. The department will present its facts in the case and may request other parties to appear to present testimony.

5. Questions may be asked by any of the parties at any time during the presentation of information subject to the director's prerogative to regulate the order of presentation in a manner which serves the interest of fairly developing the factual background of the appeal.

6. The director may exclude information at any time

State Lottery Department

which he believes is not germane or which repeats information already received.

7. The director shall declare the hearing completed when both parties have finished presenting their information.

E. Director to issue written decision.

Normally, the director shall issue his decision within 15 days after the conclusion of an informal hearing. However, for a hearing with a court reporter, the director shall issue his decision within 15 days after receipt of the transcript of the hearing. The decision will be in the form of a letter to the appellant summarizing the case and setting out his decision on the matter. The decision will be sent to the appellant by certified mail, return receipt requested.

F. Appeal to board for hearing.

After receiving the director's decision on the informal hearing, the appellant may elect to appeal to the board for a formal hearing on the licensing action. The appeal shall be:

1. Submitted in writing within 15 days of receipt of the director's decision on the informal hearing;

2. Mailed to:

Chairman, State Lottery Board
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

OR

Hand delivered to:

Chairman, State Lottery Board
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

3. The same procedures in § 3.5 B for filing the original notice of appeal govern the filing of the notice of appeal of the director's decision to the board.

4. The appeal shall state:

a. The decision of the director which is being appealed;

b. The basis for the appeal;

c. The retailer's license number or the Retailer License Application Control Number; and

d. Any additional information the appellant may wish to include concerning the appeal.

§ 3.7. Procedures for conducting formal licensing hearings.

A. Board to conduct formal hearing.

The board will conduct a formal hearing within 45 days of receipt of an appeal on a licensing action.

B. Number of board members hearing appeal.

Three or more members of the board are sufficient to hear an appeal. If the chairman of the board is not present, the members present shall choose one from among them to preside over the hearing.

C. Board chairman may designate an ad hoc committee to hear appeals.

The board chairman at his discretion may designate an ad hoc committee of the board to hear licensing appeals and act on its behalf. Such committee shall have at least three members who will hear the appeal on behalf of the board. If the chairman of the board is not present, the members of the ad hoc committee shall choose one from among them to preside over the hearing.

D. Conflict of interest.

If any board member determines that he has a conflict of interest or potential conflict, that board member shall not take part in the hearing. In the event of such a disqualification on a subcommittee, the board chairman shall appoint an ad hoc substitute for the hearing.

E. Notice, time and place of hearing.

A notice setting the hearing date, time and location will be sent to the appellant *by certified mail, return receipt requested*, at least 10 days before the day set for the hearing. All hearings will be held in Richmond, Virginia, unless the board decides otherwise.

F. Conduct of hearings.

The hearings shall be conducted in accordance with the provisions of the Virginia Administrative Process Act (APA). The hearings shall be open to the public.

1. The hearings will be electronically recorded and the recordings will be kept until any time limits for any subsequent court appeals have expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.

3. The provisions of §§ 9-6.14:12 through 9-1.14:14 of

the APA shall apply with respect to the rights and responsibilities of the appellant and of the department.

G. Board's decision.

Normally, the board will issue its written decision within 21 days of the conclusion of the hearing. However, for a hearing with a court reporter, the board will issue its written decision within 21 days of receipt of the transcript of the hearing.

1. A copy of the board's written decision will be sent to the appellant by certified mail, return receipt requested. The original written decision shall be retained in the department and become a part of the case file.
2. The written decision will contain:
 - a. A statement of the facts to be called "Findings of Facts";
 - b. A statement of conclusions to be called "Conclusions" and to include as much detail as the board feels is necessary to set out the reasons and basis for its decision; and
 - c. A statement, to be called "Decision and Order," which sets out the board's decision and order in the case.

H. Court review.

After receiving the board's decision on the case, the appellant may elect to pursue court review as provided for in the Administrative Process Act.

Article 3. Procedures for Promulgating Regulations.

§ 3.8. Board procedures for promulgating regulations.

Generally.

Except for temporary regulations issued under the exemption provided by the Virginia Lottery Law, the board shall promulgate regulations, in consultation with the director, in accordance with the provisions of the Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

1. The board will provide for a public participation process to be set out in "Guidelines for Public Participation in Regulation Development and Promulgation."
2. Public hearings may be held if the subject matter of a proposed regulation and the level of interest generated through the public participation process warrant them.

PART IV. PROCUREMENT.

§ 4.1. Procurement in general.

A. To promote the free enterprise system in Virginia, the State Lottery Department will purchase goods or services by using competitive methods whenever possible. In its operations and to ensure efficiency, effectiveness and economy, the department will consider using goods and services offered by private enterprise.

B. Reserved.

C. The department may purchase goods or services which are under state term contracts established by the Department of General Services, Division of Purchases and Supply, when in the best interest of the State Lottery Department.

D. When time permits, the department may publish notice of procurement actions in "Virginia Business Opportunities," published by the Department of General Services, Division of Purchases and Supply.

§ 4.2. Exemption and restrictions.

A. Purchase of goods and services of \$1,000 or less shall be exempted from competitive procurement procedures. Specific purchases of goods and services of more than \$1,000 may be exempted from the competitive procurement procedures when the director determines in writing that the best interests of the department will be served. An exemption may also be declared by the director when an immediate or emergency need exists for goods or services.

B. All purchases shall be made in compliance with the standards of ethics in § 4.23 of these regulations.

C. The department shall not take any procurement action which discriminates on the basis of the race, religion, color, sex, or national origin of any vendor.

D. It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in state procurement activities. Towards that end, the State Lottery Department encourages these firms to compete and encourages nonminority firms to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities.

E. Whenever a purchase is exempt from competitive procurement procedures under these regulations, the contracting officer is obliged to make a determination that the cost of the goods or services is reasonable under the circumstances. In making this reasonableness determination, the contracting officer may use historical

State Lottery Department

pricing data, and personal knowledge of product and marketplace conditions.

§ 4.3. Requests for information.

A. A Request for Information (RFI) may be used by the department to determine available sources for goods or services.

B. The RFI shall set out a description of the good or service needed, its purpose and the date by which the department needs the information.

C. The RFI may be mailed to interested parties or published by summary notice in general circulation newspapers or other publications.

1. Additional RFI's may be published for a good or a service, as determined on a case-by-case basis.

2. To help ensure competition, the department will ask for information from as many private sector vendors as it determines are necessary.

D. All costs of developing and presenting the information furnished will be paid for by the vendor.

E. The department shall have unlimited use of the information furnished in the reply to an RFI. The department accepts no responsibility for protection of the information furnished unless the vendor requests that proprietary information be protected in the manner prescribed by § 11-52 D of the Code of Virginia. The department shall have no further obligation to any vendor who furnishes information.

F. The department may, at its option, use the responses to the RFI as a basis for entering directly into negotiation with one or more vendors for the purpose of entering into a contract.

§ 4.4. Request for Proposals.

A. A written Request for Proposal (RFP) may be used by the department to describe in general terms the goods or services to be purchased. An RFP may result in a negotiated contract.

B. The RFP will set forth the due date and list the requirements to be used by the vendors in writing the proposal. It may contain other terms and conditions and essential vendor characteristics.

C. The department shall publish or post a public notice of the RFP.

1. All solicitations shall be posted for not less than five working days on a bulletin board at the State Lottery Department. The notice may also be: mailed to vendors who responded to a Request for Information; published in general circulation

newspapers in areas where the contract will be performed; if time permits and at the option of the department, reported to the "Virginia Business Opportunities" at the Department of General Services, Division of Purchases and Supply; and given to any other interested vendor.

2. The department shall decide the method of giving public notice on a case-by-case basis. The decision will consider the means which will best serve the department's procurement needs and competition in the private sector.

D. Public openings of the RFP's are not required. If the RFP's are opened in public, only the names of the vendors who submitted proposals will be available to the public.

E. The department will evaluate each vendor proposal.

1. The evaluation will consider the vendor's response to the factors in the RFP.

2. The evaluation will consider whether the vendor is qualified, responsive and responsible for the contract.

F. The department may conduct contract negotiations with one or more qualified vendors. The department may also determine, in its sole discretion, that only one vendor is fully qualified or that one vendor is clearly more highly qualified than the others and negotiate and award a contract to that vendor.

G. Award of RFP Contract.

1. The vendor selected shall be qualified and best suited on the basis of the proposal and contract negotiations.

2. Price will be considered but is not necessarily the determining factor.

3. The award document shall be a contract. It shall include requirements, terms and conditions of the RFP and the final contract terms agreed upon.

§ 4.5. Invitations for Bids.

A. A written Invitation for Bid (IFB) may be used by the department to describe in detail the specifications, contractual terms and conditions which apply to a purchase of goods or services.

B. The IFB will list special qualifications needed by a vendor. It will describe the contract requirements and set the due date for bid responses.

1. The IFB may contain inspection, testing, quality, and other terms essential to the contract.

2. It may contain other optional data.

C. Public notice of the IFB shall be given.

1. The IFB may be mailed to potential bidders and to the Department of Minority Business Enterprise. In addition, it may be published in summary form stating where a full copy may be obtained in general circulation newspapers in areas where the contract will be performed. The IFB shall be posted for not less than five working days at the department's central office in a public area used to post purchase notices, and shall be given to any other interested vendor.

2. The publication of the IFB notice will consider the means which will best serve the department's procurement needs and competition in the private sector.

D. Receiving IFB's.

1. Bids shall be received until the date and time set forth in the IFB.

2. Late bids shall not be considered.

E. Opening IFB's.

The IFB may provide that bids shall be publicly opened. If bids are publicly opened, the following items shall be read aloud:

1. Name of bidder;

2. Unit or lot price, as applicable; and

3. Terms: discount terms offered, if applicable, and brand name and model number, if requested by attendees.

F. Evaluating IFB's.

The department shall evaluate each vendor bid.

1. The evaluation shall consider whether the bid responds to the factors in the IFB.

2. All bids which respond completely to the IFB shall be evaluated to determine which bid presents the lowest dollar price.

3. The vendor presenting the lowest price bid shall be evaluated to determine whether he is a responsible bidder.

G. Award of IFB contract.

The department shall award the contract to the lowest responsive and responsible bidder.

§ 4.6. Sole source procurements.

A. A sole source procurement shall be made when there is only one source practicably available for goods or services. Because there is only one source practicably available, a sole source contract may be made without the use of an RFI, RFP, IFB or other competitive procurement process.

B. For a sole source procurement of more than \$1,000 but not more than \$15,000, the department will state in writing for the file that only one source was determined to be practicably available, the vendor selected, the goods or services procured, the date of the procurement and factors leading to the determination of sole source.

C. For a sole source procurement greater than \$15,000, on the day the director awards the procurement, he will post for not less than five working days a written statement in a public area used to post purchase notices at the department's central office. The director will state in writing for the file that only one source was determined to be practicably available, the vendor selected, the goods and services procured for, the factors leading to the determination of sole source, and the date of the procurement.

§ 4.7. Emergency purchase procurement.

A. An emergency purchase procurement shall be made when an unexpected, sudden, serious, or urgent situation demands immediate action. An emergency purchase may be used only to purchase goods or services necessary to meet the emergency; subsequent purchases must be obtained through normal purchasing procedures. Competitive procedures are not required to make an emergency purchase procurement.

B. For an emergency purchase of more than \$1,000 but not more than \$15,000, the department will state in writing the nature of the emergency, the vendor selected, the goods or services procured, the date of the procurement and factors leading to a determination of the emergency purchase.

C. For an emergency purchase greater than \$15,000, on the day the director awards the procurement, a written statement shall be posted for not less than five working days in a public area used to post purchase notices at the department's central office. The director will state in writing for the file the nature of the emergency, the vendor selected, the goods and services procured, the date of the procurement and factors leading to a determination of the emergency purchase.

§ 4.8. Procedures for small purchases.

A. Generally.

Small purchases are those where the estimated one-time or annual contract for cost of goods or services does not exceed \$15,000.

State Lottery Department

B. Price quotations.

Price quotations may be obtained through oral quotations in person or by telephone without the use of an RFI, RFP or IFB.

C. Written confirmation.

If the contract is \$2,000 or less, no written confirmation is needed. Written price confirmation from the vendor is needed for small purchases over \$2,000.

D. Except in the case of an emergency under § 4.7 or for purchases of \$1,000 or less, the department will attempt to obtain at least three quotations.

E. In letting small purchase contracts, the department may consider factors in addition to price.

§ 4.9. Procurement of nonprofessional services.

A. Generally, the procurement of nonprofessional services shall be in accordance with competitive procurement principles, unless otherwise exempted.

B. Nonprofessional services may be procured through noncompetitive negotiations under the following conditions:

1. Where the estimated one-time cost is less than \$5,000. When there is more than one qualified source for a specific type of nonprofessional services, every effort shall be made to utilize all such qualified sources on a rotating basis when opportunities and circumstances allow.

2. When a written determination is made and approved by the director that there is only one adequately qualified expert or source practicably available for the services to be procured.

§ 4.10. Procurement of professional services.

A. Generally, the procurement of professional services shall be in accordance with competitive principles but is always exempt from competitive bidding requirements. Selection of professional services should be made on the basis of qualifications, resources, experience and the cost involved.

B. Professional services may be procured through noncompetitive negotiations under the following conditions:

1. Where the estimated one-time cost is less than \$5,000. When there is more than one qualified source for a specific type of professional services, every effort shall be made to utilize all such qualified sources on a rotating basis when opportunities and circumstances allow.

2. When a written determination is made and approved by the director that there is only one

adequately qualified professional, expert or source practicably available for the services to be procured. Such services may include those of uniquely qualified lottery industry professionals, experts or sources.

C. Professional services procurement by competitive negotiation shall be in accordance with § 4.11.

§ 4.11. Guidelines for competitive procurement of professional services.

A. In competitive negotiations for professional services, the department shall engage in one or more individual discussions with each of two or more offerors deemed fully qualified, responsible and suitable, with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Such discussions may also include nonbinding estimates of total project costs and methods to be utilized in arriving at a price for the services.

B. At the request of an offeror, properly marked, proprietary information shall not be disclosed to the public or to competitors.

C. At the conclusion of the discussions, on the basis of predetermined evaluation factors and information developed in the selection process, the department shall select, in order of preference, two or more offerors whose professional qualifications and proposed services are deemed to meet best the department's procurement needs.

D. Negotiations are then conducted with the first ranked offeror. If a satisfactory and advantageous contract can be negotiated at a fair and reasonable price, the award is made to that offeror. Otherwise, the negotiations with the first ranked offeror are terminated formally and are conducted with the offeror ranked second and so on until such a contract can be negotiated at a fair and reasonable price.

E. If the department determines in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the other offerors under consideration, a purchase may be negotiated and awarded to that offeror.

F. The department must ensure that all points negotiated are properly documented and become a part of the procurement file.

G. The department shall establish a limit for each procurement on the number of times a contract or open purchase term may be extended.

H. A contract for professional services may be made subject to the notification and public posting requirement of the formal bid procedures.

§ 4.12. Time to submit and accept RFI's, RFP's or IFB's.

A. All vendors shall submit requests for information, proposals or bids in time to reach the department before the set time and due date.

1. All vendors shall take responsibility for their chosen method of delivery to the department.

2. The department will date stamp the vendors' answers to RFI's, RFP's and IFB's when received. The department's stamped date shall be considered the official date received.

3. Any information which the department did not request or is received after the due date may be disregarded or returned to the vendor.

4. All vendors who received solicitations will be notified of any changes in the process times and dates or if a solicitation is cancelled.

B. Any proposal or bid quotation submitted by a vendor to the department shall remain valid for at least 45 days after the submission due date and will remain in effect thereafter unless the bidder retracts his bid in writing at the end of that period. The vendor must agree to accept a contract if offered within the 45-day time period. The department may require a longer or shorter period for specific goods or services.

§ 4.13. Questions on bids.

Questions on contents of other bidders' bids or offerors' proposals will not be answered until after decisions are made.

§ 4.14. How to modify or withdraw proposals or bids.

A. A vendor may modify or withdraw a proposal or bid before the due time and date set out in the request without any formalities except that the modification or withdrawal shall be in writing.

B. A request to modify or withdraw a bid or proposal after the due date may be given special review by the director.

1. A vendor shall put in writing and deliver to the department a statement which details how the proposal would be modified or why it should be permitted to be withdrawn.

2. A proposal or bid may be withdrawn after opening if the department receives prompt notice and sufficient information to show that an honest error will cause undue financial loss.

C. A vendor may not modify a proposal or bid after the purchase award is made.

§ 4.15. Rejection of bids.

The department reserves the right to reject any or all bids. The decision may be made that a vendor is ineligible, disqualified, not responsive or responsible, or involved in fraud, or that the best interest of the Commonwealth will not be served. Vendors so identified shall be notified in writing by the department. New bids may be requested at a time which meets the needs of the department.

§ 4.16. Testing of product.

Various items or services may require testing either before or after the final award of a contract. The vendor shall guarantee price and quality before and after testing.

§ 4.17. Proposal bid or performance security.

A. The department may require performance security on proposals or bids. The security is to protect the interests of the Commonwealth.

1. When required, security must be in the form of a certified check, certificate of deposit or letter of credit made payable to the State Lottery Department, or on a form issued by a surety company authorized to do business in Virginia.

2. When required, security will not be waived, except upon action by the director.

B. Security provided by vendors to whom a contract is awarded will be kept by the department until all provisions of the contract have been completed.

§ 4.18. Assignment of contracts.

A vendor may not assign any contract to another party without permission of the director.

§ 4.19. Strikes, lockouts or acts of God.

Whenever a vendor's place of business, mode of delivery or source of supply has been disrupted by a strike, lockout or act of God, the vendor will promptly advise the department by telephone and in writing. The department may cancel all orders on file with the vendor and place an order with another vendor.

§ 4.20. Remedies for the department on goods and services which do not meet the contract.

A. In any case where the vendor fails to deliver, or has delivered goods or services which do not meet the contract standards, the department will send a written "Notice to Cure" to the vendor for correction of the problem.

B. If the vendor does not respond adequately to the "Notice to Cure," the department may cancel the contract

State Lottery Department

and buy goods or services from another vendor. Any increase between the contract price and market price will be paid by the vendor who failed to follow the contract. This remedy shall be in addition to any other remedy provided by law.

§ 4.21. Administration of contracts.

A. Generally.

The department will follow procedures in administering its contracts that will ensure that the vendor is complying with all terms and conditions of the contract.

B. Records.

The department shall keep all records relating to a contract for three years after the end of a contract.

1. The records shall include the requirements, a list of the vendors bidding, methods of evaluation, a signed copy of the contract, comments on vendor performance, and any other information necessary.

2. Records shall be open to the public except for proprietary information for which protection has been properly requested.

C. Change orders.

1. Contracts may need to be adjusted for minor changes. The department may change the contract to correct errors, to add or delete small quantities of goods, or to make other minor changes.

2. The department shall send the changes in writing to the vendor. Vendors who deviate from the contract without receiving the written changes from the department do so at their own risk.

3. Modifications which increase the original contract price by an amount less than \$5,000 may be made by letters issued by the State Lottery Department and accepted by signature of the contractor. Such letter shall become part of the official contract. In no event shall the cumulative amount of the contract increased by all such letters exceed \$10,000.

4. All contract changes of \$5,000 or more require a formal written amendment to the contract.

D. Cancellation orders.

The department shall cancel orders in writing. Contracts may be cancelled if the vendor fails to fulfill his obligations as provided in § 4.20 A and B.

E. Overshipments and overruns.

The department may refuse to accept goods which exceed the number ordered. The goods may be returned

to the vendor at the vendor's expense.

F. Inspection, acceptance and rejection of goods or services.

1. The department shall be responsible for inspecting, accepting or rejecting goods or services under contract.

2. In rejecting goods or services, the department will notify the vendor as soon as possible.

3. The department will state the reasons for rejecting the goods or services and request prompt replacement.

4. Replacement goods or services shall be made available at a date acceptable to the department.

G. Complaints.

The department will report complaints in writing to the vendor as they occur. The reports will be part of the department's purchase records.

H. Invoice processing.

To maintain good vendor relations and a competitive environment, the department will process invoices promptly. The department shall follow the requirements for prompt payment found in Title 11, Chapter 7, Article 2.1 of the Code of Virginia. The department will use rules and regulations issued by the Department of Accounts to process invoices.

I. Default actions.

Before the department finds a vendor in default of a contract, it will consider the specific reasons the vendor failed and the time needed to get goods or services from other vendors.

J. Termination for convenience of the department.

1. A purchase order or contract may be terminated for the convenience of the department by delivering to the vendor a notice of termination specifying the extent to which performance under the purchase order or contract is terminated, and the date of termination. After receipt of a notice of termination, the contractor must stop all work or deliveries under the purchase order or contract on the date and to the extent specified.

2. If the purchase order or contract is for commercial items sold in substantial quantities to the general public and no specific identifiable inventories were maintained exclusively for the department's use, no claims will be accepted by the department. Payment will be made for items shipped prior to receipt of the termination notice.

3. If the purchase order or contract is for items being produced exclusively for the use of the department, and raw materials or services must be secured by the vendor from other sources, the vendor shall order no additional materials or services except as may be necessary for completion of any portion of the work which was not terminated. The department may direct the delivery of the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work, or direct the vendor to sell the same, subject to the department's approval as to price. The vendor may, with the approval of the department retain the same, and apply a credit to the claim. The vendor must complete performance on any part of the purchase order or contract which was not terminated.

4. Within 120 days after receipt of the notice of termination, or such longer period as the department for good cause may allow, the vendor must submit any termination claims. This claim will be in a form and with certifications prescribed by the purchasing office that issued the purchase order. The claim will be reviewed and forwarded with appropriate recommendations to the requisitioning agency or the appropriate assistant attorney general, or both, for disposition in accordance with § 2.1-127 of the Code of Virginia.

§ 4.22. Vendor background.

A. A vendor shall allow the department to check his background. The background check may extend to any on-line or instant ticket vendor employee working directly on a contract with the department, any parent or subsidiary corporation of the vendor and shareholders of 5.0% or more of the vendor, parent or subsidiary corporation. The check may include officers and directors of the vendor or parent or subsidiary corporation.

B. Before contracting with the department, the department may require a vendor to sign an agreement with the department to allow a criminal investigation of the entities and persons named in § 4.22 A.

C. The vendor shall allow the department to audit, inspect, examine or photocopy the vendor's records related to the State Lottery Department business during normal business hours.

§ 4.23. Ethics in contracting.

A. Generally.

Except for more stringent requirements set forth in this section, the department will follow the ethics in public contracting requirements of the Virginia Public Procurement Act, Title 11, Chapter 7, Article 4 of the Code of Virginia.

B. Employee role with vendors prohibited.

A department employee who has responsibility to buy from vendors may not:

1. Be employed by a vendor at the same time;
2. Have a business associate or a member of his household be an officer, director, trustee, partner or hold a similar position with a vendor and or play a role in soliciting contracts for vendors;
3. Himself or his business associate or a member of his household own or control an interest in a vendor of at least 5.0%;
4. Himself or his business associate or a member of his household have a *financial personal* interest in a contract procured for the department; or
5. Himself or his business associate or a member of his household negotiate or have an arrangement about prospective employment with a vendor.

C. Offers, requests, or acceptance of gifts.

No vendor or employee of the department involved in purchasing will offer, request or accept, at the present or in the future, any payment, loan, advance, deposit of money, services or anything of more than nominal value for which nothing of comparable value is exchanged.

D. Kickbacks.

No vendor will demand or receive from any of his suppliers or subcontractors, as an incentive for a contract, any kickback.

E. Vendors to give certified statement on ethics in contracting.

Each vendor shall give the department a certified statement that the proposal, bid, or contract or any claim is not the result of, or affected by, collusion with another vendor. The statement will also state that no act of fraud has been involved in negotiating, signing and meeting the contract.

F. Department employees to give notice of subsequent employment with vendors.

Any department employee or former employee who dealt in an official capacity with vendors on procurement actions who intends to accept employment from any such vendor within one year of terminating his employment with the department shall give notice to the director of his intention prior to his first day of employment with the vendor.

G. Any contract which violates the contracting ethics in the Code of Virginia and these regulations may be voided

State Lottery Department

and rescinded immediately by the department.

§ 4.24. Preference for Virginia products and firms.

A. In the case of a tie bid [or proposal] , preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms or corporations, if such a choice is available; otherwise the tie shall be decided by lot.

B. Whenever any bidder [or offeror] is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder [or offeror] who is a resident of Virginia.

PART V. PROCUREMENT APPEALS AND DISPUTES.

§ 5.1. Generally.

The State Lottery Department is not subject to the Virginia Public Procurement Act or its procedures. In lieu thereof, this regulation applies to all vendors. In the event of a protest on a procurement action, the vendor shall follow the remedies available in this regulation. The vendor assumes whatever risks are involved in the selected method of delivery to the director. The director will conduct a hearing on each appeal or he shall designate a hearing officer to preside over the hearing.

§ 5.2. Appeals, protests, time frames and remedies related to solicitation and award of contracts.

A. If a vendor is considered ineligible or disqualified.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If appealed and the department's decision is reversed, the sole relief will be to consider the vendor eligible for the particular contract.

B. If a vendor is not allowed to withdraw a bid in certain circumstances.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If no bond has been posted by the vendor, then before appealing the department's decision the vendor shall provide to the department a certified check or cash bond for the amount of the difference between the bid sought to be withdrawn and the next lowest bid.

a. The certified check shall be payable to the State Lottery Department.

b. The cash bond shall name the State Lottery Department as obligor.

c. The security shall be released if the vendor is allowed to withdraw the bid or if the vendor withdraws the appeal and agrees to accept the bid or if the department's decision is reversed.

d. The security shall go to the State Lottery Department if the vendor loses all appeals and fails to accept the contract.

3. If appealed and the department's decision is reversed, the sole relief shall be to allow the vendor to withdraw the bid.

C. If a vendor is considered not responsible for certain contracts.

1. Any vendor, despite being the low bidder, may be determined not to be responsible for a particular contract. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If appealed and the department's decision is reversed, the sole relief shall be that the vendor is a responsible vendor for the particular contract under appeal.

3. A vendor protesting the department's decision that he is not responsible, shall appeal under this section and shall not protest the award or proposed award under subsection D.

4. Nothing contained in this subsection shall be construed to require the department to furnish a statement of the reasons why a particular proposal was not deemed acceptable.

D. If a vendor protests an award or decision.

1. Any vendor or potential vendor may protest the award or the department's decision to award a contract. The written protest shall be filed within 10 days after the award on the announcement of the decision to award is posted or published, whichever occurs first.

2. If the protest depends upon information contained in public records pertaining to the purchase, then a 10 day time limit for a protest begins to run after the records are made available to the vendor for inspection, so long as the vendor's request to inspect the records is made within 10 days after the award or the announcement of the decision to award is posted or published, whichever occurs first.

3. No protest can be made that the selected vendor is not a responsible vendor. The only grounds for filing a

protest are (i) that a procurement action was not based upon competitive principles, or (ii) that a procurement action violated the standards of ethics promulgated by the board.

4. If, prior to an award, it is determined by the director that the department's decision to award the contract is erroneous, the only relief will be that the director will cancel the proposed award or revise it.

5. No protest shall delay the award of a contract.

6. Where the award has been made, but the work has not begun, the director may stop the contract. Where the award has been made and the work begun, the director may decide that the contract is void if voiding the contract is in the best interest of the public. Where a contract is declared void, the performing vendor will be paid for the cost of work up to the time when the contract was voided. In no event shall the performing vendor be paid for lost profits.

§ 5.3. Appeals, time frames and remedies related to contract disputes and claims.

A. Generally.

In the event a vendor has a dispute with the department over a contract awarded to him, he may file a written claim with the director.

B. Contract claims.

Claims for money or other relief, shall be submitted in writing to the director, and shall state the reasons for the action.

1. All vendor's claims shall be filed no later than 30 days after final payment is made by the department.

2. If a claim arises while a contract is still being fulfilled, a vendor shall give a written notice of the vendor's intention to file a claim. The notice shall be given to the director at the time the vendor begins the disputed work or within 10 days after the dispute occurs.

3. Nothing in this regulation shall keep a vendor from submitting an invoice to the department for final payment after the work is completed and accepted.

4. Pending claims shall not delay payment from the department to the vendor for undisputed amounts.

5. The director's decision will state the reasons for the action.

C. Claims relief.

Relief from administrative procedures, liquidated

damages, or informalities may be given by the director. The circumstances allowing relief usually result from acts of God, sabotage, and accidents, fire or explosion not caused by negligence.

§ 5.4. Form and content of appeal to the director.

A. Form for appeal.

The vendor shall make the appeal to the director in writing. The appeal shall be mailed to the State Lottery Director, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220 or hand delivered to the department's central office at the Bookbindery Building, 2201 West Broad Street, Richmond, Virginia 23220.

B. Content of appeal.

The appeal shall state the:

1. Decision of the department which is being appealed;
2. Basis for the appeal;
3. Contract number;
4. Other information which identifies the contract; and
5. Reasons for the action.

C. Vendor notification.

The director's decision on an appeal will be sent to the vendor by ~~registered~~ certified mail, return receipt requested.

1. The director shall follow the time limits in the regulations and shall not make exceptions to the filing periods for the vendor's appeal and rendering the director's decision.
2. The director's decision will state the reasons for the action.

§ 5.5. State Lottery Department appeal hearing procedures.

A. Generally.

The director or the appointed hearing officer will conduct a hearing on every appeal within 45 days after the appeal is filed with the director. The hearings before the State Lottery Department are not trials and shall not be conducted like a trial.

1. The Administrative Process Act does not apply to the hearings.
2. The hearings shall be informal. The vendor and the department will be given a reasonable time to present their position.

State Lottery Department

3. Legal counsel may represent the vendor or the department. Counsel is not required.

4. The director may exclude evidence which he determines is repetitive or not relevant to the dispute under consideration.

5. The director may limit the number of witnesses, testimony and oral presentation in order to hear the appeal in a reasonable amount of time.

6. Witnesses may be asked to testify. The director does not have subpoena power. No oath will be given.

7. The director may ask questions at any time. The director may not question the vendor in closed session.

B. Public hearings for appeals.

1. Hearings shall be open to the public. The director may adjourn the public hearing to discuss and reach his decision in private.

2. The hearings shall be electronically recorded. The department will keep the recordings for 60 days.

3. A court reporter may be used. The court reporter shall be paid by the person who requested him.

a. The court reporter's transcript shall be given to the director at no expense, unless the director requests the use of a court reporter.

b. The transcript shall become part of the department's records.

C. Order during the hearing.

Unless the director determines otherwise, hearings will be in the following order:

1. The vendor will explain his reasons for appealing and the desired relief.

2. The vendor will present his witnesses and evidence. The director and the department will be able to ask questions of each witness.

3. The department will present its witnesses and evidence. The appellant may ask questions of each party and witness.

4. After all evidence has been presented, the director shall reach his decision in private.

§ 5.6. Notice, time and place of hearings.

A. Notice and setting the time.

All people involved in the hearing will be given at least

10 days notice of the time and place of the appeal hearing.

1. Appeals may be heard sooner if everyone agrees.

2. In scheduling hearings, the director may consider the desires of the people involved in the hearing.

B. Place of hearings.

All hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

§ 5.7. Who may take part in the appeal hearing.

A. Generally.

The director may request specific people to take part in the hearing.

B. Hearings on ineligibility, disqualification, responsibility or denial of a request to withdraw a bid.

The protesting vendor and the department shall participate.

C. Hearings on claims or disputes.

The protesting vendor and the department shall participate.

§ 5.8. Director's decision.

A. Generally.

The director will issue a written decision within 30 days after the hearing date except for hearings with a court reporter.

B. Hearings with court reporter.

For hearings with a court reporter, the director's decision will be issued within 30 days after a transcript of the hearing is received by the director if a transcript is prepared. There is no requirement that a transcript be made, even if services of a court reporter are used for the hearing.

C. Format of decision.

1. The director's decision will include a brief statement of the facts. This will be called "Findings of Fact."

2. The director will give his decision. The decision will include as much detail as the director feels is necessary to set out reasons for his decision.

3. The decision will be signed by the director.

D. Copies of the decision.

Copies will be mailed to the appealing vendor, all other vendors who participated in the appeal and the department. The director will give copies of the decision to other people who request it.

§ 5.9. Appeal to courts.

A. The department is not subject to the Virginia Public Procurement Act. Thus, a vendor has no automatic right of appeal of a decision to award, an award, a contract dispute, or a claim with the department.

B. Nothing in these regulations shall prevent the director from taking legal action against a vendor.

INFORMAL ADMINISTRATIVE HEARING REQUEST

REGISTRAR OF REGULATIONS 92 AUG -4 AM 9:59

TO: Kenneth W. Thorsen, Director Virginia State Lottery P.O. Box 4689 Richmond, Virginia 23220

- I am requesting that an informal hearing be held to appeal the: Denial of my license application for instant games. Denial of selection as an on-line retailer. Denial of my participation as an on-line retailer due to investigative findings. Removal of my on-line terminal. Suspension or revocation of my license.

The basis for the appeal is as follows:

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Director within thirty (30) days from the receipt of the Department's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer Business Name Retailer Number Date Received by Lottery Director

[This form will accompany written notices of denial, suspension or revocation.]

FORMAL ADMINISTRATIVE HEARING REQUEST

REGISTRAR OF REGULATIONS 92 AUG -4 AM 9:59

TO: State Lottery Board Virginia State Lottery P.O. Box 4689 Richmond, Virginia 23220

I am requesting that a formal hearing be held to appeal the Director's decision resulting from the informal hearing.

The basis for the appeal is as follows:

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Board within fifteen (15) days from the receipt of the Director's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer Business Name Retailer Number

Date Received at Lottery or by Chairman

[This form will accompany all written decisions of the Director which deny any change in the decision appealed.]

State Lottery Department

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: September 24, 1992.

Summary:

The State Lottery Department is amending sections of the Instant Game Regulations which establish procedures specifically related to instant lottery games, including standards and requirements for licensing retailers, specific operational parameters for the conduct of the game, instant ticket validation requirements and payment of prizes.

The amendments include industry-related definitions, establish age requirements for persons ineligible to purchase or receive prizes of the lottery, establish guidelines for licensed retailer compensation, exempt anyone in active military service from the 180-day prize redemption requirements, clarify that prizes may be paid according to the terms of a beneficiary designation filed with the department by a prize winner, and specify the amount at which the department reports or withholds taxes from prizes. There are numerous housekeeping and technical changes throughout these regulations.

These regulations also promulgate an emergency regulation effective January 2, 1992, which clarified the prize amount that can be paid by lottery retailers.

No substantive changes were made to the proposed regulations; however, housekeeping revisions were made to §§ 1.1, 3.1 and 3.11.

VR 447-02-1. Instant Game Regulations.

PART I.
LICENSING OF RETAILERS FOR INSTANT GAMES

~~§ 1.1 Licensing.~~

Generally

§ 1.1 Definitions; licensing.

The words and terms, when used in any of the department's regulations, shall have the same meaning as defined in these regulations, unless the context [clearly] indicates otherwise.

A. Definitions for instant games.

"Altered ticket" means a lottery ticket which has been forged, counterfeited or altered.

"Bearer instrument" means a lottery ticket which has not been signed by or on behalf of a person or a legal entity. Any prize won on an unsigned ticket is payable to the holder, or bearer, of that ticket.

"Book" or "ticket book" means the same thing as "pack."

"Damaged ticket" means a lottery ticket pulled from distribution by the department due to poor quality, e.g., bent, torn or defaced, thereby rendering it unfit to play.

"Erroneous ticket" means a lottery ticket which contains an unintentional manufacturing or printing defect. A player holding such a lottery ticket is entitled to a replacement ticket of equal value.

"Game" means any individual or particular type of lottery authorized by the board.

"Instant game" means a game that uses preprinted tickets with a latex covering over a portion of the ticket. The covering is scratched off by the player to reveal immediately whether the player has won a prize or entry into a prize drawing. An instant game may include other types of non-on-line lottery games.

"Instant ticket" means an instant game ticket with a latex covering the game symbols located in the play area. Each ticket has a unique validation number and ticket number.

"License approval notice" means the form sent to the retailer by the lottery department notifying him that his application for a license has been approved and giving him instructions for obtaining the required surety bond and setting up his lottery bank account.

"Lottery retailer" or "lottery sales retailer" or "retailer" means a person licensed by the director to sell and dispense lottery tickets, materials or lottery games for instant lottery games or for both instant and on-line lottery games.

"Low-tier winner" or "low-tier winning ticket" means an instant game ticket which carries a cash prize of \$25 or less or a prize of additional unplayed instant tickets.

"Manufactured omitted tickets" means those tickets pulled from distribution due to poor quality by the manufacturer prior to distribution to the department.

"Omitted tickets" means those tickets pulled from distribution by the department for testing purposes and quality assurance.

"Pack" generally means a set quantity of individually wrapped unbroken, consecutively numbered, fanfolded instant game tickets which all bear an identical book or pack number which is unique to that book or pack among all the tickets printed for a particular game.

"Player" means a person who is a lottery customer who has purchased or intends to purchase any lottery ticket or tickets for a specific lottery game or drawing, or an agent or representative of such person. Licensed lottery retailers and their employees may be a lottery customer; however, they may not act as agents or representatives of a player.

"Prize" means any cash or noncash award to holders of winning instant or on-line tickets.

"Retailer," as used in these instant game regulations, means a licensed instant lottery retailer, unless the context clearly requires otherwise.

"Ticket number" means the preprinted unique number or combination of letters and numbers which identifies that particular ticket as one within a particular game or drawing.

"Validation" means the process of determining whether a lottery ticket is a winning ticket.

"Validation number" means the unique number or number-and-letter code printed on the front of an instant ticket sometimes under a latex covering bearing the words "Do not remove," "Void if removed" or similarly worded label, or the unique number assigned by the on-line central computer and printed on the front of each on-line ticket.

B. Licensing of retailers for instant games.

The director may license as lottery retailers for instant games persons who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

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.

§ 1.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may submit an application for licensure, except no person may submit an application 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 a board member, officer or employee of

the department; or

3. Who is a vendor of lottery tickets or material or data processing services, or whose business is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

B. Application not an entitlement to license.

The submission of an application for licensure does not in any way entitle any person to receive a license to act as a lottery retailer.

§ 1.3. Application procedure.

Filing of forms with the department.

Any eligible person shall first file an application with the department on forms supplied for that purpose, along with the required fees as specified elsewhere in these regulations. The applicant shall complete all information on the application forms in order to be considered for licensing. The forms to be submitted include:

1. Retailer License Application;
2. Personal Data Form(s); and
3. Retailer Location Form.

State Lottery Law makes falsification, concealment or misrepresentation of a material fact, or making a false, fictitious or fraudulent statement or representation in an application for a license a misdemeanor.

§ 1.4. 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 security of the applicant, to include:
 - a. A credit and criminal background investigation;
 - b. Outstanding delinquent state tax liability;
 - c. Required business licenses, tax and business permits; and
 - d. Physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to the public, to include:

State Lottery Department

- a. The hours of operation;
 - b. The availability of parking and transit routes, where applicable;
 - c. The location in relation to major employers, schools, or retail centers;
 - d. The population level and rate of growth in the market area; *and*
 - e. The traffic density, including levels of congestion in the market area.
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 sales volume and profitability of potentially competing lottery retailers; *and*
 - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers.
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 business;
 - c. Sales history of business and market area; *and*
 - d. Volume of customer traffic in place of business.
5. The ability to offer high levels of customer service to instant lottery players, to include:
- a. Ability to display point of sale material;
 - b. A favorable image consistent with lottery standards;
 - c. Ability to pay prizes during maximum selling hours; and
 - d. Commitment to authorize employee participation in all required instant lottery training.

B. Additional factors for selection.

The director may develop and, by administrative order, publish additional criteria which, in his judgment, are necessary to serve the public interest and public trust in the lottery.

§ 1.5. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond from a surety company entitled to do business in Virginia. 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 \$5,000 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 "License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "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 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.

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 annual license review action.

§ 1.6. 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.

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 or due from the purchase 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 "License Approval Notice," the lottery retailer shall return the properly executed "Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department to record 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 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.

§ 1.7. License term and annual review.

A. License term.

A general 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.

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. Reserved.

D. Amended license term.

The annual fee for an amended license issued under the requirements of § 1.9 C will be due on the same date as the fee for the license it replaced.

E. Special license.

The director may issue special licenses to persons for specific events and activities. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest. *Instant game lottery retailers currently licensed by the department are not required to obtain an additional surety bond for the purposes of obtaining a special event license.*

F. 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.

§ 1.8. License fees.

A. License application fee.

The fee for a license application for a lottery retailer general license to sell instant game tickets shall be \$25. The general license fee to sell instant game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License fee.

The annual fee for a lottery retailer general license to sell instant game tickets shall be an amount fixed by the board at its November meeting for all annual license 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 reviewed. This fee is nonrefundable. The fee shall be submitted within the 30 days preceding a retailer's anniversary date.

C. Amended license application fee.

The fee for processing an amended license application for a lottery retailer general license shall be an amount as approved by the board at its November meeting 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 application shall be submitted in cases where a business change occurs as specified in § 1.9 B.

§ 1.9. Transfer of license prohibited; invalidation of

State Lottery Department

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 for any of the following reasons:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship); *or*
3. Change in the business owners listed in the original application form for which submission of a Personal Data Form is required under the license application procedure.

C. Amended application required.

A licensed lottery retailer who anticipates a change as listed in subsection B shall notify the department of the anticipated change at least 15 calendar days before it takes place and submit an amended application. The director shall review the changed factors in the same manner that would be required for a review of an original application.

§ 1.10. 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.

§ 1.11. Denial, suspension, revocation or noncontinuation 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's place of business caters to or is frequented predominantly by persons under 18 years of age;

6. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;

7. The nature of the person's business is not consonant with the probity of the Commonwealth; or

8. 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.

The director may 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 does not meet the eligibility criteria and standards for licensing as set out in these regulations or if 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.

C. 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 lottery tickets received, 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 and 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 and regulations of the department;

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;

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 application 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.

D. 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.

E. 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.

F. 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 lottery accounting of his lottery activities by the date specified by the director.

§ 1.12. 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.

§ 1.13. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale 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 retailer's lottery material that has not been approved for use by the department.

§ 1.14. 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.

§ 1.15. 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.

§ 1.16. 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.

State Lottery Department

§ 1.17. Reporting requirements and settlement procedures.

~~Instructions for purchasing tickets, 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 tickets; (ii) paying for tickets purchased; (iii) reporting receipts, transactions and disbursements pertaining to lottery ticket sales; and (iv) settling the retailer's account with the department.

§ 1.18. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Forms of payment for tickets; deposit of lottery receipts.

Each lottery retailer shall purchase the tickets distributed to him. The moneys for payment of these tickets shall be deposited to the credit of the State Lottery Fund by the department. The retailer shall make payments to the department by Electronic Funds Transfers (EFT); however, the director reserves the right to specify one or more of the following alternative forms of payment under such conditions as he deems appropriate:

1. Cash;
2. Cashier's check;
3. Certified check;
4. Money order; or
5. Business check.

B. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the purchasing and payment of tickets and the settlement of accounts.

C. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will be assessed an interest charge 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.

D. Service charge for dishonored EFT transfer or bad check.

The director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

E. 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 that are incurred by the department and the agencies to which the debt is referred.

F. 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.

§ 1.19. Training of retailers and their employees.

~~Retailer training.~~

Each retailer or his designated representative or representatives is required to participate in training given by the department in the operation of each game. The director may consider nonparticipation as grounds for suspending or revoking the retailer's license.

§ 1.20. 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 15 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 II. INSTANT GAMES.

§ 2.1. Development of instant games.

The director shall select, operate, and contract for the operation of instant games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each instant game after consultation with the director. These details include, but are not limited to:

1. Prize amounts and prize structure,
2. Types of noncash prizes, if any, and
3. The amount and type of any jackpot or grand prize

which may be awarded.

The actual number of prizes and prize structure may vary from that adopted by the board because of the omission of defective tickets in the manufacturing process, an increase or decrease in the number of tickets ordered, or the removal of tickets from inventory to perform the department's quality control inspection procedures.

§ 2.2. Prize structure.

The prize structure for any instant game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each instant game shall be approved in advance by the board.

B. Prizes may be cash or noncash awards, including instant game tickets.

§ 2.3. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. Lottery retailers may not discount the sale price of instant game tickets or offer free tickets as a promotion with the sale of instant tickets. This section shall not prevent a retailer from providing free instant 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.

B. This section shall not apply to the redemption of a winning instant ticket the prize for which is another free ticket.

§ 2.4. Sales, gift of tickets to minors prohibited.

An instant game ticket shall not be sold to, purchased by, redeemed from or given as a gift to any individual under 18 years old. *No prize shall be paid on a ticket purchased by or transferred to any person under 18 years old. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.*

§ 2.5. Odds Chances of winning.

The director shall publicize the overall odds chances of winning a prize in each instant game. The odds chances may be printed on the ticket or contained in informational materials, or both.

§ 2.6. End of game.

Each instant game will end on a date announced in advance by the director. The director may suspend or terminate an instant game without advance notice if he finds that this action will serve and protect the public interest.

§ 2.7. Sale of tickets from expired games prohibited.

No instant game tickets shall be sold after that game ends.

§ 2.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all instant game tickets purchased from the department for resale by the retailer.

B. The director may award cash bonuses or other incentives to retailers. The board shall approve any bonus or incentive system. The director will publicize any such system by administrative order.

C. Retailers may not accept any compensation for the sale of lottery tickets other than compensation approved under this section, regardless of source.

§ 2.9. Price for ticket packs.

For each pack, retailers shall pay the retail value, less the 5.0% retailer compensation and less the value of the low-tier winning tickets in the pack. For example, for a pack of tickets with a retail value of \$ 500 300 , and guaranteed low end prize structure of \$ 165 154 , the retailer would pay \$ ~~310~~ 131 : \$ 500 300 (the pack value) minus \$ 165 154 for low-tier winners, less the retailer's \$ 25 15 compensation.

§ 2.10. Purchase of instant tickets.

A. Retailers shall purchase ~~books~~ packs of tickets directly from the department or through designated depositories.

B. Retailers shall pay for tickets via an electronic funds transfer (EFT) initiated by the department.

1. The department will initiate the EFT after tickets are delivered to the retailer. The schedule will be determined by the director.

2. If an electronic funds transfer is refused, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations. The service charge, interest and penalty charges may be waived under § 1.18 F of these regulations.

3. The director may approve another form of payment for designated retailers under conditions to be determined by the director.

4. If the director permits payment by check and if payment on any check is denied, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

C. Once tickets are accepted by a retailer, the department will not replace mutilated or damaged tickets,

State Lottery Department

unless specifically authorized by the director.

D. Ticket sales to retailers are final.

1. The department will not accept returned tickets except as provided for elsewhere in these regulations or with the director's advance approval.

2. The retailer is responsible for lost, stolen or destroyed tickets unless otherwise approved by the director.

§ 2.11. Retailers' conduct.

A. Retailers shall sell instant tickets at the price fixed by regulation, 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 unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. Retailers shall not sell instant tickets after the announced end of an instant game.

G. Retailers shall not break apart ticket packs to sell instant tickets except to sell tickets from the same pack at separate selling stations within the same business establishment.

H. Retailers shall not exchange ticket ~~books~~ *packs* or tickets with one another or sell ticket ~~books~~ *packs* or tickets to one another.

I. On the back of each instant ticket sold by a retailer, the retailer shall print or stamp the retailer's name, address and retailer number. This shall be done in a manner that does not conceal any of the preprinted material.

J. No retailer or his employee or agent shall try to determine the numbers or symbols appearing under the removable latex coverings or otherwise attempt to identify unsold winning tickets. However, this shall not prevent the removal of the covering over the validation code or validation number after the ticket is sold and a prize is claimed.

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 a person 18 years of age or older.

§ 2.12. Returns of unsold tickets.

A. Each retailer may return for credit full, unbroken ticket packs to the department at any time before the announced end of the game and before the return of any partial packs.

B. After the twelfth week of any instant game, each retailer may return broken partial packs of tickets to the department for credit. Partial pack returns are limited to one pack return per register where tickets have been sold for that game. At the same time partial packs are returned, the retailer must return all eligible partial packs and all full packs for that game remaining in his inventory. No additional partial packs or full packs will be accepted from the retailer by the department for credit after partial packs have been returned.

C. All tickets in the possession of a retailer remaining unsold at the announced end of the game, the return of which are not prohibited by § 2.12 B, whether partial pack or full pack, must be returned to the department not later than 21 calendar days after the announced end of each instant game or any final prize drawing or no credit will be allowed to the retailer for tickets remaining unsold by that retailer.

~~§ 2.13. Reserved.~~

~~§ 2.14. Reserved.~~

~~§ 2.15. Reserved.~~

PART III.

PAYMENT OF PRIZES FOR INSTANT GAMES.

§ 3.1. Prize winning tickets.

Prize-winning instant tickets are those that have been validated and determined in accordance with the rules [*and regulations*] of the department to be official prize winners. Consistent with these regulations, criteria and specific rules for winning prizes shall be published and posted by the director for each instant game and made available for all players. Final validation and determination of prize winning tickets remains with the department.

§ 3.2. Unclaimed prizes.

All instant game winning tickets shall be received for payment as prescribed in these regulations within 180 days after the announced end of the game or of the event which caused the ticket to be a winning entry, whichever is later. In the event that the 180th day falls on a

State Lottery Department

Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day. Tickets which have been mailed in an envelope bearing a postmark on or before the 180th day will be deemed to have been received on time.

A. Any non-low-tier instant game cash prize which has been won as a result of a drawing but which is not claimed within 180 days after the instant game drawing shall revert to the State Literary Fund.

B. Any non-low-tier instant game cash prize which has been won other than by drawing, but which is not claimed within 180 days after the announced end of the instant game shall revert to the State Literary Fund.

C. Any instant game low-tier prize-winning ticket which has been purchased but which is not claimed within 180 days after the announced end of the instant game shall revert as a bonus compensation to the account of the retailer which sold the instant game low-tier prize-winning ticket.

D. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim his winning ticket or share as soon as practicable and in no event later than 180 days after discharge from active military service.

§ 3.3. 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 *unless otherwise determined by the director*.

§ 3.4. 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 *and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.*

§ 3.5. Where prizes claimed.

Winners may claim instant game prizes from the retailer from whom the ticket was purchased or the department in the manner specified in these regulations.

§ 3.6. Validating winning tickets.

A. Winning tickets shall be validated by the retailer or the department as set out in these regulations or in any other manner which the director may determine.

B. Any instant lottery cash prize resulting from a ticket which is purchased by or claimed by a person ineligible to play the lottery game is invalid and reverts to the State Lottery Fund.

§ 3.7. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$ ~~600~~ 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.

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.

1. If the department, a retailer or these regulations require that a claim form be filed, the FEIN shall be shown on the claim form.

2. 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.

3. 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 one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

4. A group, family unit, club or other organization wishing to divide a jackpot prize shall complete an "Agreement to Share Ownership and Proceeds of Lottery Ticket" form. The filing of this form is an irrevocable election which may only be changed by an appropriate judicial order.

§ 3.8. 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 *according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department or to the estate of a deceased prize winner who has not completed such a form*, and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

State Lottery Department

§ 3.9. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.10. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the director and employees of the department, terminates upon payment of a lottery prize.

§ 3.11. 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 *if 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 [*any*] such delay shall accrue to the benefit of the claimant pending payment of the claim. *The department is neither liable for nor has it any responsibility to resolve disputes between competing claimants.*

§ 3.12. When periodic prize payment may be delayed.

The director may, at any time, delay any payment 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 payments shall be brought up to date immediately upon the director's confirmation. Delayed payments shall continue to be paid according to the original payment schedule after the director's decision is given. *No liability for interest for any such delay shall accrue to the benefit of the claimant pending payment of the claim.*

§ 3.13. Ticket is bearer instrument.

A ticket that has been legally issued by a 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.

§ 3.14. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification and the submission of a prize claim form if one is required, unless otherwise delayed in accordance with these regulations.

§ 3.15. 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.

§ 3.16. Penalty for counterfeit or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a forged, counterfeit 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.

§ 3.17. 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 instant game ticket the prize for which is a free ticket or is \$25 or less.

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.

§ 3.18. Erroneous or mutilated ticket.

The department is not liable for erroneous or mutilated tickets. The director, at his option, may replace an erroneous or mutilated ticket with an unplayed ticket for the same or a later instant game.

§ 3.19. Retailer to pay low-tier prizes.

Low-tier prizes (those of \$25 or less in cash or free

instant game tickets) shall be paid by the retailer who sold the winning ticket, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.20. 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 payment of a prize by a check presented to a claimant by a retailer is denied for any reason, the retailer is subject to the same service charge interest 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 low-tier prizes during all normal business hours.
4. Prize claims shall be paid only at the location specified on the license.
5. The department will reimburse a retailer for prizes of ~~between from~~ \$26 to and including \$ 599 600 paid up to 180 days after an instant game ends.

§ 3.21. Retailer to validate winning ticket.

Before paying a prize claim, the retailer should validate the winning ticket. The retailer should follow validation procedures listed in these regulations or obtained from the department. Retailers who pay claims without validating the ticket do so at their own financial risk.

§ 3.22. 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.

§ 3.23. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims paid in error.

§ 3.24. 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.

§ 3.25. Prizes of less than \$600 or less .

A retailer may elect to pay instant prizes ~~between from~~ \$26 to and including \$ 599 600 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. If the retailer elects to pay prizes of up to \$ 599 600 or less , the following terms and conditions apply:

1. The retailer shall execute an agreement with the department to pay higher prize limits.
2. The retailer shall pay all prizes agreed to up to and including \$ 599 600 on validated tickets presented to that retailer.
3. The retailer shall display special informational material provided by or approved by the department informing the public of the exceptional prize payments available from that retailer.
4. Nothing in this section shall be construed to prevent the department from accepting an agreement from a retailer to pay prize amounts \$26 or more but less than \$ 599 601 .

§ 3.26. Additional validation requirements.

Before paying any prize ~~between from~~ \$26 to and including \$ 599 600 , the retailer or the department should:

1. Reserved
2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;
3. Report to the department the ticket number, validation code and validation number of the ticket; and
4. Obtain an authorization number for prize payment from the department.

§ 3.27. When prize shall be claimed from the department.

The department will pay 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 a completed claim form and the signed ticket at any department regional office or mail both the completed claim form and the signed ticket to the department central office.
2. If a ticket holder is unable to return to the retailer from which the ticket was purchased 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 a completed claim form and the signed ticket to the department

State Lottery Department

central office.

3. If the prize amount is over the limit paid by the retailer from which the ticket was purchased, the ticket holder may present a completed claim form, if required, and the signed ticket to any department regional office or mail both a completed claim form and the signed ticket to the department central office.

§ 3.28. 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.

§ 3.29. 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.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central office.

B. Claims forms shall be required to claim any prize of \$ ~~600~~ 601 or more from the department's regional offices.

C. Reserved.

D. The director may, at his discretion, require claims forms to be filed to claim prizes.

§ 3.31. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will notify the ticket holder promptly.

B. 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.

C. 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.

§ 3.32. Withholding, notification of prize payments.

A. When paying any prize of \$ ~~600~~ 601 or more, the department shall:

1. File the appropriate income reporting form(s) with the state Department of Taxation and the federal Internal Revenue Service; and

2. Withhold any moneys due for delinquent debts listed with the Department of Taxation's set-off debt collection program federal and state taxes from any winning ticket in excess of \$5,001 .

B. When paying any prize of more than \$5,000, the department shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for the winning ticket. Additionally, when paying any prize of \$101 or more, the department shall withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program.

§ 3.33. Grand prize event.

If an instant 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.

2. Participation in the drawing(s) shall be limited to those tickets which are actually received and validated by the department 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 instant game. 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 instant 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.

§ 3.34. 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.

§ 3.35. Valid ticket described.

To be valid, a Virginia lottery game ticket shall meet all of the validation requirements listed here:

1. The ticket shall have been issued by the department in an authorized manner.

State Lottery Department

2. The ticket shall not be altered, unreadable, reconstructed, or tampered with in any way.
3. The ticket shall not be counterfeit in whole or in part.
4. The ticket shall not have been stolen or appear on any list of void or omitted tickets on file with the department.
5. The ticket shall be complete and not blank or partly blank, miscut, misregistered, defective, or printed or produced in error.
6. The ticket shall have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one ticket number, exactly one validation code, and exactly one validation number. These items shall be present in their entirety, legible, right side up, and not reversed in any manner.
7. The validation number of an apparent winning ticket shall appear on the department's official list of validation numbers of winning tickets provided by the vendor of the instant tickets. A ticket with that validation number shall not have previously been paid.
8. The ticket shall pass all additional confidential validation requirements set by the department.

§ 3.36. Invalid ticket.

An instant ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its instant game is invalid. An invalid ticket is not eligible for any prize.

§ 3.37. Replacement of ticket.

The director may replace an invalid ticket with an unplayed ticket from the same or another instant game. If a defective ticket is purchased, the department's only liability or responsibility shall be to replace the defective ticket with an unplayed ticket from the same or another instant game or to refund the purchase price, at the department's option.

§ 3.38. When ticket is partially mutilated or not intact.

If an instant ticket is partially mutilated or if the ticket is not intact but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.39. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.40. When prize payable over time.

Unless the rules for any specific instant 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.

§ 3.41. 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.

§ 3.42. 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.

Notice: The forms used in administering the State Lottery Department Instant Game 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 State Lottery Department, 2201 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Retailer License Application
Personal Data Form
Retailer Location Form
Retailer Data Collection Form
Licensed Retailer Certificate
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers (Renewal)
Authorization Agreement for Preauthorized Payments
Winner Claim Form
Accounts Receivable Transaction Form (X-0086, 3/89)
Accounting Transaction Form (Rev. 8/88)
Retailer Advertising Approval Form
Agreement to Pay Mid-Tier Prizes
Ticket Dispenser Agreement Form (SLD 0129, 3/89)
Returned Ticket Receipt Form
Returned Ticket Receipt Partial Pack Returns
Ticket Invoice
Stolen Ticket Report
Winner Gram
We're Sorry But ...
Agreement to Share Ownership and Proceeds of Lottery Ticket
Statement of Person(s) Receiving Gambling Winnings (Form 5754)

STATE LOTTERY DEPARTMENT

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

State Lottery Department

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: September 24, 1992.

Summary:

The State Lottery Department is amending sections of the On-Line Game Regulations which establish procedures specifically related to on-line lottery games, including standards and requirements for licensing retailers, specific operational parameters for the conduct of the game, on-line ticket validation requirements, payment of prizes and subscription services.

The amendments include industry-related definitions, establish age requirements for persons ineligible to purchase or receive prizes of the lottery, establish guidelines for licensed retailer conduct and compensation, exempt anyone in active military service from the 180-day prize redemption requirements, clarify that prizes may be paid according to the terms of a beneficiary designation filed with the department by a prize winner; and specify the amount of prizes paid by retailers and the amount at which the department reports or withholds taxes from prizes. There are numerous housekeeping and technical changes throughout these regulations.

These regulations also promulgate emergency regulations effective on January 2, 1992, and March 19, 1992, respectively, which introduced the subscription program and reduced the potential of the purchase of large blocks of on-line lottery tickets.

Subsequent to publication of the regulations in proposed form, revisions were made to §§ 1.6 and 4.9 to broaden ticket cancellation procedures to include possible future equipment and to clarify that numbers selected for a lottery subscription remain unchanged for the duration of the subscription period. Housekeeping revision were made to §§ 1.1, 1.2, 4.8, 4.10, 4.11 and 4.14.

VR 447-02-2. One-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.]

[§ 1.1. § 1.1] General definitions for on-line games.

[*The words and terms, when used in any of the department's regulations, shall have the same meaning, as defined in these regulations, unless the context clearly indicates otherwise. Definitions that relate to instant games are incorporated by reference in the On-Line Game Regulations (VR 447-02-2).*]

"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 on a playslip by the player or by the subscriber on the subscription application.

"Game numbers" means the numbers designated by the player on the playslip or subscription application or the computer-generated numbers if easy pick is selected.

State Lottery Department

"Group-designated agent" means the individual listed on the back of a ticket or on the subscription application who is elected by the group of players to act as the representative or subscriber on the group's behalf in handling all correspondence and payment disbursements resulting from the group's activity.

"Number of draws" means the actual number of draws for which a multiple play or 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 at a specific location .

"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 the department's computer hardware through 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 number, 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 [~~associates~~ 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-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 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" or "ticket 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 multiple play or 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 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 game" means a lottery game in which the player can purchase on-line game tickets through the mail, for a specific period of time, and for which the player is automatically entered in each on-line drawing during the period for which the subscription is purchased.

"Subscription renewal" means the process by which a subscription plan is renewed by the subscriber in accordance with procedures established by the department.

"Subscription ticket" means an on-line ticket which provides the ability to play a specific number of games utilizing the same numbers, selected by the player, for a period of consecutive weeks as specified on the ticket.

"Validation" means the process of determining whether an on-line ticket presented for payment is a winning

State Lottery Department

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.

[*The words and terms, when used in any of the department's regulations, shall have the same meaning, as defined in these regulations, unless the context clearly indicates otherwise. Definitions that relate to instant games are incorporated by reference in the On-Line Game Regulations (VR 447-02-2).*

§ 1.2. 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.]

§ 1.3. 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 [*or if the ticket was issued by another lottery-approved device*]. 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 shall 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 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 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 player shall 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, *and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.*

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 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, traveler's 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

State Lottery Department

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 less than 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;

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

State Lottery Department

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 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 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~~ *be contacted by the department and instructed to make immediate deposit. If the retailer is not able to deposit the necessary funds or if the item is returned to the department unpaid for a second time, the retailer's on-line terminal will be inactivated. The retailer will not be reactivated until payment is made by cashier's check, certified check or wire transfer, and if deemed a continuing credit risk by the department, not until an informal hearing is held to determine if the licensee is able and willing to meet the terms of his license agreement.* 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. *On-line game lottery retailers currently licensed by the department are not required to obtain an additional surety bond for the purposes of obtaining a special event license.*

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.

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 *unless otherwise determined by the director*. 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.

State Lottery Department

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); *or*
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 as 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 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

State Lottery Department

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.

13. Any on-line lottery cash prize resulting from a ticket which is purchased by or claimed by a person ineligible to play the lottery game is invalid and reverts to the State Lottery Fund.

§ 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.

State Lottery Department

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 Lottery 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)*

D. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim his winning ticket or share as soon as practicable and in no event later than 180 days after discharge from active military service.

§ 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 *unless authorized by the director*.

§ 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, and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket to any person ineligible to purchase a ticket is ineligible to receive any prize.

§ 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 less than \$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.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 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

State Lottery Department

security numbers shall be furnished.

E. A group, family unit, club or other organization wishing to divide a jackpot prize shall complete an "Agreement to Share Ownership and Proceeds of Lottery Ticket" form. The filing of this form is an irrevocable election which may only be changed by an appropriate judicial order.

§ 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 *according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department or to the estate of a deceased prize winner who has not completed such a form*, 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~~ *if* 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.~~

No liability for interest for any such delay shall accrue to the benefit of the claimant pending payment of the claim. The department is neither liable for nor has it any responsibility to resolve disputes between competing claimants.

§ 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. *No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.*

§ 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 less than of \$600 or less .

Prizes less than 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 under 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 less than \$600 or less .

A retailer shall pay on-line prizes of less than \$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 less than \$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 \$600 \$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.

§ 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

State Lottery Department

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 ~~\$600~~ \$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 § 4.14.*

§ 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.

A. When paying any prize of ~~\$600~~ \$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; *and*
2. ~~Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and~~
3. ~~2. Withhold federal and state taxes from any winnings over \$5,000 winning ticket in excess of \$5,001.~~

B. Additionally, when paying any prize of \$101 or more, the department shall withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program.

§ 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.

§ 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 5.0% 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 [Virginia] 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 [Virginia] 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 [- ; and]

[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 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 prize will be deemed unclaimed and the department will not pay the prize. Failure to

State Lottery Department

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.

5. The designated numbers selected by the player or group-designated agent for a subscription once the designated numbers are entered into the department's central computer system and confirmed by the player. If any easy pick option is selected by the player, the randomly-selected numbers shall remain unchanged for the duration of the subscription.]

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 [Virginia] 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 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 [Virginia] post office box.

B. Renewals will not be accepted unless the individual subscriber or group-designated agent furnishes a valid Virginia address or [Virginia] 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 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

State Lottery Department

taxpayer identification number, if it has not already been provided on the subscription application. The department will make reasonable efforts to obtain the missing 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 Set-Off Debt Collection Act amounts due and the department shall deduct applicable taxes and set-off debt 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 play tickets won on a subscription shall be the same as the purchase price for a single-play, on-line ticket in the same game as 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.

[1. 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 Gambling Winnings," with the department. This form designates to whom winnings are to be paid and are taxable.

2. If the prize winner does not furnish a social security number or taxpayer identification number, the prize will be deemed unclaimed and 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.]

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 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.

§ 4.17. Disputes.

A. The department is neither liable for nor has it any responsibility to resolve disputes among group members for group subscriptions.

State Lottery Department

B. The decision of the director shall be final.

NOTICE: The forms used in administering the State Lottery Department On-Line Game 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 State Lottery Department, 2201 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

On-Line Game Survey (SLD-120)
Retailer Data Collection
Lottery Retailer Surety Bond
Retailer Agreement Form (SLD-130, 3/89)
Virginia Lottery Licensed Retailer Certificate (4/90)
Things to Do
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers
Virginia Lottery On-Line Play Center;
Agreement/Order Form (SLD-0136, 4/89)
On-Line Authorization Agreement for Preauthorized
Payment
On-Line Ticket Stock Return (X-0120, 6/89)
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
Winner Claim Form (SLD-0007, 3/89)
Winner-Gram
We're Sorry But
Subscription Playslip
Confirmation Letter
Statement by Person(s) Receiving Gambling Winnings
(Form 5754)
Report of Cash Payments Over \$10,000 Received in a
Trade or Business (Form 8300, 3/92)
Agreement to Share Ownership and Proceeds of
Lottery Ticket

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: VR 275-02-1. Regulations Governing
the Edvantage Loan Program.

Governor's Comment:

I have no objections to the proposed changes and
recommend adoption of the regulations.

/s/ Lawrence Douglas Wilder
Governor

Date: July 29, 1992

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THIS ISSUE . . .

- 1** *SB 506: Essential Services Panel*

- 3** *HJR 173: Joint Subcommittee Studying Virginia's Statutes of Limitations and the Rules for Accrual in Civil Actions*

- 4** *HJR 107: Blue Ridge Economic Development Commission*

- 6** *SB 500: Commission on Equity in Public Education*

- 7** *SJR 505: Joint Subcommittee to Study Land Transfers in the Shenandoah National Park*

- 8** *HJR 97: Joint Subcommittee Studying the Needs of Foreign-Born Individuals in the Commonwealth*

- 11** *HJR 71: A.L. Philpott Southside Economic Development Commission*

SB 506: Essential Services Panel

♦
July 13, 1992, Richmond

Established as an initiative of the Joint Commission on Health Care pursuant to SB 506 of 1992, the Essential Services Panel has been charged with assisting the joint commission through development of an essential health services access program and a standard health services program. This panel of experts and citizens, chaired by J. Samuel Glasscock of Suffolk, convened its organizational meeting on July 13, 1992.

During this meeting, a review of the panel's charge was presented, which noted the panel's statutory time lines as well as the considerations to be factored into its deliberations, such as cost/benefit analysis, the

Commonwealth's present health care system, relevant federal and state law and programs, other states' and countries' programs, existing third-party plans, and cost-containment mechanisms.

The panel was also advised on uses for essential health services programs. Although the Joint Commission on Health Care and the General Assembly will share the ultimate responsibility for determining the purpose of the essential health services plan, possible uses of Virginia's essential services plan might include:

- the Governor's Child Health Program;
- a reinsurance pool as part of small business insurance reform;
- a state-subsidized insurance plan for small employers who are not otherwise able to obtain or afford coverage for employees;
- an alternative to a state-mandated benefits plan for individuals and families or employers who cannot afford the cost of current policies but who can pay for an affordable benefit package;
- an approach to expanded coverage for children, using Medicaid administrative mechanisms and state-only funds;
- a state-subsidized insurance plan for individuals and families who are otherwise uninsurable or cannot afford coverage; and
- direct provision of services, using existing state facilities and contract providers to deliver some or all of the services outside of an insurance product.

One approach to the question of defining an essential health services access program was described as "a government effort to ensure all citizens have access to a minimum set of health services." It was noted that these essential services could be identified as those meeting "the basic health care needs of the otherwise uninsured" and could be focused on "primary and preventive health services" with a less comprehensive and more affordable scope of coverage than existing plans.

Other States

Current efforts in 10 other states were summarized. For example, in Oregon, following an extensive process which included community meetings, public hearings, and a significant telephone survey, the Oregon Health Services Commission, a panel of health care providers, identified 17 categories of care encompassing 709 condition-treatment pairs. The Oregon methodology also included research and expert testimony on the effectiveness of treatments, a formula that considered cost and benefit of treatments, public values, and independent commissioner judgment. The Oregon plan, because it is Medicaid specific, will require a federal waiver. (On August 4, the Health Care Finance Administration denied the Oregon waiver on the basis that the plan violated the Americans with Disabilities Act.)

On the opposite extreme from the Oregon Plan, the Washington Basic Health Plan includes physician services, inpatient and outpatient hospital services, proven preventive and primary care services, prenatal, postnatal, and well-child care, and other services determined to be necessary for basic health care. The administrator will design and revise the schedule of benefits.

Essential Services

The panel engaged in extended discussion and expression of their individual perspectives. Topics included how "essential" should be defined, how an assessment of cost/benefit should or could be made, and how to differentiate between essential services and standard services. It was suggested that the panel:

- Look first at what services the population needs, using its best objective judgment concerning net benefit from such services and bearing in mind the need for flexibility.
- Focus on various categories of services — for example, preventive services (primary prevention), universal need, diagnostic services (disease prevention), and treatment — and be reasonably specific in its proposal.
- Examine services from the perspective of what a basic health care plan should include and what is age appropriate, limiting its discussion to services for individuals between birth and age 65 (since Medicare covers older individuals).

- Take a balanced, rational approach, bearing in mind the long range goal of maintaining health/preventing disease while being sensitive to cost issues, including the costs of treatment and the costs of not treating.

- Avoid focusing on the uninsured and focus instead on identifying those services that should be available to everyone.



July 22, 1992, Richmond

Governor's Child Health Program

During the second meeting of the Essential Health Services Panel, an overview of the Governor's Child Health Program noted that over 200,000 Virginia children belong to families that cannot afford basic health care, over 80% of whom have working parents. Because of the profound effects of poor health care on children, the Governor's Child Health Task Force determined that coverage for basic health needs for those children under the age of 18 whose family incomes are less than 200% of the federal poverty level was essential. The task force also recommended case management, when medically necessary, increasing access to providers, and improvement of transportation systems. Local public-private partnerships were noted as vital to the child health initiative. The modified insurance-type plan recommended by the Governor's task force includes preventive and primary medical services, preventive and acute dental care, limited mental health counseling, and emergency room care for verified emergencies.

Definition of "Essential"

Following a review of its previous meeting, the panel examined the definitions, criteria, and services provided in certain other states' programs and conducted, using a staff-prepared matrix of other states' and programs' services, a detailed discussion of the possible definition and criteria for Virginia. The panel tentatively defined "essential health services" as "those age appropriate preventive, diagnostic, and treatment services required to maintain good health and to return individuals to good health."

Determining Essential Services

Principles for determining essential health services were also tentatively recognized as:

- Appropriate and effective for the prevention, diagnosis, or treatment of disease, injury, or congenital conditions (clinical effectiveness test);
- Good value for the dollar spent (cost effectiveness test);
- Contribute to the quality of life, or provide comfort care for the terminally ill (quality of life test);
- Used without regard to the individual's or family's ability to pay (paternalistic test);
- Consistent with the health services common to most current health benefit plans and public health programs (equity test); and

■ Defined in terms of health services, not providers (health services test).

The panel evaluated the services on the matrix in detail, directing that provider/site specific coverage should be eliminated and also requesting staff to conduct a Delphi survey of its members concerning services considered to be "essential." Although the identification of "essential health services" will continue to evolve, the panel's initial evaluation of the matrix services indicated the elimination of various services, the combination of some services, the possible inclusion of others, and the need for further discussion of certain services. During the third meeting planned for

August 4, the panel will receive the survey results and continue its review of other states' and countries' programs.

◆
The Honorable J. Samuel Glasscock,
Convener/Moderator

Legislative Services contact:
Norma E. Szakal

HJR 173: Joint Subcommittee Studying Virginia's Statutes of Limitations and the Rules for Accrual in Civil Actions

◆
June 29, 1992, Richmond

While billed as an initial meeting, this was actually the first meeting of a study begun in 1988 and continued in 1992 following a one-year hiatus. Staff provided a brief history of the work of the prior study committee, which identified and detailed the problems with the current system of multiple limitations periods and accrual rules in their 1989 report (House Document No. 55).

Limitations Periods

With respect to the limitations periods, the committee believed that adoption of a unitary period applicable to all civil actions was desirable but politically unattainable. The focus, therefore, was on a bifurcated system: a two-year limitations period applicable to civil actions for "injury to the person" and a five-year period in actions for "damage to property." Unfortunately, the committee found it was as difficult to precisely define the terms "injury to person" and "damage to property" as it was to determine which limitations period applied to particular facts under the current multiple period system. In 1991, the committee again explored the feasibility of adoption of a unitary three-year period. A consensus could not be reached, primarily because of fear on the part of health care providers that any change affecting medical malpractice claims would upset the delicate balance governing the availability of affordable insurance coverage and access to health care services. Builders and contractors also opposed the proposed changes.

Accrual Rules

In addition to modification of the limitations periods, the prior committee looked closely at the need for changes in the accrual rules. Under current law, limitations periods generally begin to run when any injury is sustained in the case of injury to the person, or when the breach of

contract or duty occurs in the case of damage to property. Several exceptions to this general rule have been created, either judicially or legislatively. The committee believed adoption of a general date of discovery accrual rule was preferable to the piecemeal approach undertaken by the Virginia Supreme Court and the General Assembly. Recognizing that some certainty was needed, the committee explored the feasibility of adopting a 10-year outside limit (statute of repose) for bringing claims if a discovery accrual rule is adopted.

The reconstituted study committee concurred in the basic findings of the prior committee: changes are needed in both the limitations periods and accrual rules to clarify this area of the law for the citizenry, the bench, and the bar. However, because of the political problems with a unitary limitations period and the practical problems of adequately defining the types of actions that would be subject to the dual limitations periods, the committee agreed to explore a third option. Staff was asked to prepare and circulate a draft for discussion at the next meeting.

Third Option

Under the draft, actions for personal injuries, including medical malpractice, and for defamation, fraud, and wrongful death would

be subject to a two-year limitations period. All other actions would be subject to a five-year limitation, whether the action was one in contract or tort or for property damage or injury to the person. The committee determined that "personal injury" should be construed in its traditional sense, as encompassing a physical or emotional pain/injury associated with some trauma.

It is hoped that this approach will avoid the problems identified with the prior drafts. Concern remains, however, that the recommended statutes provide enough certainty to ensure that results such as those in *Pigot v. Moran* and *Sensenbrenner v. Rust, Orling and Neale, Inc.* could not be reached.

A discovery accrual rule, similar to that discussed in prior years, will be included in the draft. It was noted that while the current rules provide a favorable climate for business in Virginia, the fundamental unfairness for injured citizens can be alleviated somewhat by adoption of a discovery rule subject to a repose provision.

Next Meeting

The committee scheduled a meeting for August 18, 1992, to review the proposed draft legislation. Copies of the discussion draft were circulated to all interested parties in July.



The Honorable Bernard S. Cohen, *Chairman*

Legislative Services contact: Mary P. Devine

HJR 107: Blue Ridge Economic Development Commission



June 12, 1992, Roanoke

The second year of study for the Blue Ridge Economic Development Commission commenced on June 12, 1992, with a day-long meeting at Virginia Western Community College in Roanoke.

Development Bank

After a review of the commission's legislative accomplishments during the 1992 Session of the General Assembly, Macon C. Sammons, Jr., county administrator for Alleghany County, and Wayne Strickland, executive director of the Fifth Planning District Commission, reported on the feasibility of establishing a Blue Ridge Region Development Bank. The bank would be similar to the North Carolina Center for Community Help (often referred to as North Carolina's Development Bank), which was established in 1984 as the country's first statewide, private-sector financial institution focusing on economic development in targeted communities. Since its first loan in 1984, the North Carolina bank has lent nearly \$28 million for job creation and low-income housing. In 1992, the bank intends to make nearly \$12 million in loans.

There are three primary characteristics of a development bank that differentiate it from

other financial institutions:

- It targets its lending to non-traditional borrowers and depressed areas;
- It increases its outreach and lending capital through partnerships with public sector programs, private sector capital, and community-based organizations; and
- It provides technical assistance to its borrowers (this aspect of the development bank is a key issue because the technical assistance provided to borrowers helps reduce loan failures).

Additionally, a development bank is:

- A large scale, private-sector financing institution that focuses on the 10% or 15% of loans that are just beyond "bankability."
- It is usually associated with a depository institution, which allows the development bank to participate in certain financing programs (e.g., SBA 7(a) loan guarantees) that are available only to financial institutions. This also gives the bank a mechanism for attracting low-cost, federally insured deposits from socially responsive investors such as foundations, religious orders, and wealthy individuals.
- Although the development bank can manage an equity fund, its primary focus is not equity financing. Thus, a development bank generally does not finance large start-ups with little owner or subordinate investment or plant closings. These are too high risk for a provider of debt.

An advisory committee has been established to provide guidance in establishing a development bank in the Blue Ridge region. The committee has geographic representation from the Lynchburg area, the Roanoke area, the New River Valley area, and the Alleghany Highlands. The individuals who have been invited to participate have various affiliations, including the

commission, lending institutions, nonprofit housing organizations, local government, small business development, and planning district commissions. The study group intends to complete its work by November 1992, so that a development bank can be established in the region in the near future.

A development bank in the Blue Ridge region is an appealing idea for several reasons:

- The banking community is going through dramatic changes in the regulatory climate for lenders, and many persons who previously qualified for loans do not necessarily qualify in the 1990s.
- A declining percentage of young families can afford to purchase a home, compared to 20 years ago. Something needs to be done to make it easier for these families to enjoy the opportunities of home ownership.
- A declining percentage of the population is composed of traditional families. Households headed by a single female, for example, are less likely to be able to buy a home under present market conditions.
- Rural area banks often cannot specialize profitably in housing loans or government housing programs. There is insufficient demand for such programs to motivate the banks to serve these needs. A development bank serving an entire region can provide such specialization and outreach efforts.
- Small business loans are often just too small to be profitable to banks; there is a need for venture capital in rural areas.

While the initial focus of a development bank would certainly be on the Blue Ridge region, the concept also has potential for other regions of the state, such as Southwest and Southside Virginia. Ultimately, the entire state could be served by a development bank, as is the case in North Carolina.

Global Economy

Virginia's role in the global economy was also addressed at the meeting, as J.E. Justice, CEO of Alliance International, Inc., spoke on how the Commonwealth and the region can address overseas markets. New markets for existing businesses are a source of economic development available to most Virginia manufacturers. International activity is becoming more and more important, as evidenced by the fact that in 1990, 30% of the gross national product (GNP) went abroad, compared with only 2% in 1960.

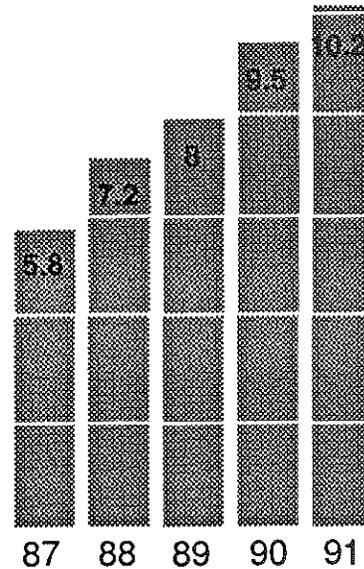


Figure 1. Virginia's total exports in billions of dollars, 1987-91. Source: Virginia Port Authority.

In 1987, Virginia exported \$5.8 billion in goods; in 1991, \$10.2 billion — a 76% increase in four years (see Figure 1). Adding \$2.5 billion for service exports, Virginia's total exports equal almost \$13 billion, or 10% of Virginia's economy. The Commonwealth's major exports during that time were, and still are, tobacco, lumber, and coal (see Figure 2).

Contributing to Virginia's growth in exporting are direct foreign investment, exports, port shipments, and airport shipments, and all of these activities generate direct and indirect employment. In fact, 16,000 - 17,000 jobs are created by each billion dollars of goods exported from Virginia.

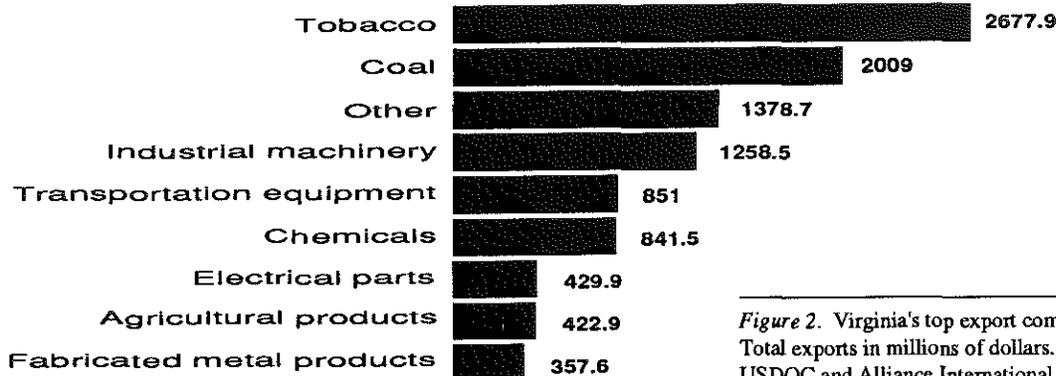


Figure 2. Virginia's top export commodities, 1991. Total exports in millions of dollars. Source: USDOC and Alliance International, Inc.

Mr. Justice stressed that local businesses need information, education, and support to succeed in international markets. From the state, a business can seek assistance from the Departments of Economic Development and Agriculture and the Virginia Port Authority. On the federal level, a business can solicit guidance from the Departments of Commerce and Agriculture, the Small Business Administration, and the Export/Import Bank. Other sources of assistance and support include educational institutions, trade groups, chambers of commerce, and the private sector.

Future Meetings

Following Mr. Justice's remarks, the commission voted to co-sponsor the Western

Virginia Leadership Conference to be held September 29 at the Sheraton-Airport in Roanoke. The conference will focus on strategic development in Western Virginia as an investment for the future.

The commission also developed its meeting schedule for the next several months: **July:** Task forces met individually; **August 17:** Commission and task forces will meet at Central Virginia Community College in Lynchburg; **September:** Task forces will meet individually; **September 29:** Commission will co-sponsor the Western Virginia Leadership Conference in Roanoke; **October:** Commission and task forces will meet at Virginia Tech in Blacksburg; **November:** Commission will meet to receive task force reports; **December:** Commission will vote on recommendations and formulate its legislative package for 1993.



The Honorable Joan H. Munford, *Chairman*

Legislative Services contact: Edie T. Conley

SB 500: Commission on Equity in Public Education



June 23, 1992, Richmond

The Commission on Equity in Public Education is the descendant of the Commission to Review Recommendations on Educational Opportunity convened in accordance with SJR 251 of 1991. The organizational meeting of the revised commission was held on June 23.

The commission has a three-pronged purpose to review, evaluate, and make recommendations on the report of the Governor's Commission on Educational Opportunity for All Virginians and any resulting reports and recommendations from the State Board of Education and any plans transmitted by the Governor. Among the commission's broad statutory powers are directives to evaluate the current system of funding public education and review and evaluate other areas of equity as necessary. The commission is required to report to the Governor and the 1993 General Assembly and annually thereafter.

Refiled Lawsuit

Early in the meeting, concerns were expressed about the refiled on June 12 of the

lawsuit supported by the Coalition for Equity in Educational Funding Corporation and the impact of this litigation on the work of the commission. The commission received an updated chronology of Virginia's equity issue and a chart detailing differences in the complaint filed in November and the one filed on June 12. A motion was approved unanimously that, pursuant to § 2.1-344.1 of the *Code of Virginia*, the commission and representatives of the Governor's office convene an executive session, as authorized by § 2.1-344 A7 of the Freedom of Information Act, for the purpose of consulting with and being briefed by representatives of the Office of the Attorney General on matters pertaining to the suit filed by the coalition. The matters to be discussed were noted as required by § 2.1-344.1 as legal principles and procedures related to the suit and the Commonwealth's response to the enumerated allegations. Immediately upon leaving executive session, each member present certified that the matters noted in the motion were the only matters discussed during the session.

Governor's Commission

A review of the findings and recommendations of the Governor's Commission on Educational Opportunity for All Virginians was presented, during which questions concerning sources of additional revenue and local efficiency were raised. Secretary of Education James W. Dyke commented on the equity suit and described 1992 General Assembly actions providing \$74 million in additional funds for educational opportunity as a "tremendous first step."

1992 Budget Actions

A summary of 1992 budget actions noted the adoption of an educational opportunity plan addressing some of the most crucial educational needs in school divisions across the state. Approximately two-thirds of the funds will go to school divisions with a composite index below 0.3500. The components of the 1992-1994 biennium budget plan are:

- \$46.4 million for an at-risk student add-on;
- \$17.5 million for a SOQ maintenance supplement (\$15/pupil to meet critical, ongoing maintenance needs);
- \$1.9 million for English as a Second Language programs;
- \$8.0 million for transitional funding of school divisions with enrollment loss;
- \$600,000 for development of the Common Core of Learning and the assessment measures included in the World Class Education initiative;
- \$300,000 for pilot school/community health clinics; and

■ \$450,000 for two new regional education groups — the Southwest Virginia Public Education Consortium and the Blue Ridge Regional Education and Training Council.

The commission also reviewed and approved the proposed study plan, focusing on information and data collection. Prior to adjournment, the commission decided to postpone policy decisions until a judicial decision on the Commonwealth's response to the lawsuit is handed down.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Norma E. Szakal

SJR 505: Joint Subcommittee to Study Land Transfers in the Shenandoah National Park



July 16, 1992, Richmond

The Joint Subcommittee discussed with representatives of the Virginia Department of Transportation (VDOT) the department's responsibilities and procedures relating to maintenance of and improvements to state secondary highways within and adjoining Shenandoah National Park. These discussions revolved around a policy of the National Park Service under which, whenever a VDOT project involves the use of park land, a parcel of land (equal in value to that needed for the highway project) must be donated by Virginia to the park to "mitigate" damage to the park.

VDOT reported that at least one piece of legislation was being drafted by Congressman George Allen that would improve VDOT's situation vis-a-vis Shenandoah National Park by retroceding to Virginia those state roadways within the Shenandoah National Park "as they exist." This proposed legislation would be most helpful in the case of highway projects for which no additional right-of-way is needed. It was stressed, however, that this legislation has not yet been offered and would not necessarily eliminate the need for further donations of land to the park in cases where additional right-of-way is needed.

A general discussion of the National Park Service's policy on highway projects within Shenandoah National Park and its requirement for mitigations raised several questions for the subcommittee. Among them were:

1. Does the National Park Service have authority under federal law to require these "land swaps" as a precondition to VDOT's undertaking of highway projects within Shenandoah National Park?

2. Does VDOT have authority under Virginia law to participate in these land swaps?

3. Since Shenandoah National Park was created from land acquired by Virginia and donated to the federal government, is it proper for the National Park Service to require that Virginia acquire additional land for donation to the park in order to get back sufficient land to carry out needed highway projects?

4. What are the law-enforcement consequences for Virginia and its localities which flow from these donations of land to Shenandoah National Park?

5. How does VDOT's acquisition of land for donation to Shenandoah National Park affect local governments whose territory adjoins the park?

6. How does incremental expansion of the boundaries of the Shenandoah National Park resulting from donations of land affect the owners of property in the vicinity of the park?

7. Depending upon the answers to the foregoing questions, is it sound public policy for

Virginia to accede to the policies of the National Park Service in this area?

8. If not, what should Virginia's public policy be in this area?

To assist the subcommittee and its staff in addressing these questions, VDOT was requested to provide additional information on (i) the statutory, regulatory, and other bases for the National Park Service's and VDOT's actions related to these matters and (ii) the number,

size, location, and value of parcels that have been donated to the National Park Service by Virginia as mitigation for highway projects.

After a review of this material by staff, the subcommittee will meet again to continue its discussions.



The Honorable Frank W. Nolen, *Chairman*

Legislative Services contact: Alan B. Wambold

HJR 97: Joint Subcommittee Studying the Needs of Foreign-Born Individuals in the Commonwealth



July 23, 1992, Richmond

Of the more than one million immigrants who will enter the U.S. this year, approximately 10,000 will settle in Virginia, ranking it 18th among the states in percentage increase since 1980. The Commonwealth can expect more than 7,000 refugees each year, with the disproportionate share, 62%, going to Northern Virginia. At a time of federal cutbacks and budgetary crises among the states and federal government, the assimilation of increasing numbers of foreign-born individuals into American culture demands innovative and practical public policy.

The Joint Subcommittee Studying the Needs of Foreign-Born Individuals in the Commonwealth convened in Richmond to begin development of such a policy. The first meeting was devoted to gathering information from the numerous state agencies affected by the increase in refugees and immigrants in Virginia.

Federal Initiatives

From the original Immigration and Nationality Act (INA) of 1952, commonly known as the McCarran-Walter Act, which established admission ceilings for immigrants and favored skilled workers, the immigration policy of the nation has evolved according to world needs and national public policy. Today, preference

is given to those who have family ties to persons living in the U.S. and to political dissidents.

The most recent substantive legislation occurred in 1986, with the passage of the Immigration Reform and Control Act, which sought to control illegal or undocumented immigration and to legalize the status of certain aliens who lived illegally in the U.S. at that time.

In 1980, the federal government adopted a refugee policy which stated that "because refugees admitted to the United States are a result of a national policy decision and by federal action, the federal government clearly has a responsibility to assist states and local communities in resettling refugees — assisting them until they are self-supporting and contributing members of their adopted communities." (Senate Report 96-256 on the Refugee Act of 1980, P.L. 96-212.) Congress, in 1990, raised the limits on the number of regular immigrants — those who have family ties or valued occupational skills — by 40%, from 492,000 to 675,000. Refugees fleeing political persecution number about 140,000 per year, and an estimated 200,000 persons enter the U.S. illegally each year. Federal law also permits the President to admit additional refugees for "humanitarian concerns" (8 USCS §1157).

While the administration professes a moral obligation to provide funds to the states to aid refugees and certain legalized aliens, actions have run counter to stated intentions. States have experienced drastic cuts in funding, while the federal government continues to allow more individuals to enter the country each year. Not only are services more expensive today, but the variety of services needed by foreign-born individuals has also expanded. The proposed 1993 budget would cut the refugee program funding almost in half — from \$410 million to \$227 million — on top of already reduced spending. Although federal law mandates 100% reimbursement to states for mandated services in some categories, assistance has been provided only "to the extent of available appropriations."

Over the years, while federal budget contributions for refugee resettlement increased in dollars, the available dollars per client decreased substantially due to inflation and increased numbers of refugees. Since 1986, federal expenditures per client have decreased 67%, from \$5,592 to \$1,845. Similar cutbacks have been experienced by other programs for the foreign-born, and state programs have made up the difference in this shortfall of federal dollars. Virginia's Refugee Resettlement Program expended more than \$6.5 million in 1991 to serve 2,757 clients.

Social Services

In compliance with the Refugee Act of 1980, the Department of Social Services has been designated as Virginia's lead agency for refugee services. Major components of the program include assistance for: (i) foster care for children who arrive without an accompanying adult; (ii) job referral, development, workshops, and counseling; (iii) English language training; (iv) intensive employment training through the Targeted Assistance Program (TAP) in areas of high refugee concentration, such as Arlington and Fairfax Counties; (v) vocational training; (vi) medical needs; (vii) health screening; and (viii) support services for interpretation, transportation, and other daily living needs. Diminishing federal dollars, privatizing the refugee program to establish a public-private partnership, and increasing numbers of refugee and alien arrivals are expected in the future.

Education

As part of the Civil Rights Act of 1964, Congress enacted Title VI, prohibiting discrimination on the basis of race, color, or national origin in programs or activities that receive federal financial assistance. In 1970, the Office for Civil Rights (OCR) interpreted Title VI to require that school divisions receiving federal aid of any kind provide special alternative language programs in order to ensure that students with limited English proficiency have meaningful access to the school's programs. While not requiring bilingual education, the case of *Lau v. Nichols*, 414 U.S. 563 94 S. Ct 786 (1974), upheld this interpretation of the law to require school divisions to take affirmative steps to rectify language deficiencies that have the effect of excluding national-origin minority children from participation in the educational programs offered. Since that time, additional court cases have developed standards for use in assessing compliance with the law, but the standards are relatively flexible.

Three programs offer educational opportunities to foreign-born individuals. English as a Second Language (ESL) served 16,290 students, including migrant students, in 1991; prior to 1990, no additional funding was appropriated, but \$1.7 million in the 1990-92 biennium and \$3.6 million for 1992-94 were added to the Department of Education's budget. These categorical funds are earmarked exclusively for use in ESL programs; however, in many cases this money has supplanted rather than supplemented local funds.

Migrant students reside in the Commonwealth for short periods of time, and while 549 individuals were served in 1991, reliable student

assessment data is generally unavailable. Although migrant education is federally funded, Virginia's program received only \$420,696 in federal funds for 1991-92 and \$300,000 in state funds. All funds go to the local school divisions.

Although not constituted solely of foreign-born, adult education classes for persons with limited English proficiency served 14,517 in 1991, which translates into 46% of all adults served. The state currently funds all adult education with a \$9 million appropriation.

Needs identified by the Department of Education include increased funding, additional staff development and educational opportunities, expanded interagency cooperation, and development of a reliable source of data regarding the identification of foreign-born persons.

Health

Foreign-born persons require the same health services as Americans, including immunizations, maternal and child health, family planning, and nutrition programs. Approximately 75% of the case loads in most of these programs in Northern Virginia are foreign-born. Problems that plague these residents result from conditions in their country of origin, including physical injuries from war, lack of OB/GYN and dental care, eye and hearing problems, infectious and communicable diseases, chronic diseases and parasites, hepatitis, and a lack of understanding of how to take care of their own health needs. For example, cases of tuberculosis in Arlington County almost doubled in 1991; of the 1990 cases, 62% were foreign-born; this proportion increased to 77% in 1991. In addition, contagious diseases affect the entire population — for every TB case, an additional 20 persons can be exposed.

Health needs will continue to consume a substantial portion of the state budget each year, with the increasing numbers of foreign-born who settle in the state placing additional burdens upon the system. Augmented funding is only part of the answer; recruitment of bilingual staff, use of outreach workers, development of appropriate materials, and increased comprehension of ethnic differences must also be considered.

Mental Health, Mental Retardation and Substance Abuse Services

Significant cultural, linguistic, and geographical barriers to accessing services exist among the immigrant and refugee population. Although specific needs assessment data are not available, studies document an increased incidence and risk for mental health and substance abuse among refugees. In addition, there is a critical need for professional bilingual services for limited- or non-English-speaking persons.

The State Legalization Impact Assistance Grant (SLIAG) is the only targeted source of funding for foreign-born groups, and it is limited to those newly legalized aliens admitted under the Immigration Reform and Control Act of 1986 who were ineligible for federal aid for five years. Legalized aliens in Virginia numbered 18,605 in 1992. Drawbacks to this funding program include (i) a restriction on the use of funds to those already being served by the system, thereby precluding any outreach to identify persons in need, (ii) administrative barriers that limit access to funds, and (iii) the 1993 expiration of the program.

Persons with or at risk of severe mental disabilities or substance abuse need prevention, early intervention for "at-risk" children, emergency, outpatient and residential treatment, case management, and inpatient hospitalization services. Although the services are identical to those needed by the general population, specialized interventions are needed to address the cultural differences. These might include bilingual professional services, staff who reflect the cultural backgrounds of the clients or who have been trained in foreign customs and beliefs, counseling for post-traumatic stress disorder, outreach in communities, and services in affiliation with community ethnic and cultural minority organizations.

Motor Vehicles

The Department of Motor Vehicles (DMV) confronts two significant problems when transacting business with the foreign-born: surmounting the language barriers and verifying documentation required as proof of identity.

DMV prints documents in Spanish, administers the driver's license test in both

Spanish and Vietnamese, encourages bilingualism in field employees, and works with the Immigration and Naturalization Service to revise the verification process for identification. DMV is also currently developing a new program, "Community Outreach," which will identify and establish an agency policy on responding to the needs of non-English-speaking customers, incorporate issues of diverse cultures into all programs, and promote multiculturalism among employees and citizens. Implementation of the Automated Testing Machines, whereby a client may take the licensure knowledge test via the use of a telephone receiver and display screen, both of which may be programmed with several different languages, will occur in 1994.

DMV has also identified the need for a central state agency or group to represent the needs of foreign-born individuals by identifying the impact of any policy modification upon a target population.

Corrections

In 1982, the General Assembly authorized the identification and reporting to the U.S. Immigration and Naturalization Service of all suspected aliens convicted of felonies in the Commonwealth. Agreements were also made for the reimbursement of costs associated with confinement of aliens and transfers of such persons pending deportation. As of January 1992, there were 172 known or suspected criminal aliens incarcerated in Virginia prisons or under state supervision or parole. New procedures are expediting deportations upon release from confinement. Less than five percent of the felons incarcerated in Virginia adult corrections institutions are identified as foreign-born.

The Department of Youth and Family Services provides probation, aftercare, commitment stays in learning centers, individual and family counseling, substance abuse treatment, sexual offender treatment, and domestic violence counseling for youths committed to the juvenile system. In addition, interpreters are required to be available whenever a non-English-speaking juvenile is admitted to a facility. Although accurate figures are not available, it is estimated that 100 to 125 juveniles required the services of translators this fiscal year. Needs identified by the department include additional bilingual counselors in Northern Virginia, funds for translators for court proceedings other than those which involve criminal charges and for social history reports, bilingual treatment staff, cultural competency training, and specific training programs for dealing with issues indigenous to foreign-born populations.

Several general themes command the attention of Youth and Family Services, including the continued growth of the foreign-born population in Northern Virginia, the increase in domestic violence cases as a result of marked cultural differences in the treatment of women, increased assaults between Hispanics and blacks, the formation of loosely organized but increasingly violent ethnic gangs, and the identification of numerous juveniles who are illiterate in their native language.

Labor and Industry

The Migrant and Seasonal Farmworkers Board coordinates and evaluates state and federal services to affected workers within the Commonwealth. Out of necessity, migrant workers, sometimes with their

families, travel great distances to do farmwork for wages. Various state and federal agencies are required to offer a wide range of compensatory services to migrants, including adult education, camp inspections, consumer education, counseling, crew leader training, day care, emergency transportation, family planning, vocational training, and legal services. Because of the mobility required by the job, however, many workers never utilize many of these services or other assistance programs available to other citizens. Policies have lagged as a result of the prospect of mechanization replacing migrancy, but today's demand for fresh fruit and vegetables, requiring labor-intensive production, has increased.

The plight of the migrant worker and his family is grim: the infant mortality rate for migrants is 125% higher than the national average; the life expectancy of a worker is 49 years, while the national average is 75 years; the rate of parasitic infection is estimated to be 11 to 59 times higher than the general population rate; and the incidence of malnutrition is higher than in any other subgroup in the country. Federally supported primary care services meet the needs of less than 20% of the total migrant population. Virginia, in an attempt to eliminate duplication, has organized an inter-

agency system to coordinate the delivery of state resources, but the mobility of the population precludes significant success.

Subcommittee Actions

The joint subcommittee, recognizing the extent of the problem and its impact on the Northern Virginia area in particular, agreed that a series of public hearings in that part of the state would be helpful. The public hearings are tentatively scheduled for September.



The Honorable L. Karen Darner, *Chairman*
Legislative Services contact: E. Gayle Nowell

HJR 71: A.L. Philpott Southside Economic Development Commission



July 9, 1992, Danville

At the first 1992 meeting of the A.L. Philpott Southside Economic Development Commission, newly appointed Secretary of Economic Development Cathleen A. Magennis pledged the support and commitment of her office and the Department of Economic Development to the work and goals of the commission. Ms. Magennis acknowledged the commission's focus on diversification and industrial growth, a streamlined permit approvals process, and a broader definition of "economic development." Noting competition from North and South Carolina, Secretary Magennis stated that Virginia is not currently included among "recommended sites" for development. She cited the Permit Assistance Group (PAG), which will coordinate efforts with the Secretary of Natural Resources to streamline the permit approvals process.

Virginia Gateway 21

Kenneth A. Rowe and Michael A. Waters, from the Virginia Department of Aviation, provided an update on "Virginia Gateway 21," a coalition pursuing the development of a "superport" for Southeastern Virginia. The project was initially spearheaded by the five chambers of commerce in the Richmond-Petersburg-Peninsula-Tidewater region. A 1991 feasibility study cited the region's need for a large airport to accommodate anticipated passenger demand and air traffic in the next century. To be considered for inclusion in a "hub," an area must boast strategic location, a growing passenger base, and adequate airport facilities, including noise buffers and room for expansion. Eastern Virginia's strategic

coastal location enhances its ability to absorb excess air traffic demand from other domestic and international ports.

Fort Pickett

Col. Maynard Austin, executive director of the Nottoway County Economic Development Commission, described a proposed agricultural export center for Fort Pickett. The project would incorporate existing airstrip facilities and would include an animal holding facility as well as a refrigeration facility. The Corps of Engineers is presently conducting an environmental feasibility study of the proposed project site; results are expected July 15. The project capitalizes on reduced federal defense spending by creating a use for the current Fort Pickett air facility. While federal funds would support one-half to two-thirds of the project, the Commonwealth would supply as much as \$30 million, which includes runway construction and possible re-routing over Route 40. Several companies have expressed interest in shipping products from the proposed facility, which might

generate as many as 1,000 jobs for Southside. The commission applauded Col. Austin's vision and agreed to study the project further.

Dillon Rule

Ed Deane, policy analyst with the Department of Housing and Community Development, Office of Policy Analysis and Research, briefed commission members on the activities of the Governor's Advisory Commission on the Dillon Rule and Local Government. The Dillon Rule Commission has conducted 10 public hearings in 1992, revealing interest in broad relaxation of the Dillon Rule, as well as uniform local government operational powers, equalized taxing and borrowing powers, regional cooperation, and clearer state and local responsibilities.

Route 58

Route 58 developments and potential changes to the transportation funding formula were addressed by Secretary of Transportation John G. Milliken and Deputy Secretary Oscar Mabry. Of the \$600 million transportation bonds authorized in 1989, the first \$200 million issue was sold in December 1989, providing over \$180 million for development of the Route 58 corridor. As of May 1992, \$93.4 million had been expended; annual debt service on the bonds is over \$15 million. Issuance of the second series

of bonds has been postponed until 1993, and a third and final series is not anticipated until 2002. The original plan contemplated an annual appropriation of \$40 million from state recordation taxes to support the Route 58 Development Fund and to pay debt service over the entire project. Virginia's share of federal transportation trust funds may be cut by \$101 million, a 23% reduction. The Virginia Department of Transportation determines how it will allocate these federal moneys; the proposed reduction would clearly affect current projects and programs.

Local Government

Representatives of Southside local governments briefly addressed the commission. Mayor Raynell Lantor of South Boston emphasized education as the key to economic development in the region. Ray Griffith, city manager of Danville, stressed narrow interpretation of federal environmental laws and regulations as unduly burdensome to localities. Via letter, Emporia City Manager Tedd Povar cited a renewed commitment to education, citizenship, and law abidance as imperative to Southside's future development.

Next Meeting

The commission's next meeting, to be held at Longwood College in August, will focus on education issues. A joint meeting with the Commission on Health Care is planned for October. The commission also expects to explore further potential changes to the transportation formula, the proposed agricultural export center, and the permit approvals process.



The Honorable Whittington W. Clement, *Chairman*
Legislative Services contact: Kathleen G. Harris

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The Legislative Record is also published in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219. Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

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 GENERAL SERVICES

Division of Forensic Science

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

This republication is requested because one of the vendors has requested that an additional field test be added to their approved list and because we have noted one error in the previously published list.

The test to be added is under "ODV Incorporated (NarcoTest)" and is given as follows:

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Cocaine Hydrochloride	7613 - Test #13 (Cocaine Free-Base Reagent)

The test to be corrected is under "Sirchie Fingerprint Laboratories" and involves changing #1 to #2. The corrected version should read as follows:

<u>Drug or Drug Type</u>	<u>Manufacturer's Field Test</u>
Methamphetamine	#2 - Marquis Reagent
* * * * *	

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:

Becton 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 Hydrochloride	Test G (Modified Scott Reagent)
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)
 P.O. 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
Barbiturates	905 - Dille-Koppanyi Reagent
Amphetamine	906 - Mandelin Reagent
Methamphetamine	906 - Mandelin Reagent
Methadone	906 - Mandelin Reagent

General Notices/Errata

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)
P.O. 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
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)
Cocaine Hydrochloride	7613 - Test #13 (Cocaine Free-Base Reagent)
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
P.O. 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
Cocaine Hydrochloride	#4 - Cobalt Thiocyanate Reagent

General Notices/Errata

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	#2 - Marquis Reagent
Hashish Oil	#8 - Duquenois Reagent
Hashish Oil	#9 - NDB (Fast Blue B Salt) Reagent

DEPARTMENT OF HEALTH (STATE BOARD OF)

† Notice to the Public

Board of Health/Waterworks Operation Fee General Notice for Requesting Additional Comment on Alternative Proposals for Developing a Fee Regulation

The Fee Regulation Ad Hoc Committee established to advise the State Health Commissioner has heard and discussed optional methods that could be used to charge fees to waterworks owners. Presently an emergency regulation is in effect until June 30, 1993, and a draft proposed permanent regulation based on this emergency regulation is being filed for Notice of Comment. Optional methods suggested are:

1. Minimum fee with sliding scale

A. For FY 1994 (July 1, 1993 to June 30, 1994) - a minimum fee for all waterworks of \$180 up to 125 customer accounts, with a sliding scale starting with a charge of \$3.00 per customer account for the block of 126 to 825 customer accounts decreasing down to \$1.95 above 25,000 customer accounts. Charges in between would be based on various blocks of customer accounts so as to reduce the unit charge as the waterworks account base enlarges.

B. For FY 1995 - a minimum fee of \$250 up to 125 customer accounts, sliding scale starting at \$4.20 for the block of 126 to 825 customer accounts decreasing to \$2.75 above 25,000 customer accounts.

2. Minimum fee with flat scale

This option differs from the emergency regulation (and proposed draft permanent regulation) only in that a minimum fee of \$100 - \$200 would be charged no matter the waterworks customer account base.

Comments on these options should be submitted to Thomas B. Gray, P.E., Office of Water Programs, Virginia Department of Health, 1500 E. Main St., Room 109, P.O. Box 2448, Richmond, VA 23218. The comment period for the proposed draft permanent regulation ends November 9, 1992.

† Notice to the Public

SJR 141 Study of Physician Ownership and Financial Interest in Health Care Facilities

Request for Public Participation

SJR 141 passed this year in the Virginia General Assembly requires the Secretary of Health and Human Resources to study physician ownership and financial interest in certain facilities. Under consideration for inclusion in the study are MRI facilities, Clinical Laboratories, Physical Therapy facilities, Radiation Therapy facilities, Homes for Adults, Durable Medical Equipment suppliers, Home Health, and Optometry. If you would like to contribute to the study process or obtain more information about the study, please contact:

Parker Sternbergh
Division of Health Policy
Virginia Department of Health
1500 East Main Street, Suite 105
Richmond, Virginia 23219
(804) 786-4891

Notice to the Public

Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1993

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1993.

Written comments on the proposed plan, which are

received no later than August 14, 1992, will be accepted in the office of the Director, WIC Program, State Department of Health, P.O. Box 2448, Richmond, VA 23218.

The proposed State Plan of WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning August 3, 1992. Please contact your local health department for the location of this office in your area.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918

(Docket H-020 A)

Air Contaminants

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to amend its existing air contaminant standards that set permissible exposure limits (PELs) for the maritime, construction and agriculture industry sectors. In this notice, OSHA is proposing to issue more protective exposure limits for approximately 210 substances currently regulated in the construction and maritime industries and add new exposure limits for approximately 160 chemicals to protect these workers.

OSHA is also proposing that employees in agriculture be covered by these PELs as well as by approximately 220 additional limits which currently exist in general industry, maritime and construction, but do not exist for the agricultural industry. By appropriations act rider, only employees of farms with more than 10 employees are covered by OSHA standards. New or more protective limits will substantially reduce significant risk of material impairment of health for construction, maritime and

agriculture workers and are technologically and economically feasible for those industries.

The proposed changes will add a new § 1915.1000 for shipyards, a new § 1917.1000 for marine terminals and a new § 1918.1000 for longshoring, along with necessary conforming amendments. Section 1926.55 will be revised for construction and new § 1928.1000 will be added for agriculture.

TEXT: Full text of the proposed rulemaking can be found in Volume 57, No. 114, pg. 26002 (June 12, 1992) of the Federal Register

DATES: Comments on proposed changes: Postmarked on or before September 25, 1992. Notices of Intention to Appear at informal rulemaking hearings: Postmarked on or before September 11, 1992. Individuals wishing to comment or appear: See Section VIII of Federal Register for specific requirements.

Parties requesting more than 10 minutes for their presentation at the informal public hearing and parties who will submit documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence, postmarked on or before September 25, 1992. The informal rulemaking hearing is scheduled for October 20-30, 1992, in Washington, DC, for November 17-20, 1992, in San Diego, California, and on December 8-11, 1992, in Des Moines, Iowa.

ADDRESSES: Written comments on the proposal should be submitted to the Docket Officer, Docket No. H-020A, Room N-2634, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, D.C. 20210, telephone (202) 523-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

Notice of intention to appear, testimony and documentary evidence to be submitted at the hearing are to be sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. H-020A, Room N-3647, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615.

The hearing will be held in Washington, DC, in the Auditorium, Frances Perkins Department of Labor Building, Third and Constitution Avenue, NW. The informal public hearing will begin at 9:30 a.m. The hearing in San Diego will be held at the Holiday Inn on the Bay, 1355 North Harbor Drive, San Diego, CA 92101, telephone (619) 232-3861. The hearing in Des Moines will be held at the Holiday Inn Des Moines, 1050 Sixth Avenue, Des Moines, Iowa 50314, telephone (515) 283-0151.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3649, 200 Constitution

General Notices/Errata

Ave., Washington, DC 20210, telephone (202) 523-8151.

Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910, 1915, and 1926

(Docket H-71)

Occupational Exposure to Methylene Chloride

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of informal public hearing of federal proposed rulemaking; reopening of written comment period.

SUMMARY: This notice schedules informal public hearings concerning OSHA's proposal (56 FR 57036, November 7, 1991) to modify the existing provisions for controlling employee exposure to methylene chloride. The agency requests that interested parties present testimony and evidence regarding the issues raised by the proposed standard and by this hearing notice. In addition, this notice reopens the rulemaking record so federal OSHA can receive additional comments regarding the proposed rule.

TEXT: Full text of the proposed rulemaking can be found in Volume 57, No. 111, pg. 24438 (June 9, 1992) of the Federal Register.

DATES: All informal public hearings will begin at 9:30 a.m. on the first day of the hearing and at 9 a.m. on each succeeding day. The two informal public hearings are scheduled to begin on the following dates:

Washington, DC: September 16, 1992

San Francisco, CA: October 14, 1992

Notices of intention to appear at the informal public hearings must be postmarked by August 24, 1992.

Testimony and all evidence which will be introduced into the hearing record must be postmarked by August 24, 1992, for the Washington, DC, hearing and by September

22, 1992, for the San Francisco, CA, hearing.

Comments must be postmarked by August 24, 1992.

ADDRESSES: Notices of intention to appear at the hearing and testimony and documentary evidence which will be introduced into the hearing record must be submitted in quadruplicate to Mr. Tom Hall, Occupational Safety and Health Administration, Division of Consumer Affairs, room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615.

Comments should be submitted in quadruplicate to: The Docket Office, Docket No. H-71, Room N-2634, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.

Comments limited to 10 pages or less in length also may be transmitted by facsimile to (202) 523-5046, provided that the original and three copies of the comment are sent to the Docket Officer thereafter.

The locations of the informal public hearings are as follows:

WASHINGTON, DC: The Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210;

SAN FRANCISCO, CA: The Coil Room, Holiday Inn, Financial District, 750 Kearny St., San Francisco, CA 94108, telephone (415) 433-6600.

FOR FURTHER INFORMATION CONTACT: **Hearings:** Mr. Tom Hall, OSHA, Division of Consumer Affairs, U.S. Department of Labor, Room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615. **Proposal:** Mr. James F. Foster, Office of Public Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8151.

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.

ERRATA

DEPARTMENT OF HEALTH (BOARD OF)

Title of Regulation: VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.

Publication Date: 8:21 V.A.R. 3723-3735 July 13, 1992.

Correction to proposed regulation:

Page 3726, § 3.1 3, last sentence should not be stricken and should read as follows:

"Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine."

CALENDAR OF EVENTS

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

VIRGINIA AGRICULTURAL COUNCIL

August 24, 1992 - 9 a.m. - Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Orly/Heathrow Room, Sandston, Virginia. ☒ (Interpreter for deaf provided upon request)

This is the council's annual meeting whereby financial reports and project activities will be reviewed. The council will entertain project requests for 2nd and 3rd year continuation as well as hearings on several new project proposals. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Thomas R. Yates, Assistant Secretary, 1100 Bank Street, Suite 203, Richmond, VA. 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 8, 1992 - Written comments may be submitted through this date.

September 30, 1992 - 1 p.m. - Public Hearing
1100 Bank Street, 2nd Floor Boardroom, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-02:1. Rules and Regulations Governing the Prevention, Control and Eradication of Tuberculosis in Bovidae, Cervidae, and Capridae in Virginia and repeal regulations entitled VR 115-02-02. Rules and Regulations Governing the Prevention, Control and Abatement of Bovine Tuberculosis of Cattle in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae (not just cattle), (b) all cervidae (many of the deer), and (c) all capridae (goats); (ii) considering alternative ways of disposing of tuberculosis-infected animals; and (iii) a proposal to shorten the time in which a report must be made to the State Veterinarian when tuberculosis is suspected.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

September 8, 1992 - Written comments may be submitted through this date.

September 30, 1992 - 1 p.m. - Public Hearing
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-03:1. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Bovidae in Virginia and repeal regulations entitled VR 115-02-03. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of all classes of bovidae (not just cattle), (ii) a proposal to add definitions to the regulation to be specific in terms of precisely which bovidae must be tested for brucellosis, (iii) a proposal to expand instances in which a test for brucellosis is required, not just when there is a change of ownership.

Calendar of Events

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

* * * * *

September 8, 1992 - Written comments may be submitted through this date.

September 30, 1992 - 1 p.m. - Public Hearing
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-12:1. Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds into Virginia and repeal regulations entitled VR 115-02-12. Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds into Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions governing the importation of cervidae--most varieties of deer; (ii) repealing provisions requiring a permit for the importation of psittacine (parrot-like) birds and repealing provisions requiring that they be treated for psittacosis; (iii) repealing provisions requiring South American camelids of the genus Lama to be tested for bluetongue; (iv) requiring rabies vaccination for cats entering the Commonwealth; (v) adding importation requirements for bison, to treat them more consistently with cattle; and (vi) relaxing certain requirements pertaining to feeder cattle.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

† September 30, 1992 - 9 a.m. - Open Meeting
Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia.

At this regular meeting, the board plans to discuss legislation, regulations, and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes.

Contact: Roy E. Seward, Secretary to the Board, VDACS, Room 210, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3501 or (804) 371-6344/TDD ☎

Virginia Marine Products Board

† September 15, 1992 - 5:30 p.m. - Open Meeting
Nicks Steak and Spaghetti House, Route 17, Gloucester Point, Virginia. ☒

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on: finance, marketing, past and future program planning, publicity/public relations, old/new business. At the conclusion of other business, the board will entertain public comments for a period not to exceed 30 minutes.

Contact: Shirley A. Estes, 97 Main St., Suite 103, Newport News, VA 23601, telephone (804) 898-7261.

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board Office Building, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒

September 14, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Public Participation Procedures (Appendix E).** The regulation amendments revise the public participation guidelines to: allow for supplemental public participation, change and expand the information provided in the notice of intended regulatory action and notice of public comment, and require the preparation of additional supporting documentation and analyses.

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

Contact: Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

† September 10, 1992 - 6 p.m. - Open Meeting
Community Room, Eastern Government Center, 3820 Nine Mile Road, Henrico County, Virginia.

A meeting to allow public comment on request for permit from A.H. Robins Company to construct and operate a nonhazardous industrial waste incineration system to replace their existing incinerator at 2248 Darbytown Road, Henrico County, Virginia.

Contact: James E. Kyle, 9210 Arboretum Pkwy., No. 250, Richmond, VA 23236-3472, telephone (804) 323-2409.

Calendar of Events

* * * * *

NOTICE: The written comments date has been extended to September 18, 1992.

September 2, 1992 - 10 a.m. - Public Hearing
State Capitol Building, Capitol Square, House Room 1,
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution (PARTS I and II)**. The regulation amendments clarify the provisions relating to (i) making case decisions with regard to process, (ii) statutory basis and appeals; (iii) establish criteria for determining confidential information; and (iv) update various provisions to conform to code changes.

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

Written comments may be submitted until close of business September 18, 1992.

Contact: Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

ALCOHOLIC BEVERAGE CONTROL BOARD

August 31, 1992 - 9:30 a.m. - Open Meeting
September 17, 1992 - 9:30 a.m. - Open Meeting
September 28, 1992 - 9:30 a.m. - Open Meeting
October 14, 1992 - 9:30 a.m. - Open Meeting
October 26, 1992 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

Receipt and discussion of reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

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† **October 23, 1992 - 10 a.m. - Public Hearing**
First Floor Hearing Room, 2901 Hermitage Road,
Richmond, Virginia.

October 23, 1992 - Written comments may be submitted until 10 a.m. on this date.

Notice is hereby given in accordance with § 9.6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: **VR 125-01-2. Advertising, VR 125-01-3. Tied House, VR 125-01-4. Requirements for Product Approval, VR 125-01-5. Retail Operations, and VR 125-01-7. Other Provisions.** Numerous regulations are being amended,

some of which relate to (i) the advertising of nonalcoholic beer and nonalcoholic wine; (ii) allowing combination packaging; (iii) manufacturers, bottlers and wholesalers supplying placemats, coasters, napkins and back-bar pedestals to retailers under limited conditions; (iv) permitting novelty and specialty items with alcoholic beverage advertising to be given to patrons on the premises of retail licensees; (v) no limitation on the number of distilled spirits brands which may be listed on clip-ons and table tents; (vi) allowing brewpubs to use growlers to sell their beer to consumers for off-premises consumption; (vii) prohibiting a licensed club from obtaining a banquet special events license or a mixed beverage special events license for use on its premises; (viii) the definition of "gift shop"; (ix) the acceptance of credit or debit cards by A.B.C. stores for the retail purchase of alcoholic beverages; and (x) keg registration.

STATEMENT

VR 125-01-2. Advertising.

VR 125-01-2 § 1. ADVERTISING; GENERALLY; COOPERATIVE ADVERTISING; FEDERAL LAWS; BEVERAGES AND CIDER; RESTRICTIONS.

A. Basis: §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

B. Purpose: 1. To incorporate current policy into the regulation; and 2. to clarify the regulation of advertising for nonalcoholic beer and nonalcoholic wine.

C. Substance: 1. This amendment creates exceptions to § 1 E 8 for combination packaging which is currently being permitted; and 2. the board shall not regulate nonalcoholic beverage advertising if (i) a reasonable person by common observation would conclude that the advertising clearly does not represent any advertisement for alcoholic beverages and (ii) the advertising does not contain any reference to the name of a brand or the name or logo of a manufacturer of alcoholic beverages. However, the advertising of nonalcoholic beverages containing the name of a brand or manufacturer of alcoholic beverages is permitted if the advertising prominently states that the product is a nonalcoholic beer or nonalcoholic wine.

D. Issues: 1. Incorporation of current policy into the regulation; and 2. clarification.

E. Impact: Wholesalers will incur increased expenses for providing retail licensees with permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine. In addition, their expenses may increase if forced to provide nonalcoholic products with alcoholic products for combination packaging.

VR 125-01-2 § 2. ADVERTISING; INTERIOR; RETAIL LICENSEES.

A. Basis: §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), and 4-98.14 of the Code of Virginia.

B. Purpose: 1. Clarification concerning interior advertising of nonalcoholic beer and nonalcoholic wine; 2. to permit manufacturers, bottlers and wholesalers to supply placemats, coasters, napkins and back-bar pedestals to retail licensees under limited conditions; and 3. clarification.

C. Substance: 1. Retail licensees may display permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine subject to the limitations of VR 125-01-2 § 1 F regardless of the brands of nonalcoholic beer and nonalcoholic wine offered for sale by such licensees. Manufacturers, bottlers and wholesalers of alcoholic beverages may provide this permanent point-of-sale advertising to retailers provided that the total value of such advertising does not exceed \$160 per brand in any one calendar year per retail establishment. Retailers must keep accurate records for all permanent point-of-sale advertising.

2. Additionally, manufacturers, bottlers and wholesalers may supply retailers with napkins, placemats, coasters and back-bar pedestals which contain a reference to the name of a nonalcoholic beer or nonalcoholic wine or a public safety message relating to moderation and responsible drinking; and 3. the requirements that neckers be shipped in the case to retailers and entry blanks not be shipped in the case have been eliminated.

D. Issues: 1. Manufacturers, bottlers and wholesalers providing permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine and napkins, placemats, coasters and back-bar pedestals to retail licensees; and 2. clarification.

E. Impact: Manufacturers, bottlers and wholesalers will incur increased expenses for providing retail licensees with napkins, placemats, coasters, back-bar pedestals and permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine.

VR 125-02-2 § 5. ADVERTISING; NEWSPAPERS AND MAGAZINES; PROGRAMS; DISTILLED SPIRITS.

A. Basis: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

B. Purpose: 1. To permit radio advertising for distilled spirits products which have a lower percentage of alcohol; and 2. to restrict radio advertising of alcoholic beverages containing more than 14% alcohol but less than 22% alcohol.

C. Substance: 1. Alcoholic beverage advertising of products greater than 14% alcohol by manufacturers, bottlers, importers and wholesalers is limited to newspapers, magazines and printed programs; 2. radio advertising for alcoholic beverages containing more than 14% alcohol but

less than 22% alcohol may not depict or describe the consumption of alcoholic beverages for the effect their alcohol content may produce or appeal to persons below the drinking age. Such advertising shall emphasize that alcoholic beverages are traditionally served with meals.

D. Issue: Radio advertising of alcoholic beverages.

E. Impact: 1. Distilled spirits with 14% or less alcohol would be advertised on the radio; and 2. manufacturers, bottlers and wholesalers of fortified wines may have increased expenses for radio advertising because radio advertisements must emphasize that their product is traditionally served with meals.

VR 125-01-2 § 6. ADVERTISING; NOVELTIES AND SPECIALTIES.

A. Basis: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

B. Purpose: 1. To permit novelty and specialty items with alcoholic beverage advertising to be given to patrons on the premises of retail licensees; and 2. to comply with proposed amendments to VR 125-01-2 § 2.

C. Substance: 1. Manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give to patrons on the licensed premises of retail licensees novelty and specialty items not in excess of \$5.00 in wholesale value, limited to one item per patron per visit; and 2. to remove the prohibition that order blanks may not be shipped in the case to retailers.

D. Issues: 1. Distribution of novelty and specialty items to patrons on the premises of retail licensees by manufacturers, importers, bottlers, brokers, wholesalers or their representatives; and 2. Deregulation.

E. Impact: Manufacturers, importers, bottlers, brokers and wholesalers may incur increased expenses because of this amendment.

VR 125-01-2 § 9. ADVERTISING; COUPONS

A. Basis: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

B. Purpose: 1. To comply with proposed amendments to VR 125-01-2 § 2; and 2. to expand the type of services wine wholesalers may provide retail licensees.

C. Substance: 1. To remove the prohibition that coupons may not be shipped in the case to retailers; and 2. to allow wine wholesalers to attach refund coupons to wine.

D. Issue: 1. Clarification; and 2. expansion of services wine wholesalers may provide retail licensees.

E. Impact: 1. Minimal; and 2. wine wholesalers will attach refund coupons to wine.

Calendar of Events

VR 125-01-3. Tied House.

VR 125-01-3 § 2. INTEREST IN THE BUSINESSES OF LICENSEES.

A. Basis: §§ 4-7(1), 4-11(a), 4-98.10(t) and 4-98.14 of the Code of Virginia.

B. Purpose: Clarification.

C. Substance: To move Section 2 which deals with interests in the businesses of licensees from Tied House (VR 125-01-3) to Retail Operations (VR 125-01-5).

D. Issue: Clarification.

E. Impact: Minimal.

VR 125-01-3 § 4. CERTAIN TRANSACTIONS TO BE FOR CASH; "CASH" DEFINED; CHECKS AND MONEY ORDERS; ELECTRONIC FUND TRANSFERS; RECORDS AND REPORTS BY SELLERS; PAYMENTS TO THE BOARD.

A. Basis: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

B. Purpose: To comply with a 1992 statutory change to § 4-15 of the Code of Virginia which requires the board to accept electronic fund transfers from licensees for purchases of alcoholic beverages.

C. Substance: The board no longer has the discretion as to whether or not to accept electronic fund transfers from licensees.

D. Issue: Compliance with statutory law.

E. Impact: Minimal.

VR 125-01-3 § 7. INDUCEMENTS TO RETAILERS; TAPPING EQUIPMENT; BOTTLE OR CAN OPENERS; BANQUET LICENSES; PAPER, CARDBOARD OR PLASTIC ADVERTISING MATERIALS; CLIP-ONS AND TABLE TENTS.

A. Basis: §§ 4-7(1), 4-11(a), 4-69.2, 4-79(f) and (h), repealed by Acts 1989; and 4-98.14 of the Code of Virginia.

B. Purpose: 1. To comply with proposed amendments to VR 125-01-2 § 2; and 2. to eliminate an arbitrary limitation on the number of brands currently permitted for distilled spirits clip-ons and table tents.

C. Substance: 1. Manufacturers, bottlers or wholesalers of alcoholic beverages may furnish permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine to retail licensees only as permitted under VR 125-01-2 § 2; and 2. distilled spirits manufacturers, bottlers or wholesalers may list an unlimited number of distilled

spirits brands on clip-ons and table tents.

D. Issues: 1. Manufacturers, bottlers and wholesalers furnishing permanent point-of-sale for nonalcoholic beer and nonalcoholic wine; and 2. the number of distilled spirits brands that may appear on clip-ons and table tents.

E. Impact: 1. Industry members' advertising expenses will increase due to furnishing retail licensees with permanent point-of-sale advertising for nonalcoholic beer and nonalcoholic wine; and 2. minimal.

VR 125-01-4. Requirements for Product Approval.

VR 125-01-4 § 4. BEER AND BEVERAGE CONTAINERS; SIZES; OFF- AND ON-PREMISES LIMITATIONS; NOVEL CONTAINERS; OPENING DEVICES.

A. Basis: §§ 4-7(h) and (l), 4-11(a), 4-25, 4-102 and 4-103(b) of the Code of Virginia.

B. Purpose: To permit the use of growlers. Growlers are containers used to hold draft beer which are filled from a draft tap.

C. Substance: To allow brewpubs to use growlers to sell their beer to consumers for off-premises consumption.

D. Issue: The use of growlers for the sale of microbrewed beer.

E. Impact: Minimal.

VR 125-01-5. Retail Operations.

VR 125-01-5 § 11. DEFINITIONS AND QUALIFICATIONS FOR RETAIL ON-PREMISES AND ON- AND OFF-PREMISES LICENSES GENERALLY; MIXED BEVERAGE LICENSEE REQUIREMENTS; EXCEPTIONS; TEMPORARY LICENSES.

A. Basis: §§ 4-2(80), 4-7(1), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

B. Purpose: To comply with a 1992 statutory amendment involving § 4-25 A 11 h of the Code of Virginia and current A.B.C. practice.

C. Substance: Boats with wine and beer on- or on- and off-premises licenses and beer on-premises licenses will not have to serve meals in dining rooms or prepare meals on the licensed premises. Licensees still must meet monthly food sale requirements of \$2,000.

D. Issue: Compliance with statutory law and current practice.

E. Impact: Minimal.

VR 125-01-5 § 13. CLUBS; APPLICATIONS; QUALIFICATIONS; RECIPROCAL ARRANGEMENTS;

CHANGES; FINANCIAL STATEMENTS

A. Basis: §§ 4-2(6), 4-7(1), 4-11(a), 4-61.1, 4-98.2, 4-98.14 and 4-118.1 of the Code of Virginia.

B. Purpose: To prevent the circumvention of this regulation's limitation on nonmember usage of club premises.

C. Substance: To prohibit a licensed club from obtaining a banquet special events license or a mixed beverage special events license for use on its premises.

D. Issue: Private clubs operating as public establishments.

E. Impact: Licensed clubs which use special events licenses on a regular basis will lose revenue because they will no longer be able to hold special events.

VR 125-01-5 § 20. SPECIALTY STORES; WINE AND BEER OFF-PREMISES LICENSES; CONDITIONS; RECORDS; INSPECTIONS.

A. Basis: §§ 4-7(1), 4-11(a), 4-25 and 4-31 A of the Code of Virginia.

B. Purpose: Clarification.

C. Substance: A gift shop is defined as any bona fide retail store selling, predominately, (i) floral arrangements or handmade arts and crafts, which may include a combination of gifts, books, specialty items, collectibles, or other original and handmade products; and (ii) which is open to the public on a regular basis in a permanent structure where stock is displayed and offered for sale.

D. Issue: To clarify the term "gift shop."

E. Impact: There may be a minimal increase in retail licensees.

VR 125-01-5 § 22. INTERESTS IN THE BUSINESS OF LICENSEES.

A. Basis: §§ 4-7(1), 4-11(a), 4-98.10(t) and 4-98.14 of the Code of Virginia.

B. Purpose: Clarification.

C. Substance: To move Section 2 which deals with the interests in the businesses of licensees from Tied House (VR 125-01-3) to Retail Operations (VR 125-01-5).

D. Issue: Clarification.

E. Impact: Minimal.

VR 125-01-7. Other Provisions.

VR 125-01-7 § 6. ALCOHOLIC BEVERAGES FOR HOSPITALS; INDUSTRIAL AND MANUFACTURING USERS.

A. Basis: §§ 4-7(a), (b) and (i), 4-11(a) and 4-48(a) of the Code of Virginia.

B. Purpose: To clarify the length of time records must be kept.

C. Substance: Permittees will be required to maintain accurate records for receipts and withdrawals of alcohol and alcoholic beverages at the permittee's place of business for two years.

D. Issue: Clarification.

E. Impact: Minimal.

VR 125-01-7 § 17. CREDIT AND DEBIT CARDS.

A. Basis: §§ 4-7, 4-11 and 4-15 of the Code of Virginia.

B. Purpose: On July 1, 1992, this proposed regulation was adopted as an emergency regulation. Emergency regulations are limited to 12 months in duration. If this regulation is to become permanent, it must be adopted by the board during its regulatory process.

C. Substance: A.B.C.'s retail stores may accept credit or debit cards from consumers for the retail purchase of alcoholic beverages. The board may establish policies to implement the acceptance of credit or debit cards.

D. Issue: The acceptance of credit or debit cards by A.B.C. stores for the retail purchase of alcoholic beverages.

E. Impact: Consumers will continue to have a choice of payment for alcoholic beverages.

VR 125-01-7 § 18. REGISTRATION OF THE SALE OF ALCOHOLIC BEVERAGES IN KEGS AND OTHER CONTAINERS; PERMIT AND REGISTRATION; OTHER REQUIREMENTS.

A. Basis: §§ 4-7 and 4-11 of the Code of Virginia.

B. Purpose: 1. To deter consumers of legal age from purchasing kegs for underage drinkers; and 2. to help law enforcement officers determine who purchased the keg for underage persons.

C. Substance: A retail licensee authorized to sell wine, beer or beverages for off-premises consumption may not sell kegs without having (i) obtained a permit authorizing such sales, (ii) registered the sale on a form prescribed by the board, and (iii) affixed a registration seal on the keg at the time of sale; provided, if the purchaser takes possession of the keg at the wholesaler's premises, then

Calendar of Events

the wholesale licensee shall affix the registration seal. Except as authorized by the board, no person shall transfer possession of or give the registered keg or container to another person. This prohibition shall not apply to returning the registered container to the seller. No person, other than a retail licensee, shall remove, alter, deface or obliterate the registration seal affixed to the keg.

D. Issue: The registration of kegs.

E. Impact: Keg registration may reduce the purchase of kegs for underage drinkers.

Statutory Authority: §§ 4-7(1), 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Contact: Robert N. Swinson, Secretary to the Board, P.O. Box 27491, 2901 Hermitage Rd., Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **September 3, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review minutes from June 11, 1992 meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) conduct regulatory review.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Architects

† **September 10, 1992 - 9:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from April 9, 1992 meeting; (ii) review correspondence; (iii) review applications; and (iv) conduct review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Interior Designers

† **September 25, 1992 - 1 p.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from August 14,

1992, meeting, (ii) review applications; and (iii) review correspondence.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

† **September 2, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review minutes from July 8, 1992, meeting, (ii) review correspondence; and (iii) review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

† **August 27, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from May 7, 1992, meeting, (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

ASAP BOARD OF DIRECTORS - ROCKBRIDGE

September 15, 1992 - 3 p.m. – Open Meeting
2044 Sycamore Avenue, Buena Vista, Virginia. ☒

A meeting to (i) approve minutes of the April 14, 1992 meeting, (ii) discuss old business, (iii) discuss new business; and (iv) receive treasurer's report.

Contact: S. Diane Clark, Director, 2044 Sycamore Ave., Buena Vista, VA 24416, telephone (703) 261-6281.

ASAP POLICY BOARD - VALLEY

† **September 14, 1992 - 8:30 a.m.** – Open Meeting
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting of the local policy board which conducts business pertaining to the following: 1. Court Referrals, 2. Financial Report, 3. Director's Report, and 4. Statistical Reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2

Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro).

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 26, 1992 - 7 p.m. - Public Hearing

State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒

September 14, 1992 - 4 p.m. - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to **repeal** regulations entitled: **VR 173-01-00 Public Participation Guidelines** and **adopt** regulations entitled: **VR 173-01-00:1. Public Participation Guidelines**. The purpose of the proposed action is to repeal VR 173-01-00 Public Participation Guidelines and adopt VR 173-01-00:1 Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons 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 proposed guidelines (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Chesapeake Bay Local Assistance Board, and (iii) require the performance of certain analyses.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia

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

September 24, 1992 - 10 a.m. - Open Meeting

General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒

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 September 17, 1992.

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

† **September 1, 1992 - 10 a.m. - Open Meeting**

Virginia Housing Development Authority, Conference Room 2, 601 South Belvidere, Richmond, Virginia.

Regularly scheduled quarterly meeting of the council. 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 Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-8603.

DEPARTMENT OF COMMERCE (BOARD OF)

September 11, 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 Commerce intends to **repeal** regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies** and **adopt** regulations entitled: **VR 190-01-1:1. Rules and Regulations Governing Employment Agencies**. The proposed regulation requires the licensure of employment agencies and the registration of individuals who act as employment counselors at those businesses. This regulation applies to approximately 42 licensed employment agencies and approximately 200 employment counselors. There is no requirement under the current regulation that employment counselors be registered and therefore the figure of 200 employment counselors is an estimate based upon information received from the industry.

The proposed regulation separates entry, renewal and reinstatement requirements. It also separates standards of conduct from standards of practice. The regulation has been completely rewritten and reorganized. Certain requirements for receipts, records and contracts deleted from the statute are included in the proposed regulation. Fees throughout the regulation have been adjusted in order to conform with the requirements of § 54.1-113 of the Code of Virginia to assure that the expenses of this program are adequately covered by revenues generated from the regulants. Other increases or decreases in fees are explained in the appropriate text.

Statutory Authority: § 54.1-1302 of the Code of Virginia

Contact: David E. Dick, Assistant Director, Department of Commerce, Employment Agencies, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2194.

† **October 26, 1992 - 10 a.m. - Open Meeting**

Department of Commerce, Room No. 1, 3600 West Broad

Calendar of Events

Street, Richmond, Virginia. ☒

A regular quarterly meeting of the Board of Commerce. Agenda items expected are (i) reports from subcommittees reviewing citizen-member participation on occupational regulatory boards; (ii) revision of the "Agency Rules of Practice for Hearing Officers"; (iii) subcommittee report on trends in continuing education requirements for professionals; and (iv) a report from delegates to the national convention of state regulatory agencies (CLEAR).

Contact: Alvin D. Whitley, Board Secretary, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

COMPENSATION BOARD

August 26, 1992 - 5 p.m. – Open Meeting
September 30, 1992 - 5 p.m. – Open Meeting
Ninth Street Office Building, Room 913/913A, 9th Floor,
202 North Ninth Street, Richmond, Virginia. ☒

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206, telephone (804) 786-3886 or (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

August 26, 1992 - 7 p.m. – Public Hearing
State Water Control Board, Board Room, 4900 Cox Road,
Innsbrook Corporate Center, Glen Allen, Virginia. ☒

September 14, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to adopt regulations entitled: **VR 215-00-00. Regulatory Public Participation Procedures.** 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 persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to adopt VR 215-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory

process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 215-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Board, and require the performance of certain analyses.

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

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

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August 26, 1992 - 7 p.m. – Public Hearing
State Water Control Board, Board Room, 4900 Cox Road,
Innsbrook Corporate Center, Glen Allen, Virginia. ☒

September 14, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to a repeal regulations entitled: **VR 215-01-00, Public Participation Guidelines** and adopt regulations entitled: **VR 217-00-00. Regulatory Public Participation Procedures.** 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 persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal VR 215-01-00, Public Participation Guidelines and adopt VR 217-00-00 Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 217-00-00. Regulatory Public Participation Procedures (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Department, and (iii) require the performance of certain analyses.

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

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

Falls of the James Scenic River Advisory Board

September 18, 1992 - Noon - Open Meeting
City Hall, Planning Commission Conference Room, Fifth Floor, Richmond, Virginia. ☒

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Goose Creek Scenic River Advisory Board

† October 7, 1992 - 2 p.m. - Open Meeting
F & M Bank, Leesburg, Virginia.

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Shenandoah Scenic River Advisory Board

† September 15, 1992 - 11 a.m. - Open Meeting
Clarke County Courthouse, Board Room, Berryville, Virginia.

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Complaints Committee

September 10, 1992 - 9 a.m. - Open Meeting
3600 West Broad Street, 5th Floor, Conference Room No. 1, Richmond, Virginia. ☒

A meeting to review and consider complaints filed by consumers against licensed contractors, and to review reports from Informal Fact-Finding conferences.

Contact: A. R. Wade, Assistant Director, Investigation and Adjudication, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-0136.

BOARD FOR COSMETOLOGY

† August 31, 1992 - 9 a.m. - Open Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

August 29, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to repeal existing regulations entitled: VR 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia, and adopt new regulations entitled VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education. The proposed regulations state the criteria for the approval of programs to train teachers, administrators, and other school personnel in Virginia colleges and universities. The current regulations, VR 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia, are being repealed.

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

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

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

September 9, 1992 - 6 p.m. - Open Meeting

Potomac Electric Power Company, 1400 North Royal Street, Alexandria, Virginia. ☒

An open meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Contact: Charles W. McRorie, Emergency Preparedness Coordinator, 900 Second St., Alexandria, VA 22314, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

September 3, 1992 - 5:30 p.m. - Open Meeting
October 1, 1992 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10,001
Ironbridge Road, Room 502, Chesterfield, Virginia.

A meeting to meet requirements of Superfund
Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services
Coordinator, Chesterfield Fire Department, P.O. Box 40,
Chesterfield, VA 23832, telephone (804) 748-1236

LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX COUNTY, CITY OF FAIRFAX AND THE TOWNS OF HERNDON AND VIENNA

† September 24, 1992 - 9 a.m. - Open Meeting
John C. Wood Municipal Center, 3730 Old Lee Highway,
Fairfax, Virginia. ☒

A planning committee meeting to discuss issues related
to hazardous substances in compliance with SARA
Title III.

Contact: Marysusan Giguere, Fire and Rescue Department,
4100 Chain Bridge Rd., Suite 500, Fairfax, VA 22030,
telephone (703) 246-3991.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

† September 21, 1992 - 1:30 p.m. - Open Meeting
1 County Complex Court, Prince William, Virginia. ☒

A multi-jurisdictional local emergency planning
committee to discuss issues related to hazardous
substances in the jurisdictions, SARA Title III
provisions and responsibilities for hazardous material
emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1
County Complex Court, Internal Zip MC470, Prince
William, VA 22192, telephone (703) 792-6800.

COUNCIL ON THE ENVIRONMENT

August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road,
Glen Allen, Virginia. ☒

September 25, 1992 - Written comments may be submitted
through this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Council on the
Environment intends to repeal regulations entitled: VR
305-01-001. Public Participation Guidelines and adopt
regulations entitled: VR 305-01-001:1. Public
Participation Guidelines. The proposed action is to
adopt Public Participation Guidelines that establish, in
regulation, various provisions to ensure that interested
persons have the necessary information to comment
on regulatory actions in a meaningful fashion in all
phases of the regulatory process and establish
guidelines that are consistent with those of other
agencies within the Natural Resources Secretariat.

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

Contact: Hannah Crew, Assistant Administrator, Council on
the Environment, Suite 900, 202 N. 9th St., Richmond, VA
23219, telephone (804) 786-4500.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 1, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond,
Virginia. ☒

A board meeting. Public comment period will be
during the first 30 minutes of the meeting.

September 2, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond,
Virginia. ☒

Informal hearings.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229, telephone (804)
662-9907 or (804) 662-7197/TDD ☒

BOARD OF GAME AND INLAND FISHERIES

August 27, 1992 - 9:30 a.m. - Open Meeting
4010 West Broad Street, Richmond, 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.
Each Committee will review those agenda items
appropriate to its authority, and make
recommendations to the full Board for the adoption
and/or the advertisement of such at their August 28
meeting.

During the Wildlife and Boat Committee meeting, staff
will present the proposed migratory waterfowl seasons,
based on the U.S. Fish and Wildlife Service
framework. In addition, a discussion will be held on

the disabled hunting and fishing license policy, and a proposed name change for the Trojan Wildlife Management Area to the Princess Anne Wildlife Management Area. Proposed fish regulation changes will also be discussed.

August 28, 1992 - 9:30 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

The board will meet to adopt the 1992-93 migratory waterfowl seasons and to propose fish regulation changes. The fish regulation proposals will be advertised for public comment. After public input is received, these proposals will be presented to the board for adoption as final regulations at its October 17, 1992, public meeting to be held on Virginia's Eastern Shore.

Other general and administrative matters, as necessary will be discussed, and appropriate actions will be taken.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

October 9, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room No. 3, Richmond, Virginia. ☒

General board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD

GOVERNOR'S TASK FORCE ON FUELS TAX EVASION

August 24, 1992 - 9:30 a.m. - Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

The task force will examine fuels tax legislation and the process and resources associated with fuels tax administration. No public comment will be received at this meeting.

Contact: Ralph M. Davis, Assistant Commissioner for Administrative Services, Department of Motor Vehicles, Room 710, Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6615.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† September 14, 1992 - 10 a.m. - Open Meeting

Piedmont Health District.

† September 15, 1992 - 9 a.m. - Open Meeting
Sheldons Conference Room, Sheldons, Route 2, Keysville, Virginia. ☒ (Interpreter for deaf provided upon request)

September 14, 1992 - Worksession/Tour of Piedmont Health District; Informal dinner at 7:30 p.m. at Sheldons.

September 15, 1992 - 9 a.m. - Adjournment - Business Meeting.

Contact: Susan R. Rowland, MPA, Assistant to the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

September 14, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Medical Care Services. The purpose of the proposed action to amend the regulations that establish charges and provide guidelines for determining eligibility for services provided by the Department of Health.

Statutory Authority: § 32.1-11 of the Code of Virginia.

Contact: Dave Burkett, Administrator, Department of Health, P.O. Box 2448, Room 237, Richmond, VA 23218, telephone (804) 371-4089.

† September 28, 1992 - 1 p.m. - Public Hearing
Meeting Room D, James Monroe Building, Richmond, Virginia.

† September 30, 1992 - 1 p.m. - Public Hearing
Roanoke City Council Chambers, Roanoke, Virginia.

October 23, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: VR 355-18-000. Waterworks Regulations: Total Coliform and Surface Water Treatment. These amendments incorporate the Federal Total Coliform Rule and Surface Water Treatment Rule into the Virginia Waterworks Regulations. The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the Federal Safe Drinking Water Act and must meet certain United States

Calendar of Events

Environmental Protection Agency (USEPA) mandates to retain this authority. The purpose of these regulations is to retain primacy by adopting regulations as stringent as the federal regulations for total coliforms and surface water treatment. These regulations, which are amendments to the existing Waterworks Regulations and which incorporate the federal Total Coliform Rule (TCR) and Surface Water Treatment Rule (SWTR), will conform the state regulations to federal regulations and should avoid duplicate enforcement action by the USEPA in Virginia under federal law.

STATEMENT

Basis: Title 32.1, Chapter 6, Article 2 authorizes the State Board of Health to establish these regulations. The Attorney General's Office has provided a statement of authority to adopt these regulations dated July 29, 1992.

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

Regulated community costs. The regulated community (waterworks owners) must comply with the existing federal regulations regardless of the status of Virginia regulations or primacy. Due to the discretionary decision making available to primacy states (especially under the SWTR), the overall effect of these amendments will be cost savings to the regulated community. For example, the mandated surface water treatment plant performance evaluations that will be carried out by VDH engineers, would have cost Virginia waterworks an estimated \$750,000.

The costs to the regulated community in Virginia of implementing the Total Coliform Rule (so long as the Commonwealth conducts all mandated sample analyses free of charge) are limited to the mailing costs associated with the additional samples mandated of those waterworks owners who find contamination in their routine sample. Statewide there are a maximum of 200 Maximum Contamination Level (MCL) violations of the TCR per year. Given an average of five additional samples required per violation and a mailing cost of \$3.00 per sample, the total statewide cost to the regulated community is approximately \$3,000.

The costs to the regulated community in Virginia of implementing the Surface Water Treatment Rule are much more significant for those waterworks affected by the rule. At the time the federal SWTR became final there were 14 waterworks in Virginia with unfiltered surface water sources, 143 waterworks with spring sources, and 154 waterworks with surface water treatment plants, all of which will be affected by this rule to some extent. Using

USEPA cost estimates the VDH has estimated the impact on these waterworks from the SWTR to be between \$3.3 million to \$28.7 million statewide (from Table 7, House Document 30, 1990 General Assembly, The Impact of the Safe Drinking Water Act Amendments of 1986 on the Commonwealth of Virginia, a report of the Department of Health to the Governor and the General Assembly of Virginia). The wide range in these cost estimates is due to highly variable field conditions, especially source vulnerability to surface influence. For an individual homeowner served water by a very small affected waterworks this could translate into a cost of \$1,284 per year or more (from the same table referenced above). These high costs to customers served by small systems are due to economies of scale. If filtration is mandated for a small waterworks, then a very high capital cost must be divided among a small number of customers. State primacy will allow the VDH to minimize these costs by use of discretionary powers to the extent possible, but as many as 3,250 Virginians (the total population served by the six worst case waterworks in the state) would face the above referenced maximum impact.

Agency costs. After considerable research, analysis, and debate, the 1992 Virginia General Assembly decided to maintain state primacy through an annual waterworks operation fee. Of the authorized \$1,722,101 from this fee for the Virginia Department of Health to meet the requirements of the Safe Drinking Water Act, approximately 42% (19 of 45 authorized positions or approximately \$723,000) was directly based on meeting the TCR and SWTR. (Note. The remaining 58% of this funding is associated with the implementation of the Lead and Copper Rule and the Phase II Organic and Inorganic Contaminant Rule.) This provides the staff the support needed to carry out mandated new tasks under the TCR and SWTR. These tasks include:

- Regulation development and implementation
- Technical assistance to affected waterworks
- Internal and external training
- Determining 154 treatment plant performance evaluations
- Determining 3,859 groundwater source evaluations
- Review of 2,274 sampling site reports
- Review of 157 engineering projects
- Attending 90 public meetings
- Issuing 700 public notification notices

Funding source. The funds to meet the above agency costs will come from the fees collected under the Emergency Regulations (effective date July 1, 1992) adopted by the Board of Health as authorized under §§ 32.1-170 and 32.1-171.1. Generally, these fees translate into a cost of \$1.50 per connection per year for consumers connected to a waterworks in Virginia.

Small business impact. Costs to small businesses would be limited to those of being consumer connected to a waterworks, or those of being a waterworks owner. Opportunities for small businesses would include

commercial laboratories, contract operation and maintenance of waterworks, data management, record keeping and billing for waterworks, and water treatment equipment sales and service.

Alternative approaches. These regulations are federally mandated and offer little opportunity for alternative approaches. Where possible state discretion has been exercised to minimize negative impact.

Effectiveness evaluation. The agency staff will continually evaluate the effectiveness of the proposed regulations through the Waterworks Regulations Advisory Committee. The Waterworks Regulations are not static and revisions will be recommended for adoption when appropriate. At least once every two years, the agency reviews all of its regulations for accuracy, effectiveness, and consistency and revisions are made to those regulations as necessary.

Forms and procedural requirements. No entirely new forms or procedural requirements will be imposed on the regulated community for the implementation of these proposed regulations. Several existing procedures will be modified and additional information with respect to the performance of surface water treatment plants will be required to be reported to the agency in order to verify compliance with regulation requirements. To avoid unnecessary complications, reporting formats are tailored to the specific needs of each affected waterworks.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Written comments may be submitted until October 23, 1992, to Allen R. Hammer, Director, DWSE, 1500 East Main Street, Room 109, Richmond, VA 23218.

Contact: Robert B. Taylor, Technical Service Administrator, 1500 E. Main St., Room 109, Richmond, VA 23218, telephone (804) 786-5566.

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† September 22, 1992 - 10 a.m. -- Public Hearing
Virginia Highlands Community College, Auditorium, Room 605, 140 Jonesboro Road, Abingdon, Virginia.

† September 29, 1992 - 7 p.m. -- Public Hearing
Tidewater Community College, Portsmouth Campus (formerly Frederick Campus), Theatre Room 222, State Route 135/1664, 7000 College Drive, Portsmouth, Virginia.

† October 7, 1992 - 7 p.m. -- Public Hearing
Augusta County Government Center, Board of Supervisors Meeting Room, 4801 Lee Highway, Verona, Virginia.

† October 22, 1992 - 7 p.m. -- Public Hearing
Spotsylvania County Courthouse, Board of Supervisor's Room, Spotsylvania, Virginia.

† October 27, 1992 - 7 p.m. -- Public Hearing

South Boston City Council Chambers, South Boston, Virginia.

November 9, 1992 -- Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to adopt regulations entitled: VR 355-18-014. **Waterworks Operation Fee.** The purpose of this proposed regulation is to assess an annual operations fee (not to exceed \$160,000) on the owners of waterworks. The amount of the fee is based on the number of persons served, number of connections, or the classification of the waterworks. The revenue generated by this regulation will supplement funding to implement the 1986 amendments to the federal Safe Drinking Water Act (SWDA) and will be deposited into the Waterworks Technical Assistance Fund established in the state treasury by § 32.1-171.1 B.

STATEMENT

Impact: Regulated entities: This proposed regulation affects 1572 community and 652 nontransient noncommunity waterworks which are spread throughout the state. In fiscal year 1993, under emergency regulation, each community waterworks is required to pay \$1.50 per customer account per year; each nontransient noncommunity waterworks is required to pay \$60.00. In fiscal year 1994 each community waterworks will be charged \$2.40 per customer account per year; each nontransient will be charged \$100 per year. In fiscal years thereafter the community fee will be \$3.61; the nontransient fee will be \$150. Even with news notices in various association's newsletters and a direct notice to each waterworks, the reactions to this proposed regulation (as an emergency regulation is presently in effect) have been minor, i.e., seven letters and an estimated 20 phone calls. Likely, this is because of anticipated involvement with the development of a permanent regulation and because the fees are not yet due under the emergency regulation. Most comments initially focus on the desirability of general funds to support this increase.

This proposed regulation was developed through a series of meetings with the involvement of the following organizations: Virginia Municipal League, Virginia Association of Counties, Virginia Manufacturers Association, American Water Works Association - Virginia Section, Virginia Water and Sewer Authorities Association, Virginia Water Companies Association, and Virginia Rural Water Association. This ad hoc committee discussed various options for assessing fees, i.e., a flat fee for all (this proposal), sliding fee where per basis unit small waterworks pay more than the large, and a minimum fee no matter the waterwork's size. To obtain more public comment, the Division of Water Supply Engineering plans to publish in the General Notices section of the Virginia Register a request to provide alternative input to the selected proposed regulation.

Calendar of Events

Agency impact: The revenue generated from this proposed regulation is necessary to implement the 1986 amendments to the SDWA. The Appropriations Act item number 307 allocated \$1,722,101 from special fund sources and 45 FTEs for FY 93; and \$2,847,595 and 58 FTEs for FY 1994. Without this proposed regulation and the resulting authorized revenue, VDH will not have adequate resources needed to perform the additional workload related to the federal mandates and the associated state regulations.

Small business impact: All community waterworks – either owned by a public entity or an investor – will have essentially the same monetary impact, i.e., a charge per customer account of \$2.40 in FY 1994 (\$3.61 in FY 1995). For the nontransient noncommunity waterworks the charge for FY 1994 is proposed as \$100; for FY 1995, \$150. A member of the ad hoc committee is the Virginia Manufacturers Association which represents the interests of waterworks owned by industrial facilities. Calculation of the fee by the waterworks owner should be of minimum effort as the community waterworks owners will know their number of paying customers; the nontransient owners will pay a flat fee based on their existence as a waterworks.

Legal Authority: Sections 32.1-170 and 32.1-171.1 of the Code of Virginia provide that the Board of Health may establish regulations to charge an annual operation fee to a waterworks owner. The assistant Attorney General provided a statement of authority dated August 3, 1992.

This proposed regulation uses the same wording as the emergency regulation now in effect except for reference to the effective date and fiscal year 1993 requirements.

Explanation of Need: In order to maintain primary enforcement authority (primacy), the Department of Health must show USEPA that it has the resources to implement and enforce federal rules related to the SDWA. Without adoption of this proposed regulation, the USEPA could remove primacy from Virginia. Therefore, Virginia could lose \$1 million in federal trust dollars and, more importantly, lose the associated benefits of discretionary decision making when interpreting federal rules and regulations. This loss will adversely affect the citizens of the Commonwealth; e.g., the state issued variances and exemptions to the fluoride standard with an estimated cost savings of \$14 million while protecting the public's health.

Statutory Authority: §§ 32.170 and 32.171.1 of the Code of Virginia.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-5566.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

August 25, 1992 - 9:30 a.m. – Open Meeting
September 22, 1992 - 9:30 a.m. – Open Meeting

† October 27, 1992 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Kim Schulte Barnes, Information Officer, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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September 11, 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.** The regulations will implement the statutory changes made to § 9-160 (3) of the Code of Virginia regarding the council's Commercial Diversification Survey and implement the requirement that the council collect IRS Form 990s from not-for-profit health care institutions.

Statutory Authority: §§ 9-160 (3), 9-160 (5) and 9-164 (2) of the Code of Virginia.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† September 8, 1992 - 1 p.m. – Open Meeting
† September 9, 1992 - 5 p.m. – Open Meeting
Jefferson Hotel, Richmond, Virginia. ☒

This is the council's annual retreat. There will be a general business meeting on the morning of September 9. For more information contact the council.

Contact: Anne M. Pratt, Associate Director, 101 N. 14th St., 9th Floor, Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2629.

DEPARTMENT OF HISTORIC RESOURCES

August 26, 1992 - 7 p.m. – Public Hearing
State Water Control Board Office, 4900 Cox Road, Glen Allen, Virginia. ☒

September 30, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Department of Historic Resources intends to adopt regulations entitled: **VR 392-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of other agencies within the Natural Resources Secretariat.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

Board of Historic Resources

August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board Office, 4900 Cox Road, Glen Allen, Virginia. ☒

September 30, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Historic Resources intends to adopt regulations entitled: **VR 390-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of other agencies within the Natural Resources Secretariat.

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

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **September 1, 1992 - 9 a.m. - Open Meeting**
† **October 6, 1992 - 9 a.m. - Open Meeting**
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

September 14, 1992 - 10 a.m. - Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

October 12, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled **VR 394-01-02. Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.** Proposed amendments to the standard deal specifically with the certification of blasters and proposes to divide the certification into two categories, restricted and unrestricted. A restricted blaster is limited to conducting blasting operations involving five pounds of explosives or less per shot with instantaneous blasting caps. The proposed changes would permit the applicant for certification as a restricted blaster to utilize a competency test commensurate with that type of blasting operation instead of the comprehensive test previously required for all blasters. The applicant for the restricted certification would also have to meet experience requirements by working under a certified or restricted blaster for at least one year.

Statutory Authority: §§ 27-97 and 36-137 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to the Code Development Office, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

September 14, 1992 - 10 a.m. - Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

October 12, 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 Housing and Community Development intends to amend regulations entitled **VR 394-01-04. Virginia Amusement Device**

Calendar of Events

Regulations. The proposed amendments to this regulation are a result of statutory changes made during the 1991 session of the General Assembly and a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. The definition of "kiddie ride" is proposed to be split into Types A and B to differentiate between those rides that require partial or complete reassembly and those which require little or none. A definition of "passenger tramway" was added to be consistent with new provisions in state law which includes passenger tramways as amusement devices. Section 400.1 of the regulation includes tramways within the scope of the regulation. A proposed change to § 1000.3(2) will limit the acceptability of a certificate of inspection for a ride moved from location to location only a Type A kiddie ride. Section 1100.1 is amended to require owners and operators of amusement rides to notify the locality immediately when an accident involving serious injury or fatality occurs, and new provisions in §§ 1100.3 and 1500.3 require action by the building official prior to resuming service and a new certificate of inspection to be issued after an accident. Appendix A, which lists the referenced standards, has a proposed change to include the ANSI B77.1-90 standard for use in inspecting passenger tramways.

Statutory Authority: §§ 36-98, 36-98.3 and 36-137 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Dept. of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

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September 14, 1992 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

October 12, 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 Housing and Community Development intends to amend regulations entitled VR 394-01-06. **Virginia Statewide Fire Prevention Code/1990.** The proposed amendments are to § F-102.0. A change to § F-102.1 requires a local governing body electing to locally enforce the SFPC to take official action to do so, and to provide notification by copy of the adopting ordinance or resolution to the State Fire Marshal's Office. The existing modification provision for the Public Building Safety Regulations will be deleted and replaced by a

general modification section applicable to any provision of the regulation. A new requirement for documentation of the modification and making it part of the records of the enforcing agency are also included. These proposed changes are similar to provisions already contained in both Volume I and Volume II of the Uniform Statewide Building Code.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, Virginia 23219-1321.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

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September 14, 1992 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

October 12, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled VR 394-01-21. **Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.** The proposed amendments to this regulation are a result of statutory changes made during the 1991 and 1992 sessions of the General Assembly and a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. Section 105.6 has been amended to contain more specific requirements for plans review response; § 112.3 is changed to require the building official to prosecute a person who has been served notices of violation for failure to obtain a construction permit three or more times within the same calendar year; § 112.4 sets the penalty for violations in accordance with the state law; an amendment to § 115.6 authorizes the building official to revoke a certificate of occupancy under certain conditions and §§ 120.1 and 120.3 add provisions by which certain structures deemed to be either unsafe buildings or public nuisances may be abated or removed. Changes to the BOCA and CABO Codes are proposed in Addenda 1 and 2 of the regulation including new definitions proposed to § 201.0 for family day care homes, small family day care homes, and public nuisances. A new § 309.4.1.1 is added to classify as Use Group R-3 family day care homes and small family day care homes licensed or registered by the Department of Social Services. A proposed exception to § 512.2 would exempt from handicapped accessibility requirements buildings used

exclusively for religious or private club activities; and a new section 512.2.1 is added to specify accessible parking space identification requirements mandated by state law. Section 1300.4 identifies .06% by weight as the level of lead content in lead based paint not to be exceeded in new paint applications; amendments to §§ 2700.5 and R-220 require two-pair twisted wire cable to be used in rewiring for telephone jacks. Amendments to § P-1503.8 (Addendum 1) and P-2301 (Addendum 2) provide alternative standards for elective local enforcement where water conservation plumbing fixtures and fittings are necessary due to a lack of present or future water supply; and P-2206.8.2 is amended to add specific requirements for grinder pumps.

Statutory Authority: §§ 36-98, 36-99 and 36-102 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

* * * * *

September 14, 1992 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

October 12, 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 Housing and Community Development intends to amend regulations entitled **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990**. The proposed amendments to this regulation are a result of statutory changes made during the 1991 and 1992 sessions of the General Assembly respond to a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. Section 101.4 is changed to clarify the application of the code to buildings built prior to the effective date of Volume I of the building code. Section 104.4 changes the violation penalty fee to reflect the change to state law; § 105.8 clarifies existing requirements for unsafe buildings and public nuisances; and § 109.5 requires that parking spaces reserved for persons with disabilities be properly identified by January 1, 1993, pursuant to state law. One change has been proposed to the BOCA National Property Maintenance Code in Addendum 1 of Volume II. Section PM-303.4 of BOCA has been amended to change the level of lead in lead

based paint requiring abatement or removal in existing dwellings, child and day care centers from .06% to .5% by weight as recommended by the HUD Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing.

Statutory Authority: § 36-103 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23210-1312, telephone (804) 371-7150.

COUNCIL ON INFORMATION MANAGEMENT

September 11, 1992 - 9 a.m. – Open Meeting
Williamsburg Lodge and Conference Center, Tidewater Room, Williamsburg, Virginia. ☐

A regular business meeting.

Contact: Linda W. Hening, Administrative Staff Specialist, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL (VICC) EARLY INTERVENTION

† **September 23, 1992 - 9 a.m. – Open Meeting**
Henrico Area Mental Health and Retardation Services, 10299 Woodman Road, Conference Room C, Glen Allen, Virginia. (Interpreter for deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC) according to PL 101-476, Part H early intervention program for disabled infants, toddlers and their families, is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Ed.D., Director MR Children Youth Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

† **September 10, 1992 - 7 p.m. – Open Meeting**
Eastern Shore Community College, Lecture Hall, Route #13, Melfa, Virginia.

† **September 15, 1992 - 7 p.m. – Open Meeting**

Calendar of Events

Handley High School, Auditorium, Handley Boulevard, Winchester, Virginia.

† September 17, 1992 - 7 p.m. - Open Meeting
Franklin High School, Auditorium, 310 Crescent Drive, Franklin, Virginia.

† September 22, 1992 - 7 p.m. - Open Meeting
Mary Bethune Office Complex, Public Meeting Room, 2nd Floor, North Ninth Street and Cowford Road, Halifax, Virginia.

The Virginia Department of Labor and Industry promulgated the "Virginia Regulation Governing the Employment of Minors on Farms, In Gardens and In Orchards" effective July 1, 1992. The Virginia Farm Bureau Federation has requested reconsideration of §§ 2 and 3 of the regulation, which prohibit minors under the age of 18 from employment in certain hazardous occupations, on the grounds that these provisions (i) have a substantial economic impact on farmers, and (ii) prevent minors from learning skills which would be helpful to them in the future.

Notice is hereby given that the department solicits additional public comment on this issue in writing and at open meetings scheduled for this purpose. Written comments may be submitted at the meetings or separately. Please direct inquiries and written comments to Dennis G. Merrill, Director, Labor Law Division, Department of Labor and Industry, 13 S. Thirteenth Street, Richmond, Virginia 23219 (phone number 804-786-3224, fax number 804-371-6524), no later than Monday, September 21, 1992.

Comments are invited on the following issues:

1. Other than this regulation, what protections are available to insure the safety of minors working with hazardous equipment on farms?
2. In promulgating the regulation, the department relied on its understanding that there are approximately 1,000 to 3,000 minors employed on farms owned or operated by their parents or legal guardians. The department solicits different or additional information regarding the number of those 16 and 17 years of age.
3. What economic or other impact has this regulation had on farmers and farm operations?
4. What impact has this regulation had on minors aged 16 and 17 working on farms?
5. Do you support or oppose this regulation? What amendments, if any, do you recommend? For what reasons?

Contact: Dennis G. Merrill, Director, Labor Law Division, Department of Labor and Industry, 13 S. Thirteenth St.,

Richmond, VA 23219, telephone (804) 786-3224 or fax (804) 371-6524.

Virginia Apprenticeship Council

† September 17, 1992 - 10 am. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

A regular meeting of the council.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, 13 S. Thirteenth St., Richmond, VA 23219, telephone (804) 786-2381.

Safety and Health Codes Board

August 25, 1992 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Preliminary agenda:

- 1) Process Safety Management of Highly Hazardous Chemicals, § 1910.119; Technical Corrections
- 2) Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, §§ 1910.1001 and 1926.58, Final Rule
- 3) Occupational Exposure to Formaldehyde, § 19140.1408; Technical Corrections
- 4) Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Technical Corrections
- 5) Air Contaminants, § 1910.1000; Correcting Amendments
- 6) Update of Addresses for Obtaining Technical Manuals; Corrections, §§ 1910.1450 and 1910.1500
- 7) Adoption of Environmental Protection Agency NESHAPS - Asbestos Regulations
- 8) Adoption of Change form for Asbestos
- 9) Occupational Exposure to Bloodborne Pathogens; 1910.1030; Correction
- 10) Correction of Code References for Asbestos, § 54.1 to § 40.1

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

LAND EVALUATION ADVISORY COUNCIL

August 26, 1992 - 10 a.m. - Open Meeting
September 11, 1992 - 10 a.m. - Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☐

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use value assessment program.

Contact: David E. Jordan, Acting Property Tax Director, Virginia Department of Taxation, Property Tax Division,

P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

LIBRARY BOARD

† September 14, 1992 - 10 a.m. - Open Meeting
† November 13, 1992 - 10 a.m. - Open Meeting
The 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 Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION OF LOCAL GOVERNMENT

† September 29, 1992 - 10:30 a.m. - Open Meeting
Site to be determined, Amherst area.

Oral presentations regarding Town of Amherst's proposed annexation of 6.4 square miles of territory in Amherst County. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 18, 1992.

† September 29, 1992 - 7:30 p.m. - Public Hearing
Site to be determined, Amherst area.

Public hearing regarding Town of Amherst's proposed annexation of 6.4 square miles of territory in Amherst County. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 18, 1992.

† September 30, 1992 - 12:30 p.m. - Open Meeting
Site to be determined, Amherst area.

Regular meeting of the Commission on Local Government to consider such matters as may be presented. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 18, 1992.

† October 5, 1992 - 10:30 p.m. - Open Meeting
Site to be determined, Purcellville area.

Oral presentations regarding Town of Purcellville - Loudon County Agreement Defining Annexation Rights. Persons desiring to participate in the Commission's

proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 25, 1992.

† October 5, 1992 - 7:30 p.m. - Public Hearing
Site to be determined, Purcellville area.

Public hearing regarding Town of Purcellville - Loudon County Agreement Defining Annexation Rights. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 25, 1992.

Contact: Barbara Bingham, Administrative Assistant, 702 Eight Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

NOTE: CHANGE IN AUGUST MEETING DATE AND TIME

August 28, 1992 - 9 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled. A work session, open to the public, will follow the board meeting.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

August 25, 1992 - 9:30 a.m. - Open Meeting
September 22, 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: 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

Calendar of Events

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, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☐

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August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☐

September 11, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to amend regulations entitled: **VR 450-01-0045. Public Participation Procedures.** The proposed amendments will (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.

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

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

BOARD OF MEDICINE

August 27, 1992 - 8:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

† **September 10, 1992 - 9:30 a.m. - Open Meeting**
Holiday Inn, 5324 Jefferson Davis Highway, Fredericksburg, Virginia. ☐

† **September 16, 1992 - 9 a.m. - Open Meeting**
Department of Health Professions, Richmond, Virginia. ☐

† **September 18, 1992 - 9:30 a.m. - Open Meeting**
Fort Magruder Inn, Williamsburg, Virginia. ☐

The Informal Conference Committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The Committee will meet in open and closed sessions pursuant to 2.1-344 of the Code of Virginia. Public

comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Disc., 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908.

† **October 1, 1992 - 8 a.m. - Open Meeting**

† **October 2, 1992 - 8 a.m. - Open Meeting**

† **October 3, 1992 - 8 a.m. - Open Meeting**

† **October 4, 1992 - 8 a.m. - Open Meeting**

Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The full board will meet on Thursday, October 1, 1992, to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on Thursday, Friday, Saturday, and Sunday, October 1, 2, 3, & 4, to review reports, interview licensees, and make case decisions on disciplinary matters. The President may entertain brief public comments at the beginning of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

Joint Committees on Acupuncture

September 17, 1992 - Noon - Open Meeting

1601 Rolling Hills Drive, Surry Building, Board Room No. 3, Richmond, Virginia. ☐

The joint Committees on Acupuncture will review proposed regulations pursuant to § 54.1-2956.9 of the Code of Virginia for the practice of acupuncture by acupuncturists in Virginia, and propose recommendations to the full board. The Chairman may entertain public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, Virginia Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

Advisory Board on Physical Therapy

† **November 6, 1992 - 9 a.m. - Open Meeting**

A meeting to review regulations, bylaws, procedural manual, receive reports, and other items which may come before the advisory board. The advisory board will receive public comments at the pleasure of the chairman.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

Calendar of Events

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

October 9, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Disproportionate Share Adjustments for State Teaching Hospitals. VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates-Inpatient Hospital Care.** The purpose of the proposed action is to promulgate permanent regulations on disproportionate share adjustments for state teaching hospitals. The amendments provide for two types of hospitals (state-owned teaching hospitals and all other hospitals), and vary the payment adjustment for disproportionate share hospitals by type of hospital.

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

Written comments may be submitted until October 9, 1992, to William R. Blakely, Jr., Director, Division of Cost Settlement and Audit, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Drug Utilization Review Board

September 3, 1992 - 3 p.m. - Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia. ☐

The scheduled session is a regular meeting of the board. Routine business will be conducted.

Contact: Carol B. Pugh, Pharm.D., DUR Program Consultant, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

† September 23, 1992 10 a.m. - Open Meeting
Harrisonburg-Rockingham CSB, Harrisonburg, Virginia. ☐

Regular monthly meeting. Agenda to be published on September 16th. Agenda can be obtained by calling Jane Helfrich. See below.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m. Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State MHMRSAS Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

State Human Rights Committee

† September 11, 1992 - 9 a.m. - Open Meeting
American Day Treatment Center of Fairfax, 11200 Waples Mill Road, Suite 100, Fairfax, Virginia. ☐

A regular meeting of the State Human Rights Committee to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, DMHMRSAS, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

September 3, 1992 - 7 p.m. - Open Meeting
502 South Main Street No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors 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 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

September 5, 1992 - 8:30 a.m. - Open Meeting
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia. ☐

A regular meeting of the VMI Board of Visitors to conduct the following business: (i) election of president, (ii) committee appointment, (iii) committee reports.

An opportunity for public comment will be provided immediately after the Superintendent's comments (about 9 a.m.).

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206, FAX (703) 464-7660.

Calendar of Events

DEPARTMENT OF MOTOR VEHICLES

August 28, 1992 - Written comments may be submitted through this date.

August 31, 1992 - 9:30 a.m. - Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Monticello Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **VR 485-10-9001. Commercial Driver Training Schools Regulations** and adopt regulations entitled: **VR 485-10-9001:1. Commercial Driver Training Schools Regulations**. Pursuant to § 46.2-1703 of the Code of Virginia, the Commissioner of the Department of Motor Vehicles intends to repeal existing regulations (VR 485-10-9001) and adopt new regulations, VR 485-10-9001:1, pertaining to commercial driver training schools. The proposed regulations will establish the licensing and regulatory provisions for commercial driver training schools and instructors. These regulations may affect any person, group or organization involved or associated with commercial driver training school instruction. Anyone wishing to comment on the proposed regulations may do so by contacting M. E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, or by calling (804) 367-2447 on or before August 3, 1992.

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code of Virginia.

Contact: M. E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-2447.

BOARD FOR NURSING HOME ADMINISTRATORS

† September 8, 1992 - 1 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

A regular board meeting.

† September 9, 1992 - 8:30 a.m. - Open Meeting
† September 10, 1992 - 8:30 a.m. - Open Meeting
Holiday Inn-Fanny's, 6531 West Broad Street, Rooms A, B, and C, First Floor, Richmond, Virginia. ☒

The board will hold informal conferences relating to continuing education.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111.

Special Conference Committee

† August 27, 1992 - 8:30 a.m. - Open Meeting
† August 28, 1992 - 8:30 a.m. - Open Meeting
Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

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 not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☒

BOARD OF PHARMACY

† September 4, 1992 - 9 a.m. - Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

October 23, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **VR 530-01-01. Virginia Board of Pharmacy Regulations**. The purpose of the proposed amendments is to promulgate regulations necessary (i) to implement legislation requiring (a) mandatory continuing education, (b) relicensure and regulation of wholesalers, (c) 30-day notification of pharmacy closing, and (ii) to establish and amend all related fees.

STATEMENT

Basis: Title 54.1, Chapter 24, Chapter 33, and Chapter 34 of the Code of Virginia and the Acts of Assembly (1992), Chapters 667, 737, and 868.

Statement of purpose: The purpose of these regulations is to set forth the requirements for licensure and the responsibilities of pharmacists in assuring the safety and security of prescription drugs in the Commonwealth. The amendments proposed are in response to the Acts of the 1992 General Assembly requiring mandatory continuing education for renewal of licensure for pharmacists; relicensure and regulation of wholesale distributors, manufacturers, warehousemen, and medical equipment suppliers; and a 30-day public notification of pharmacy closing. In addition, fees for licensure and permits have been amended to reflect changes in regulation and costs to the agency.

Estimated impact: Regulated Entities: There are 6,445 pharmacists; 1,564 pharmacies; 19 permitted physicians;

156 wholesale distributors; warehouse, or medical equipment suppliers, 49 restricted manufacturers and 24 nonrestricted manufacturers licensed in the Commonwealth of Virginia to whom these regulations are applicable. There are also approximately 19,638 controlled substance registration certificate holders to whom part of these regulations apply.

Projected costs to agency: It is projected that the proposed fee changes will result in a reduction in revenues of the Board of Pharmacy of approximately \$325,000. The Board of Pharmacy is required by § 54.1-113 of the Code of Virginia to reduce its licensure fees as a result of a surplus of revenue over expenditures for the preceding biennium.

It is expected that fees for approval of continuing education programs and providers will be adequate to cover the board's costs of approving applications. These costs will include staff resources in handling the applications and payment to an advisory committee or for consultant services who can provide the necessary expertise for review and monitoring of program content and provider credentials. Additionally it is projected that monitoring of pharmacists' compliance with mandatory continuing education requirements and costs associated with increase in disciplinary caseload due to noncompliance will cost the board an additional \$35,000 annually.

Source of funds: All funds of the board are derived from application and licensure fees.

Impact of small businesses: To the extent a pharmacy qualifies as a small business, there would be an impact for those that make changes in their permit. Under current regulation, a change in the designation of pharmacist-in-charge has been considered as a change requiring a new pharmacy permit at a charge of \$200. Under the proposed regulation, such a change would require a notice to the board accompanied by a fee of \$25.

Under current regulation, an inspection has been conducted for a pharmacy that moved its location or relocated or altered its prescription department, but no fee has been required. The proposed regulation would impose a fee of \$100 to cover the costs of conducting the inspection and would represent some impact to a pharmacy making such a change.

In order to comply with mandatory continuing education, the pharmacists will be required to obtain 15 contact hours at an estimated cost of \$150. Such costs will impact the pharmacist-owner of small pharmacies, where the required CE will add to the cost of doing business. In addition, the pharmacies may incur costs associated with replacements for those pharmacists in attendance at CE programs.

To the extent an entity currently licensed as a

manufacturer, wholesaler, or distributor may be categorized as a small business, the impact of these proposed regulations would be to reduce their costs for obtaining a license or permit. All fees currently set at \$300 have been reduced to \$200 or \$150 depending on the category of nonrestricted manufacturer, restricted manufacturer, wholesale distributor, or medical equipment supplier. However, under the proposed regulation, some of those businesses may find it necessary to obtain permits in more than one category which would effectively raise their overall costs.

Alternatives considered: In determining appropriate fees for the various categories of licensure and permits, the board examined the administrative costs of examinations, renewals, and processing of applications. Fees proposed were compared with each other to determine their relative equity and were checked with fees for other professions and in other states.

In determining the regulation for mandatory continuing education, the board first examined the specific requirements of the statute. A study and comparison of the procedures and requirements of other states was made; and material and information were compiled on the national accreditation body for pharmaceutical education. In addition, individuals with the Virginia Council on Pharmaceutical Education and the Virginia Pharmacy Association were consulted about their recommendations and current CE offerings.

To determine the regulations on pharmacy closing, the board followed the requirements of the statute and consulted with representatives of the pharmacy business to assure that the public could be protected as far as was reasonably possible.

In proposing regulations for licenses or permits for wholesale distributors, warehouse, manufacturers, and medical equipment suppliers, the board was required to adopt federal law and regulation. Businesses that had previously been granted permits in one category will have to be redesignated, and the board is now in the process of determining the appropriate category for each based on their products and functions.

Forms and reports mandated: Application forms on which fee changes are proposed will be altered accordingly. To accommodate a new category of an inactive license, the renewal form will have a place for a licensee to request that change in status. The form will also provide a place for a licensee to certify their compliance with mandatory continuing education requirements.

A new application for reinstatement is being developed for those pharmacists who have allowed their license to lapse or whose license has been suspended or revoked.

An application for a new category of wholesale distributor is being developed, and the old applications are being renamed to reflect the new designations of warehouse or

Calendar of Events

medical equipment supplier.

While it is not anticipated that the board will begin approved CE programs and providers immediately after the effective date of the regulations, application forms for CE approval will be developed. In addition, the board will want to develop evaluation forms for the monitoring of board-approved programs. A procedural letter to pharmacists whose CE hours are being audited will also be required.

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

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

† **September 16, 1992 - 10 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting of the Taskforce on Substance Abuse.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

September 28, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

† **September 17, 1992 - 9:30 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Conduct a general board business meeting and regulatory review. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913.

Examination Committee

† **September 14, 1992 - 8:30 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 Jane Ballard, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

September 18, 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 Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD OF REHABILITATIVE SERVICES

† **September 23, 1992 - 10 a.m. – Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☒

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll free 1-800-552-5019/TDD ☎ and Voice or (804) 367-0280/TDD ☎

Legislation Committee

† **September 23, 1992 - 9 a.m. – Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☒

General Assembly legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll free 1-800-552-5019/TDD ☎ and Voice or (804) 367-0280/TDD ☎

Program and Evaluation Committee

† September 23, 1992 - 9 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒

Appropriate program information relative to General Assembly issues.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll free 1-800-552-5019/TDD ☎ and Voice or (804) 367-0280/TDD ☎

Finance Committee

† September 23, 1992 - 9 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒

The committee will review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll free 1-800-552-5019/TDD ☎ and Voice or (804) 367-0280/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† September 16, 1992 - 2 p.m. - Open Meeting
† September 17, 1992 - 9 a.m. (If necessary) - Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

* * * * *

† October 23, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: VR 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation. The proposed regulation will impose a disqualification on an individual determined by court or pursuant to an administrative hearing to have committed an intentional program violation in the AFDC program.

STATEMENT

Basis: Section 63.1-25 of the Code of Virginia and the

Omnibus Budget Reconciliation Act of 1987, Public Law 100 - 203.

Purpose: The purpose of this regulation is to impose disqualification penalties on individuals determined to have committed an intentional program violation (IPV) in the AFDC program by a court or pursuant to an administrative hearing.

Substance: This regulation will (i) establish disqualification penalties for intentional program violations in the AFDC program, (ii) establish administrative disqualification hearings and (iii) allow for the receipt of enhanced federal funding for the costs associated with the operation of an AFDC fraud control program.

Issues: The issues to be addressed in this regulation are (i) imposition of disqualification penalties on individuals found to have committed an IPV and (ii) establishment of administrative disqualification hearings.

Impact: This regulation will impact the workload of all 124 local departments of social services and the state hearing officers. However, no new positions have been requested. Fiscally, the regulation will result in a cost savings to the state in two areas. First, AFDC grant reductions due to disqualification will result in a reduction of state costs. Second, the receipt of enhanced federal funding for the costs associated with the operation of an AFDC fraud control program will reduce both the state and local administrative costs.

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

Written comments may be submitted through October 23, 1992, to Mr. George Sheer, Chief, Bureau of Fraud and Special Investigations, 8007 Discovery Drive, Richmond, VA 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

September 13, 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 Work intends to amend regulations entitled: VR 620-01-2. Regulations Governing the Practice of Social Work. The proposed regulations establish standards of practice for social work, supervised experience and examination for licensure and record keeping.

Statutory Authority: Chapter 31 of Title 54.1 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, Board of

Calendar of Events

Social Work, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9914.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

August 26, 1992 - 7 p.m. – Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒

September 14, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to repeal existing regulations entitled: **VR 625-00-00. Public Participation Guidelines** and adopt new regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures**. 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 persons in the formation and developments of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulations, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal the existing Public Participation Guidelines and adopt VR 625-00-00:1. Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 625-00-00:1. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-502, 10.1-603.18, 10.1-605, and 10.1-637 of the Code of Virginia

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

DEPARTMENT OF STATE POLICE

August 28, 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**

545-01-03. Standards and Specifications for the Stickers or Decals Used by Counties, Cities and Towns in Lieu of License Plates. This revision will make the standards and specifications for stickers and decals used in lieu of license plates consistent with existing state law and motor vehicle safety inspection rules and regulations with regards to placement.

Statutory Authority: §§ 46.2-1052 and 52-8.4 of the Code of Virginia.

Contact: Captain J. P. Henries, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

TRANSPORTATION SAFETY BOARD

September 10, 1992 - 9:30 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

This meeting will deal exclusively with the distribution of USDOT Funds for approved grant requests.

Contact: William H. Leighty, Deputy Commissioner, Transportation Safety, DMV, 2300 W. Broad St., Richmond, VA 23219, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

VIRGINIA RACING COMMISSION

† **September 16, 1992 - 9:30 a.m. – Open Meeting**
Marion duPont Scott Equine Center, 542 Old Waterford Road, Leesburg, Virginia. ☒

A meeting to consider approval of racing officials and pari-mutuel pools for the one-day of horse racing at Morven Park.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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September 16, 1992 - 9:30 a.m. – Public Hearing
Marion duPont Scott Equine Center, 542 Old Waterford Road, Leesburg, Virginia. ☒

September 28, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-04. Virginia Breeders Fund.** The purpose of the proposed regulation is to establish the conditions under which the Virginia Breeders Funds shall be disbursed to Stallion owners, breeders and owners of racehorses.

Statutory Authority: § 59.1-369 of the Code of Virginia

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

NOTE: CHANGE IN MEETING DATE

September 8, 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 August 11, 1992, 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 E. Main St., Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

VIRGINIA VOLUNTARY FORMULARY BOARD

September 10, 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 St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4236.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

September 14, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to repeal existing regulations entitled: VR 672-01-1. Public Participation Guidelines. and adopt new regulations entitled: VR 672-01-1.1. Public Participation Guidelines. The

purpose of the proposed action is to repeal the existing regulations and adopt Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons 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 proposed guidelines 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 costs on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that either a summary or a copy of comments received in response to the Notice of Intended Regulatory Action be submitted to the Waste Management Board. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

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

Contact: Mary Clark German, Public Information Officer, 11th Floor, Monroe Building, 101 North 14th St., Richmond, VA 23219, telephone (804) 225-2992.

September 1, 1992 - 1 p.m. - Public Hearing
Wytheville Community College, Grayson Hall Commons, Wytheville, Virginia.

September 2, 1992 - 9 a.m. - Public Hearing
Central Virginia Community College, Auditorium (Room 2123), Lynchburg, Virginia.

September 15, 1992 - 2 p.m. - Public Hearing
James City County Board Room, 101-C Mounts Bay Road, Williamsburg, Virginia.

September 16, 1992 - 1 p.m. - Public Hearing
Culpeper County Board Room, 135 West Cameron Street, Culpeper, Virginia.

September 25, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: VR 672-20-10. Solid Waste Management Regulations. The Virginia Waste Management Board and the Director of the Department of Waste Management propose to amend the Virginia Solid

Calendar of Events

Waste Management Regulations (VR 672-20-10) to incorporate changes in the Virginia Waste Management Act enacted by the General Assembly, to bring Virginia regulations in compliance with the newly promulgated federal Criteria for Municipal Solid Waste Landfills (Part 258, Title 40, Code of Federal Regulations), and to reflect the department's experience with the administration of its regulations gained since 1988.

Statutory Authority: § 10.1-1402 of the Code of Virginia

Written comments may be submitted until September 25, 1992, to Wladimir Gulevich, Department of Waste Management, Monroe Building, 11th Floor, 101 N. 14th Street, Richmond, Virginia 23219.

Contact: Michael P. Murphy, Environmental Programs Manager, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3237.

September 15, 1992 - 12:30 p.m. – Public Hearing
James City County Board Room, 101-C Mounts Bay Road, Williamsburg, Virginia.

September 25, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-10-1. Virginia Hazardous Waste Management Regulations.** Since the adoption of Amendment 11 of the Virginia Hazardous Waste Management Regulations on March 7, 1991, with an effective date of July 1, 1991, the United States Environmental Protection Agency made a significant number of changes to its regulations. During the period from July 1, 1990 to June 30, 1991, EPA promulgated regulations dealing with wood preserving operations, industrial boilers and furnaces, and added a number of new listings. EPA also made a number of corrections to the toxicity characteristic rule and continued with its promulgation of land disposal requirements. These and other less far-reaching changes require prompt regulatory action by the Commonwealth. At the same time, the Commonwealth is also going back and incorporating a portion of the mining waste changes which were made by EPA in January 1990. Because of pending litigation, these changes were not incorporated into Amendment 11. Furthermore, because of a recent court decision, only a portion of these changes are proposed to be included in Amendment 12 at this time. Several of the changes included in proposed Amendment 12 are intended to make certain provisions no more stringent than their federal counterparts; these include changes regarding delistings, changes impacting upon "clean closures," the closed-loop recycling exclusion,

transporter requirements, and notification requirements for minor permit modifications.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Contact: Karol A. Akers, Policy and Planning Manager, DWM, 101 N. 14th St., 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

September 11, 1992 - noon – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

October 5, 1992 - 10 p.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD

STATE WATER CONTROL BOARD

August 24, 1992 - 1 p.m. – Open Meeting
Prince William County Boardroom, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

A meeting to receive comments and answer questions of the public on the State Water Control Board's intent to consider the adoption of VR 680-01-01, Fees for Permits and Certificates.

Contact: Ms. Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5166.

August 24, 1992 - 7 p.m. – Open Meeting
James City County, Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

A meeting to receive views and comments and answer questions of the public regarding the proposed amendments of VR 680-13-03, Petroleum Underground Storage Tank Financial Responsibility Requirements and the proposed adoption of VR 680-13-06, Virginia Petroleum Storage Tank Fund Requirements.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5195.

August 24, 1992 - 7 p.m. – Open Meeting

County of Prince William, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

A meeting to receive views and comments and answer questions of the public regarding VR 680-14-12, Aboveground Storage Tanks Registration Requirements, VR 680-14-13, Aboveground Storage Tanks Prevention Standards and Operational Requirements, and VR 680-14-14, Aboveground Storage Tanks Financial Responsibility Requirements.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5197.

August 24, 1992 - 3 p.m. - Public Hearing
James City County Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

September 14, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9.6-14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: VR 680-14-11. Corrective Action Plan (CAP) General Permit. The purpose of the proposed regulation is to establish a general permit for categories of UST cleanup sites.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:9 of the Code of Virginia.

Written comments may be submitted until September 14, 1992, to Ms. Doneva Dalton, Hearing Reporter, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

August 26, 1992 - 7 p.m. - Public Hearing
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen. ☒

September 14, 1992 - 4 p.m. - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9.6-14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: VR 680-40-01. Public Participation Guidelines and adopt regulations entitled: VR 680-40-01:1. Public Participation Guidelines. The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new regulations which establish

various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion and establish guidelines consistent with other agencies within the Natural Resources Secretariat.

Statutory Authority: § 62.1-44.15 (7) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 14, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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

† September 9, 1992 - 7 p.m. - Public Hearing
Human Services Center, 5249 Old Town Road, Williamsburg, Virginia. ☒

A public hearing to receive comments regarding the proposed issuance or denial of the proposed Virginia Water Protection Permit. This informal fact finding proceeding is being held pursuant to § 9-6.14:11 of the Code of Virginia, Part III of the Virginia Water Protection Permit Regulation and the Board's Procedural Rule No. 1.

Contact: Lori R. Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, 4900 Cox Rd., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5163.

† October 19, 1992 - 1 p.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒

† October 21, 1992 - 7 p.m. - Open Meeting
Tidewater Regional Office, 287 Pembroke Office Park, Suite 310, Pembroke 5, Virginia Beach, Virginia.

† October 23, 1992 - 1 p.m. - Open Meeting
County of Prince William Board Chambers, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

† October 26, 1992 - 10 a.m. - Open Meeting
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

† November 4, 1992 - 10 a.m. - Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

† November 6, 1992 - 9 a.m. - Open Meeting
University of Virginia, Southwest Center, Classroom 1, Highway 19 N., Abingdon, Virginia.

A meeting to receive views and comments and answer

Calendar of Events

questions of the public regarding VR 680-21-00 Water Quality Standards.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5091.

COLLEGE OF WILLIAM AND MARY

Board of Visitors

† **September 10, 1992 - 11:30 a.m.** – Open Meeting
† **September 11, 1992 - 7:30 a.m.** – Open Meeting
Blow Memorial Hall, Richmond Road, Williamsburg, Virginia. ☒

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-1005.

VIRGINIA WORKERS' COMPENSATION COMMISSION

August 26, 1992 - 10 a.m. – Open Meeting
1000 DMV Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Pursuant to House Bill No. 739 amending § 65.2-801 of the Code of Virginia, the Virginia Workers' Compensation Commission is developing regulations for its program for individual self-insurance for workers' compensation. Individuals or organizations may obtain copies of the regulation for the person listed below, and may provide either written or oral comments. Written comments must be delivered to the Commission prior to the date of the hearing, and requests to provide oral comments must also be delivered prior to the date of the hearing.

Contact: Lois Tunstall, Administrative Staff Specialist, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-0580.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

August 24, 1992 - 10 a.m. – Open Meeting
Virginia Beach, Virginia.

September 10, 1992 - 10 a.m. – Open Meeting
Peaks of Otter, Bedford, Virginia.

October 8, 1992 - 10 a.m. – Open Meeting
Department of Youth and Family Services, 700 Centre, Richmond, Virginia.

A general business meeting of the board.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

† **August 27, 1992 - 9 a.m.** – Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

† **September 10, 1992 - 9 a.m.** – Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

† **September 24, 1992 - 9 a.m.** – Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

† **October 8, 1992 - 9 a.m.** – Open Meeting
Koger Center, Wythe Building, Conference Room B, 1604 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

† **October 22, 1992 - 9 a.m.** – Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting to effect the Comprehensive Services Act for At-Risk Youth and Families. Please confirm meeting details before planning to attend.

Contact: Dian McConnell, Director, Council on Community Services for Youth and Families, Department of Youth and Families, 700 Centre, 4th Floor, Richmond, VA 23219, telephone (804) 371-0771.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING ACQUIRED IMMUNODEFICIENCY SYNDROME - AIDS

† **September 25, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol

Street, Richmond, Virginia. ☒

An organizational meeting. (HJR 247)

Contact: Norma E. Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SUBCOMMITTEE #2 OF THE HOUSE COMMITTEE ON AGRICULTURE

† **September 14, 1992 - 1 p.m. – Public Hearing**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee will conduct a public hearing to receive citizen comments regarding yard waste and composting. (HB 853 and HB 854)

Persons wishing to speak should contact Lois V. Johnson, House of Delegates, General Assembly Building, P.O. Box 406, Richmond, VA 23203.

Contact: Deanna Sampson, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMITTEE ON AGRICULTURE AND COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS SUBCOMMITTEE

† **September 10, 1992 - 10 a.m. – Open Meeting**
State Capitol, House Room 2, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee will meet for its initial meeting to study state agency inspection and licensure of food establishments. (HJR 73)

Contact: Deanna Sampson, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING USES OF CAMP PENDLETON

† **October 26, 1992 - 8:30 a.m. – Public Hearing**
Building 427, Camp Pendleton, Virginia Beach, Virginia.

Subcommittee will have hearing followed by tour of property. (HJR 83)

Contact: Jeffrey F. Sharp, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON CAPITAL FINANCING

† **September 10, 1992 - 1 p.m. – Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Commission will meet for organizational purposes and to establish agenda for addressing economic issues of Commonwealth's rural areas. (HJR 24)

Contact: Jeffrey F. Sharp, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

AD HOC STUDY OF THE COMMERCIAL USE OF SOCIAL SECURITY NUMBERS

† **September 11, 1992 - 1 p.m. – Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Committee will meet for organizational purposes and to review the commercial uses of Social Security numbers for transaction identification.

Contact: Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS

† **August 26, 1992 - 10 a.m. – Open Meeting**
Senate Room B, General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☒

Commission on Early Childhood and Child Day Care Programs.

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE FUNDING REQUIREMENTS OF THE VIRGINIA UNEMPLOYMENT COMPENSATION ACT

† **September 14, 1992 - 1:30 p.m. – Open Meeting**
Senate Room A, General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☒

Joint Legislative Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act. (SJR 14)

Contact: Thomas C. Gilman, Senate of Virginia, P.O. Box

Calendar of Events

396, Richmond, VA 23203, telephone (804) 786-3838, or Arlen Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SUBCOMMITTEE OF THE HOUSE COMMITTEE ON GENERAL LAWS TO STUDY THE DESIRABILITY OF LEGALIZING RIVERBOAT GAMBLING

August 24, 1992 - 1 p.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee will meet to study the desirability of legalizing riverboat gambling; assess the potential for increased revenues to localities in the Commonwealth; and determine the type, scope, controls, administration and legislation necessary to protect the public interest and produce maximum revenues if such were the decision.

Contact: Maria J.K. Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT COMMISSION ON HEALTH CARE

† **September 22, 1992 - 10 a.m. – Open Meeting**
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒

Open Meeting - Joint Commission on Health Care. (SB 501 and HB 1032)

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Lillian Raible, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

HOUSE COMMITTEE ON MILITIA AND POLICE

September 10, 1992 - 11 a.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

The full House Committee on Militia and Police will meet in a work session to discuss "State Police Recruitment Policies."

Contact: Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

September 10, 1992 - 1 p.m. – Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

A public hearing which will focus on Code sections relating to firearms. Persons wishing to speak should contact Lois V. Johnson, House of Delegates, Committee Operations, General Assembly Building, Richmond, Virginia 23219.

Contact: Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SUBCOMMITTEE STUDYING BUSINESS LICENSE TAX ON NONPROFIT HOSPITALS, COLLEGES AND UNIVERSITIES

† **September 28, 1992 - 10 a.m. – Open Meeting**
General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

Initial meeting of the '92 interim for this continued study on possible imposition of business license tax on nonprofit establishments. (HJR 361)

Contact: Joan E. Putney, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

DR. MARTIN LUTHER KING JR. MEMORIAL COMMISSION

† **September 1, 1992 - 2 p.m. – Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee will meet for the purpose of an organizational meeting. (HB 997 - Chapter 741 Acts of Assembly)

Contact: Brenda Edwards, Division of Legislative Services, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE POSSIBILITY OF HAVING PUBLIC EMPLOYEES AND PRIVATE EMPLOYEES TEMPORARILY SWITCHING WORKPLACES

† **September 2, 1992 - 10 a.m. – Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee will meet for the purpose of an organizational meeting. (HJR 205)

Contact: Edie Conley, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE SCHOOL DROP OUTS AND WAYS TO PROMOTE THE DEVELOPMENT OF SELF-ESTEEM AMONG YOUTH AND ADULTS

† September 9, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Speaker's Conference Room,
6th Floor, 910 Capitol Street, Richmond, Virginia. ☒

A meeting to conduct an intervention, retrieval and
evaluation work session.

Contact: Brenda Edwards, Research Associate, Division of
Legislative Services, 910 Capitol St., Richmond, VA 23219,
telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

September 16, 1992 - 9:30 a.m. - Open Meeting
Location to be announced.

The Commission will continue with its revision of the
election laws (Title 24.1 of the Code of Virginia).

Contact: Joan W. Smith, Registrar of Regulations, General
Assembly Bldg., 910 Capitol St., Richmond, VA 23219,
telephone (804) 786-3591.

September 17, 1992 - 9:30 a.m. - Open Meeting
Location to be announced.

The Commission will continue with its discussion of
competitive negotiable bidding for the Code of Virginia
and a proposed code of administrative regulations.

Contact: Joan W. Smith, Registrar of Regulations, General
Assembly Bldg., 910 Capitol St., Richmond, VA 23219,
telephone (804) 786-3591.

October 21, 1992 - 9:30 a.m. - Open Meeting
October 22, 1992 - 9:30 a.m. - Open Meeting
Location to be announced.

The Commission will begin working on the revision of
the ABC laws. (Title 4 of the Code of Virginia.)

Contact: Joan W. Smith, Registrar of Regulations, General
Assembly Bldg., 910 Capitol St., Richmond, VA 23219,
telephone (804) 786-3591.

VIRGINIA COMMISSION ON YOUTH

August 24, 1992 - 1 p.m. - Public Hearing
Virginia Beach Center for the Arts, 2200 Parks Avenue,
Price Auditorium, Virginia Beach, Virginia. ☒ (Interpreter
for deaf provided upon request)

September 22, 1992 - 1 p.m. - Public Hearing
Mary Washington College, 1301 College Avenue, Dodd

Auditorium, Fredericksburg, Virginia. ☒ (Interpreter for
deaf provided upon request)

A public hearing to solicit testimony relating to
Juvenile Crime and Youth Prevention Programs. The
Juvenile Crime testimony will be used as part of the
study from HJR 36 on Serious Juvenile Offenders and
the Youth Prevention Programs testimony will be used
as background for the oversight of the Comprehensive
Services Act for At-Risk Youth and Families (HB 935
and SB 171). A separate time slot has been set aside
for each topic. The time slots are: 1 p.m.-3 p.m.
Juvenile Crime and 4 p.m.-6 p.m. Youth Prevention
Programs.

Contact: Mary Simmons, Staff Assistant, Commission on
Youth, General Assembly Bldg., Suite 517 B, 910 Capitol
St., Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 24

Agricultural Council, Virginia
General Laws, House Committee on
Governor's Task Force on Fuels Tax Evasion
Legalizing Riverboat Gambling, Joint Subcommittee
Studying Desirability of
Water Control Board, State

August 25

Health Services Cost Review Council, Virginia
Labor and Industry, Department of
- Virginia Safety and Health Codes Board
Marine Resources Commission

August 26

Chesapeake Bay Local Assistance Board
Compensation Board
† Commission on Early Childhood and Child Day Care
Programs
Historic Resources, Board of
Historic Resources, Department of
Land Evaluation Advisory Council, State
Workers' Compensation Commission, Virginia

August 27

Medicine, Board of
Game and Inland Fisheries, Board of
† Nursing, Board for
- Special Conference Committee
† Professional Engineers, Board for
† Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

August 28

Game and Inland Fisheries, Board of
Lottery Department, State

Calendar of Events

August 31

Alcoholic Beverage Control Board
† Cosmetology, Board for

September 1

† Child Day Care and Early Childhood Programs,
Council on
† Dr. Martin Luther King Jr. Memorial Commission
Funeral Directors and Embalmers, Board of
† Hopewell Industrial Safety Council

September 2

Funeral Directors and Embalmers, Board of
† Land Surveyors, Board for
† Possibility of Having Public Employees and Private
Employees Temporarily Switching Workplaces, Joint
Subcommittee Studying

September 3

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
Emergency Planning Committee, Local - Chesterfield
County
Medical Assistance Services, Department of
- Drug Utilization Review (DUR) Board
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board

September 4

Pharmacy, Board of

September 5

Virginia Military Institute
- Board of Visitors

September 8

† Higher Education for Virginia, State Council of
† Nursing Home Administrators, Board of

September 9

Emergency Planning Committee, Local - City of
Alexandria
† Nursing Home Administrators, Board of
† School Drop Outs and Ways to Promote the
Development of Self Esteem Among Youth and Adults
- Joint Subcommittee Studying

September 10

† Agriculture and Committee on Health, Welfare and
Institutions Subcommittee, Committee on
† Air Pollution Control, Department of
† Architects, Board for
† Capital Financing, Commission on
Contractors, Board for
- Complaints Committee
† Labor and Industry, Department of
† Medicine, Board of
Militia and Police, House Committee on
† Nursing Home Administrators, Board of
Transportation Safety Board
Voluntary Formulary Board, Virginia

† College of William and Mary - Board of Visitors
Youth and Family Services, Board of
† Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

September 11

† Commercial Use of Social Security Numbers, Ad
Hoc Study of
Information Management, Council on
Land Evaluation Advisory Council, State
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee
Waste Management Facility Operators, Board for
† College of William and Mary
- Board of Visitors

September 14

† Funding Requirements of the Virginia
Unemployment Compensation Act, Joint Legislative
Subcommittee Studying
† Health, State Board of
† Library Board
† Psychology, Board of
- Examination Committee
† Valley ASAP Board

September 15

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
ASAP Policy Board - Rockbridge
† Health, State Board of
† Labor and Industry, Department of
† Shenandoah Scenic River Advisory Board
Virginia Resources Authority

September 16

† Medicine, Board of
† Professional Counselors, Board of
Real Estate Board
† Social Services, State Board of
Virginia Code Commission
† Virginia Racing Commission

September 17

Alcoholic Beverage Control Board
† Labor and Industry, Department of
- Virginia Apprenticeship Council
Medicine, Board of
- Joint Committees on Acupuncture
† Psychology, Board of
† Social Services, State Board of
Virginia Code Commission

September 18

Falls of the James Scenic River Advisory Board
† Medicine, Board of
Residential Facilities for Children, Interdepartmental
Regulation of

Calendar of Events

September 21

- † Emergency Planning Committee, Local
- Prince William County, Manassas City, and
Manassas Park

September 22

- † Health Care, Joint Commission
Health Services Cost Review Council, Virginia
Housing Study Commission, Virginia
† Labor and Industry, Department of
Marine Resources Commission

September 23

- Hazardous Materials Training Committee
Housing Study Commission, Virginia
† Interagency Coordinating Council (VICC) Early
Intervention, Virginia
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Rehabilitative Services, Board of
- Finance Committee
- Legislative Committee
- Program and Evaluation Committee

September 24

- Chesapeake Bay Local Assistance Board
† Emergency Planning Committee, Local - Fairfax
County, City of Fairfax, and the Towns of Herndon
and Vienna
† Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

September 25

- † Acquired Immunodeficiency Syndrome - AIDS, Joint
Subcommittee Studying
† Architects, Professional Engineers, Land surveyors
and Landscape architects, Board of
- Virginia Board for Interior Designers

September 28

- Alcoholic Beverage Control Board
† Business License Tax on Nonprofit Hospitals,
Colleges and Universities, Subcommittee Studying
Professional Soil Scientists, Board for

September 29

- † Local Government, Commission on

September 30

- † Agriculture and Consumer Services, Board of
Compensation Board
† Local Government, Commission on

October 1

- † Medicine, Board of
Emergency Planning Committee, Local - Chesterfield
County

October 2

- † Medicine, Board of

October 3

- † Medicine, Board of

October 4

- † Medicine, Board of

October 5

- † Local Government, Commission on
Waste Management Facility Operators, Board for

October 6

- † Hopewell Industrial Safety Council

October 7

- † Goose Creek Scenic River Advisory Board

October 8

- Youth and Family Services, Board of
† Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

October 9

- Geology, Board for

October 14

- Alcoholic Beverage Control Board

October 19

- † Water Control Board, State

October 21

- † Water Control Board, State
Code Commission, Virginia

October 22

- Code Commission, Virginia
† Department of Youth and Family Services,
Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

October 23

- † Water Control Board, State

October 26

- Alcoholic Beverage Control Board
† Commerce, Board of
† Water Control Board, State

October 27

- † Health Services Cost Review Council, Virginia

November 4

- † Water Control Board, State

November 6

- † Medicine, Board of
- Advisory Board on Physical Therapy
† Water Control Board, State

Calendar of Events

November 13
† Library Board

PUBLIC HEARINGS

August 24
Water Control Board, State
Youth, Virginia Commission on

August 26
Air Pollution Control, Department of
Chesapeake Bay Local Assistance Board
Conservation and Recreation, Department of
- Board of Conservation and Recreation
Environment, Council on the
Historic Resources, Department of
- Board of Historic Resources
Marine Resources Commission
Soil and Water Conservation Board
Waste Management, Department of
Water Control Board, State

August 31
Motor Vehicles, Department of

September 1
Waste Management, Department of

September 2
Air Pollution Control, Department of
Waste Management, Department of

September 4
† Pharmacy, Board of

September 9
† Water Control Board, State

September 10
Militia and Police, House Committee on

September 14
† Agriculture, House Committee on
Housing and Community Development, Department of

September 15
Waste Management, Department of

September 16
Virginia Racing Commission
Waste Management, Department of

September 22
† Health, State Board of
Youth, Virginia Commission on

September 28
† Health, State Board of

September 29
† Health, State Board of

September 30
Agriculture and Consumer Services, Board of
† Health, State Board of

October 5
† Local Government, Commission on

October 7
† Health, State Board of

October 22
† Health, State Board of

October 26
† Uses of Camp Pendleton, Joint Subcommittee
Studying

October 27
† Health, State Board of

October 28
† Alcoholic Beverage Control, Board of