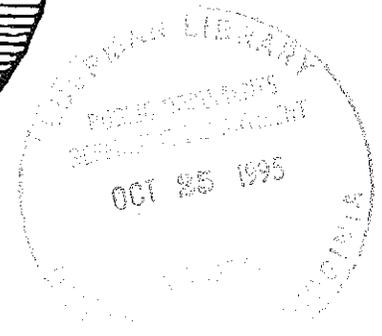
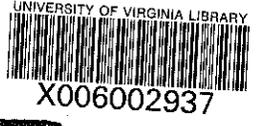


COB 3/R. 26/12-1 02

THE VIRGINIA REGISTER

OF REGULATIONS

VA
DOC



VOLUME TWELVE • ISSUE ONE

OCTOBER 2, 1995

1995

Pages 1 Through 154

THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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

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

The Virginia Register of Regulations is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the Virginia Code Commission: **Joseph V. Gartlan, Jr.**, Chairman; **W. Tayloe Murphy, Jr.**, Vice Chairman; **Russell M. Carneal**; **Bernard S. Cohen**; **Frank S. Ferguson**; **E. M. Miller, Jr.**; **Theodore V. Morrison, Jr.**; **William F. Parkerson, Jr.**; **Jackson E. Reasor, Jr.**; **James B. Wilkinson**.

Staff of the Virginia Register: **E. M. Miller, Jr.**, Acting Registrar of Regulations; **Jane D. Chaffin**, Assistant Registrar of Regulations.

Table of Contents

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

State Council of Higher Education for Virginia.....	131
Department of Social Services	131

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Public Notice Regarding Research on the Water Quality Standards Regulation	132
---	-----

STATE BOARD OF HEALTH

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 1996.....	132
---	-----

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Significant Change in Statewide Methods and Standards for Setting Payment Rates.....	132
---	-----

VIRGINIA CODE COMMISSION

Notice to State Agencies	133
Forms for Filing Material on Dates for Publication in <i>The Virginia Register of Regulations</i>	133

ERRATA

DEPARTMENT OF HEALTH (STATE BOARD OF)

Biosolids Use Regulations. (VR 355-17-200)	133
--	-----

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	134
---	-----

JUDICIAL

Open Meetings and Public Hearings	151
---	-----

LEGISLATIVE

Open Meetings and Public Hearings	151
---	-----

CHRONOLOGICAL

Open Meetings.....	152
Public Hearings.....	154

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-99-06. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.** The purpose of the proposed action is to develop a regulation which conforms to state law and federal Clean Air Act requirements for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Public Meeting: A public meeting will be held by the department in the auditorium, Lee High School, 6540 Franconia Road, Springfield, Virginia, at 7 p.m. on November 2, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Alma Jenkins at the Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4070 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Jenkins no later than October 19, 1995.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. November 6, 1995, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop a recommended regulation for department consideration through the collaborative approach of regulatory negotiation and consensus.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation drafted pursuant to this notice.

Need: One of the primary goals of the federal Clean Air Act (Act) is the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). These standards, designed to protect public health and welfare, apply to six pollutants, of which ozone is the primary focus of this proposed action. Ozone is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO_x) in the air react together in the presence of sunlight. VOCs are chemicals contained in

gasoline, polishes, paints, varnishes, cleaning fluids, inks, and other household and industrial products. NO_x emissions are a by-product from the combustion of fuels and industrial processes.

The National Ambient Air Quality Standard for ozone is 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. When concentrations of ozone in the ambient air exceed the federal standard the area is considered to be out of compliance and is classified as "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton Roads areas have been identified as ozone nonattainment areas according to new provisions of the Act.

States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard: (i) may result in the continued violations of the standard and subsequent negative affects on human health, (ii) may result in assumption of the program by EPA at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as more restrictive requirements on new major industrial facilities and loss of federal funds for highway construction. Furthermore, if a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent control requirements.

Motor vehicle emissions inspection programs, known as inspection and maintenance (I/M) programs, are an integral part of the effort to reduce mobile source air pollution. Cars and trucks create about half of the ozone air pollution. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. Tremendous progress has been made in reducing these pollutants; however, total vehicle emissions remain high. This is because the number of vehicle miles travelled on our highways has doubled in the last 20 years, offsetting much of the technological progress in vehicle emission control over the same two decades. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

I/M programs achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions and requiring them to be repaired. Minor malfunctions in the emissions control system can increase emissions significantly. The average car on the road can emit three to four times the carbon monoxide and hydrocarbons allowed by new car standards if emission control systems are malfunctioning. Unfortunately, rarely is it obvious which cars have malfunctions as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle driveability.

Notices of Intended Regulatory Action

I/M programs provide a way to check whether the emission control systems on a vehicle are working correctly. All new passenger cars and trucks sold in the United States today must meet stringent air pollution standards and those standards became more stringent in model year 1994, but they can only retain this low-polluting profile if the emission controls and engine are functioning properly. An I/M program is designed to ensure that vehicles stay clean in actual use. This, in turn, can substantially reduce the amount of volatile organic compounds, carbon monoxide, and nitrogen oxides emitted to the ambient air, thereby reducing the formation of ozone, lowering ozone concentrations, and contributing toward attainment of the NAAQS.

Alternatives:

1. Draft new regulations which will provide for implementation of a motor vehicle emissions testing program that meets the provisions of the state code, federal Clean Air Act and associated EPA regulations and policies.
2. Draft new regulations which will provide for implementation of a motor vehicle emissions testing program that does not meet the provisions, or meets alternative provisions, of the state code, federal Clean Air Act and associated EPA regulations and policies. No regulatory alternatives to an enhanced I/M program have been promulgated by EPA as meeting the requirements of the Act. Adopting an unapprovable program will result in sanctions being imposed by EPA.
3. Take no action to develop the regulations and risk sanctions by EPA.

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

Applicable Statutory Requirements: The 1990 amendments to the Clean Air Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of its own class. Virginia's ozone nonattainment areas are classified as marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area.

The Northern Virginia area has an ozone air pollution problem classified by the EPA as "serious." The problem is a result of emissions from both industrial sources and motor vehicles. The Act requires that all areas classified as serious must implement an enhanced vehicle emissions inspection and maintenance program, commonly referred to as I/M.

Section 182(c)(3) of the Clean Air Act requires that the state submit revisions to the state implementation plan to "provide for an enhanced program to reduce hydrocarbon emissions and NO_x emissions from in-use motor vehicles..." The program

"shall comply in all respects with guidance...by the Administrator..." The Act requires that enhanced I/M Programs be implemented within two years of enactment (11/16/90) of the Clean Air Act Amendments of 1990. The program implemented by the state must achieve a performance standard equal to:

- (i) "...a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and
- (ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard."

The compliance method is to be established, per the Act, by EPA. The state program, per the Act, must include, at a minimum:

- Computerized emission analyzers, including on-road testing devices.
- No waivers for vehicles and parts covered by an emission control performance warranty.
- For non-warranty situations, waivers only after \$450 (in 1990 dollars) has been spent for emissions-related repairs.
- Enforcement through registration denial.
- Annual testing unless biennial testing, in combination with other features, will equal or exceed emissions reductions obtainable through annual inspections.
- Operation on a centralized basis unless the state demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective.

This law is implemented by EPA through 40 CFR Part 51, subpart S. The performance standard for the program is contained in § 51.351, "Enhanced I/M Performance Standard." It includes:

- Centralized testing.
- Annual testing.
- Testing of 1968 and later model year vehicles.
- Transient, mass emissions testing on 1986 and later model year vehicles, two-speed idle testing of 1981-1985 vehicles, and single-speed idle testing of pre-1981 vehicles.
- Testing of light duty vehicles and trucks.
- Emissions standards according to model year and weight class as enumerated in § 51.351(a)(7).
- Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.
- Evaporative system integrity (pressure) test on 1983 and later vehicles and an evaporative system transient purge test on 1986 and later vehicles.

Notices of Intended Regulatory Action

- Twenty percent emission test failure rate among pre-1981 model year vehicles
- Three percent waiver rate
- Ninety-six percent compliance rate
- On-road testing of at least 0.5% of the subject vehicle population.

Under the current rule, the state has some flexibility to design its own program and demonstrate that it is as effective as the EPA model program in reducing emissions. EPA intends to issue a new rulemaking under the Act to revise some requirements for enhanced I/M program. There may be additional, albeit limited, flexibility on test equipment and program design than exists under the rule conditions outlined above.

Sections 46.2-1176 through 46.2-1187.3 of the Virginia Motor Vehicle Emissions Control Law (Title 46.2, Chapter 10, Article 22 of the Code of Virginia) requires a "test and repair enhanced emissions inspection program" for vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Key provisions of the legislation include:

- A biennial inspection;
- An inspection fee cap of \$20;
- A minimum repair cost of \$450 (in 1990 dollars) in order to qualify for a waiver, and requirement that repairs to qualify for a waiver be done by a certified repair technician;
- Motor vehicles being titled for the first time may be registered for up to two years without being subject to an emissions inspection;
- An exemption for any of the following vehicles, (i) vehicles powered by a clean special fuel as defined in § 58.1-2101, (ii) motorcycles, (iii) vehicles which, at the time of manufacture were not designed to meet emission standards set or approved by the federal government, (iv) any antique motor vehicle as defined in § 46.2-100 and licensed pursuant to § 46.2-730, or (v) vehicles for which no testing standards have been adopted by the board;
- The requirement for the inspection to apply to all vehicles registered and/or operated in the affected area including (i) vehicles owned by government entities, (ii) vehicles owned by military personnel residing in the affected areas, and (iii) vehicles owned by leasing or rental companies;
- The certification of motor vehicle emissions repair technicians and emissions repair facilities, including the suspension or revocation of such certification;
- In addition to biennial testing of all subject vehicles, on-road testing of motor vehicles in use and requirement for follow-up testing of those vehicles which exceed emissions standards; and

The state code directs the State Air Pollution Control Board to adopt regulations to implement the program.

Statutory Authority: § 46.2-1176 et seq. of the Code of Virginia.

Contact: David J. Kinsey, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4432, FAX (804) 762-4510, toll-free 1-800-592-5482 or (804) 762-4021/TDD ☎

VA.R. Doc. No. R96-20; Filed September 13, 1995, 11:52 a.m.

DEPARTMENT OF GENERAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to consider amending regulations entitled: **VR 330-02-01 [1 VAC 30-50-10 et seq.] Regulations for Breath Alcohol Testing.** The purpose of the proposed action is to provide a means of evaluation, approval, maintenance and certification of evidential breath test devices; training and licensing of breath test operators; and evaluation and approval of preliminary breath testing devices. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 18.2-267 and 18.2-268.9 of the Code of Virginia.

Public comments may be submitted until November 1, 1995, to Robin Porter, Division of Forensic Science, Department of General Services, One North 14th Street, Richmond, VA 23219.

Contact: Frances V. Wright, Administrative Assistant, Department of General Services, 202 N. 9th St., Suite 209, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305 or (804) 786-6152 ☎

VA.R. Doc. No. R96-1; Filed September 1, 1995, 3:38 p.m.

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled: **VR 447-01-2 [11 VAC 5-20-10 et seq.] Administration Regulations.** The purpose of the proposed action is to clarify procurement exemptions and restrictions; conform to Code provisions; remove sections that are duplicative of Code provisions when practical; incorporate housekeeping changes; and conform to new numbering designations for the Virginia Administrative Code. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-683; Filed August 15, 1995, 3:45 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled: **VR 447-02-1 [11 VAC 5-30-10 et seq.] Instant Game Regulations.** The purpose of the proposed action is to clarify the revocation or suspension of a lottery retailer's license; cashing at lottery headquarters; elimination of claim form requirements; conform to Code provisions or delete sections when practical that are unnecessary or duplicative; conform to new numbering designations for the Virginia Administrative Code; and make housekeeping changes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-684; Filed August 15, 1995, 3:45 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled: **VR 447-02-2 [11 VAC 5-40-10 et seq.] On-Line Game Regulations.** The purpose of the proposed action is to clarify the revocation or suspension of a lottery retailer's license; cashing at lottery headquarters; elimination of claim form requirements; revise subscription plan; conform to new numbering designations for the Virginia Administrative Code; and make housekeeping changes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-682; Filed August 16, 1995, 10:29 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.5. Home and Community Based Services for Technology Assisted Individuals.** The purpose of the proposed action is to revise the regulations to reflect recent changes in the waiver and changes in HCFA's interpretation of federal guidelines. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 1, 1995, to Michelle Baker, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-13; Filed September 12, 1995, 11:43 a.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14-14:7.1 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **VR 495-01-1 [18 VAC 90-20-10 et seq.] Board of Nursing Regulations.** The purpose of the proposed action is to replace an emergency regulation which established a fee of \$20 for renewal of nurse aide certification in order to provide sufficient funding for the investigation and adjudication of complaints. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 18, 1995.

Contact: Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R95-721; Filed August 30, 1995, 2:27 p.m.

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 545-01-16 [19 VAC 30-150-10 et seq.] Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.** The purpose of the proposed action is to revise the Standards and Specifications for Overdimensional Warning Lights by making it more consistent with the Society of Automotive Engineers (SAE) standards. Minor technical and administrative changes are included. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 46.2-1026 of the Code of Virginia.

Public comments may be submitted until November 2, 1995.

Contact: Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 378-3479 or FAX (804) 378-3487.

VA.R. Doc. No. R96-11; Filed September 12, 1995, 3:51 p.m.

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 545-01-17 [19 VAC 30-160-10-et seq.] Regulations Relating to Standards and Specifications for Safety Lights for Farm Tractors in Excess of 108 Inches in Width.** The purpose of the proposed action is to revise the Standards and Specifications for Safety Lights for Farm Tractors in Excess of 108 Inches in Width by making it more consistent with the Society of Automotive Engineers (SAE) standards. Minor technical and administrative changes are included. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 46.2-1102 of the Code of Virginia.

Public comments may be submitted until November 2, 1995.

Contact: Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 378-3479 or FAX (804) 378-3487.

VA.R. Doc. No. R96-12; Filed September 12, 1995, 3:50 p.m.

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 672-20-10. Solid Waste Management Regulations.** The purpose of the proposed action is to reconsider sections of the regulations that are not mandated by state or federal laws; are not essential to protect health, safety or welfare of citizens of the Commonwealth; or are not essential for efficient and economical performance of important

government functions. The board also proposes to consider less burdensome or intrusive alternatives to sections associated with the groundwater monitoring requirements and to improve the clarity of the regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Need: The board has received petitions from the regulated community for rulemaking to amend the Solid Waste Management Regulation. The board agrees that the areas of concern to the petitioners, relating to groundwater monitoring requirements, should be reviewed. The board proposes to consider less burdensome or intrusive alternatives to the sections associated with the groundwater monitoring requirements.

For example, Amendment 1 to the Virginia Solid Waste Management Regulation sets forth certain procedures to be followed relating to groundwater monitoring during the transition period between the effective date of the current state requirements (1988) and the effective date of federal requirements (1996) -- §§ 5.1 D, 5.2 D, and 5.3 D of the current regulation. In retrospect, these transitional procedures have proven themselves to be unnecessarily cumbersome to the regulated community. In response to requests by the Municipal Landfill Group, composed of representatives of a number of local governments, the board is interested in reviewing the administrative and substantive requirements for the state's Interim Groundwater Detection Monitoring Program. Additionally, the board needs to establish simplified statistical procedures for the evaluation of the analytical results of groundwater monitoring obtained by the landfill operators.

In undertaking this regulatory action, the Department of Environmental Quality will also fulfill the requirements for regulatory review set forth in Executive Order 15 (94). Therefore, the board proposes to reconsider the existing regulations to ensure that the requirements are mandated by state or federal laws, are essential to protect the health, safety or welfare of the citizens of the Commonwealth, or are essential for efficient and economical performance of important government functions. The board also proposes to improve the overall clarity of the regulation.

Finally, the board will update numerous sections to reflect new, related regulations which it has promulgated and other regulations promulgated by the Air Pollution Control Board and the State Water Control Board.

Subject Matter and Intent: The board proposes to amend certain sections of the existing Solid Waste Management Regulations, VR 672-20-10. The existing regulations establish standards and procedures for the siting, design, construction, operation, maintenance, closure and post-closure care of solid waste management facilities in order to protect public health, safety, the environment and natural resources. Areas and actions to be considered include:

Updating Part II, Legislative Authority and General Information; updating Part III, Identification of Solid Wastes, to provide relief for properly managed waste tire processing facilities as is done for paper, glass and scrap metals; updating Part IV, Management of Open Dumps and Unpermitted Facilities, so that voluntary cleanup of sites is taken into account; such cleanups

Notices of Intended Regulatory Action

should be based on a risk-based standard concept; updating Part V by deleting sections dealing with interim detection phase monitoring of groundwater; updating § 5.4 dealing with landfill gas control to take into account Rule 4-43 - Sanitary Landfill Operations of the State Air Pollution Control Board; updating § 5.7 dealing with corrective action requirements to include risk-based standard concept; and adding a new Part X that would specify acceptable risk estimation methods to be used in connection with risk-based standards for voluntary cleanups and corrective action requirements.

Estimated Impacts: The intent of the proposed amendment is to substantially reduce procedural and substantive requirements of the current regulations. Because the department expects to receive and consider all comments from the public, it is difficult to estimate the extent of the possible cost savings to both the public and the department. However, the goal of the proposed rulemaking is to decrease the costs to the owners or operators of the solid waste management facilities and to the department while ensuring that the public health, safety and welfare, as well as the environment, is protected.

Alternatives: The board has so far considered two alternatives relative to amending the current regulation. First, is the "do nothing" alternative. The board believes this option is not practicable or feasible given the petition for rulemaking which has been received from the regulated community, the requirements for regulatory review as set forth in Executive Order 15(94) and other changes needed to update the current regulations.

The second alternative is to proceed as proposed. While the department is requesting comments on the regulation as a whole, there are several areas of particular interest. Specifically, the department would like to receive comments on alternatives and their costs and benefits on the above mentioned sections, on additional streamlining of the permitting process especially as it pertains to industrial waste facilities, and on alternatives and their costs and benefits relating to on-site ("captive") landfills owned and operated solely to manage wastes generated by the manufacturing plant.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or any other alternatives. Written comments should be submitted to Dr. Walt Gulevich, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, (804) 762-4218, TDD (804) 762-4021, no later than 4 p.m., on Monday, October 23, 1995.

In addition, the department will hold a public meeting to hear oral comments and to answer questions of the public on Thursday, October 19, 1995, at 10:30 a.m. in the Board Room, Department of Environmental Quality, 4900 Cox Road, Glen Allen, Virginia.

Accessibility to Persons With Disabilities: The meeting will be held at a public facility believed to be accessible to persons with disabilities. Any persons with questions on the accessibility of the facilities should contact Dr. Gulevich at the address above. Persons needing interpreter services for the

deaf must notify Dr. Gulevich no later than Monday, October 2, 1995.

Advisory Committee/Group: The department invites comments on whether it should appoint an ad hoc advisory group, use a standing advisory committee or consult with groups or individuals to assist in the development of the proposed action. If comments are submitted regarding the appointment of an ad hoc advisory group or the consultation with groups or individuals, please include the names and addresses of persons or organizations who would be willing to participate in this process. Comments and names may be submitted to Dr. Gulevich at the address below.

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

Public comments may be submitted until October 23, 1995.

Contact: Dr. Walt Gulevich, Assistant Director of Waste Operations, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240 (804)762-4218, FAX (804) 762-4327 or (804)762-4021/TDD ☎

VA.R. Doc. No. R95-709; Filed August 30, 1995, 9:17 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 680-01-01. Fees for Permits and Certifications.** The purpose of the proposed action is to determine if the schedule of fees meets statutory requirements and to consider development of a schedule of reduced fees for facilities that comply with permit terms and conditions. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.15:6 of Article 2.1 of the State Water Control Law which requires that the State Water Control Board promulgate regulations establishing a fee assessment and collection system to recover a portion of the direct and indirect costs associated with processing applications to issue, reissue or modify a permit or certificate which the board has the authority to issue. This same section also exempts agricultural operations engaged in production for market from payment of permit fees and authorizes the board to establish a schedule of reduced fees for facilities which comply with the terms and conditions of their permits.

Need: Fees for permits and certificates are authorized to recover, up to maximums specified in statute, the direct and indirect costs associated with application review and permit issuance. The fees currently assessed certain applicants for permits for VPDES industrial minor facilities are believed to be in excess of the costs of review and issuance. These fees, as well as those for other permits, need to be reviewed and, if necessary, reduced so that they reflect the time and complexity involved in permit review and issuance. Statutory changes which took effect after the adoption of VR 680-01-01 also need to be incorporated into the regulation. One of these changes exempts agricultural operations engaged in

Notices of Intended Regulatory Action

production for market from payment of fees. Another authorizes the board to establish a schedule of reduced fees for facilities which comply with the terms and conditions of their permits.

Subject and Intent: The purpose of the proposed changes to the schedule of fees contained in the permit fee regulation is to ensure that statutory requirements related to fee amounts are met. Specifically, fees must be reduced if they are in excess of the direct and indirect costs associated with reviewing permit applications and issuing permits are recovered. In addition, the development of a schedule of reduced fees for permit reissuances for facilities which comply with permit terms and conditions will also be considered.

Estimated Impact: Annually, an average of 850 applications for new and reissued permits and general permit registrations that are subject to fees are processed. During FY 94 \$2.2 million in fee payments were received. Payments through November, 1994, totalled \$474,330; if collections continue at this rate, FY 95 fee revenue would be about \$1.1 million. Analyses prepared during the initial development of the fee regulation indicated that revenue would average \$1.6 million annually. VPDES permits have the most effect on the amount of fees collected since a significant portion of the fees paid are associated with renewal of VPDES permits. Permits are generally issued for five-year terms. Thus, fees will need to be collected for five years in order to verify the accuracy of the initial annual estimate of fee revenue. Expenditures supported by fee revenues are budgeted at \$1.56 million annually for the 1994-96 biennium. Revenues in excess of appropriated amounts are carried forward to the next fiscal year. Amendments proposed in response to this notice would reduce individual fees and would probably reduce the amount of revenue generated. The impact cannot be determined more precisely, however, until a revised fee schedule is developed.

Alternative: Proposed changes could be limited to ones affecting fee amounts since the development of a schedule of reduced fees for compliant facilities is authorized but not required. However, the amendments will ensure that no applicant is charged a fee in excess of the costs associated with application review and permit issuance.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the alternative. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal.

Public Meeting: The board will hold a public meeting on Thursday, October 12, 1995, at 2 p.m. in the Board Room of the Department of Environmental Quality's offices at Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Mr. Ayers at the

address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Thursday, September 21, 1995.

Public comment may be submitted until 4 p.m. on October 13, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-685; Filed August 16, 1995, 10:29 a.m.

Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to readopt a general permit for domestic sewage discharges less than or equal to 1,000 gallons per day. This action is necessary to continue the availability of the general permit to the approximately 800 treatment works currently covered by the general permit. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: This proposed regulatory action is needed in order to continue the availability of the domestic sewage discharge general permit which was issued effective July 1, 1992, and which expires July 1, 1996. Unless this general permit regulation is readopted, the treatment works currently

Notices of Intended Regulatory Action

covered under the general permit will be required to apply for individual VPDES permits if they wish to continue to discharge to state waters.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to readopt a general permit for domestic sewage discharge of 1,000 gallons per day or less. This general permit will cover the category of small domestic sewage treatment plants which are designed to treat up to 1,000 gallons of wastewater per day. These treatment plants are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc., where sewage flow is low and other treatment alternatives are not available. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. The conditions of the proposed general permit are the same as those in the current general permit for this category which expires July 1, 1996.

Estimated Impact: There are approximately 870 treatment works currently covered under the domestic sewage discharge general permit. There may be other facilities which are currently operating under individual permits which could be covered by this general permit. Readoption of this regulation will allow for the continued streamlining of the permit process as it relates to the covered category of discharges. Coverage under the earlier issuance of this general permit has significantly reduced the paper work, time and expense of obtaining a permit for the owners in this category. Readoption of the proposed regulation would continue these benefits. The current general permit has also allowed the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges from domestic sewage discharges less than or equal to 1,000 gallons per day. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to readopt and issue a general VPDES permit to cover this category of discharger. Because of the widespread acceptance of this general permit during its original term, the department believes that the general permit should be readopted.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be

directed to Mr. Richard Ayers at the address below and must be received by 4 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Mr. Ayers at the address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Public comment may be submitted until 4 p.m. on October 23, 1995.

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

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-710; Filed August 30, 1995, 9:16 a.m.

Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 680-14-24. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Car Washes.** The purpose of the proposed action is to establish appropriate and necessary permitting requirements for discharges of wastewater from car wash operations. The proposed regulation will set forth standard language for effluent limitations and monitoring requirements necessary to regulate this category of dischargers. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Notices of Intended Regulatory Action

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from car wash operations. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. This general permit is being proposed in order to reduce the regulatory burden on these operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the wastewater discharges from car washes. The intent of this proposed general permit regulation is to establish standard language for effluent limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are 56 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. It is anticipated that the cost and amount of monitoring required under the general permit will be less than under individual permits. Adoption of the proposed regulation would also allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges from car washes. One is to continue to issue individual VPDES permits to each establishment. The other is to adopt and issue a general VPDES permit to cover this category of discharger.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be directed to Mr. Richard Ayers at the address below and must be received by 4 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Mr. Ayers at the address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-711; Filed August 30, 1995, 9:16 a.m.

Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 680-14-25. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Ready-Mixed Concrete Plants.** The purpose of the proposed action is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program and to accomplish this with the least regulatory burden on the dischargers. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received

Notices of Intended Regulatory Action

such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. This general permit is being proposed in order to reduce the regulatory burden on these operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. This proposed general permit will cover the category of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are approximately 45 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other establishments which are currently operating without a permit which would be covered by this general permit. Adoption of this proposed regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paperwork, time and expense of obtaining a permit for the owners in this category. Additionally, adoption of this proposed regulation would allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to adopt and issue a general VPDES permit to cover this category of discharger.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the

accessibility of the facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Ad Hoc Advisory Committee: The board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-712; Filed August 30, 1995, 9:16 a.m.

Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 680-14-26. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Fish Farms.** The purpose of the proposed action is to adopt a general permit for the wastewater discharges from fish farms. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Notices of Intended Regulatory Action

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from fish farming operations. Aquaculture, the rearing of fish as an agricultural crop, is a growing industry in Virginia. The typical fish farm consists of either ponds or raceways in which fish are confined and fed until they reach market size. The raceway type operations usually maintain a continuous discharge of water which contains excess food, fish manure and other waste products. The pond type fish farms usually discharge during fish harvest, although some do discharge on a regular basis during the growing period. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. This general permit is being proposed in order to reduce the regulatory burden on these agricultural operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the wastewater discharges from fish farms. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are 11 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. It is anticipated that the cost and amount of monitoring required under the general permit will be less than under individual permits. Adoption of the proposed regulation would also allow the department to redirect staff resources to those discharges which would, due to size or complexity, not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to adopt and issue a general VPDES permit to cover this category of discharger.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the

accessibility of the facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Ad Hoc Advisory Committee: The board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist the drafting and formulation of a proposal.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-713; Filed August 30, 1995, 9:16 a.m.

Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 680-14-27. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Cooling Tower Discharges to Municipal Separate Storm Sewer Systems.** The purpose of the proposed action is to adopt a general permit for discharges from cooling towers to municipal separate storm sewer systems. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Notices of Intended Regulatory Action

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from cooling towers to municipal separate storm sewer systems. Section 402 (p)(3)(B) of the Clean Water Act requires that permits for discharges from municipal separate storm sewer systems "effectively prohibit" non-storm water discharges into the municipal separate storm sewer system. The federal regulations governing storm water discharges require the permit for a municipal separate storm sewer system to contain a program to detect and remove nonstorm water discharges into the municipal separate storm sewer system or require the discharger to the municipal separate storm sewer system to obtain a separate NPDES permit for the nonstorm water discharge. The federal regulation also requires that the owner of the municipal separate storm sewer system have the legal authority to "prohibit through ordinance, order or similar means, non-storm water discharges to the municipal separate storm sewer." A nonstorm water discharge is defined as "any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit." Discharges from cooling towers to the municipal separate storm sewer system fall under this definition of non-storm water discharge. This proposed general permit will be required in order for operators of cooling towers to discharge to a municipal separate storm sewer system, once the department issues VPDES permits to the municipalities for the discharges from the municipal separate storm sewer system to state waters.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the cooling tower discharges which are contributing to the dry weather flow from municipal separate storm sewer systems. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are approximately 3,000 establishments currently discharging from cooling towers to municipal separate storm sewers which may qualify for this proposed general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulations would also allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: For this category of discharges there are three alternatives for compliance with federal and state requirements for discharges from cooling towers to municipal separate storm sewer systems. The first is the issuance of an individual VPDES permit to each establishment. The second is to adopt and issue a general VPDES permit to

cover this category of discharger and third is to not permit thus requiring the municipalities to prohibit the discharge.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be directed to Mr. Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009 and must be received by 4:00 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-708; Filed August 30, 1995, 9:16 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

BOARD FOR ACCOUNTANCY

December 4, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations**. Current fees will be adjusted resulting in a decrease in renewal, application and late filing fees. Further, the proposal will eliminate specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

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

Contact: Nancy Taylor Feldman, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

STATE AIR POLLUTION CONTROL BOARD

November 9, 1995 - 10 a.m. -- Public Hearing
Hampton Roads Planning District Commission, The Regional Building, 723 Woodlake Drive, Chesapeake, Virginia.

November 13, 1995 - 11 a.m. -- Public Hearing
James McCort Administration Building, One County Complex Court, Board Chamber Room, Prince William, Virginia.

November 14, 1995 - 10 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

December 1, 1995 -- Written comments may be submitted until the close of business on 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 adopt regulations entitled: **VR 120-99-05. Regulations for the Control of Emissions from Fleet Vehicles**. The proposed regulation requires that owners or operators of fleets with 10 or more vehicles

make a percentage of annual vehicle purchases clean-fuel fleet (CCF) vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) the Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.
2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.
3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Additional Issues for Public Comment: In addition to comments on the proposal, the department is particularly interested in any comments on the following:

Public Comment Periods - Proposed Regulations

1. Whether the regulation should provide that a credit generated by the purchase of an extra CFF vehicle stay with the vehicle or be traded and sold freely.
2. Whether the reporting requirements in this regulation are adequate, although they require less extensive documentation than the requirements detailed in the federal regulations.
3. Whether the regulation should provide for trading of credits between program areas, although the federal regulations prohibit the trading of credits generated in one nonattainment area with another nonattainment area except in the case of an interstate nonattainment area.
4. Whether the regulation should provide that (i) credits not depreciate over time, although it would be in conflict with provisions of most emissions and trading programs provided for in the Clean Air Act and under consideration by many other states and (ii) credits may be traded between mobile and stationary sources.
5. Whether the Commonwealth should change its vehicle registration process in order to be able to determine where fleet vehicles are primarily operated.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and at the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4900 Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5300

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Northern Virginia Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue

Springfield, Virginia
Ph: (703) 644-0311

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Written comments may be submitted until the close of business on December 1, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. The purpose of this notice is to provide the public the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Contact: Mary E. Major, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

October 16, 1995 - 10 a.m. -- Public Hearing
501 North Second Street, Richmond, Virginia.

December 29, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume 1 - New Construction Code/1993.** The purpose of the proposed action is to (i) amend the "Notice of Violation" section to comport with the Code of Virginia; (ii) amend the requirements for the spacing of intermediate supports for guardrails; (iii) amend the sections that establish "Wind Zones" in Virginia to comply with those required by new federal regulation; (iv) delete vague and subjective text in the regulation regarding ice damming on roofs for one and two family dwellings; (v) raise the size and occupancy threshold regarding when permits are required for tents; and (vi) amend the "Existing Building" section for clarity and remove vague and subjective language which may be barriers to revitalization of existing buildings.

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

November 15, 1995 - 10 a.m. -- Public Hearing
Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia.

December 1, 1995 -- Public comments may be submitted until this date.

Public Comment Periods - Proposed Regulations

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Mineral Mining Examiners intends to adopt regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed regulation is to establish a separate regulation setting requirements for the certification of mineral miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000.

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.

BOARD FOR ACCOUNTANCY

Title of Regulation: [~~VR-405-01-2. 18 VAC 5-20-10 et seq.~~]
Board for Accountancy Regulations.

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

Public Hearing Date: N/A -- Public comments may be submitted until December 4, 1995.

(See Calendar of Events section
for additional information)

Basis: Section 54.1-201 of the Code of Virginia provides the board with the authority to amend its regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) necessary to effectively administer the regulatory system administered by the board. The board proposes to delete the specific reference to the fees associated with the examination and replace it with language which will place a cap of \$200 on an increase of the fees. In addition, the board is decreasing fees for initial licensure, renewal of the license to practice public accountancy, and the CPA certificate and late filing fees for reporting continuing professional education, in order to assure that the variance between revenues and expenditures does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

Purpose: The reduction of fees will result in the delivery of a quality public protection program in a more cost effective manner. Deleting the specific fees associated with the Uniform CPA examination and placing a cap of \$200 on any future increase in examination fees will eliminate the possibility of the board having to absorb the increase in the examination costs until the new fees can become a final regulation. This will result in more efficient management of the fees collected for examination candidates, while ensuring that there can be no significant increase in the current fee.

Substance: The proposed adjustment to initial licensure fees, renewal fees and late filing fees will result in a reduction of fees paid by licensees for services provided without a reduction in those services. Deletion of the specific fees associated with the board's examination will permit the Department of Professional and Occupational Regulation to continue to collect the examination fees which may have increased as a result of a contractual change over which the department has no control. However, the cap on the fee which can be charged for examinations will prevent any substantial changes without proceeding through the requirements of the Administrative Process Act. The fee adjustments are less restrictive, while the deletion of the specific fees associated with the board's examination is an improvement in budget control.

Issues: The primary advantage resulting from the adjustment in fees for initial licensure, renewal and late filing of continuing professional education credits is an immediate decrease in the amount paid by the licensees without any decline in services. Although the amount of the reduction in

fees is small, it is a signal to the public that government can be more efficient without decreasing services. There are no disadvantages related to the fee reductions.

The deletion of the specific fees associated with the board's examination causes the department to operate more efficiently. The expenses for the examination must be covered by fees collected from the regulant population and this proposed change will permit the department to continue to assess the examination candidate the actual cost of the exam. In the past, the department has been compelled to cover the increases in exam expenses for months until a fee regulation could be changed to reflect a new fee. More efficient government is the advantage to the public.

Estimated Impact: Approximately 15,000 regulants and approximately 2,000 examination candidates will be impacted by the proposed changes. No localities will be particularly affected by the proposed changes.

The fiscal impact of the proposed regulation is minimal. The cost associated with these proposed changes would be the printing and mailing of these proposed changes to the licensed population as well as those listed on the Public Participation Guidelines list which is estimated to be \$15,600. The board has budgeted for the cost in the printing and mailing of the regulation.

Summary:

The proposed amendments adjust current fees resulting in a decrease in renewal, application and late filing fees. Further, the proposal eliminates specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

18 VAC 5-20-10 et seq. Board for Accountancy Regulations.

CHAPTER 20.

BOARD FOR ACCOUNTANCY REGULATIONS.

PART I. GENERAL.

§ 1.1. 18 VAC 5-20-10. Definitions.

The following words and terms, when used in this chapter have the following meanings, unless the context clearly indicates otherwise:

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges

and Schools; and Western Association of Schools and Colleges.

"Anniversary date" means September 30 of each even-numbered year.

"Certification" means the issuance of a certificate to a person who has met all the requirements of Part II of this chapter.

"Certify," "examine," "review," or "render or disclaim an opinion," when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of accounting services.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"Credit hour" means successful completion of a course of study measured in a contact hour.

"Firm" means a sole proprietorship, partnership, professional corporation, professional limited liability company or any permissible combination practicing public accountancy in Virginia.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to practice public accounting. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate. A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.

"Individual firm name" means a name different from the name in which the individual's license is issued.

"Interactive self-study program" means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

"Jurisdiction" means another state, territory, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or Guam.

"License" means a license to practice public accounting issued under the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia.

"Manager" means a person who is a licensed certified public accountant designated by the members of a limited liability company to manage the professional limited liability company as provided in the articles of organization or an operating agreement.

"Member" means a person who is a licensed certified public accountant that owns an interest in a professional limited liability company.

"Noninteractive self-study program" means any self-study program that does not meet the criteria for interactive self-study programs.

"Performance of accounting services" means the performance of services by a regulant requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

"Principal" means a certified public accountant who is the sole proprietor of, or a partner, shareholder or a member in, a firm.

"Professional corporation" means a firm organized in accordance with Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia.

"Professional limited liability company" means a firm organized in accordance with Chapter 13 (§ 13.1-1070 et seq.) of Title 13.1 of the Code of Virginia.

"Professional services and engagements" means the association between a client and a firm wherein the firm performs, or offers to perform, accounting services for the client.

"Professional staff" means employees of a firm who make decisions and exercise judgment in their performance of

Proposed Regulations

accounting services, but excludes employees performing routine bookkeeping or clerical functions.

"Regulant" means any Virginia certificate holder, licensee, professional corporation, professional limited liability company or firm.

"Reporting cycle" means the current and two preceding reporting calendar years when meeting the requirements of § 5.4 of this chapter 18 VAC 5-20-450.

"Reporting year" means for the purposes of this chapter a calendar year.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

"Virginia approved sponsor" means an individual or business approved by the board to offer continuing professional education in accordance with this chapter.

PART II. ENTRY.

~~§ 2.4.~~ 18 VAC 5-20-20. Qualifications for certification.

A. Any person applying for certification as a certified public accountant shall meet the requirements of good character and education and shall have passed both a basic and an ethics examination, as approved by the board.

B. The board may deny application to sit for the basic examination or deny certification upon a finding supported by clear and convincing evidence of a lack of good character. An applicant's history of dishonest or felonious acts, lack of fiscal integrity or acts which would constitute violations of this chapter will be considered by the board in determining character. Evidence of the commission of a single act may be sufficient to show a lack of good character.

C. Education.

1. Each applicant shall have completed a baccalaureate or higher degree from an accredited institution as defined in § 4.4 18 VAC 5-20-10 and shall have completed, at an accredited institution as defined in § 4.4 18 VAC 5-20-10, either prior to, concurrent with or subsequent to, completion of the baccalaureate degree or higher degree:

a. At least 24 semester hours of accounting at the undergraduate or graduate level including courses covering the subjects of financial accounting, auditing, taxation, and management accounting, and

b. At least 18 semester hours in business courses (other than accounting courses) at the undergraduate or graduate level.

c. Applicants whose degrees or diplomas were earned at colleges or universities outside the United States shall have their educational credentials evaluated by a foreign academic credentials service approved by the board to determine the extent to which such credentials are equivalent to the education requirements set forth above.

Such credentials may be accepted by the board as meeting its educational requirements fully, partially, or not at all.

2. Evidence of education. Each applicant shall submit evidence of having obtained the required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive.

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the succeeding December 31, and has filed evidence of enrollment in the required courses as specified by the board. Effective June 30, 1994, the education requirements shall be met prior to applying for the examination.

D. Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic written national uniform examination in auditing, business law, theory of accounting, and accounting practice and other such related subject areas as deemed appropriate by the board from time to time. Applicants who have no unexpired examination credits must sit for all parts of the basic examination. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

~~The fee for examination shall be \$117. The fee for reexamination shall be \$117. The fee for proctoring out-of-state candidates shall be \$75. Fees shall not be prorated and are nonrefundable except in accordance with subdivision 8 of this subsection. The examination fee shall consist of the administration expenses of the department ensuing from the board's examination procedures and contract charges. Exam service contracts shall be established through competitive negotiation in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The current examination shall not exceed a cost of \$200 to the candidate.~~

2. Examination credits. Credits will be given for basic examination sections passed through five successive offerings subsequent to the first occasion when credit is earned, provided that:

a. No credit will be allowed until either the section principally testing accounting practice or two other sections are passed at a single sitting; and

b. The candidate sits for all sections for which credit has not previously been granted; and

c. The candidate receives a minimum grade of 50 in each section not passed, except if all sections but one are passed at a single examination, no minimum grade shall be required on the remaining section.

3. Effective with the May 1994 examination, credits will be awarded if, at a given sitting of the examination, a candidate passes two or more, but not all, sections. The candidate shall be given credit for those sections passed, and need not sit for reexamination in those sections, provided:

a. The candidate wrote all sections of the examination at that sitting;

b. The candidate attained a minimum grade of 50 on each section not passed at each sitting;

c. The candidate passes the remaining sections of the examination within five consecutive examinations given after the one at which the first sections were passed;

d. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed;

e. In order to receive credit for passing additional sections in any such subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed on such sitting; and

f. Any candidate who has been awarded conditional credit for a section passed prior to May 1994 shall be awarded conditional credit as specified below.

(1) A candidate who has been awarded conditional credit for the accounting practice section shall be awarded conditional credit for the accounting and reporting section, and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

(2) A candidate who has been awarded conditional credit for either the auditing or the business law (renamed business law and professional responsibilities) section, or both, shall retain such credit until he passes the remaining sections, or until the conditional status of such credit expires, whichever occurs first.

(3) A candidate who has been awarded conditional credit for the accounting theory section shall be awarded conditional credit for the financial accounting and reporting section and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

4. Examination credits, exceptions. The board may, at its discretion, waive any of the above requirements for carryover examination credits for candidates who suffer documented serious personal illness or injury, or death in their immediate family, or who are prevented from meeting these requirements due to the obligation of military service or service in the Peace Corps, or for

other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after the date of the examination missed or within 6 months of the completion of military or Peace Corps service whichever is later.

5. Conduct in basic examination. Each applicant shall follow all rules and regulations established by the board with regard to conduct at the basic examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the examination site on the date of the examination.

6. Loss of credit or eligibility. Any applicant found to be in violation of the rules and regulations governing conduct in the basic examination may lose established eligibility to sit for the examination or credit for examination parts passed.

7. Application deadline. Application to sit for the basic examination shall be made on a form provided by the board and shall be filed in accordance with the instructions on the application along with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination.

8. Failure to appear; excused examination. An applicant who fails to appear for the basic examination or reexamination shall forfeit the fees charged for that examination or reexamination unless excused.

The board may, at its discretion, excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness or physical impairment, any of which must be documented by a statement from the treating physician; or death in their immediate family, or for other good cause of similar magnitude approved by the board. The fee for the excused examination will be refunded.

~~§ 2.2.~~ 18 VAC 5-20-30. Original CPA certificate.

A. A CPA certificate will be granted to an applicant who has met all of the qualifications for certification outlined in § 2.4 18 VAC 5-20-20.

B. The fee for an original CPA certificate shall be \$25. All fees are nonrefundable and shall not be prorated.

~~§ 2.3.~~ 18 VAC 5-20-40. Certificate by endorsement.

A CPA certificate will be granted to an applicant who holds a like valid and unrevoked certificate issued under the law of any jurisdiction showing that applicant is in good standing in the jurisdiction, provided:

1. The applicant meets all current requirements in Virginia at the time application is made; or

2. At the time the applicant's certificate was issued in the other jurisdiction the applicant met all requirements then applicable in Virginia; or

Proposed Regulations

3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit or grade provisions, and either:

- a. The applicant has five years of experience in the performance of accounting services within the 10 years prior to application, or
- b. The applicant has five years of experience in the performance of accounting services, one year of which was immediately prior to application and, within the 10 years prior to application, had completed 15 semester hours of accounting, auditing and related subjects at an accredited institution.

The fee for a certificate by endorsement shall be \$90. All fees are nonrefundable and shall not be prorated.

~~§-2.4.~~ 18 VAC 5-20-50. License/certificate maintenance.

Any person holding a Virginia CPA certificate shall either maintain a Virginia license to practice public accounting or file annually as a certificate holder not engaged in the practice of public accounting in Virginia and pay the required maintenance fee.

~~§-2.5.~~ 18 VAC 5-20-60. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff who are eligible for licensure as set forth in ~~§-2.7~~ 18 VAC 5-20-80 as well as to sole proprietors, partners, members and shareholders.

1. To be eligible for licensure an individual shall meet the qualifications for certification outlined in ~~§-2.4~~ 18 VAC 5-20-20 and one of the experience requirements set forth in ~~§-2.7~~ 18 VAC 5-20-80.
2. The fee for an initial CPA license shall be ~~\$75~~ \$50. All fees are nonrefundable and shall not be prorated.

~~§-2.6.~~ 18 VAC 5-20-70. Requirement for licensure; exception.

Only a certified public accountant, holding a valid Virginia license, may engage in the practice of public accounting in Virginia. However, this does not prohibit any person from affixing his signature to any statement or report for his employer's internal or management use designating the position, title, or office of the person.

~~§-2.7.~~ 18 VAC 5-20-80. Experience and continuing professional education requirements for original license.

A. Each applicant for an original license shall have met the following experience requirements:

1. Two years of experience in public accounting with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services, or
2. Two years of experience under the supervision of a certified public accountant in the performance of

accounting services with at least 800 hours of that experience including the following:

- a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in the accounting records; and
- b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records; and
- c. Experience in the planning of the program of audit work including the selection of the procedures to be followed; and
- d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the accounting records; and
- e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon; or

3. Three years of experience in the performing of accounting services which demonstrates intensive, diversified application of accounting principles, auditing standards or other technical standards pertaining to accounting and review services, tax services or management advisory services; or

4. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services.

B. An applicant having a baccalaureate degree and courses as defined in ~~§-2.4~~ 18 VAC 5-20-20 C 1 and a master's degree from an accredited institution with 15 semester hours in graduate level accounting courses exclusive of those courses defined in ~~§-2.4~~ 18 VAC 5-20-20 C 1 will be credited with one year of required experience under this section.

C. Individuals applying for original licensure after January 1, 1992, shall have completed in addition to one of the experience requirements, a minimum of 20 credit hours of CPE in the subject areas listed in ~~§-5.5~~ 18 VAC 5-20-490 within the preceding 12 months prior to application for licensure. For purposes of license renewal, the calendar year following the year in which the initial license is issued shall be considered the first reporting year for CPE as outlined in ~~§-5.1 of this chapter~~ 18 VAC 5-20-450.

~~§-2.8.~~ 18 VAC 5-20-90. Registration of professional corporations and professional limited liability companies.

A. All professional corporations and professional limited liability companies practicing public accountancy in Virginia shall be registered by the board.

B. The fee for registration shall be \$50. All fees are nonrefundable and shall not be prorated.

C. All registered professional corporations and professional limited liability companies shall meet the standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of this chapter.

PART III.
RENEWAL/REINSTATEMENT.

§-3.1. 18 VAC 5-20-100. Requirement for renewal.

A. Effective September 30, 1992, each license to practice public accounting or CPA certificate maintenance shall be renewed annually. A registration certificate of a professional corporation or professional limited liability company shall be renewed biennially.

B. Effective September 30, 1992, each license to practice public accounting shall expire annually on September 30. Maintenance fees for CPA certificates shall also be due on September 30. A registration certificate of a professional corporation or professional limited liability company shall be renewed September 30 of each even-numbered year. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

C. Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be ~~\$55~~ \$40.
2. The fee for renewal of the registration certificate of a professional corporation shall be ~~\$50~~ \$40.
3. The fee for renewal of the registration certificate of a professional limited liability company shall be ~~\$50~~ \$40.
4. The CPA certificate maintenance fee shall be ~~\$20~~ \$10.
5. All fees are nonrefundable and shall not be prorated.

D. If the required fee is not received by October 30 an additional fee of ~~\$20~~ \$10 for certificate maintenance, ~~\$55~~ \$40 for license renewal, ~~\$50~~ \$40 for professional corporation, and ~~\$50~~ \$40 for professional limited liability company registration shall be required.

E. Applicants for renewal of the CPA certificate maintenance or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in §-2.4 18 VAC 5-20-20 B.

Applicants for renewal of the license to practice public accounting shall meet the requirements of Part V. Failure to comply with Part V will result in the denial of the license renewal.

F. The board, in its discretion, and for just cause, may deny renewal of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

§-3.2. 18 VAC 5-20-110. Requirement for reinstatement.

A. If the regulant fails to renew his license to practice public accounting or registration or pay his certificate maintenance fee within six months following the expiration, he will be required to present reasons for reinstatement and the board may, in its discretion, grant reinstatement or require a requalification or reexamination or both.

B. The fee for reinstatement of the license to practice public accounting shall be \$150, the fee for reinstatement of the professional corporation registration shall be \$100, the fee for reinstatement of a professional limited liability company registration shall be \$100, and the fee for reinstatement of the certificate maintenance shall be \$50. All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement of the CPA certificate or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in §-2.4 18 VAC 5-20-20 B.

D. If the regulant has failed to renew his license to practice public accounting for a period of up to 12 months, he shall be required in accordance with Part V of this chapter to complete a minimum of 40 credit hours of Continuing Professional Education (CPE) with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application. If the regulant has failed to renew his license in excess of 12 months, he shall be required to complete a continuing education program specified by the board which shall require him to complete 40 hours of CPE if he failed to renew the license for one year, 80 hours of CPE if he failed to renew the license for two years and 120 hours of CPE if he failed to renew the license for three years, minus the hours which he had taken during this time period.

E. If the regulant has failed to maintain his CPA certificate, renew his license, professional corporation or limited liability company registration for a period of 12 months or longer, a late fee, in addition to the reinstatement fees outlined in §-3.2 18 VAC 5-20-110 B, will be required.

The late fee shall be \$75 for each renewal period in which the regulant failed to maintain his CPA certificate, or failed to renew his license, professional corporation or limited liability company registration.

F. The board, in its discretion, and for just cause, may deny reinstatement of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

PART IV.
STANDARDS OF PRACTICE.

§-4.1. 18 VAC 5-20-120. Regulant accountable for service rendered.

Whenever a regulant offers or performs any services in Virginia related to the performance of accounting services regardless of the necessity to hold a license to perform that service, he shall be subject to the provisions of this chapter.

Proposed Regulations

A regulant shall be responsible for the acts or omissions of his staff in the performance of accounting services.

§ 4.2. 18 VAC 5-20-130. Use of terms.

No firm with an office in Virginia shall use or assume the title or designation "certified public accountant," "public accountant," "CPA," or any other title, designation, phrase, acronym, abbreviation, sign, card, or device tending to indicate that it is engaged in or holding itself out to be engaged in Virginia in the practice of public accountancy unless all principals and professional staff of that firm who work in Virginia or who have substantial contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

§ 4.3. 18 VAC 5-20-140. Notification of change of address or name.

Every regulant shall notify the board in writing within 30 days of any change of address or name.

§ 4.4. 18 VAC 5-20-150. Sole proprietor name.

A sole proprietor shall use his own name as the firm name. However, a sole proprietor surviving the death or withdrawal of all other partners in a partnership may continue using the names of those partners for not more than two years after becoming a sole proprietor. A sole proprietor surviving the death or withdrawal of all other members in a professional limited liability company may continue using the names of those members for not more than two years after becoming a sole proprietor.

§ 4.5. 18 VAC 5-20-160. Partnership name.

Licensees shall not practice in a partnership that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates" or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed partner. The name of one or more partners in a predecessor partnership, shareholders or licensed officers of a predecessor professional corporation, or members or managers of a predecessor professional limited liability company may be included in the partnership firm name of a successor partnership.

§ 4.6. 18 VAC 5-20-170. Professional corporation name.

A licensee shall not practice in a professional corporation that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed shareholder or licensed officer. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor professional limited liability company may be included in the corporate firm name of a successor corporation. A shareholder surviving the death or retirement of all other shareholders may continue using the names of those shareholders, partners in a predecessor partnership, or those members in a predecessor professional limited liability company for not more than two years after becoming a sole shareholder.

§ 4.7. 18 VAC 5-20-180. Professional limited liability company name.

Licensees shall not practice in a professional limited liability company that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed member or licensed manager. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor limited liability company may be included in the firm name of a successor professional limited liability company.

§ 4.8. 18 VAC 5-20-190. Notification of changes in firm.

A licensee shall notify the board in writing within 30 days after occurrence of any of the following:

1. The formation of a firm and its name, location and names of partners, shareholders, officers, members or managers;
2. The admission of any new partner, shareholder, or member;
3. The change in the name of any partnership, professional corporation or professional limited liability company;
4. The change in the supervisor of any branch office;
5. The change in the number or location of Virginia offices;
6. The opening of a new office in Virginia and the name of the supervisor; and
7. Any event which would cause the firm not to be in conformity with the provisions of this chapter.

§ 4.9. 18 VAC 5-20-200. Sharing an office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business.

§ 4.10. 18 VAC 5-20-210. Resident manager in Virginia in charge of office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approves, a management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee.

§ 4.11. 18 VAC 5-20-220. Misleading name, letterhead, publication, etc.

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states or implies an ability, relationship, or condition that does not exist.

~~§ 4.12.~~ 18 VAC 5-20-230. Independence.

A licensed individual or a firm of which he is a partner, shareholder or member shall not express an opinion or conclusion on financial statements of an entity in such a manner as to imply that he or his firm is acting in an independent capacity when either the licensee or his firm during the period of a professional engagement or at time of expressing an opinion has any of the following interests in that entity:

1. Has acquired or has committed to acquire any direct or material indirect financial interest in the entity; or
2. Held the position of trustee, executor, or administrator of any trust or estate, if such trust or estate has or has committed to acquire any direct or material indirect financial interest in the entity; or
3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or
4. Has a relationship with the entity as a promoter, underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or
5. Has any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

~~§ 4.13.~~ 18 VAC 5-20-240. Integrity and objectivity.

A regulant shall not knowingly misrepresent facts or subordinate his judgment to others. In tax practice, a regulant may resolve doubt in favor of his client as long as there is reasonable support for his position.

~~§ 4.14.~~ 18 VAC 5-20-250. Commissions.

A regulant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted.

~~§ 4.15.~~ 18 VAC 5-20-260. Contingent fees.

A regulant shall not engage or offer to engage in the performance of accounting services for a fee which is contingent upon his findings or results of his services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to the performance of accounting services for which the fees are to be fixed by courts or other public authorities.

~~§ 4.16.~~ 18 VAC 5-20-270. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the performance of accounting services.

~~§ 4.17.~~ 18 VAC 5-20-280. Competence.

A regulant shall not undertake performance of accounting services which he cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with this chapter.

~~§ 4.18.~~ 18 VAC 5-20-290. Auditing standards.

A regulant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent certified public accountant unless he has complied with applicable generally accepted auditing standards in current use at the time his services were provided. Departures from compliance with generally accepted auditing standards must be justified.

~~§ 4.19.~~ 18 VAC 5-20-300. Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from generally accepted accounting principles in current use at the time the services were provided, which departure has a material effect on the statements taken as a whole. Any such departure is permissible only if the regulant can demonstrate that, due to unusual circumstances, the financial statements would otherwise be misleading. In such cases, his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

~~§ 4.20.~~ 18 VAC 5-20-310. Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting and review services, tax services and management advisory services in current use at the time services were provided. Departure from compliance with other technical standards must be justified.

~~§ 4.21.~~ 18 VAC 5-20-320. Forecasts or projections.

No regulant shall vouch for the achievability of any forecast or projection.

~~§ 4.22.~~ 18 VAC 5-20-330. Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the performance of accounting services, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a quality control review of the regulant's practice.

~~§ 4.23.~~ 18 VAC 5-20-340. Client's records.

A regulant shall furnish to his firm's client or former client, within a reasonable time upon request:

Proposed Regulations

1. A copy of the client's tax return or a copy thereof; or
2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request; or
3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or
4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries and supporting details would also be considered client's records; or
5. With respect to subdivisions 1, 2 and 4 of this section, it shall not be considered a violation of this section if a regulant declines to deliver to a client any of the foregoing until the client has paid any amounts owed for those services to which subdivisions relate.

~~§ 4-24. 18 VAC 5-20-350. Acting through others.~~

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant would place him in violation of this chapter. A regulant shall not perform services for a client who is performing the same or similar services for another, if the regulant could not perform those services under these rules.

~~§ 4-25. 18 VAC 5-20-360. Advertising.~~

A regulant shall not make any false, fraudulent, misleading, deceptive, or unfair statement or claim, including but not limited to:

1. A misrepresentation of fact; or
2. Failure to make full disclosure of any relevant fact; or
3. Representation of services of exceptional quality not supported by verifiable facts; or
4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

~~§ 4-26. 18 VAC 5-20-370. Solicitation.~~

A regulant shall not by any direct personal communication solicit an engagement for the performance of accounting services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment.

~~§ 4-27. 18 VAC 5-20-380. Response to board communication.~~

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested.

~~§ 4-28. 18 VAC 5-20-390. Revocation, suspension, and fines.~~

The board may suspend, deny renewal, or revoke any certificate, license, or registration, or may fine the holder thereof, upon a finding of any conduct reflecting adversely upon the regulant's fitness to engage in the performance of accounting services or for violation of any of the board's rules and regulations.

~~§ 4-29. 18 VAC 5-20-400. Practice inspection and continuing professional education.~~

In lieu of or in addition to any remedy provided in ~~§ 4-28 18 VAC 5-20-390~~ the board may require an inspection of a regulant's practice, require completion of specified continuing education, restrict regulant's area of practice, or impose such other sanctions as it deems appropriate.

~~§ 4-30. 18 VAC 5-20-410. Petition for reinstatement or modification of a penalty.~~

No petition shall be considered while the petitioner is under sentence for a criminal offense related to the practice of accountancy, including any period during which the petitioner is on court imposed probation or parole for such offense. Otherwise, a person whose certificate or license has been revoked or suspended, or who has been subjected to any penalty may petition the board for reinstatement or modification of any penalty, no sooner than one year from the effective date of that decision. The petition shall be accompanied by at least two verified recommendations from licensees who have had personal knowledge of the activities of the petitioner since the time the disciplinary penalty was imposed. The board may consider all activities of the petitioner dating from the time the disciplinary action was taken; the offense for which the petitioner was disciplined; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability.

~~§ 4-31. 18 VAC 5-20-420. Ownership of records.~~

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to a client in the performance of accounting services other than records specified in ~~§ 4-23 18 VAC 5-20-340~~, shall become the property of the regulant's firm absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper or memorandum covered by this section or in ~~§ 4-23 18 VAC 5-20-340~~ shall be sold, transferred, or bequeathed, to anyone other than a regulant without the consent of the client.

~~§ 4-32. 18 VAC 5-20-430. Acts discreditable.~~

A regulant shall not commit an act discreditable to the profession of accountancy.

~~§ 4-33. 18 VAC 5-20-440. Single act.~~

Evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

PART V.
CONTINUING PROFESSIONAL EDUCATION.

§-5.1. 18 VAC 5-20-450. CPE requirements for license renewal.

Effective January 1, 1992, all licensees shall be required to complete and maintain 120 credit hours of continuing professional education (CPE) during each reporting cycle. At a minimum, a licensee shall complete 20 CPE credit hours during each calendar year. Credits shall be reported to the board by January 31 of the year following the year in which credits were earned.

For each three-year reporting cycle, the licensee shall have completed a minimum of 16 credit hours in accounting and auditing and a minimum of 16 credit hours in taxation as defined by §-5.5 18 VAC 5-20-490. The licensee shall not receive credit for more than 24 credit hours of personal development as defined by §-5.5 18 VAC 5-20-490 during each reporting cycle. In order to receive CPE credit for a license renewal, all credit hours shall be from an approved sponsor as set forth in §-5.4 18 VAC 5-20-480.

The board shall approve sponsors of CPE courses and not individual courses. A CPE course provided by an approved sponsor shall meet the CPE requirements set forth in the Rules and Regulations for Continuing Professional Education Sponsors and will be so designated. An investigation of an approved sponsor may be initiated based on a complaint or other information.

§-5.2. 18 VAC 5-20-460. Requirements for retaining records.

It is the responsibility of the licensee to retain evidence of satisfactory completion of CPE credit hours for a period of five years. Such documentation shall be in the form of the certificate of completion provided by the approved sponsor or verification from the accredited institution offering the course. If upon request, the licensee cannot provide such documentation, the licensee shall be subject to a fine which shall not exceed \$1,000 in accordance with § 54.1-202 of the Code of Virginia.

§-5.3. 18 VAC 5-20-470. Requirements for reporting credit hours.

All CPE credit hours shall be reported to the board on a form provided by the board and subject to a possible audit. The date forms are received, not postmarked, by the board shall be the date used to determine compliance with the CPE reporting requirements.

Failure to complete or report CPE credit hours by January 31 of each succeeding year will result in the following late filing fees:

1. A \$400 \$50 late filing fee shall be required for all reporting forms received after January 31 but before June 1.
2. A \$250 \$100 late filing fee shall be required for all reporting forms received after May 31 but before August 1.
3. A \$500 \$200 late filing fee shall be required for all reporting forms when received after July 31. A license renewal shall be issued to the regulant upon receipt by

the board of the late filing fee and evidence of compliance with §-5.4 18 VAC 5-20-450.

4. CPE credit hours taken during the late filing period to meet the requirement of the previous year shall not be reported for any succeeding year.

5. Individuals failing to meet the CPE requirements may be subject to requalification including possible reexamination and submission of experience qualifications.

6. The board may, at its discretion, waive or defer CPE requirements and late fees for licensees who suffer documented serious illness or injury, or who are prevented from meeting those requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board.

§-5.4. 18 VAC 5-20-480. Acceptable continuing professional education credit.

The board shall recognize the following as acceptable CPE credit:

1. Courses from sponsors approved by the board in accordance with the board's Rules and Regulations for Continuing Professional Education Sponsors; or
2. Courses from sponsors of continuing professional education programs listed in good standing with the National Registry of CPE Sponsors maintained by the National Association of State Boards of Accountancy (NASBA); or
3. Courses from accredited institutions as defined by § 4.4 18 VAC 5-20-10 of this chapter when offering college courses in the regular course curriculum. CPE credit for completing a college course in the college curriculum will be granted based on the number of credit hours the college grants for successful completion of the course. One semester hour of college credit is 15 CPE credit hours; on quarter hour of college credit is 10 CPE credit hours; or
4. Auditing of college courses from accredited institutions as defined by §-4.4 18 VAC 5-20-10 of this chapter. Licensees auditing a college course shall be granted one CPE credit hour for each contact hour of courses within the fields of study outlined in §-5.5 18 VAC 5-20-490 of this chapter. Attendance at two-thirds of scheduled sessions of audited courses shall be documented by the course instructor to receive CPE credit for the hours attended; or
5. Service as a lecturer or instructor in courses which increase the licensee's professional competence and qualifies for CPE credit for participants as defined in §§ 5.4 18 VAC 5-20-480 and 5.5 18 VAC 5-20-490. One credit hour shall be given for each 50-minute period of instruction. For the instructor's preparation time, there will be awarded two additional hours of CPE for each credit hour of instruction. The instructor shall retain evidence to support the request for credit. The instructor shall be given no credit for subsequent sessions involving substantially identical subject matter. The

Proposed Regulations

maximum credit given for preparation as an instructor may not exceed 50% of the CPE credit hours reported each year with a maximum of 20 credit hours in any one reporting year; or

6. Successful completion of a self-study course offered by an approved sponsor. CPE credit hours will be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended for one CPE credit hour.

§ 5-6. 18 VAC 5-20-490. Acceptable CPE subject areas.

All acceptable CPE shall be in subject areas within the following six fields of study:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and on the reporting on the results of audit findings, compilations, and review.

A minimum of 16 credit hours in accounting and auditing shall be completed in each three-year reporting cycle.

2. Advisory services which includes all advisory services provided by professional accountants -- management, business, personal, and other. It includes Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying

and selling businesses, contracting for goods and services, and foreign operations. For licensees in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also included.

A maximum of 24 credit hours may be awarded in personal development in each reporting cycle.

5. Specialized knowledge and application which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

A minimum of 16 credit hours in taxation shall be completed in each three-year reporting cycle.

§ 5-6. 18 VAC 5-20-500. NASBA approved sponsors.

A. The board shall annually review the NASBA Registry's Standards for Approval.

B. A NASBA approved sponsor removed from the Registry for failure to comply with NASBA standards will no longer qualify as a Virginia approved sponsor. In such cases, the sponsor may apply to the board for approval as a Virginia approved sponsor.

NOTICE: The forms used in administering the Board for Accountancy Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for inspection at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia 23230, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia 23219.

Virginia Initial Application for Uniform CPA Examination, Rev. 12/92

Virginia Reexamination Application for Uniform CPA Examination, Rev. 12/93

Uniform CPA Examination, Grade Reporting and Statistical Questionnaire

Uniform CPA Examination - Official Admission Notice

Virginia Information for Applicants for Uniform CPA Examination, Rev. 12/93

Code List for Colleges and Universities, Rev. 11/93

The Orientation Program for the CPA Examination

Application for Original CPA Certificate, Rev. 7/1/93

Application for Original License to Practice Public Accountancy in Virginia, VSBA 5, Rev. 7/1/93

Record of Experience

Application for Licensing of a Virginia CPA, VSBA 9, Rev. 7/1/93

Application for a Virginia CPA Certificate by Endorsement, VSBA R-1, Rev. 3/18/94

Certification of Grades, VSBA 7

Certification of Original Certificate, VSBA R 2

Employment Verification, VSBA 6

Application for Reinstatement of License to Practice Public Accountancy, Maintenance of CPA Certificate or Registration of Professional Corporation or Professional Limited Liability Company, VSBA 2, Rev. 7/1/93

Application for Registration as a Professional Corporation Practicing Public Accountancy, Rev. 7/1/93

Application for Registration as a Professional Limited Liability Company Practicing Public Accountancy, VSBA 10, Rev. 7/1/93

VA.R. Doc. No. R96-23; Filed September 13, 1995, 12:19 p.m.

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-99-05. Regulation for the Control of Emissions from Fleet Vehicles.

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Public Hearing Dates:

November 9, 1995 - 10 a.m. (Chesapeake)

November 13, 1995 - 11 a.m. (Prince William)

November 14, 1995 - 10 a.m. (Richmond)

Public comments may be submitted through December 1, 1995.

(See Calendar of Events section for additional information)

Basis: The legal basis for the proposed regulation is the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia), specifically § 10.1-1308 which authorizes the board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. In addition, § 46.2-1179.1 of the Code of Virginia authorizes the State Air Pollution Control Board to adopt regulations which establish motor vehicle clean alternative fuel fleet standards consistent with the

provisions of Part C of Title II of the federal Clean Air Act for model years beginning with the model year 1998 or the first succeeding model year for which adoption of such standards is practicable.

Purpose: The purpose of the proposed regulation is to require that a percentage of annual vehicle purchases by certain fleet owners be clean-fuel fleet (CFF) vehicles in order to reduce emissions from fleet vehicles and protect public health and welfare. The proposed regulation is being adopted in response to the federal Clean Air Act and a legislative mandate from the General Assembly.

Substance: The major provisions of the proposal are summarized below:

1. The geographic coverage of the program consists of the boundaries of localities in the following designated program regions:

a. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

b. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

c. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

2. Also included are vehicles which operate primarily in these areas, regardless of registration address.

3. The program applies to fleet owners or operators of 10 or more fleet vehicles which operate in the program area. These fleet owners are known as "covered fleet owners"; vehicles subject to the program are known as "covered fleet vehicles."

4. The program requires that a specific percentage of new purchases of covered vehicles by covered fleet owners beginning in model year 1998 be phased in over three years according to the following schedule:

**VEHICLE PURCHASE REQUIREMENT PHASE IN RATE
(Percent)**

Vehicle Class	Model Year 1998	Model Year 1999	Model Year 2000+
LDV/LDT	30	50	70
HDV	50	50	50

5. The purchase requirements of this program may be met (i) by purchasing new vehicles which meet the CFF vehicle LEV, ULEV, or ZEV standards; (ii) by converting conventional vehicles to CFF vehicles which meet the applicable standards; or (iii) by redeeming credits.

Proposed Regulations

6. The program provides for vehicle conversions to qualify as clean-fuel vehicles provided conversion configurations are used which have been certified according to the provisions of 40 CFR Part 88. Conversions shall not be considered a violation of the tampering provisions if conducted according to EPA requirements.

7. Covered fleet owners may generate program credits by purchasing more vehicles than required which meet CFF vehicle emission standards or by purchasing vehicles which meet emission standards more stringent than LEV.

8. Covered fleet owners may use credits to meet the purchase requirements by (i) trading credits for vehicle purchases, or (ii) redeeming credits that have been banked.

9. Noncovered fleet owners may generate credits and participate in the program provided they comply with all requirements in the regulation except the minimum purchase requirements.

10. Covered fleet owners will be required to certify compliance with the program annually. Noncovered fleet owners participating in the credit program shall certify credits generated annually.

11. Enforcement of this program will be accomplished through a comparison of registration data maintained by the Virginia Department of Motor Vehicles with the annual certifications submitted by the fleet owners. This process is being established cooperatively with the Virginia Department of Motor Vehicles.

12. The program allows for the generation of early air quality credits, known as Mobile Emission Reduction Credits (MERCS), on a voluntary basis.

Issues: The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. **Public:** The primary advantages of the regulation with regard to the public are (i) the improvement to air quality due to the replacement of older more polluting vehicles with newer clean-fuel vehicles and (ii) the ability of vehicle fleet owners to generate air quality credits that can be used for selling and trading. On the other hand there will be some disadvantages due to the increased cost of the clean-fuel vehicles when compared to conventional vehicles.

2. **Department:** The primary advantage of the regulation with regard to the department is the ability to better manage air quality levels and accommodate growth in emissions. On the other hand there will be disadvantages due to some increase in resources needed to enforce the regulation and manage compliance tracking and air quality credit program tracking.

Localities Affected: The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Impact: It is estimated that more than 2,300 fleets will be affected by the program. The California Air Resources Board (CARB) has done extensive analysis of costs associated with this program; however, estimates developed by the CARB have been disputed by the automobile industry. The CARB attributes the differences in cost estimates on the following reasons: (i) automobile manufacturers' cost estimates focus on estimating costs during the transitional period of phasing in the various emission categories, while minimizing the greater importance of assessing the longer term costs, and (ii) the CARB did not follow the industry practice of assigning a fixed percentage to cover indirect manufacturing costs (which include research, legal and administrative costs), and, instead analyzed where such long-term costs would actually occur.

The first step in assessing costs is to define the systems and technologies which will likely be used by manufacturers in meeting the required emission levels. Once the systems have been defined and hardware costs determined, assessing further costs to vehicle manufacturers becomes less clear, since these costs are closely guarded by the individual manufacturers and they may vary significantly within the industry.

The following parts and associated costs are identified by CARB as being required to meet the new emission standards. Prices reflect the costs suppliers would charge the vehicle manufacturers.

PARTS	ADDITIONAL COST
Sequential Fuel Injection	0
Dual Oxygen Sensor Compensation	0
Improved Fuel Preparation	\$2.00 per injector
Adaptive Transient Control	0
Double Wall Exhaust Pipe	\$3.00 per foot
Leak Free Exhaust System	\$15-\$30 per vehicle

Other costs associated with parts are dependent upon the type of catalyst used and the emission standard to be achieved.

Other categories of associated costs for meeting the emission standards include: (i) cost of assembly; (ii) cost of

shipping; (iii) cost of warranty coverage; (iv) support costs including research costs, legal costs, and administrative costs; and (v) investment recovery costs including machinery and equipment to manufacture parts, assembly plant changes, vehicle development and cost of capital recovery.

The average incremental cost of a LEV vehicle compared to a federal Tier I vehicle is \$58.95 for a 4-cylinder, \$107.30 for a 6-cylinder and \$100.00 for an 8-cylinder; average incremental cost \$84.96.

The average incremental cost of a ULEV vehicle compared to a federal Tier I vehicle is \$148.95 for a 4-cylinder, \$171.30 for a 6-cylinder and \$225.00 for an 8-cylinder; average incremental cost \$165.54.

The average incremental cost of a TLEV vehicle compared to a federal Tier I vehicle is \$13.75 for a 4-cylinder, \$53.50 for a 6-cylinder and \$41.00 for an 8-cylinder; average incremental cost \$34.61.

The cost of ZEV vehicles is contingent upon the type of battery used in the vehicle. Currently, two battery technologies are commercially available; however, CARB indicates that there are more than 20 different battery technologies currently being developed for potential use in electric vehicles.

Prototype electric vehicles are currently expensive and critics argue that the ZEV mandate is not cost effective. CARB indicates that once economies of scale are achieved and the technology is well established, prices should decrease significantly such that electric vehicles are expected to cost about the same as conventional vehicles.

It is not expected that the regulation will result in any cost to the department beyond that currently in the budget.

Summary:

The proposed regulation requires that owners or operators of fleets with 10 or more vehicles make a percentage of annual vehicle purchases clean-fuel fleet vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) the Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

VR 120-99-05. Regulation for the Control of Emissions from Fleet Vehicles.

PART I.
DEFINITIONS.

§ 1.1. General.

A. For the purpose of this regulation and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in § 1.2.

B. Unless specifically defined in the Virginia Clean-Fuel Fleets Law or in this regulation, terms used shall have the meanings commonly ascribed to them by recognized authorities.

§ 1.2. Terms defined.

"Adjusted loaded vehicle weight (ALVW)" means the numerical average of the vehicle curb weight and the gross vehicle weight rating (GVWR).

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

"Administrator" means the administrator of the U.S. Environmental Protection Agency or an authorized representative.

"Base of operations" means the area in which a fleet vehicle is primarily garaged.

"Bi-fuel" or "dual-fuel vehicle" means any motor vehicle capable of operating on two different fuels, but not a mixture of the fuels. A bi-fuel or dual-fuel vehicle (i) qualifies as a clean-fuel fleet vehicle when certified as meeting the standards prescribed in Part IV for both fuels and (ii) is eligible to earn credits as provided in Part V when the above requirements are met.

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

"Capable of being centrally fueled" means a fleet, or that part of a fleet, consisting of vehicles that could be refueled 100% of the time at a location that is owned, operated, or controlled by the covered fleet owner, or is under contract with the covered fleet owner. The fact that one or more vehicles in a fleet is not capable of being centrally fueled does not exempt an entire fleet from this regulation. For purposes of this definition, "location" means any building, structure, facility, or installation (i) which is owned or operated by the same person, (ii) which is located on one or more contiguous properties, (iii) which is under the control of the same person, and (iv) which contains a fueling pump or pumps for the use of the vehicles owned or controlled by that person. The determination of "capable of being centrally fueled" shall be in accordance with the procedures in Section III 4 of the preamble to 40 CFR Part 88 (58 FR 64679, December 9, 1993) or other procedures approved by the department.

The term "capable of being centrally fueled" does not include vehicles which are under normal circumstances garaged at a personal residence while not in use and are not centrally fueled.

"Centrally fueled" means a fleet, or that part of a fleet, consisting of vehicles that are fueled 100% of the time at a

Proposed Regulations

location that is owned, operated or controlled by the covered fleet owner, or is under contract with the covered fleet owner. Any vehicle that is under normal circumstances garaged at a personal residence at night but that is, in fact, centrally fueled 100% of the time shall be considered to be centrally fueled for the purpose of this definition. The fact that one or more vehicles in a fleet is not centrally fueled does not exempt an entire fleet from this regulation. The fact that a vehicle is not centrally fueled does not mean it could not be centrally fueled in accordance with the definition of "capable of being centrally fueled." For purposes of this definition, "location" means any building, structure, facility, or installation (i) which is owned or operated by the same person, (ii) which is located on one or more contiguous properties, (iii) which is under the control of the same person, and (iv) which contains a fueling pump or pumps for the use of the vehicles owned or controlled by that person.

"Clean alternative fuel" means any fuel, including methanol, ethanol, other alcohols, reformulated gasoline, diesel, natural gases, liquefied petroleum gas, hydrogen, and electricity or other power source used in a clean-fuel vehicle that complies with the standards applicable to such vehicle under the federal Clean Air Act when using such fuel or other power source. In case of a flexible-fuel vehicle or dual-fuel vehicle, "clean alternative fuel" means only a fuel for which the vehicle was certified when operating on clean alternative fuel.

"Clean-fuel fleet vehicle" means a vehicle for which one of the following vehicle emission standards apply:

1. Low-emission vehicle standards.
2. Ultra low-emission vehicle standards.
3. Zero-emission vehicle standards.

For the above standards three weight classes are included: light-duty vehicles and trucks (LDV-LDT) under 6,000 pounds Gross Vehicle Weight Rating (GVWR); LDTs between 6,000 pounds and 8,500 pounds GVWR; and heavy-duty vehicles (HDVs) over 8,500 pounds GVWR but up to and including 26,000 GVWR. The standards apply to dedicated, dual or flexible fuel conversions of LDVs, LDTs and HDVs. Vehicle conversions shall meet the emissions standards of 40 CFR Part 88 and shall also meet the applicable emission standards and provisions of 40 CFR Part 86 to the extent they are not consistent with the requirements of 40 CFR Part 88 in addition to any other requirements imposed on such vehicles by the U.S. Environmental Protection Agency pursuant to the federal Clean Air Act.

"Clean-fuel vehicle aftermarket conversion certifier" means the business or entity that obtains a certificate of conformity with the clean-fuel vehicle standards and requirements for a vehicle or engine conversion configuration pursuant to the requirements of 40 CFR Parts 86 and 88.

"Compliance document" means any document, device, or symbol which contains statistical, quality control, or quality assurance information required by the department under this regulation for the purpose of evaluating the performance of the clean-fuel fleet program against state or federal requirements.

"Confidential information" means a secret formulae, secret process, secret methods or other trade secrets which are proprietary information certified by the signature of the responsible person for the owner to meet the following criteria: (i) information for which the owner has been taking and will continue to take measures to protect confidentiality; (ii) information that has not been and is not presently reasonably obtainable without the owner's consent by private citizens or other firms through legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding; (iii) information which is not publicly available from sources other than the owner; and (iv) information the disclosure of which would cause substantial harm to the owner.

"Consent agreement" means an agreement that the owner or any other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with this regulation, by mutual agreement of the owner or any other person and the board. A consent agreement may include agreed upon civil charges.

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

"Control" means:

1. When used to join all entities under common management, means any one or a combination of the following:
 - a. A third person or firm has equity ownership of 51% or more in each of two or more firms.
 - b. Two or more firms have common corporate officers, in whole or in substantial part, who are responsible for the day-to-day operation of the companies.
 - c. One firm leases, operates, supervises, or in 51% or greater part owns equipment, facilities or both used by another person or firm, or has equity ownership of 51% or more of another firm.
2. When used to refer to the management of vehicles, means a person has the authority to decide who may operate a particular vehicle, and the purposes for which the vehicle may be operated.
3. When used to refer to the management of people, means a person has the authority to direct the activities of another person or employee in the precise situation, such as the work place.

"Conventional fuel" or "conventional gasoline" means any gasoline which has not been certified under 40 CFR § 80.40.

"Conversion configuration" means any combination of vehicle or engine conversion hardware and a base vehicle of a specific engine family.

"Covered fleet" means any fleet of 10 or more motor vehicles which are owned or operated, leased or otherwise controlled by a single person and which can be centrally fueled. For purposes of this definition the term "can be centrally fueled" means the sum of those vehicles that are centrally fueled and those vehicles that are capable of being

centrally fueled. All motor vehicles owned or operated, leased or otherwise controlled by such person, by any person who controls such person, by any person under common control with such person, and by any person under common control with such person shall be treated as owned by such person. Vehicle types described below as exempt from the program shall not be counted toward the 10-vehicle criterion.

The term "covered fleet" does not include:

1. Motor vehicles under normal circumstances garaged at a personal residence at night unless the vehicles are centrally fueled;
2. Motor vehicles held for lease or rental to the general public;
3. Motor vehicles held for sale by motor vehicle dealers (including dealer demonstration vehicles);
4. Vehicles used for motor vehicle manufacturer product evaluations or tests;
5. Law-enforcement and other emergency vehicles; or
6. Nonroad vehicles including farm and construction vehicles.

"Covered fleet owner" means a person who owns or operates a fleet of at least 10 covered fleet vehicles and that fleet is operated in a single region of the program area (even if the covered fleet vehicles are garaged outside of the region). For the purpose of determining the 10-vehicle criterion, the program region shall include the geographic area of the entire nonattainment area in areas where the program region is part of a multistate nonattainment area.

"Covered fleet vehicle" means only a motor vehicle which is:

1. In a vehicle class for which emission standards prescribed in Part IV are applicable;
2. In a covered fleet which is centrally fueled or capable of being centrally fueled; and
3. Operated in a single region of the program area.

For the purposes of this definition, the program region shall include the geographic area of the entire nonattainment area in areas where the program region is part of a multistate nonattainment area.

"Dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

"Dealer demonstration vehicle" means any vehicle that is operated by a motor vehicle dealer solely for the purpose of promoting motor vehicles sales, either on the sales lot or through other marketing or sales promotions, or for permitting potential purchasers to drive the vehicle for prepurchase or prelease evaluation.

The term "dealer demonstration vehicle" does not include vehicles held by dealers for their own business purposes, such as shuttle buses, loaner vehicles, or other repair or business-related vehicles.

"Dedicated-fuel vehicle" means a vehicle which operates on one specific fuel other than gasoline, diesel, or fuel mixtures containing more than 15% by volume of gasoline.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" means the Director of the Virginia Department of Environmental Quality or a designated representative.

"Dual-fuel" or "bi-fuel vehicle" means any motor vehicle capable of operating on two different fuels, but not a mixture of the fuels. A dual-fuel or bi-fuel vehicle (i) qualifies as a clean-fuel fleet vehicle when certified as meeting the standards prescribed in Part IV for both fuels and (ii) is eligible to earn credits as provided in Part V when the above requirements are met.

"Emergency vehicle" means any of the following:

1. Law-enforcement vehicles operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation; or (ii) in response to an emergency call.
2. Regional detention center vehicles operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation.
3. Vehicles used to fight fire, including publicly-owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call.
4. Ambulances, rescue or life-saving vehicles designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered.

The term "emergency vehicle" does not include tow trucks or other utility vehicles that may be authorized to exceed the speed limit in special circumstances.

"Emission standard" means any provision of Part IV which prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

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

"Federal Clean Air Act" means 42 USC 7401 et seq.

"Federal employee" means civilian or military personnel employed or stationed at a federal facility, including contractor personnel, for more than 60 days in a calendar year.

"Federal facility" means a facility or complex that is owned, leased, or operated by a U.S. government agency, including parking areas provided to federal employees at the facility.

Proposed Regulations

"Federal tier I" or "tier I" means new gaseous and particulate tail pipe emission standards for use in certifying new light duty vehicles and light duty trucks, beginning with the 1994 model year and are completely phased-in by the 1996 model year, as promulgated by the U.S. Environmental Protection Agency.

"Flexible-fuel vehicle" means any motor vehicle capable of operating on any mixture of two or more different fuels. A flexible-fuel vehicle (i) qualifies as a clean-fuel fleet vehicle when certified on any blend of two fuels as meeting the standards prescribed in Part IV and (ii) is eligible to earn credits as provided in Part V when the above requirements are met. Credits shall be allocated based on the less stringent certification standard.

"Formal hearing" means administrative proceedings other than those informational or factual inquiries of an informal nature provided in §§ 9-6.14:7.1 and 9-6.14:11 of the Administrative Process Act and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 9-6.14:8 of the Administrative Process Act in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 9-6.14:12 of the Administrative Process Act in connection with case decisions.

"Gross vehicle weight rating (GVWR)" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and expressed on a permanent identification label affixed to the motor vehicle.

"Heavy-duty vehicle (HDV)" means any affected motor vehicle (i) which is rated at more than 8,500 pounds GVWR or (ii) which has a vehicle curb weight of more than 6,000 pounds and has a basic frontal area in excess of 45 square feet.

"Light HDV" means any affected motor vehicle weighing more than 8,500 pounds and less than or equal to 19,500 pounds GVWR.

"Medium HDV" means any affected motor vehicle weighing more than 19,500 pounds and less than or equal to 26,000 pounds GVWR.

"Heavy HDV" means any affected motor vehicle weighing more than 26,000 pounds.

"Held for lease or rental to the general public" means, in reference to a motor vehicle, that it is owned or controlled primarily for the purpose of short-term rental or extended-term leasing (with or without maintenance), without a driver, pursuant to a contract.

"Implementation plan" means the plan, including any revision thereof, which has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act, or promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act, or promulgated or approved by the administrator pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

"Inherently low emissions vehicle (ILEV)" means a LEV meeting ULEV NO_x standards and having negligible evaporative emissions, as defined in 40 CFR § 88.311-93. No dual-fuel or flexible-fuel vehicle shall be considered an ILEV unless it is certified to the applicable standard on all fuel types for which it is designed to operate.

"Law-enforcement vehicle" means any vehicle (i) which is primarily operated by a civilian or military police officer or sheriff, or by personnel of the Federal Bureau of Investigation, the Drug Enforcement Administration, or other agencies of the federal government, or by state highway patrols, or other similar law-enforcement agencies, and (ii) which is used for the purpose of law-enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities. For federal law-enforcement vehicles, the definition contained in Executive Order 12759, Section 11: Alternative Fueled Vehicle for the Federal Fleet, Guidance Document for Federal Agencies, shall apply.

The term "law-enforcement vehicle" does not include law-enforcement agency vehicles used primarily for administrative or staff purposes.

"Light-duty truck (LDT)" means any affected motor vehicle (i) which is rated at 6,000 pounds GVWR or less or is rated at 8,500 pounds GVWR or less and has a basic vehicle frontal area of 45 square feet or less; and (ii) which meets any of the following criteria:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons.
3. Equipped with special features enabling off-street or off-highway operation and use.

"Light-duty vehicle (LDV)" means an affected motor vehicle that is a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight (LVW)" means the weight of a vehicle's standard equipment and a nominally filled fuel tank plus 300 pounds.

"Locality" means a city, town, or county created by or pursuant to state law.

"Low emission vehicle (LEV)" means a motor vehicle as defined in 42 USC § 7583.

"Mobile Emission Reduction Credit" or "MERC" means an air quality credit which is generated according to Part X.

"Model year (MY)" means, for purposes of fleet purchase requirements, September 1 through August 31.

"Motor vehicle" means any vehicle as defined in § 46.2-100 of the Code of Virginia as a motor vehicle.

"New covered fleet vehicle" means a vehicle that has not been previously controlled by the current purchaser, regardless of the model year. All vehicles leased or purchased for a fleet are considered in determining the number of new covered fleet vehicles to be purchased by a

covered fleet owner for purposes of calculating percentage purchase requirements.

The term "new covered fleet vehicle" does not include any:

1. Motor vehicle manufactured before the effective date of this regulation; and
2. Motor vehicle transferred (i) due to the purchase of a company not previously controlled by the purchaser, (ii) as part of an employee transfer, or (iii) for seasonal requirements not to exceed 120 days.

"NMHC" means nonmethane hydrocarbons contained in a gas sample, including all oxygenated organic gases containing five or fewer carbon atoms; aldehydes, ketones, alcohols, ethers, and all known alkanes, alkenes, alkynes and aromatics containing 12 or fewer carbon atoms.

"NMOG" means the total mass of nonmethane organic gas in the emissions of a vehicle including oxygenated and nonoxygenated hydrocarbon emissions.

"Nonattainment area" means, for any air pollutant, an area which is designated "nonattainment" with respect to that pollutant under the provisions of § 107(d) of the federal Clean Air Act.

"Noncovered fleet" means nine or less motor vehicles which are owned, operated, leased or rented for use by a common owner or have been consigned for maintenance to a common facility.

"Noncovered vehicle" means any vehicle that is exempt from this regulation.

"Nonexempt fleet vehicle" means and motor vehicle which is not specifically exempt under § 241(5) of the federal Clean Air Act.

"Nonmethane hydrocarbon equivalent" means the sum of the carbon mass emissions of nonoxygenated nonmethane hydrocarbons plus the carbon mass emissions of alcohols, aldehydes, or other organic compounds which are separately measured in accordance with the applicable test procedures of 40 CFR Part 86, expressed as gasoline-fueled vehicle nonmethane hydrocarbons. In the case of exhaust emissions, the hydrogen-to-carbon ratio of the equivalent hydrocarbon is 1.85:1. In the case of diurnal and hot soak emissions, the hydrogen-to-carbon ratios of the equivalent hydrocarbons are 2.33:1 and 2.2:1 respectively.

"OEM" means original equipment manufacturer.

"Order" means any decision or directive of the board, including special orders, emergency special orders, consent orders, and orders of all types, rendered for the purposes of diminishing or abating the causes of air pollution or enforcement of this regulation. Unless specified otherwise in this regulation, orders shall only be issued after the appropriate administrative proceeding.

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

"Owned or operated, leased, or otherwise controlled by such person" means either of the following:

1. Such person holds the beneficial title to the vehicle.
2. Such person uses the vehicle for transportation purposes pursuant to a contract or similar arrangement, the term of such contract or similar arrangement is for a period of 120 days or more, and such person has control over the vehicle pursuant to the definition of control.

"Partially covered fleet" means a vehicle fleet that contains 10 or more covered fleet vehicles and includes noncovered vehicles.

"Party" means any person named in the record who actively participates in the administrative proceeding or offers comments through the public participation process. The term "party" also means the department.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

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

"Program area" means the territorial area encompassed by the boundaries of localities in the following designated regions:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.
2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.
3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

"Public hearing" means an informal proceeding, similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"Responsible official" means one of the following:

1. For a business entity, such as a corporation, association or cooperative:
 - a. The president, secretary, treasurer, or vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision making functions for the business entity, or

Proposed Regulations

b. A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more operating facilities and has authority to sign documents and such authority has been assigned or delegated to such representative in accordance with procedures of the business entity and the delegation of authority is approved in advance by the board;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

3. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic or operational unit of the agency.

"Test weight (TW)" means the vehicle curb weight added to the gross vehicle weight rating and divided by two.

"Transitional low emission vehicle (TLEV)" means a motor vehicle which has been certified as not exceeding the applicable standards prescribed in Part IV.

"Transportation control measures (TCMs)" means those air pollution control measures which are directed at limiting the location and use of motor vehicles, including, but not limited to, the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and employer commute options. TCMs do not include those control measures which are directed at limiting emissions directly from mobile sources, such as the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, air pollution control anti-tampering programs, clean-fuel fleet programs, and motor vehicle emissions inspection programs.

"Ultra-low emissions vehicle (ULEV)" means a motor vehicle as defined in 42 USC § 7583.

"Under normal circumstances garaged at personal residence" means, in reference to a motor vehicle, that, when not in use, it is normally parked at the personal residence of the individual who usually operates it, rather than at a central refueling, maintenance, or business location or any combination thereof.

"Used for motor vehicle manufacturer product evaluations and tests" means, in reference to a motor vehicle, that it is (i) owned and operated by a motor vehicle manufacturer or a motor vehicle component manufacturer, or (ii) owned or held by a university research department, independent testing laboratory or other such evaluation facility solely for the purpose of evaluating the performance of such vehicle for engineering, research and development, or quality control reasons.

The term "used for motor vehicle manufacturer product evaluations and tests" does not include any vehicles that are held by manufacturers for their own business purposes, such as:

1. Vehicles allocated to sales people for their business use,

2. Delivery vehicles, and

3. Other business related vehicles.

"Variance" means the temporary exemption of an owner or other person from this regulation, or a temporary change in this regulation as it applies to an owner or other person.

"Vehicle conversion" or "conversion" means a nonoriginal equipment manufacturer produced vehicle that is certified by the U.S. Environmental Protection Agency as meeting clean-fuel fleet vehicle standards.

"Vehicle curb weight" means actual manufacturer's estimated weight of the vehicle in operational status with all standard equipment and weight of fuel at normal tank capacity, and the weight of optional equipment computed in accordance with 40 CFR § 86.082-24. Incomplete light-duty trucks shall have the curb weight specified by the manufacturer.

"Vehicle miles traveled" means the total miles traveled in one year as supported by records and documentation. Where no such documentation exists, the vehicle miles traveled shall be assumed to be 10,000 miles per year.

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

"Virginia Clean-Fuel Fleets Law" means §§ 46.2-1176, 46.2-1179.1, 46.2-1180 A, 46.2-1187, and 46.2-1187.1 of Title 46.2 of the Code of Virginia.

"Virginia Clean-Fuel Fleet Program" means the program for the regulation and purchase of clean-fuel fleet vehicles to reduce vehicle emissions as established by the Virginia Clean-Fuel Fleets Law.

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

"Virginia Voluntary Mobile Emission Credit Program" means the program in Part X for the generation of voluntary mobile emissions credits to receive early or additional air quality credits.

"Zero emissions vehicle (ZEV)" means a motor vehicle as defined in 42 USC § 7583.

PART II.

GENERAL PROVISIONS.

§ 2.1. Applicability and authority of the department.

A. The provisions of this regulation, unless specified otherwise, apply to any owner of a covered fleet vehicle specified in subsection B of this section.

B. The provisions of this regulation, unless specified otherwise, apply to the following covered fleet vehicles:

1. Any covered fleet vehicle registered by the Virginia Department of Motor Vehicles and garaged within the program area.

2. Any covered fleet vehicle registered by the Virginia Department of Motor Vehicles and garaged outside of the program area which has (i) a base of operations in

the program area or (ii) a majority of its annual travel in the program area.

3. Any covered fleet vehicle (i) owned or operated by a U.S. government agency located within the program area, (ii) operated on or commuting to a federal facility within the program area, or (iii) owned or operated by a U.S. government agency located outside the program area but with a base of operations in the program area or a majority of its annual travel in the program area.

4. Any covered fleet vehicle (i) owned or operated by a state or local government agency located within the program area, (ii) operated on or commuting to a state or local government facility within the program area, or (iii) owned or operated by a state or local government agency located outside the program area but with a base of operations in the program area or a majority of its annual travel in the program area.

C. The provisions of this regulation, unless specified otherwise, apply in the program area.

D. The provisions of this regulation, unless specified otherwise, apply only to those pollutants for which emission standards are set forth in Part IV.

E. By the adoption of this regulation, the board confers upon the department the administrative, enforcement and decision making authority enumerated herein.

F. This regulation is established to implement the provisions of the Virginia Clean-Fuel Fleets Law and the federal Clean Air Act.

G. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout this regulation, documents of the types specified below have been incorporated by reference, and in some cases they have been cross-referenced.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.

§ 2.2. Hearings and proceedings.

A. The primary hearings and proceedings associated with this regulation are as follows:

1. For the public hearing required before considering variances and amendments to and revocation of variances, the procedure for a public hearing shall conform to the provisions of § 2.4.
2. For the informal proceeding used to make case decisions, the procedure for an informal proceeding shall conform to § 9-6.14:11 of the Administrative Process Act.
3. For the formal hearing for the enforcement or review of orders, licenses and permits and for the enforcement of regulations, the procedure for a formal hearing shall conform to § 9-6.14:12 of the Administrative Process Act.

B. Records of hearings and proceedings may be kept in one of the following forms:

1. Oral statements or testimony at any public hearing or informational proceeding will be stenographically or electronically recorded, and may be transcribed to written form.
2. Oral statements or testimony at any informal proceeding will be stenographically or electronically recorded, and may be transcribed to written form.
3. Formal hearings will be recorded by a court reporter, or electronically recorded for transcription to written form.

C. Availability of records of hearings and proceedings shall be as follows:

1. A copy of the transcript of a public hearing or informational proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.
2. A copy of the transcript of an informal proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.
3. Any person desiring a copy of the transcript of a formal hearing recorded by a court reporter may purchase the copy directly from the court reporter; if not transcribed, the additional cost of preparation will be paid by the person making the request.

§ 2.3. Appeal of case decisions.

A. Any fleet owner or other party significantly affected by any action of the board taken without a formal hearing, or by inaction of the board, may request a formal hearing in accordance with § 9-6.14:12 of the Administrative Process Act, provided a petition requesting such hearing is filed with the board. In cases involving actions of the board, such petition shall be filed within 30 days after notice of such action is mailed or delivered to such owner or party requesting notification of such action.

B. In cases where the board fails to make a case decision, the fleet owner or other party significantly affected, may provide written notice to the board that a decision is due in accordance with §§ 9-6.14:11 and 9-6.14:12 of the Administrative Process Act. Appeals thereafter shall be in accordance with the Administrative Process Act.

C. Prior to any formal hearing, an informal fact finding shall be held pursuant to § 9-6.14.11 of the Administrative Process Act, unless the named party and the board consent to waive the informal proceeding and go directly to a formal hearing.

D. Any decision of the board resultant from a formal hearing shall constitute the final decision of the board.

Proposed Regulations

E. Judicial review of a final decision of the board shall be afforded in accordance with § 9-6.14:16 of the Administrative Process Act.

F. Nothing in this section shall prevent disposition of any case by consent.

G. Any petition for a formal hearing or any notice or petition for an appeal by itself shall not constitute a stay of decision or action.

§ 2.4. Variances.

A. The board may in its discretion grant variances to any provision of this regulation after an investigation and public hearing. If a variance is appropriate, the board shall issue an order to this effect. Such order shall be subject to amendment or revocation at any time for the reasons specified in the order.

B. The board shall adopt variances and amend or revoke variances if warranted only after conducting a public hearing pursuant to public advertisement in at least one major newspaper of general circulation in the program area of the subject, date, time and place of the public hearing at least 30 days prior to the scheduled hearing. The hearing shall be conducted to give the public an opportunity to comment on the variance and the hearing record shall remain open for a minimum of 15 days after the hearing for the purpose of receiving additional public comment.

§ 2.5. Right of entry.

Whenever it is necessary for the purposes of this regulation, the department may enter, at reasonable times, any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys, audits or investigations as authorized by § 46.2-1187.1 of the Virginia Clean-Fuel Fleets Law.

§ 2.6. Conditions on approvals.

A. The board or director may impose conditions upon an approval issued pursuant to this regulation, (i) which may be necessary to carry out the policy of the Virginia Clean-Fuel Fleets Law, and (ii) which are consistent with this regulation. Except as specified herein, nothing in this regulation shall be understood to limit the power of the board or department in this regard.

B. A fleet owner may consider any condition imposed by the board or director as a denial of the approval, which shall entitle the applicant to appeal the decision pursuant to § 2.3.

§ 2.7. Procedural information and guidance.

A. The department may adopt detailed policies and procedures which:

1. Request data and information in addition to and in amplification of the provisions of this regulation;
2. Specify the methods and means to determine compliance with applicable provisions of this regulation;
3. Set forth the format by which all data and information should be submitted; and

4. Set forth how the regulatory programs should be implemented.

B. In cases where this regulation specifies that procedures or methods shall be approved by, acceptable to or determined by the board or department, the fleet owner or any other affected person may request information and guidance concerning the proper procedures and methods and the board or the department shall furnish in writing such information on a case-by-case basis.

§ 2.8. Relationship of state regulations to federal regulations.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of this regulation are required to be approved by the U.S. Environmental Protection Agency and when approved those provisions become federally enforceable.

B. In cases where this regulation specifies that procedures or methods shall be approved by, acceptable to or determined by the board or department or specifically provides for decisions to be made by the board or department, it may be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) reviewed and confirmed as acceptable or approved by the U.S. Environmental Protection Agency in order to make them federally enforceable. Determination of which state actions require federal confirmation or approval and the administrative mechanism for making associated confirmation or approval decisions shall be made on a case-by-case basis in accordance with U.S. Environmental Protection Agency regulations and policy.

§ 2.9. Delegation of authority.

In accordance with the Virginia Clean-Fuel Fleets Law, the director, or a designee, may perform any act of the board provided under this regulation.

§ 2.10. Availability of information.

A. Fleet vehicle data in the possession of the department shall be available to the public without exception.

B. Any other records, reports or information in the possession of the department shall be available to the public with the following exception:

The department shall consider such records, reports or information, or particular part thereof, confidential in accordance with the Virginia Uniform Trade Secrets Act (§ 59.1-336 et seq. of the Code of Virginia) upon a showing satisfactory to the department by any fleet owner that such records, reports or information, or particular part thereof, meet the criteria in subsection C of this section and the station owner provides a certification to that effect signed by a responsible person for such owner. Such records, reports or information, or particular part thereof, may be disclosed, however, to other officers, employees or authorized representatives of the Commonwealth of Virginia and the U.S. Environmental Protection Agency concerned with carrying out the provisions of the Virginia Clean-Fuel Fleets Law and the federal Clean Air Act.

C. In order to be exempt from disclosure to the public under subsection B of this section, the record, report or information shall satisfy the following criteria:

1. Information for which the fleet owner has been taking and will continue to take measures to protect confidentiality;
2. Information that has not been and is not presently reasonably obtainable without the consent of the fleet owner or motor vehicle owner by private citizens or other firms through legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding;
3. Information which is not publicly available from sources other than the fleet owner; and
4. Information the disclosure of which would cause substantial harm to the fleet owner.

PART III.

CLEAN-FUEL FLEET PURCHASE REQUIREMENTS.

§ 3.1. Clean-fuel fleet vehicle purchase requirements for covered fleet owners.

A. Covered fleet owners shall make purchases of clean-fuel fleet vehicles beginning with model year 1998 vehicles.

B. Covered fleet owners shall register with the department prior to making any clean-fuel fleet vehicles purchases.

C. Purchase requirements shall be in terms of a percentage of the total number of new covered fleet vehicles of each class purchased each year by a covered fleet owner.

D. The purchase requirements may be extended by up to three years if the appropriate vehicles are not available for sale in the State of California.

E. The purchase requirements shall be phased in over three years according to the schedule in Table III-A.

TABLE III-A
VEHICLE PURCHASE REQUIREMENT PHASE IN RATE

Vehicle Class	Model Year 1998	Model Year 1999	Model Year 2000+
LDV/LDT	30%	50%	70%
HDV	50%	50%	50%

F. The purchase requirements of this program may be met by (i) purchasing new vehicles which meet the clean-fuel fleet vehicle LEV, ULEV, or ZEV standards, (ii) by converting conventional vehicles to clean-fuel fleet vehicles which meet the applicable standards, or (iii) by redeeming credits.

PART IV.

EMISSION STANDARDS FOR CLEAN-FUEL FLEET VEHICLES.

§ 4.1. Light-duty vehicle exhaust emission standards.

A. No light-duty clean-fuel fleet vehicle shall discharge nonmethane organic gases (NMOG), carbon monoxide (CO), nitrogen oxides (NO_x), formaldehyde (HCHO), and particulate

matter (PM), if applicable, in its exhaust emissions in excess of the limits set forth in Tables IV-A, IV-B, IV-C, IV-D, IV-E, IV-F IV-G, IV-H, IV-I and IV-J.

TABLE IV-A
INTERMEDIATE USEFUL LIFE STANDARDS (grams/mile)
FOR LIGHT-DUTY VEHICLES FOR HCs, CO, NO_x, HCHO,
AND PM

Vehicle emission category	NMOG	CO	NO _x	HCHO	PM ¹
TLEV	0.125	3.4	0.4	0.015	
LEV	0.075 ²	3.4 ²	0.2	0.015 ²	
ULEV	0.040	1.7	0.2 ²	0.008	

1 - Applies to diesel vehicles only.

2 - Applies to ILEVs.

TABLE IV-B
FULL USEFUL LIFE STANDARDS (grams/mile) FOR LIGHT-DUTY VEHICLES FOR HCs, CO, NO_x, HCHO, AND PM

Vehicle emission category	NMOG	CO	NO _x	HCHO	PM ¹
TLEV	0.156	4.2	0.6	0.018	0.08
LEV	0.090 ²	4.2 ²	0.3	0.018 ²	0.08 ²
ULEV	0.055	2.1	0.3 ²	0.011	0.04

1 - Applies to diesel vehicles only

2 - Applies to ILEVs.

TABLE IV-C
INTERMEDIATE USEFUL LIFE STANDARDS (grams/mile)
FOR LIGHT LIGHT-DUTY TRUCKS FOR HCs, CO, NO_x,
HCHO, AND PM

LWV (pounds)	Vehicle emission category	NMOG	CO	NO _x	HCHO	PM ¹
0-3750	TLEV	0.125	3.4	0.4	0.015	
	LEV	0.075 ²	3.4 ²	0.2	0.015 ²	
	ULEV	0.040	1.7	0.2 ²	0.008	
3751-5750	TLEV	0.160	4.4	0.7	0.018	
	LEV	0.100 ²	4.4 ²	0.4	0.018 ²	
	ULEV	0.050	2.2	0.4 ²	0.009	

1 - Applies to diesel vehicles only.

2 - Applies to ILEVs.

Proposed Regulations

TABLE IV-D
FULL USEFUL LIFE STANDARDS (grams/mile) FOR LIGHT LIGHT-DUTY TRUCKS FOR HC_s, CO, NO_x, HCHO, AND PM

LVW (pounds)	Vehicle emission category	NMOG	CO	NO _x	HCHO	PM ¹
0-3750	TLEV	0.156	4.2	0.6	0.018	0.08
	LEV	0.090 ²	4.2	0.3	0.018 ²	0.08 ²
	ULEV	0.055	2.1 ²	0.3 ²	0.011	0.04
3751-5750	TLEV	0.200	5.5	0.9	0.023	0.08
	LEV	0.130 ²	5.5 ²	0.5	0.023 ²	0.08 ²
	ULEV	0.070	2.8	0.5 ²	0.013	0.04

1 - Applies to diesel vehicles only.

2 - Applies to ILEVs.

TABLE IV-E
INTERMEDIATE USEFUL LIFE STANDARDS (grams/mile) FOR HEAVY LIGHT-DUTY TRUCKS FOR HC_s, CO, NO_x, HCHO, AND PM

ALVW (pounds)	Vehicle emission category	NMOG	CO	NO _x ²	HCHO	PM ¹
0-3750	LEV	0.125 ³	3.4 ³	0.4	0.015 ³	
	ULEV	0.075	1.7	0.2 ³	0.008	
3751-5750	LEV	0.160 ³	4.4 ³	0.7	0.018 ³	
	ULEV	0.100	2.2	0.4 ³	0.009	
5751-8500	LEV	0.195 ³	5.0 ³	1.1	0.022 ³	
	ULEV	0.117	2.5	0.6 ³	0.011	

1 - Applies to diesel vehicles only.

2 - Does not apply to diesel vehicles.

3 - Applies to ILEVs.

TABLE IV-F
FULL USEFUL LIFE STANDARDS (grams/mile) FOR HEAVY LIGHT-DUTY TRUCKS FOR HC_s, CO, NO_x, HCHO, AND PM

ALVW (pounds)	Vehicle emission category	NMOG	CO	NO _x	HCHO	PM ¹
0-3750	LEV	0.180 ²	5.0 ²	0.6	0.022 ²	0.08 ²
	ULEV	0.107	2.5	0.3 ²	0.012	0.04
3751-5750	LEV	0.230 ²	6.4 ²	1.0	0.027 ²	0.10 ²
	ULEV	0.143	3.2	0.5 ²	0.013	0.05
5751-8500	LEV	0.280 ²	7.3 ²	1.5	0.032 ²	0.12 ²
	ULEV	0.167	3.7	0.8 ²	0.016	0.06

1 - Applies to diesel vehicles only.

2 - Applies to ILEVs.

TABLE IV-G
NMOG STANDARDS (grams/mile) FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CLEAN ALTERNATIVE FUEL FOR LIGHT LIGHT-DUTY TRUCKS AND LIGHT-DUTY VEHICLES

Vehicle Type	50,000 Mile NMOG Standard	100,000 Mile NMOG Standard
<i>MY 1996 and later:</i>		
LDTs (0-3,750 pounds LVW and LDVs)	0.125	0.156
LDTs (3,751-5,750 pounds LVW)	0.160	0.200
<i>Beginning MY 2001:</i>		
LDTs (0-3,750 pounds LVW) and LDVs	0.075	0.090
LDTs (3,751-5,750 pounds LVW)	0.100	0.130

TABLE IV-H
NMOG STANDARDS (grams/mile) FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CLEAN ALTERNATIVE FUEL FOR HEAVY LIGHT-DUTY TRUCKS

Vehicle Type	50,000 Mile NMOG Standard	120,000 Mile NMOG Standard
<i>Beginning MY 1998:</i>		
LDTs (0-3,750 pounds ALVW)	0.125	0.180
LDTs (3,751-5,750 pounds ALVW)	0.160	0.230
LDTs (5,751-8,500 pounds ALVW)	0.195	0.280

TABLE IV-I
NMOG STANDARDS (grams/mile) FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CONVENTIONAL FUEL FOR LIGHT LIGHT-DUTY TRUCKS AND LIGHT-DUTY VEHICLES

Vehicle Type	50,000 Mile NMOG Standard	100,000 Mile NMOG Standard
<i>Beginning MY 1996:</i>		
LDTs (0-3,750 pounds LVW) and LDVs	0.25	0.31
LDTs (3,751-5,570 pounds LVW)	0.32	0.40
<i>Beginning MY 2001</i>		
LDTs (0-3,750 pounds LVW) and LDVs	0.125	0.156
LDTs (3,751-5,570 pounds LVW)	0.160	0.200

TABLE IV-J
NMOG STANDARDS (grams/mile) FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CONVENTIONAL FUEL FOR HEAVY LIGHT-DUTY TRUCKS

Vehicle Type	50,000 Mile NMOG Standard	120,000 Mile NMOG Standard
Beginning MY 1998:		
LDTs (0-3,750 pounds ALVW)	0.25	0.36
LDTs (3,751-5,750 pounds ALVW)	0.32	0.46
LDTs (5,751-8,500 pounds ALVW)	0.39	0.56

B. If vehicles meeting the above standards are not offered for sale in the State of California as of model year 1998, then the beginning of the fleet program shall be delayed until the first model year in which such vehicles are offered for sale in the State of California or until model year 2001, whichever is earlier.

C. For purposes of credit calculations, the emission standards listed in Tables IV-K shall be used.

TABLE IV-K
EMISSION STANDARDS FOR DETERMINING CREDIT WEIGHTINGS
 Light-Duty Vehicle and Light-Duty Truck Emission Levels for Credit Calculations

Vehicle Category	LDVs and LDTs ≤ 6000 gvwr and ≤ 3750 lvw (grams/mile)	LDTs ≤ 6000 gvwr and > 3750 lvw but ≤ 5750 lvw (grams/mile)	LDTs > 6000 gvwr and ≤ 3750 tw (grams/mile)	LDTs > 6000 gvwr and > 3750 tw (grams/mile)	LDTs > 6000 gvwr and > 5750 tw but ≤ 8500 gvwr (grams/mile)
Tier 1 Gasoline Vehicle:					
NMHC ¹	0.25	0.32	0.25	0.32	0.39
CO	3.4	4.4	3.4	4.4	5.0
NO _x	0.4	0.7	0.4	0.7	1.1
LEV:					
NMOG .	0.075	0.1	0.125	0.16	0.195
CO	3.4	4.4	3.4	4.4	5.0
NO _x	0.2	0.4	0.4	0.7	1.1
ULEV:					
NMOG .	0.04	0.05	0.075	0.1	0.117
CO	1.7	2.2	1.7	2.2	2.5
NO _x	0.2	0.4	0.2	0.4	0.6
ZEV:					
NMOG .	0.0	0.0	0.0	0.0	0.0
CO	0.0	0.0	0.0	0.0	0.0
NO _x	0.0	0.0	0.0	0.0	0.0

1 - For purpose of credit calculations, NMHC is assumed to be equal to NMOG.

§ 4.2. Heavy-duty clean-fuel fleet vehicle standards.

A. No heavy-duty clean-fuel fleet vehicle shall discharge nonmethane hydrocarbon gases (NMHG), carbon monoxide (CO), nitrogen oxides (NO_x), formaldehyde (HCHO), and particulate matter (PM), if applicable, in its exhaust emissions in excess of the limits set forth in Table IV-L.

TABLE IV-L
EMISSION STANDARDS FOR HEAVY-DUTY TRUCKS

Vehicle Category	HDV > 8500 ≤ 26,000 gvwr (grams/brake horse-power per hour)
LEV:	
NMHC + NO _x	3.8
CO	15.50
PM	0.10
ULEV:	
NMHC + NO _x	2.50
CO	7.20
PM	0.05
HCHO	0.05
ILEV:	
NMHC + NO _x	2.50
CO	14.40
PM	0.10
HCHO	0.05
ZEV:	
NMHC + NO _x	0.0
CO	0.0
PM	0.0
HCHO	0.0

B. The standards set forth in Table IV-L refer to the exhaust emitted while the vehicle is being tested in accordance with the applicable test procedures set forth in 40 CFR Part 86, Subpart N.

C. If vehicles meeting the standards set forth in Table IV-L are not offered for sale in the State of California as of model year 1998, then the beginning of the purchase requirements shall be delayed until the first model year in which such vehicles are offered for sale in the State of California or until model year 2001, whichever is earlier.

D. Exhaust emissions from engines used in heavy-duty low emission vehicles shall meet conventional vehicle standards set forth in 40 CFR Part 86 for total hydrocarbon, carbon monoxide, particulate, and organic material hydrocarbon equivalent.

E. A heavy-duty vehicle shall be certified as a ZEV if it is determined by engineering analysis that the vehicle satisfies the following conditions:

1. The vehicle fuel system shall not contain either carbon or nitrogen compounds (including air) which, when burned, form nonmethane hydrocarbons, oxides of

Proposed Regulations

nitrogen, carbon monoxide formaldehyde, or particulates as exhaust emissions.

2. All primary and auxiliary equipment and engines must have no emissions of nonmethane hydrocarbons, oxides of nitrogen carbon monoxide formaldehyde and particulates.

3. The vehicle fuel system and any auxiliary engine shall have no evaporative emissions.

4. Any auxiliary heater must not operate at ambient temperatures above 40°F.

F. For purposes of credit calculations, the emission standards set forth in Table IV-M shall be used.

**TABLE IV-M
EMISSION STANDARDS FOR DETERMINING CREDIT
WEIGHTINGS**

Heavy-Duty Engine Emission Levels for Credit Calculations

Vehicle Category	HDV 8,501-26,000 gvwr (grams/brake horse-power per hour)
Conventional Vehicles:	
HC+NO _x ^{1,2}	5.3
CO.....	15.5
LEV:	
NMHC+NO _x	3.8
CO.....	15.5
ULEV:	
NMHC+NO _x	2.5
CO.....	7.2
ZEV:	
NMHC+NO _x	0.0
CO.....	0.0

1 - For the purposes of credit calculation, HC is assumed to be equal to NMHC.

2 - The conventional heavy duty emissions standard is not a combined standard.

PART V.

CLEAN-FUEL FLEET CREDIT REQUIREMENTS.

§ 5.1. Clean-fuel fleet vehicle credit requirements.

All credit-generating vehicles shall meet the applicable emission standards in Part IV and other requirements of this regulation.

§ 5.2. Credit generation.

A. Credits may be granted to a covered fleet owner for any of the following:

1. Purchase of a clean-fuel fleet vehicle during any period subsequent to the approval of this regulation by the U.S. Environmental Protection Agency but prior to the effective date of the commencement of the clean-fuel fleet vehicle purchase requirement if the purchase meets all other clean-fuel fleet vehicle requirements applicable to such purchase, including the requirement to use only

the fuel on which the vehicle was certified as a clean-fuel fleet vehicle.

2. Purchase of a greater number of clean-fuel fleet vehicles than required in Part III which meet clean-fuel fleet vehicle emission standards specified in Part IV.

3. Purchase of a clean-fuel fleet vehicle which meets more stringent emission standards than the LEV standards in Part IV.

4. Purchase of a clean-fuel fleet vehicle in an exempt or noncovered vehicle category by the owner of a covered or partially covered fleet.

B. Credits may be granted to a fleet owner for the purchase of a clean-fuel fleet vehicle prior to the approval of this regulation by the U.S. Environmental Protection Agency if the purchase meets all clean-fuel fleet vehicle credit program requirements in this regulation, including the following:

1. The vehicle purchase is certified to meet emission standards in Part IV.

2. The vehicle purchased, if not a dedicated-fuel vehicle, meets the standards in Part IV on any fuel that the vehicle operates on.

C. A bi-fuel or flexible-fuel vehicle which is purchased by a fleet owner to comply with this regulation shall only be operated in the program area region on the fuels on which it was certified as a clean-fuel fleet vehicle.

D. A noncovered or covered fleet owner who purchases or leases a clean-fuel fleet vehicle only to generate a clean-fuel fleet vehicle credit shall be subject to the same requirements of this regulation as a covered fleet owner who purchases or leases a clean-fuel fleet vehicle to demonstrate compliance with purchase requirements in Part III.

§ 5.3. Credit values.

A. Credit values for LDVs and LDTs shall be rounded to two decimal places and determined in accordance with Table V-A:

**TABLE V-A
Credits Based on Reduction in NMOG**

Vehicle Category	LDVs and LDTs ≤ 6000 gvwr and ≤ 3750 lvw	LDTs ≤ 6000 gvwr and > 3750 lvw and ≤ 5750 lvw	LDTs > 6000 gvwr and ≤ 3750 alvw	LDTs > 6000 gvwr and > 3750 alvw but ≤ 5750 alvw	LDTs > 6000 gvwr and > 5750 alvw
LEV	1.00	1.26	0.71	0.91	1.11
ULEV	1.20	1.54	1.00	1.26	1.56
ZEV	1.43	1.83	1.43	1.83	2.23

B. Credits generated by the purchase or lease of a qualifying LDV or a LDT clean-fuel fleet vehicle shall be designated at the time of issuance as light-duty clean-fuel fleet vehicle credits.

C. Credit values for HDVs shall be determined in accordance with Table V-B:

TABLE V-B
Credits Based on Reduction in NMOG + NO_x

Vehicle Category	Light HDV	Medium HDV	Heavy HDV
LEV	1.00	1.00	1.00
ULEV	1.87	1.87	1.87
ZEV	3.53	3.53	3.53

D. Credits generated by the purchase of a qualifying light, medium or heavy HDV clean-fuel fleet vehicle shall be designated at the time of issuance as light, medium or heavy HDV clean-fuel fleet vehicle credits.

§ 5.4. Credit use.

A. All credits generated in accordance with this regulation may be sold, traded or held for later use without discount or depreciation of such credits to meet the requirements of this regulation.

B. Covered fleet owners may use credits to meet the purchase requirements specified in Part III (i) by trading credits for vehicle purchases, or (ii) by redeeming credits that have been held for later use.

C. A covered fleet owner desiring to demonstrate full or partial compliance with covered fleet purchase requirements by the redemption of credits shall surrender sufficient credits as determined by this regulation. In lieu of purchasing a clean-fuel fleet vehicle, a fleet owner shall surrender credits equal to the credit value for the corresponding vehicle class and credit calculation as defined in Table V-A or V-B.

D. Credits earned within the boundaries of an interstate nonattainment area may be traded within the boundaries of that nonattainment area.

E. Credits may be traded according to the specifications established in this section and in § 5.5.

F. Credits earned as a result of clean-fuel fleet vehicle purchase requirements in one program area region shall not be used to demonstrate compliance in another program area region, even if a state contains more than one program area region.

G. Owners of noncovered fleets and covered fleets may generate credits and be eligible for TCM exemptions provided that requirements of this regulation are met.

§ 5.5. Credit allocation.

A. Credits generated by the purchase of LDVs and LDTs of 8,500 pounds GVWR or less may be used to demonstrate compliance with covered fleet purchase requirements applicable to LDVs or LDTs of 8,500 pounds GVWR or less.

B. Credits generated by the purchase of vehicles of more than 8,500 pounds GVWR shall not be used to demonstrate compliance with the covered fleet purchase requirements for vehicles weighing 8,500 pounds GVWR or less.

C. Credits generated by the purchase of vehicles of 8,500 pounds GVWR or less shall not be used to demonstrate compliance with requirements for vehicles of more than 8,500 pounds GVWR.

D. Credits generated by the purchase of a HDV of a particular weight subclass may be used to demonstrate compliance with required HDV purchases for the same or lighter weight subclass. These credits shall not be used to demonstrate compliance with required HDV purchases for vehicles of heavier weight subclass than the weight subclass of the vehicle which generated the credits.

§ 5.6. Credit generation for noncovered fleets.

A. Noncovered fleet owners have no purchase requirements but may be eligible to generate credits and Transportation Control Measures (TCM) exemptions if they purchase credit-generating vehicles which meet the emissions standards in Part IV.

B. Notwithstanding Part III, noncovered fleet owners who want to generate credits shall be subject to all provisions of this regulation.

PART VI.
EXEMPTIONS FROM TRANSPORTATION CONTROL MEASURES.

§ 6.1. Clean-fuel fleet vehicle transportation control measure (TCM) exemptions.

A. Eligible clean-fuel fleet vehicles shall be exempt from time-of-day, day-of-week and other similar temporal-based TCMs which are established wholly or partially for air quality reasons and have an air quality element, as accounted for in the Implementation Plan except where such exemptions create a clear safety hazard.

B. Vehicles certified as clean-fuel fleet vehicles, except for ILEVs, shall not be exempt from TCMs where the temporal element is secondary to some other control element.

C. Vehicles certified as clean-fuel fleet vehicles shall be exempt from temporal TCMs commencing with the effective date of this regulation subject to the following:

1. The subject vehicle shall remain in compliance with applicable clean-fuel fleet vehicle emission standards in Part IV and other clean-fuel fleet vehicle credit program requirements.
2. Temporal clean-fuel fleet vehicle TCM exemptions are not effective outside program areas.
3. Clean-fuel fleet vehicle TCM exemptions are not transferrable between vehicles within the same fleet.
4. Clean-fuel fleet vehicle TCM exemptions shall not be sold or traded.

D. Clean-fuel fleet vehicles making use of the TCM exemptions shall be clearly identified as such by a special license plate issued by the Department of Motor Vehicles if the vehicle is to be eligible for TCM exemptions specified in subsection A of this section.

Proposed Regulations

PART VII. REQUIREMENTS FOR VEHICLE CONVERSIONS TO QUALIFY AS A CLEAN-FUEL FLEET VEHICLE.

§ 7.1. General.

A. Conversions of engines or vehicles which satisfy the requirements of § 88.306-94 of 40 CFR Part 88 shall be treated as a clean-fuel vehicle under 40 CFR Part 88, Subpart C.

B. The engine or vehicle shall be converted using a conversion configuration which has been certified according to the provisions of 40 CFR Part 86 using applicable emission standards and other provisions from 40 CFR Part 88 for clean-fuel engines and vehicles.

C. The clean-fuel vehicle aftermarket conversion certifier (i) shall be considered a manufacturer for purposes of §§ 206 and 207 of the federal Clean Air Act and related enforcement provisions and (ii) shall be liable for in-use performance of all the vehicles produced under the certificate of conformity as outlined in 40 CFR Part 85.

D. The installation of the certified conversion configuration may be performed by the aftermarket conversion certifier.

1. The aftermarket conversion certifier shall submit a list of additional installers to the administrator within five working days if the installation of the certified conversion configuration is performed by an entity other than the aftermarket conversion certifier.

2. The aftermarket conversion certifier shall provide instructions for installation of the aftermarket conversion configuration to installers listed on the certificate and ensure that the configurations are properly installed.

E. The useful life period for the purpose of determining the in-use liability of the clean-fuel vehicle aftermarket conversion certifier shall be the original useful life of the vehicle prior to conversion.

F. The conversion from an engine or vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel engine or vehicle shall not be considered a violation of the tampering provisions of § 203(a)(3) of the federal Clean Air Act if such conversion is done pursuant to a conversion configuration certificate by the aftermarket conversion certifier or by an installer listed on the certificate.

PART VIII. CERTIFICATION REQUIREMENTS FOR COVERED AND NONCOVERED FLEET OWNERS.

§ 8.1. Covered fleet owner certification requirements.

A. A covered fleet owner shall certify as specified below that vehicle purchases and credits sold or traded for each model year meet the purchase requirements for compliance according to Part III.

1. Certification shall be provided annually within 30 days of the end of the model year.

2. Certification shall indicate reporting period, reporting person, program area region, number of covered fleet vehicles by weight classes, number of new covered fleet

vehicles by weight class, number of new clean-fuel fleet vehicles purchased by weight class and emission standard (LEV, ULEV, ZEV), current model year credit balance, and cumulative credit balance.

B. The department shall verify the existence of credits prior to any transactions pertaining to selling or trading of credits.

C. All credit transactions shall be approved by the department.

D. Falsification of certification of compliance or credit generation shall constitute a violation of this regulation and the fleet owner shall be subject to enforcement procedures in Part IX.

§ 8.2. Noncovered fleet owner certification requirements.

Noncovered fleet owners who wish to generate credits and participate in the program as defined by this regulation shall comply with all certification requirements in this section.

PART IX. ENFORCEMENT PROCEDURES.

§ 9.1. Enforcement of regulations and orders.

A. Whenever the department has reason to believe that a violation of any provision of this regulation or any order has occurred, notice shall be served on the alleged violator or violators, citing the applicable provision of this regulation or the order involved and the facts on which the alleged violation is based. The department may act as the agent of the board to obtain compliance through either of the following enforcement proceedings:

1. Administrative proceedings. The department may negotiate to obtain compliance through administrative means. Such means may be a consent agreement or any other mechanism that ensures or obtains compliance, including but not limited to those means prescribed in § 9.2. In cases where the use of an administrative means is expected to result in compliance within 90 days or less, preferential consideration shall be given to the use of a consent agreement. Unless specified otherwise in this regulation, the administrative means shall be approved by the board.

2. Judicial proceedings. The department may obtain compliance through legal means pursuant to §§ 10.1-1316 and 46.2-1187 of the Code of Virginia.

B. Nothing in this section shall prevent the department from making efforts to obtain voluntary compliance through conference, warning or other appropriate means.

C. Orders and consent orders are considered administrative means and the board reserves the right to use such means in lieu of or to provide a legal basis for the enforcement of any administrative means negotiated or approved by the department under subsection A of this section.

D. Any enforcement proceeding under this section may be used as a mechanism to ensure that the compliance with this

regulation is reasonably maintained by the owner or other person.

E. Case decisions regarding the enforcement of regulations and orders shall be made by the director. These decisions (i) may be regarded by the aggrieved party as a final decision of the board and appealed pursuant to subsection C of § 2.3 or (ii) may be appealed to the board pursuant to subsection A of § 2.3.

§ 9.2. Civil charges: basis for civil charges; multiple violations.

A. Compliance with this regulation by a covered fleet facility shall be the responsibility of the owner. Failure to comply with the appropriate provisions of the Virginia Clean-Fuel Fleets Law or this regulation may be considered sufficient cause for enforcement action, including negotiated civil charges. In addition thereto, violators are also subject to criminal prosecution. The department shall develop a schedule of civil charges that sets forth the type of civil charges that are appropriate for the different types of violations. This schedule shall be used in negotiating consent agreements with fleet owners. Each day of violation shall be a separate offense, and each motor vehicle shall be treated separately in assessing violations.

B. In the case of multiple violations considered at one time, the department may by consent of the fleet owner provide by order for separate civil charges for each violation.

PART X.
VOLUNTARY MOBILE EMISSION REDUCTION CREDIT PROGRAM.

§ 10.1. General.

A. The Virginia Voluntary Mobile Emission Reduction Credit Program, herein known as "MERC Program," is established to encourage the creation and trading of air quality credits generated by reductions in vehicle emissions.

B. To the extent that this part conflicts with any regulation of the board promulgated to carry out the requirements of § 10.1-1322.3 of the Code of Virginia, the regulation promulgated to carry out § 10.1-1322.3 shall apply.

C. The MERC Program applies in the program area.

D. The creation and use of air quality credits under the MERC Program shall not be used to satisfy purchase requirements in Part IV in such a way that may result in the double counting of credits.

E. Covered and noncovered fleet owners may participate in the MERC Program.

F. Only vehicles which meet applicable standards of Part IV and vehicles which meet the standards of a TLEV may generate MERCs in accordance with the provisions in § 10.2.

G. Where this part does not fully address a particular issue, the provisions of applicable U.S. Environmental Protection Agency policy and guidance documents shall govern. These include, but are not limited to, the following:

1. Economic Incentive Program Rules (58 FR 11110, February 23, 1993).

2. Interim Guidance on the Generation of Mobile Source Emission Reduction Credits (58 FR 11134, February 23, 1993).

3. Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits; Final Policy Statement and Accompanying Technical Issues Document (51 FR 43814, December 4, 1986).

H. To the extent that this part conflicts with any U.S. Environmental Protection Agency policy and guidance documents cited in subsection G of this section, the documents cited in subsection G of this section shall apply.

§ 10.2. MERC generation and values.

A. All MERCs generated shall be (i) quantifiable, (ii) enforceable at both the federal and state levels, (iii) consistent with the implementation plan attainment and reasonable further progress demonstrations, (iv) surplus to reductions required by other federal and state regulations or relied upon in any relevant attainment plan or demonstration, and (v) permanent within the timeframe specified by the MERC program.

1. MERCs may be generated by the purchases of or by entering into a legal binding agreement according to § 10.5 to purchase clean-fuel fleet vehicles or TLEVs.

2. MERCs shall not be generated if the credits generated by the purchases of clean-fuel fleet vehicles or TLEVs are otherwise required by federal or state law, permits or approvals, agreements, administrative or judicial orders, or other enforcement actions or regulations.

B. Federal Tier I emission standards shall be the baseline used to determine the amount of emission reductions attributable to a vehicle purchase for the creation of a MERC credit prior to 1998. After 1998 the baseline shall be LEV emission standards.

C. The emission standards listed in Tables X-A or X-B shall be used, depending upon vehicle weight class, for purposes of MERC calculations. Calculations shall be made for each pollutant listed in the following tables:

Proposed Regulations

TABLE X-A
EMISSION STANDARDS FOR DETERMINING CREDIT
WEIGHTINGS FOR MERCs
Light-Duty Vehicle and Light-Duty Truck Emission Levels for
Credit Calculations

Vehicle Category	LDVs and LDTs ≤ 6000 gvwr and ≤ 3750 lvw (grams/mile)	LDTs ≤ 6000 gvwr and > 3750 lvw but ≤ 5750 lvw (grams/mile)	LDTs > 6000 gvwr and ≤ 3750 tw (grams/mile)	LDTs > 6000 gvwr and > 3750 tw but ≤ 5750 tw (grams/mile)	LDTs > 6000 gvwr and > 5750 tw but ≤ 8500 tw (grams/mile)
Tier 1 Gasoline Vehicle:					
NMHC ¹	0.25	0.32	0.25	0.32	0.39
CO	3.4	4.4	3.4	4.4	5.0
NO _x	0.4	0.7	0.4	0.7	1.1
TLEV:					
NMOG .	0.125	N/A	N/A	N/A	N/A
CO	3.4	N/A	N/A	N/A	N/A
NO _x	0.4	N/A	N/A	N/A	N/A
LEV:					
NMOG .	0.075	0.1	0.125	0.16	0.195
CO	3.4	4.4	3.4	4.4	5.0
NO _x	0.2	0.4	0.4	0.7	1.1
ULEV:					
NMOG .	0.04	0.05	0.075	0.1	0.117
CO	1.7	2.2	1.7	2.2	2.5
NO _x	0.2	0.4	0.2	0.4	0.6
ZEV:					
NMOG .	0.0	0.0	0.0	0.0	0.0
CO	0.0	0.0	0.0	0.0	0.0
NO _x	0.0	0.0	0.0	0.0	0.0

1 - For purpose of credit calculations, NMHC is assumed to be equal to NMOG.

TABLE X-B
EMISSION STANDARDS FOR DETERMINING CREDIT
WEIGHTINGS
Heavy-Duty Engine Emission Levels for Credit Calculations

Vehicle Category	HDV 8,501-26,000 gvwr (grams/brake horse-power per hour)
Conventional Vehicles:	
HC+NO _x ^{1,2}	5.3
CO	15.5
TLEV:	
NMHC+NO _x	N/A
CO	N/A

LEV:	
NMHC+NO _x	3.5
CO	15.5
ULEV:	
NMHC+NO _x	2.5
CO	7.2
ZEV:	
NMHC+NO _x	0.0
CO	0.0

1 - For the purposes of credit calculation, HC is assumed to be equal to NMHC.

2 - The conventional heavy-duty emissions standard is not a combined standard.

D. MERC generation shall be determined by multiplying the annual vehicle miles traveled per vehicle by the difference between the federal Tier I values in Table X-A or X-B and values for the appropriate certification by weight class of the vehicle purchased. MERC credits shall be calculated in accordance with the following formula:

$$\text{MERC} = (A - B) \text{VMT}$$

where:

MERC = Mobile emission reduction credit, expressed in grams per year.

A = Tier I credit weighting value (LEV standard after 1998), expressed in grams per mile.

B = Credit weighting value of vehicle purchased, expressed in grams per mile.

VMT = Vehicle miles traveled, expressed in miles per year.

E. MERCs shall be assigned based on the emission credit for the least stringent vehicle certification of either a bi-fuel or dual-fuel vehicle.

§ 10.3. MERC use and verification.

A. MERC use may include, but not be limited to, the following:

1. In situations involving delayed compliance or noncompliance penalties.
2. To satisfy emission reduction requirements beyond the reasonably available control technology requirements.
3. To satisfy reasonable available control technology requirements for existing sources.
4. To meet new source emissions offset requirements at the offset ratios specified in the federal Clean Air Act.

B. MERCs shall not be used to satisfy the requirements of (i) best available control technology, (ii) lowest achievable emission rate, (iii) new source performance standards, (iv) federal inspection and maintenance programs, and (v) employer trip reduction programs.

C. MERCs may be generated if they are based on controls which are surplus to any required controls or any trading activities which are allowed for within the guidance specific to the mobile source programs in subsection B of this section.

D. All MERCs generated in accordance with this program may be sold, traded, or held for later use without discount or depreciation of such credits.

E. MERCs generated in a program region (i) may be used in the same program region or (ii) may be used in another program region with an equal or higher air quality nonattainment classification than the area in which the source is located and emissions from such other area contribute to a violation of the national ambient air quality standard in the area in which the source is located.

F. All MERC uses and transactions shall be approved by the department on a case-by-case basis.

G. The department shall verify the existence of MERCs prior to any transactions pertaining to selling or trading of credits.

H. Falsification of certification of compliance or MERC generation shall constitute a violation of this regulation and the fleet owner shall be subject to enforcement procedures in Part IX.

§ 10.4. Reporting requirements.

A. All MERC Program participants shall file an annual report recording vehicle purchase and credit transactions for each model year in which they participate in the program.

B. The report shall be in a format acceptable to the department and shall include, but not be limited to, the following information:

1. Name of program participant.
2. Address of program participant.
3. Registration number provided by the department to the program participant.
4. Address and phone number of all fleet facilities or other sources of air pollution under the control of the program participant and subject to MERC credits.
5. Designated contact person for each fleet facility and source of air pollution subject to MERC credits.
6. Number of TLEV purchases, conversions and leased vehicles that meet TLEV standards.
7. Number of LDV purchases, conversions and leased vehicles that meet LEV standards.
8. Number of HDV purchases, conversions and leased vehicles that meet LEV standards.
9. MERC calculations for each vehicle and pollutant.

C. The report shall be submitted to the department within 30 days of the end of the calendar year.

§ 10.5. Legal binding agreements.

The department may use one or more of the following as a mechanism to make MERCs legally enforceable:

1. Consent agreement.
2. Consent order.

§ 10.6. Enforcement.

A. Any program participant that fails to carry-out any provisions of a legally-binding agreement entered into with the department may be subject to enforcement provisions in Part IX.

B. Failure to comply with the reporting requirements in § 10.4 may result in MERCs being invalid or other enforcement actions provided in Part IX.

PART XI.

REQUIREMENTS FOR FEDERAL FLEETS.

§ 11.1. Compliance by federal fleets.

A. Fleets owned or operated by any agency, department, or instrumentality of the United States shall comply with this regulation and shall be treated in the same manner as private or other government fleets.

B. Federal agencies shall obtain clean-fuel fleet vehicles from original equipment manufacturers, to the extent possible, as required under Section 248 of the federal Clean Air Act.

V.A.R. Doc. No. R96-21; Filed September 13, 1995, 11:53 a.m.

DOCUMENTS INCORPORATED BY REFERENCE

Executive Order 12759, Section 11, Alternative Fueled Vehicle for the Federal Fleet, Guidance Document for Federal Agencies.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-04-24, 13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

Statutory Authority: § 36-98 of the Code of Virginia.

Public Hearing Date: October 16, 1995 - 10 a.m.

Written comments may be submitted until December 29, 1995.

(See Calendar of Events section for additional information)

Basis: Section 36-98 of the Code of Virginia empowers and directs the Board of Housing and Community Development to adopt and promulgate a Uniform Statewide Building Code.

Purpose: The purpose of the proposed amendments is to (i) define when a permit is required for a tent or air-supported structure; (ii) better define to whom and when a notice of violation should be issued and served; (iii) place all reconstruction and change of use requirements for existing buildings in one section and clarify existing text making it

Proposed Regulations

more easily understandable; (iv) bring the wind zones for manufactured homes in line with federal standards; (v) change the required spacing of intermediate supports for guardrails from six inches to four inches; and (vi) remove vague and subjective language regarding ice damming on roofs of one and two dwellings.

Substance: These proposed amendments to the Uniforms Statewide Building Code will: (i) exempt tents and air-supported structures smaller than 900 square feet and occupied by less than 50 persons from permit requirements; (ii) clarify, pursuant to § 36-106 of the Code of Virginia, it is unlawful to violate the building code and clarify that once the certificate of occupancy is issued a notice of violation will only be served following the local government's legal counsel determining that action may be taken to compel abatement of the violation; (iii) better describe the requirements, processes and options when desiring to change the use of or renovate an existing building; (iv) change the areas of Virginia included in federal wind zones for anchoring manufactured homes to only Chesapeake, Norfolk, Portsmouth and Virginia Beach; (v) reduce the space between supports for guardrails from six inches to four inches; and (vi) require two layers of roofing on eaves only in areas where the average daily temperature is 25°F or less.

Issues: The advantages of this regulatory action will be (i) to allow use of tents and air-supported structures of a limited size with few occupants without obtaining a building permit and also bring the building and fire prevention codes in line; (ii) to make the notice of violation section better comport with statute and reduce confusion concerning application of this section; (iii) to help reduce regulatory barriers to urban revitalization of existing buildings and still maintain a proper degree of safety; (iv) to lower manufactured housing cost in areas previously in the wind zone; (v) to assure that no child will be able to pass through guardrail support members and fall; and (vi) to potentially lower construction cost of some steep slope roof buildings and still provide weatherproof roofs.

There are not anticipated disadvantages for the public, the agency or the related entities.

Estimated Impact: This proposed regulatory action is estimated to potentially impact all entities which: (i) erect tents or air-supported structures; (ii) violate the building code; (iii) revitalize an existing building; (iv) build and erect manufactured housing in areas previously in defined wind zones; (v) build guardrails; (vi) do roofing. Localities particularly affected by this proposed action are the following counties and all cities located therein, contiguous thereto, or to the east thereof: Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greenville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George except the cities of Chesapeake, Norfolk, Portsmouth and Virginia Beach regarding wind zones. There are no anticipated increased costs to the agency or to regulated entities, except for a slight increase to regulated entities for compliance with the guardrail support spacing.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB)

has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected number of persons and employment positions to be affected; and the projected costs to affected businesses or entities to implement or comply with the regulation. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation: The proposed regulation amends the Uniform Statewide Building Code (USBC) so as to:

- 1) clarify procedures relating to notification of violations to the USBC;
- 2) provide a better and more concise treatment of regulations governing the renovation of existing buildings;
- 3) exempt from permit requirements tents smaller than 900 square feet and occupied by less than 50 persons;
- 4) require two layers of roofing on eaves only in areas where the average January temperature is 25°F or less;
- 5) reduce the number areas in Virginia that are included in the federal wind zone and where anchoring is required for manufactured homes; and
- 6) reduce the required spacing between guardrail supports from six to four inches.

Estimated Economic Impact

Items 1 and 2

Items one and two (procedures relating to notification of violations to the USBC, and regulations governing the renovation of existing buildings) are primarily clarifications of the existing regulation. It is DPB's opinion that the likely economic effect of these clarifications will be to reduce uncertainty on the part of regulated entities regarding the intent and application of the regulation. Although this reduction in uncertainty is likely to have positive economic implications, it is not possible to quantify the magnitude or extent of their impact.

Items 3 through 5

The principal effect of items three through five is to reduce the number of entities, or circumstances, falling under the regulation.

Anecdotal evidence provided by DHCD indicates that the economic consequences of items three and four (exempting tents smaller than 900 square feet from permit requirements, and requiring two layers of roofing on eaves only in areas where the average January temperature is 25°F or less) should be minor. In each case, the anticipated effect is a small reduction in the costs of compliance for regulated entities with no corresponding reduction in public safety.

There is insufficient data at this time, however, to quantify the net economic impact of this effect.

Item four updates the regulation to comport with new wind zones and wind zone standards released by the federal Department of Housing and Urban Development. These standards reduce from 22 to four (Chesapeake, Norfolk, Virginia Beach, and Portsmouth) the number of Virginia cities or localities included in wind zone II (formerly called the hurricane zone), where anchoring is required for manufactured homes. The primary economic impact of this change is a small reduction in the costs associated with locating manufactured homes in the localities or cities formerly covered by the regulation. There is insufficient data at this time, however, to quantify the magnitude of this impact.

Item 6

Item six reduces from six to four inches the required spacing between guardrail supports. This change updates the regulation to reflect standards contained in the national CABO and BOCA codes. There are two economic consequences of this change - first, it will reduce the likelihood of injury resulting from children falling through guardrails, and second, it will increase the costs associated with new home construction. Although there is insufficient data to completely quantify the magnitude of either consequence, anecdotal evidence indicates that the increase in new home construction costs will be minor - on the order of approximately \$50 per new home.¹

Projected Number of Businesses or Other Entities to Whom the Regulation will Apply: The proposed regulation will apply to builders, contractors, and others involved in new home construction, revitalization of existing buildings, roofing work, and the location of manufactured homes.

Localities and Types of Businesses Particularly Affected: No localities are particularly affected, except those that no longer fall within the federal wind zone II (formerly called the hurricane zone).

Projected Number of Persons and Employment Positions Affected: The regulation is not anticipated to have a measurable effect on employment.

Projected Costs to Affected Businesses or Entities: The proposed regulation is expected to cause: 1) a minor decrease in compliance costs for those erecting tents smaller than 900 square feet, engaged in roofing, or locating manufactured homes in cities and localities no longer falling within the federal wind zone II; and 2) a minor increase in the costs of compliance for those engaged in new home construction involving guardrails.

Agency Response to Economic Impact Analysis: The department agrees with DPB's assessment of economic impacts.

¹ This estimate was taken from public comment on this proposed regulation and confirmed in a conversation with a representative of Builders and Associates of Central Virginia.

Summary:

These proposed amendments to the Uniform Statewide Building Code (i) exempt tents and air-supported structures smaller than 900 square feet and occupied by less than 50 persons from permit requirements; (ii) clarify, pursuant to § 36-106 of the Code of Virginia, that it is unlawful to violate the building code and clarify that once the certificate of occupancy is issued a notice of violation will only be served following the local government's legal counsel determining that action may be taken to compel abatement of the violation; (iii) better describe the requirements, processes and options when desiring to change the use of or renovate an existing building; (iv) change the areas of Virginia included in federal wind zones for anchoring manufactured homes to only Chesapeake, Norfolk, Portsmouth and Virginia Beach; (v) reduce the space between supports for guardrails from six inches to four inches; and (vi) require two layers of roofing on eaves only in areas where the average daily temperature is 25°F or less.

13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

CHAPTER 60.

VIRGINIA UNIFORM STATEWIDE BUILDING CODE, VOLUME I - NEW CONSTRUCTION CODE/1993.

CHAPTER PART 1.

ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.

13 VAC 5-60-10. General.

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

Note: See Volume II - Building Maintenance Code (13 VAC 5-70-10 et seq.) for maintenance regulations applying to existing buildings.

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

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction,

Proposed Regulations

alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The 1993 edition of the USBC was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

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

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

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

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

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.
2. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.
3. Manufacturing and processing machines and the following service equipment:
 - a. All electrical equipment connected after the last disconnecting means.
 - b. All plumbing appurtenance connected after the last shutoff valve or backflow protection device.
 - c. All plumbing appurtenance connected before the equipment drain trap.

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

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

5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations (13 VAC 5-30-10 et seq.).

SECTION 101.0.

13 VAC 5-60-20. Reference standards and amendments.

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

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1993 EDITION
(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators International, Inc.

4051 West Flossmoor Road

Country Club Hills, Illinois 60478-5795

Telephone No. (708) 799-2300

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

BOCA National Plumbing Code/1993 Edition

BOCA National Mechanical Code/1993 Edition

NFiPA National Electrical Code/1993 Edition

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

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

Building Officials and Code Administrators International, Inc.

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

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the USBC.

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

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

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

SECTION 102.0.

13 VAC 5-60-30. Local building departments.

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

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

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

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards (~~VR 304-01-2~~ 13 VAC 5-20-10 *et seq.*) within three years after the date of employment.

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

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

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in his trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards (~~VR 304-01-2~~ 13 VAC 5-20-10 *et seq.*).

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

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

Proposed Regulations

against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

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

SECTION 103.0.

13 VAC 5-60-40. Duties and powers of the building official.

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

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

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

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

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

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

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq. of the

Code of Virginia), (i) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, or (ii) after three years in the case of all other buildings.

SECTION 104.0.

13 VAC 5-60-50. Fees.

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

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

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

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

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

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

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

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

SECTION 105.0.

13 VAC 5-60-60. Application for construction permit.

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

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.

2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.
3. Installing or altering any equipment which is regulated by this code.
4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation of or additions to buildings or structures.

Exceptions:

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

- a. Painting.
- b. Roofing when not exceeding 100 square feet of roof area.
- c. Glass when not located within specific hazardous locations as defined in Section 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
- d. Doors, except those in fire-rated wall assemblies or exitways.
- e. Floor coverings and porch flooring.
- f. Repairs to plaster, interior tile work, and other wall coverings.
- g. Cabinets installed in residential occupancies.
- h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fire-resistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group building except Use Groups H and F.

4. *Tents and air-support structures covering an area 900 square feet (84 m²), or less, including all connecting areas and spaces with a common means of egress, or entrance, and having an occupant load of 50 or less.*

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

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

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

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

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

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.

2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

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

105.5.1. Site plan. The application shall also contain a site plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades

Proposed Regulations

and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations, repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

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

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

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

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

~~105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives a certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in~~

~~accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1026.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.~~

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

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

~~1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or~~

~~2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.~~

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

~~105.11. 105.10. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.~~

~~105.12. 105.11. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for~~

reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0.

13 VAC 5-60-70. Professional engineering and architectural services.

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

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

SECTION 107.0.

13 VAC 5-60-80. Approval of materials and equipment.

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

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

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

SECTION 108.0.

13 VAC 5-60-90. Interagency coordination - functional design.

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

SECTION 109.0.

13 VAC 5-60-100. Construction permits.

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

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

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

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

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

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

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

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

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

Proposed Regulations

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

SECTION 110.0.

13 VAC 5-60-110. Inspections.

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

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

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

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

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

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

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and to confirm continuation of work per Section

109.8 or for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

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

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

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

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

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

SECTION 111.0.

13 VAC 5-60-120. Workmanship.

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

SECTION 112.0.

13 VAC 5-60-130. Violations.

112.1. Code violations prohibited. ~~No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC. Pursuant to § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the~~

effective date of any code provisions, to violate any such provisions.

112.2. Notice of violation. The building official shall serve a notice of violation ~~on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC.~~ to the responsible party as determined under Section 112.1 if the violation has not been remedied within a reasonable time. Such order shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. ~~Such notice of violation shall be in writing and be served by either delivering a copy of the notice to such person by mail to the last known address, delivering the notice in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.~~

Exception: If the violation is discovered after the certificate of occupancy is issued, the notice of violation shall only be issued upon determination by the legal counsel of the jurisdiction that action may be taken to compel correction of the violation.

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

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

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

SECTION 113.0.

13 VAC 5-60-140. Stop work order.

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

covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

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

SECTION 114.0.

13 VAC 5-60-150. Posting buildings.

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

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

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

SECTION 115.0.

13 VAC 5-60-160. Certificate of use and occupancy.

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

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

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

~~115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has~~

Proposed Regulations

~~heretofore been issued, shall not be used until a certificate for the changed use group has been issued.~~

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

~~115.6.~~ 115.4. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0.

13 VAC 5-60-170. Appeals.

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

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

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

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

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

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

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official concerning the application of the USBC or his refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall submit a written request for appeal to the BBCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the building official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the building official's decision.

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

116.7. Hearing procedures. All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

116.7.1. Postponement. When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

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

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

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

Copies of the resolution shall be furnished to all parties.

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

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

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

SECTION 117.0.

13 VAC 5-60-180. Existing buildings and structures.

~~417.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fire-resistance rating shall be made with materials required for a new structure.~~

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

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

~~Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial~~

~~automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.~~

117.1. Continued use. Provided there are no violations of the USBC Volume II (13 VAC 5-70-10 et seq.) or the Virginia Statewide Fire Prevention Code (13 VAC 5-50-10 et seq.) and the building use has not changed, an existing building shall not be prevented from continued use and the building official shall issue a certificate of occupancy (CO) upon written request from the owner or his agent.

117.2. Change in use. The owner or his agent shall, in writing, apply to and obtain from the building official a new CO prior to changing the use of a building. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new use, the owner or his agent shall, in writing, apply and obtain a permit. When it is impractical to achieve compliance with the USBC, the building official shall, upon application, issue modifications as provided in Section 103.2.

117.3. Reconstruction, alteration or repair. Reconstruction, alteration or repair shall not adversely affect the performance of, or cause the building to become unsafe and shall not be used as justification for requiring any other part of the building to be brought into compliance with the current USBC. Work shall be done in such a way so as not to lower existing levels of health and safety. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. Used material and equipment may be used as approved by the building official.

417.1.4. 117.3.1. Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.

Exceptions:

1. Improvements required under Volume II of the USBC necessary to assure safe living conditions (13 VAC 5-70-10 et seq.).
2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.

~~417.1.2. Requirements for accessibility. 117.3.2. Accessibility requirements. Buildings and structures which are altered or to which additions are added undergo alterations shall comply with applicable requirements of Chapter 11.~~

~~117.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An~~

Proposed Regulations

~~application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.~~

~~417.3. 117.3.3 Alternative method of compliance. Compliance with the provisions of Chapter 34 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of alternative to complying with this code 13 VAC 5-60-180.~~

117.3.4. *Asbestos certifications. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirement of the Clean Air National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M) and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto. An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).*

Exceptions: The provisions of this section shall not apply:

1. To single-family dwellings, or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purpose.

2. If the combined amount of regulated asbestos-containing material involved in the renovation or demolition is:

- a. Less than 260 linear feet on pipes,*
- b. Less than 160 square feet on other facility components, or*
- c. Less than 35 cubic feet when removed from facility components when the length or area could not be measured prior to approval.*

117.3.4.1. *Replacement of roofing, floorcovering, or siding materials. To meet the certification requirements of Section 117.3.4 renovation projects consisting only of repair or*

replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replace are assumed to contain asbestos and that asbestos installation, removal or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor, or

2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

117.4. *Permits. The owner or his agent shall, in writing, apply to and obtain from the building official a permit as provided in 13 VAC 5-60-60.*

117.5. *Approval of materials. The building official shall approve materials and equipment used in existing buildings in accordance with this section and as provided in 13 VAC 5-60-80.*

117.6. *Appeals. The owner, his agent, or any other person involved in the design or construction of the building may appeal a decision of the building official as provided in 13 VAC 5-60-170.*

SECTION 118.0.

13 VAC 5-60-190. *Moved buildings.*

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

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

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

SECTION 119.0.

13 VAC 5-60-200. *Unsafe buildings.*

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

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

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

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

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

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

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

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

119.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or

which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

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

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

SECTION 120.0.

13 VAC 5-60-210. Demolition of buildings.

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

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

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

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1993 EDITION.

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

CHAPTER 1.

ADMINISTRATION AND ENFORCEMENT.

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

Proposed Regulations

CHAPTER 2. DEFINITIONS.

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

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

Dwellings:

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

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

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

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

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

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

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

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

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

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

or parts thereof" unless the context clearly requires a different meaning.

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

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

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

"Historic building" means any building that is:

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

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

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

"Night club" means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food or alcoholic beverages or both; and provides music and space for dancing.

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

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

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

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

CHAPTER 3.
USE OR OCCUPANCY.

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

(B) Reserved.

CHAPTER 4.
SPECIAL USE AND OCCUPANCY.

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

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

(B) Change Section 420.0 to read as follows:

SECTION 420.0.
MOBILE UNITS AND MANUFACTURED HOMES.

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

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

420.3. Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each

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

420.3.1. Hurricane Wind zone. Manufactured homes installed or relocated in the hurricane wind zone shall be of Hurricane and Windstorm Resistive design designed in accordance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) and shall be anchored according to the manufacturer's specifications for the hurricane wind zone. The hurricane Wind zone II includes the following counties and all cities located therein, contiguous thereto, or to the east thereof: Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greenville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George. : Chesapeake, Norfolk, Portsmouth and Virginia Beach.

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

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

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

420.5. Skirting. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to

Proposed Regulations

open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

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

**SECTION 422.0.
MAGAZINES.**

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

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

**SECTION 423.0.
STORAGE TANKS.**

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

**CHAPTER 9.
FIRE PROTECTION SYSTEMS.**

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

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

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

Exceptions.

1. Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 12 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.

2. Buildings where all dwelling units or bedrooms are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedrooms of a dormitory or boarding house and every two dwelling units or bedrooms of a dormitory or boarding house are separated from other dwelling units or bedrooms of a dormitory or boarding house in the building by fire separation assemblies (see Sections 709.0 and 713.0) having a fire resistance rating of not less than two hours.

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

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

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 503.3, 504.2, 506.3, 705.2.3, 705.3.1, 720.7.1, 720.7.2, 803.4.3, and any others not specifically listed shall be granted.

4. The requirements of Section 403.0 for high-rise buildings, such as, but not limited to voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(C) Change Section 917.4.6 to read as follows:

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

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

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

**CHAPTER 10.
MEANS OF EGRESS.**

(A) Reserved.

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

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

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

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

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

(C) Add new Section 1017.4.4.1.

1017.4.4.1. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped

with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

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

(D) Add new Section 1017.4.4.2.

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

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

CHAPTER 11.
ACCESSIBILITY.

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

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

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

Exceptions:

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

1101.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

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

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

CHAPTER 12.
INTERIOR ENVIRONMENT.

(A) Add the following definitions to Section 1202.1:

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

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

(B) Add new Section 1208.5 as follows:

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

(C) Add new Section 1214.4 as follows:

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

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

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

1. 65-69 Day-Night average sound level (Ldn) zone; roof/ceiling and exterior walls 39 STC, doors and windows 25 STC.
2. 70-74 Ldn zone; roof/ceiling and exterior walls 44 STC, doors and windows 33 STC.
3. 75 or greater Ldn zone; roof/ceiling and exterior walls 49 STC, doors and windows 38 STC.

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

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

(D) Add new Section 1216.0 as follows:

SECTION 1216.0.
HEATING FACILITIES.

1216.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest

Proposed Regulations

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

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

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

Exceptions:

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

CHAPTER 13. ENERGY CONSERVATION.

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

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

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

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

CABO Model Energy Code (MEC) 1993 Edition

CHAPTER 15. ROOFS AND ROOF STRUCTURES.

Change Section 1507.2 to read as follows:

1507.2. Steep-slope roof coverings. Steep-slope roof covering materials and installations shall comply with Sections 1507.2.1 through 1507.2.9. In areas where the average daily temperature in January is 25°F (4°C) or less, an ice shield that consists of at least two layers of underlayment cemented together or of a waterproofing

membrane shall extend from the eave's edge to a point at least 24 inches (610 mm) inside the exterior wall line of the building.

CHAPTER 16. STRUCTURAL LOADS.

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

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

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

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

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

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

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

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

CHAPTER 17. STRUCTURAL TESTS AND INSPECTIONS.

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

1701.4. Lead based paint. Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1705.1 to read as follows:

1705.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be

provided by the owner and shall be qualified and approved for the inspection of the work described herein.

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

(C) Delete Section 1705.12, Special cases.

CHAPTER 21. MASONRY.

Revise Section 2104.2 by adding an exception to read:

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

CHAPTER 23. WOOD.

Add new Section 2310.2.3 to read as follows:

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

CHAPTER 27. ELECTRIC WIRING, EQUIPMENT AND SYSTEMS.

(A) Change Section 2701.1 to read as follows:

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

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

(B) Add Section 2701.5 to read as follows:

2701.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 28. MECHANICAL SYSTEMS.

(A) Change Section 2801.2 to read as follows:

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

1. Delete Chapter 17, Air Quality.

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

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

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

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

CHAPTER 29. PLUMBING SYSTEMS.

(A) Change Section 2901.1 to read as follows:

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

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

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

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

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

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

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

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

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

Proposed Regulations

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

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

7. Add new Section P-1503.3:

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

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

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

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

9. Delete Chapter 16, Individual Water Supply.

(B) Change Section 2905.3 to read as follows:

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

(C) Change Section 2906.1 to read as follows:

2906.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

CHAPTER 31. SPECIAL CONSTRUCTION.

(A) Delete Section 3102.4.1, New signs.

(B) Delete Section 3102.4.4, Construction Documents and Owner's Consent.

(C) Delete Section 3107.10, Alterations and Repairs.

CHAPTER 33. SITEWORK, DEMOLITION AND CONSTRUCTION.

(B) Change Section 3301.1 to read as follows:

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

CHAPTER 35. REFERENCED STANDARDS.

Add the following standard:

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

ADDENDUM 2.

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

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

CHAPTER 1. ADMINISTRATIVE.

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

CHAPTER 2. BUILDING PLANNING.

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

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

feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

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

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

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

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

SECTION R-206.
SANITATION.

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

(D) Add to Section R-211:

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

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

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

~~Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.~~

(F) (E) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an

alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

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

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

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

SECTION R-223.
TELEPHONE OUTLETS

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

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

SECTION R-224.
LEAD BASED PAINT

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

CHAPTER 3.
FOUNDATIONS.

Add Section R-301.6 to read as follows:

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

CHAPTER 8.
ROOF COVERINGS.

Change Section R-803.3 to read as follows:

R-803.3. Slopes less than four inches in 12 inches but not less than two inches in 12 inches. Nominally double-coverage asphalt shingles may be installed on slopes as low as two inches in 12 inches, provided the shingles are approved self-sealing shingles or are hand sealed and are installed with an underlayment consisting of two layers of No. 15 felt, applied as required in Section R-802 and Table No. R-803.4. In areas where the January average daily temperature is 25°F or less, the two layers of felt shall be cemented together, in addition to the required nailing, from the eaves up the roof to overlie a point 24 inches inside the interior wall line of the building. Asphalt shingles shall not be used on roofs with slopes less than two inches in 12 inches.

PART VII.
ENERGY CONSERVATION.

Revise Part VII as follows:

Proposed Regulations

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

VA.R. Doc. No. R96-16; Filed September 13, 1995, 11:50 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

Title of Regulation: VR 480-04-3. Certification Requirements for Mineral Miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

Public Hearing Date: November 15, 1995 - 10 a.m.

Written comments may be submitted until December 1, 1995.

(See Calendar of Events section for additional information)

Basis: This regulation is being promulgated under the authority of § 45.1-161.46 of the Code of Virginia. The section sets forth the authority of the Board of Mineral Mining Examiners to develop a regulation for the certification of mineral miners and meet the requirements of the Virginia Mine Safety Act.

Purpose: The purpose of this regulation is to set forth requirements for the certification of persons performing specialized tasks in mineral mines in order to protect the health, safety and welfare of persons in and around mineral mines.

Substance: The regulation sets forth requirements for the certification of mineral miners. This includes requirements for initial certification, examinations, reciprocity, renewal and experience, and education requirements for each specific type of certification. The regulation also establishes new requirements for a general mineral miner certification mandated by the Virginia Mine Safety Act.

Issues: The primary advantage to the public in implementing this regulation is that it serves to protect the health, safety and welfare of persons on mine sites and persons in the vicinity of mineral mines. Improper actions by mineral miners are a significant cause of accidents and fatalities in work that is inherently dangerous. Likewise, use of explosives and other mining practices may cause injuries, fatalities and property damage near the mine site. Certification ensures that mineral miners have the knowledge and experience to complete their tasks safely and efficiently. The advantage to the Commonwealth is that this action will serve to separate the certification requirements for the coal and mineral mining industries and allow for more efficient and effective administration of the regulation program. There are no disadvantages associated with this regulation from the agency's or public's standpoint.

Estimated Impact: The regulation will affect those mineral mine workers seeking certification and renewal of certification, and new workers who are required to obtain the general mineral miner certification. It will also affect the companies who employ the workers and the people who live or work in the vicinity of the mine.

The Division of Mineral Mining (DMM) estimates that approximately 1,375 certified persons are actively working and would be renewing their certification under the requirements in the new Mine Safety Act. This means the division would be renewing approximately 275-300 certifications a year over the next five years as the requirements are phased in over this period. It is estimated that 80% (240 workers) would opt to take the class and 20% (60) would choose the examination. There is no charge to certificate holders to take the eight hour class, though the employer may pay for him to attend. If training was paid, it is estimated that this would cost \$11 per hour per person or \$88. If the certificate holder chose to renew through the examination, it would be less expensive for the employer, as the examination would take no more than half a day.

It is estimated that 400 workers will be entering the mineral mining industry each year and applying for the general mineral miner certification. Employers may either provide this training themselves or take advantage of training offered by DMM. The longest that the required training on first aid and mineral mining laws and regulations would last is eight hours. Based on this estimate, and an \$8 an hour wage for these workers, employers who paid for this training would pay \$64. Some workers, however, would not be employed at the time of training, others would already meet the first aid requirements and not have to take all of the training, and others may be offered training that covers the required information in a shorter period of time. In addition, some workers may choose to take an exam in lieu of training which would take less time than any training. Other cost considerations are that the employer would need to cover the cost of a trainer to provide the training and devise a test if he chose to offer this as an option to his employee. These costs will vary depending on the salary of the trainer and the length and type of training provided.

The record keeping requirements for both of these new legal requirements are minimal for employers. The only information that might not be kept ordinarily as part of personnel records would be the date that workers entered the mineral mining industry, which is needed to determine if they would qualify for an exemption for the general mineral miner certification, and a copy of the completed forms submitted to DMM and a record of the certification received.

These requirements are also minimal, both in terms of time and money, for workers. Illiterate workers are even given the option of taking an oral exam for the general mineral miner certification.

The cost of administering the renewal and general mineral miner program will be paid for largely by the existing appropriation to the agency, but also by the \$10 certification fee. Mineral mines are located throughout the state so all localities will be affected by the regulation.

The cost of the regulations for other certificate holders will not be different than it is under the current regulation.

Summary:

The Board of Mineral Mining Examiners is promulgating a permanent regulation for the certification of mineral miners performing specialized tasks at a mineral mine. The regulation implements § 45.1-161.46 of the Code of

Virginia and will replace the Board of Examiners regulation VR 480-04-2 as it pertains to mineral miners.

The regulation sets forth requirements for mineral miners apart from coal miners as mandated by the Virginia Mine Safety Act which became effective on July 1, 1994. In addition to establishing the new general mineral miner certification requirements, the regulation includes requirements for initial certification, examinations, reciprocity, renewal and experience and education requirements for each specific type of certification. The board will no longer issue certifications for first aid instructor and advanced first aid.

VR 480-04-3. Certification Requirements for Mineral Miners.

PART I. GENERAL AND SPECIFIC REQUIREMENTS.

§ 1.1. Initial certification requirements.

A. Applicants shall submit:

1. The Application for Certification Examination form (BMME-1).
2. A copy of all degrees required for certification and a valid first aid certificate or card or as noted in Part II, Minimum Certification Requirements. When not otherwise specified, first aid cards shall be issued by an organization that uses nationally recognized standards and is approved by the Division of Mineral Mining (DMM), e.g., American Red Cross and National Safety Council.
3. A \$10 fee for each examination application received at least five working days prior to an examination. Cash will be accepted if paying in person at a Department of Mines, Minerals and Energy (DMME) office.
4. A Verification of Work Experience form (BMME-2) and documentation of equivalent work experience for approval by DMM, if required for the certification. This form shall be signed by a company official who is knowledgeable of the experience of the applicant and shall be notarized.

B. Applicants shall fulfill the requirements of § 1.1 and accumulate the required years of experience within five years of taking the examination or start the process over including payment of fee.

C. Applicants for the general mineral miner certification shall submit a \$10 processing fee with their application.

D. Persons requesting replacement of a lost or destroyed certificate shall submit a letter to DMM with a \$1.00 fee. The fee shall be in the form of a certified check, cashier's check or money order made payable to the Treasurer of Virginia per § 45.1-161.50 of the Code of Virginia. Cash will be accepted if paying in person at a DMME office.

§ 1.2. Examination requirements.

A. All applicants for certification shall take a written examination except candidates for the general mineral miner certification, and electrical certification applicants who hold a journeyman card or those applicants with comparable work

experience acceptable to DMM under § 2.6 A. Applicants for the foreman certification shall score at least 85% and applicants for other certifications shall score at least 80% on each section of the written examination.

B. If all or part of an examination is failed, the applicant must pay the examination fee and retake the failed section or sections within 90 days to continue the certification process. If a section of the examination is failed a second time, the applicant must pay the fee and retake the entire examination. If the examination is failed on the third try, the applicant must pay the fee and wait the longer of 90 days from the re-examination date or one year from the initial examination date before retaking the entire exam. After the third attempt, the application cycle starts over.

§ 1.3. Reciprocity requirements.

Reciprocity shall be available for certified persons in other states as provided for in § 45.1-161.51 of the Code of Virginia. Applicants for reciprocity must submit a current copy of their pocket card or certificate, examination grades, and documentation of equivalent work experience for review and approval by the Board of Mineral Mining Examiners (BMME).

§ 1.4. Renewal requirements.

A. Certificates issued by the Board of Examiners (BOE) prior to July 1, 1994, shall be accepted as valid until the BMME issues a certificate to replace the BOE certificate. The BMME will issue replacement certificates with expiration dates spread between 1996 until 1999. No BOE certificate shall be valid after July 1, 1999.

B. DMM will send renewal notices to the last known address of the certificate holder at least 180 days prior to the expiration of the certificate. Certified persons shall apply for renewal of certificates by submitting the Application for Renewal form (BMME-3) and the Verification of Work Experience form (BMME-2) to DMM no more than 180 days prior to the expiration of their certificate. The forms shall be submitted in time to be received at least five working days prior to the date of the examination or refresher class.

C. Certified persons, except mine inspectors, who have worked a cumulative minimum of 24 months in the last five years, shall select one of two options to renew their certificates; either take an examination or complete a refresher class on any changes in regulations and law since the initial certification or the certificate was last renewed. No examination or class shall be required if there have been no such changes.

D. Certified persons shall take the examination described in § 1.2 if their certificate has expired, they have not worked in the area for which they are certified for a cumulative minimum of 24 months in the last five years, or DMM has issued the individual violations which have not been corrected.

E. Successful completion of the mine inspector renewal shall suffice for renewing the mine foreman certification.

F. Applicants for renewal of certifications shall hold a valid first aid certificate or card to renew their certification.

Proposed Regulations

G. Applicants shall submit a \$10 fee for the examination or the refresher class which shall be received at least five working days prior to the examination or class. Cash will be accepted if paying in person at a DMME office.

PART II.

MINIMUM CERTIFICATION REQUIREMENTS.

§ 2.1. Underground foreman.

A. Applicants for certification as an underground foreman shall possess five years mining experience at an underground mineral mine or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a surface foreman certificate or bachelor degree in mining engineering, mining technology, civil engineering or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

§ 2.2. Surface foreman.

A. Applicants for certification as a surface foreman shall possess five years mining experience, at least one year at a surface mineral mine, or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a bachelor degree in mining engineering, mining technology, civil engineering, civil technology or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

§ 2.3. Surface foreman, open pit (not applicable to mines with on-site blasting).

A. Surface foreman, open pit applicants shall possess five years mining experience with at least one year at a surface mineral mine, or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a bachelor degree in mining engineering, mining technology, civil engineering, civil technology or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

§ 2.4. Surface blaster.

A. Surface blaster applicants shall possess one year blasting experience on a surface mineral mine under the supervision of a certified blaster or possess equivalent work experience approved by DMM.

B. Applicants shall possess a valid Mine Safety and Health Administration (MSHA) 5000-23 form showing training in first aid.

§ 2.5. Underground mining blaster.

A. Underground mining blaster applicants shall possess two years of work experience in an underground mine with at least one year handling and using explosives underground or possess equivalent work experience approved by DMM.

B. Applicants shall possess a valid MSHA 5000-23 form showing training in first aid.

§ 2.6. Mineral mining electrician (electrical repairman).

A. Applicants for certification as a mineral mining electrician shall hold a valid journeyman electrical certification issued under Department of Professional and Occupational Regulation, Board for Contractors' criteria or possess equivalent work experience approved by DMM.

B. Applicants shall submit documentation of training as required by 30 CFR Part 48 or provide evidence of their knowledge of safe working practices on the mine site as approved by DMM.

§ 2.7. Mine inspector.

In addition to the requirements set forth in § 45.1-161.19 of the Code of Virginia, mine inspector applicants shall demonstrate knowledge and competence in those areas specified in § 45.1-161.20 of the Code of Virginia through the examination process. A certificate will not be issued until an applicant is employed by DMME.

§ 2.8. General mineral miner.

A. As set forth in § 45.1-161.55 of the Code of Virginia, miners commencing work after January 1, 1996, shall have a general mineral miner certification. For the purposes of these regulations, "commencing work" means after employment but before beginning job duties. Persons excluded from the general mineral miner certification are those involved in delivery, office work, maintenance, service and construction work, other than the extraction and processing of minerals, who are contracted by the mine operator. Hazard training as required by 30 CFR Part 48 shall be provided to these persons.

B. Applicants shall complete certification training in first aid and mineral mining regulations and law which is conducted by a certified foreman or training instructor approved by DMM. Training shall include the following topics, subtopics and practical applications:

1. First aid training shall convey a knowledge of first aid practices including identification of trauma symptoms, recognition and treatment of external and internal bleeding, shock, fractures, and exposure to extreme heat or cold. To prove to the BMME that an applicant has knowledge of first aid practices, the training shall include a demonstration of skills or passing a written examination, as evidenced by the instructor certification as contained in the BMME-4 form.

2. Law and regulation training shall convey highlights of the mineral mine safety laws of Virginia and the safety and health regulations of Virginia. Specifically, information shall be provided on miner responsibilities and accountability, certification requirements, violations,

penalties, appeals and reporting violations to DMM. To prove to the BMME that an applicant has knowledge of the mineral mine safety laws of Virginia and the safety and health regulations, the training shall include a demonstration of skills or passing a written examination, as evidenced by the instructor certification as contained in the BMME-4 form.

C. The trainer will certify to the BMME that the training and demonstrations required by § 45.1-161.55 B of the Code of Virginia and this section have occurred by completing the BMME-4 form.

D. Applicants who hold a valid first aid card or certificate as noted in §1.1 shall be considered to have met the first aid requirements.

E. Applicants who have completed training may commence work and shall be considered provisionally certified for up to 60 days from the date the instructor completes the training.

F. The instructor shall submit a BMME-4 form and the \$10 fee for each applicant who completes the training, together with a class roster of all persons who complete the training, within 30 days of the training date.

G. The mine operator shall maintain the following records for those miners required to obtain a general mineral miner certification and those who qualify for exemption, starting January 1, 1996:

1. The employee name, address, phone number.
2. The job title, employment date and general mineral miner number if applicable.
3. The date training was completed and the instructor providing it for nonexempt employees.
4. If the employee is exempt from the requirements, the date they began working in the mineral mining industry in Virginia.

4. I hereby certify, under the penalties of perjury, that the information related to this applicant's experience as submitted on this form is correct.

Name printed and signed _____
company official title date

5. State of _____ county/city of _____ to wit: I, _____
a notary public in and for the State and county/city aforesaid, do certify that
_____ whose name is signed to #4 above, company official on the ____ day
of _____, 19__ has acknowledged the same before me in my county/city aforesaid. Given
under my hand this ____ day of _____, 19__
notary public

My commission expires the _____ day of _____, 19__.

SEAL

BMME-2 Rev. 3/14/95

APPLICATION FOR RENEWAL Board of Mineral Mining Examiners

Type or print this application in ink and complete the VERIFICATION OF WORK EXPERIENCE form (BMME-2), listing work experience acquired since initial certification or renewal. Submit the \$10 fee for the examination or refresher course in the form of a certified check, cashier's check, or money order made payable to the TREASURER OF VIRGINIA. Cash will be accepted if paid in person at a DMME office. Submit to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727 so that it is received at least FIVE WORKING DAYS prior to the date of examination or class.

1. Full name _____ Home phone no. (____) _____

Address _____
street or P.O. Box city state zip code

2. Certificate no. _____ Certificate expiration date _____

3. Requesting renewal as an:
underground foreman _____ mine inspector _____
surface foreman _____ surface blaster _____
surface foreman - open pit _____ underground mining blaster _____
mineral mining electrician _____

4. Check the statement that applies to you:
a. I have worked a cumulative minimum of 24 months in the last five years in the area for which I am currently certified and am requesting the examination or refresher class covering changes in regulations and laws. _____
b. My card has expired, I have not worked in the area for which I am certified for a cumulative minimum of 24 months in the last five years, or I have uncorrected violations (described in 6. below), so I am requesting the examination. _____

5. If you checked a., mark your choice for renewal: examination _____ refresher course _____

6. If you checked b. above, describe any uncorrected violations issued to you by DMME since you were certified. _____

Continue on back if necessary.

7. Attach a copy of your valid first aid certificate or card, first aid instructor certification or journeyman card, as applicable to your certification, and the \$10 fee.

I HEREBY CERTIFY THAT THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed _____ Date _____

Proposed Regulations

VERIFICATION OF TRAINING COMPLETED FOR GENERAL MINERAL MINER CERTIFICATION Board of Mineral Mining Examiners

Type or print this application in ink and submit it to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727 with a \$10 processing fee in the form of a certified check, cashier's check, or money order made payable to the TREASURER OF VIRGINIA. Cash will be accepted if paid in person at a DMME office. Applicants who are employed and have completed training shall be provisionally certified for *up to 60 days* from the date of the training.

1. Full name _____ S.S. # _____
Note: Disclosure of social security number is voluntary.

2. Address _____
street or P.O. Box city state zip code

3. Home phone no. () _____ Date of employment _____

4. Employer/company name _____ Mine name _____

VA mine ID number _____ Employer phone number () _____

Address _____
street or P.O. Box city state zip code

5. Job title/description of job duties _____

6. I received training in first aid, or I have attached a copy of my valid first aid card, and received training in Virginia's mineral mining law and regulations on _____
date or dates

I HEREBY CERTIFY THAT THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed _____ Date _____
Signature of applicant for certification

I HEREBY CERTIFY TO THE BMME THAT THE TRAINING I PROVIDED TO THE APPLICANT SET FORTH ABOVE MEETS THE REQUIREMENTS OF VIRGINIA CODE §45.1-161.55.B., VR 480-04-3 §2.8.B (1) AND §2.8.B (2) AND THE APPLICANT HAS SATISFACTORILY PROVED TO ME THE REQUIRED KNOWLEDGE OF FIRST AID PRACTICES AND THE MINE SAFETY LAWS OF VIRGINIA.

Name printed and signed _____
Certified foreman or instructor approved by DMM providing training

Cert. No. _____

Name printed and signed when the applicant is hired _____
Mine operator employing applicant

BMME-4 3/23/95

VA.R. Doc. No. R96-19; Filed September 13, 1995, 11:44 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

REGISTRAR'S NOTICE: The State Council of Higher Education for Virginia is claiming that the repeal of VR 380-03-06 is exempt from the Administrative Process Act in accordance with § 9-6.14:4 1 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Title of Regulation: VR 380-03-06. **Policies and Procedures for the Eminent Scholars Program (REPEALED).**

Statutory Authority: § 23-9.6:1 of the Code of Virginia.

Effective Date: September 1, 1995.

Summary:

At the request of the council, in response to Executive Order 15(94), the Office of the Attorney General has determined that the agency does not have the statutory authority to promulgate VR 380-03-06, Policies and Procedures for the Eminent Scholars Program. The policies and procedures will be maintained as internal guidelines and continue to be used to administer the Eminent Scholars Program.

Agency Contact: Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 North 14th Street, 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

VA.R. Doc. No. R96-2; Filed September 1, 1995, 11:52 a.m.

BOARD OF NURSING AND BOARD OF MEDICINE

Title of Regulation: [~~VR 495-02-1 and VR 465-07-1.~~ 18 VAC 90-30-10 et seq.] Regulations Governing the Licensure of Nurse Practitioners.

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

Effective Date: November 1, 1995.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Corinne F. Dorsey, Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9909.

Summary:

These regulations have been adopted by the Boards of Nursing and Medicine in order to comply with the legislative request for appropriate definitions for terms affecting interdependent health care practices that describe and govern the relationship between physicians and nurse practitioners. Accordingly, new definitions for collaboration and medical direction and supervision were added to regulations, and the existing definition for supervision was deleted. Amendments to definitions and the practice requirements for nurse practitioners were adopted to utilize the amended terminology.

In addition, the boards adopted amendments to clarify the categories of nurse practitioners, to correct the names of certifying agencies, and to conform terminology in disciplinary matters to the Administrative Process Act.

Preamble:

Authority granted under these regulations may be expanded or restricted, or totally revoked, if the boards are of the opinion that the public health, safety or welfare is not being served or protected by the regulations. It should be clearly understood by each applicant and the recipient of licensure as a nurse practitioner that the conditions stated herein are a part of such licensure.

All provisions of these regulations are narrowly construed. Nothing herein is to be deemed to limit or prohibit a nurse from engaging in those activities which normally constitute the practice of nursing or those which may be performed by persons without the necessity of a license from the Board of Nursing.

18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.

[CHAPTER 30.

REGULATIONS GOVERNING THE LICENSURE OF NURSE PRACTITIONERS]

PART I.

GENERAL PROVISIONS.

[§ 1.1. 18 VAC 90-30-10.] Definitions.

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

"Accredited program" means a nurse practitioner education program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, American Nurses' Association or National League for Nursing.

"Approved program" means a nurse practitioner education program that meets the criteria set forth in these regulations.

Final Regulations

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Collaboration" means the process by which a nurse practitioner, in association with a physician, delivers health care services within the scope of practice of the nurse practitioner's professional expertise and with medical direction and [appropriate] supervision, consistent with these regulations.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Controlling institution" means the college or university offering a nurse practitioner education program.

~~["Direction and appropriate supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for ongoing communications which provide for and define appropriate consultation between the collaborating parties; and periodic joint evaluation of services provided, e.g., chart review, case review, and review of patient care outcomes.]~~

"Licensed nurse practitioner" means a registered nurse who has met the requirements for licensure as stated in Part II [of these regulations] and has been licensed by the boards who practices in the category of either a nurse practitioner, certified registered nurse anesthetist or certified nurse-midwife.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

~~["Medical direction and supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for availability and ongoing communications which provide for and define consultation among the collaborating parties and the patient; and periodic joint evaluation of services provided, e.g., chart review, case review, and review of patient care outcomes.]~~

"National certifying body" means a national organization that has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in these regulations as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a licensed nurse practitioner who supervises and evaluates the nurse practitioner student.

"Protocol" means a written statement, jointly developed by the collaborating physician(s) and the licensed nurse practitioner(s) participating in an arrangement for treatment of clients, that delineates and directs and describes the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner(s) in the care and management of [clients patients]. ~~[Protocol shall also mean a written statement developed by an institution granting hospital privileges and the licensed nurse practitioner.]~~

~~"Supervision" means that the physician documents being readily available for medical consultation by the licensed nurse practitioner or the client, with the physician maintaining ultimate responsibility for the agreed upon course of medical treatment.~~

~~[§ 1.2. 18 VAC 90-30-20.] Delegation of authority.~~

A. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

B. All records and files related to the licensure of nurse practitioners shall be maintained in the office of the Virginia Board of Nursing.

~~[§ 1.3. 18 VAC 90-30-30.] Committee of the Joint Boards of Nursing and Medicine.~~

The presidents of the Boards of Nursing and Medicine respectively shall each appoint three members from their boards to the Committee of the Joint Boards of Nursing and Medicine. The purpose of this committee shall be to administer the Regulations Governing the Licensure of Nurse Practitioners.

~~[§ 1.4. 18 VAC 90-30-40.] Advisory Committee on the Licensure of Nurse Practitioners.~~

The committee of the Joint Boards of Nursing and Medicine, in its discretion, may appoint an advisory committee on the Licensure of Nurse Practitioners. Such an advisory committee shall be comprised of four licensed physicians and four licensed nurse practitioners, of whom one shall be a certified nurse midwife practitioner, one shall be a certified registered nurse anesthetist practitioner and two shall be nurse practitioners from other categories. Appointment to the advisory committee shall be for four years, with one physician and one licensed nurse practitioner appointed annually. Members may be appointed for one additional four-year period.

~~[§ 1.5. 18 VAC 90-30-50.] Fees.~~

Fees required in connection with the licensure of nurse practitioners are:

1. Application	\$50
2. Biennial licensure renewal	\$30
3. Reinstatement of licensure	\$25
4. Verification of licensure to another jurisdiction	\$25
5. Duplicate license	\$10
6. Return check charge	\$15

PART II. LICENSURE.

~~[§ 2.1. 18 VAC 90-30-60.] Licensure, general.~~

A. No person shall perform services as a nurse practitioner in the Commonwealth of Virginia except as

prescribed in these regulations and when licensed by the Joint Boards of Nursing and Medicine.

B. The boards shall license applicants who meet the qualifications for licensure as set forth in [~~§ 2.3 of these regulations 18 VAC 90-30-80~~].

[~~§ 2.2. 18 VAC 90-30-70.~~] Categories of licensed nurse practitioners.

A. The boards shall license nurse practitioners in the following categories:

1. *Certified nurse midwife*
2. *Certified registered nurse anesthetist*
3. *Nurse practitioner*
 4. a. *Adult nurse practitioner*
 2. b. *Family nurse practitioner*
 3. c. *Pediatric nurse practitioner*
 4. d. *Family planning nurse practitioner*
 5. e. *Obstetric/Gynecologic nurse practitioner*
 6. f. *Emergency room nurse practitioner*
 7. g. *Geriatric nurse practitioner*
8. ~~Certified registered nurse anesthetist practitioner~~
9. ~~Certified nurse midwife practitioner~~
 40. h. *School nurse practitioner*
 44. i. *Medical nurse practitioner*
 42. j. *Maternal child health [nurse] practitioner*
 43. k. *[Neonatology Neonatal] nurse practitioner*
 44. l. *Women's health [care nurse] practitioner*

B. Other categories of *licensed* nurse practitioners shall be licensed if the Committee of the Joint Boards of Nursing and Medicine determines that the category meets the requirements of these regulations.

[~~§ 2.3. 18 VAC 90-30-80.~~] Qualifications for initial licensure.

A. An applicant for initial licensure as a nurse practitioner shall:

1. Be currently licensed as a registered nurse in Virginia; and
2. Submit evidence of completion of an educational program designed to prepare nurse anesthetists, nurse midwives or nurse practitioners that is either:
 - a. Approved by the boards as provided in [~~§§ 4.4 through 4.4 of these regulations 18 VAC 90-30-170 through 18 VAC 90-30-200~~]; or
 - b. Accredited by an agency identified in [~~§ 1.4 Definitions, "Accredited Program" 18 VAC 90-30-10~~]; and

3. Submit evidence of professional certification by an agency identified in [~~§ 2.4 of these regulations 18 VAC 90-30-90~~] as an agency accepted by the boards; and

4. File the required application; and

5. Pay the application fee prescribed in [~~§ 1.5 of these regulations 18 VAC 90-30-50~~].

B. ~~Provisional licensure.~~ Provisional licensure may be granted to an applicant who satisfies all requirements of [~~§ 2.3 of these regulations this section~~] with the exception of [~~§ 2.3 subdivision~~] A 3 [~~of this section~~] only until the release of the results of the first national certifying examination for which he is eligible following his application.

[~~§ 2.4. 18 VAC 90-30-90.~~] Certifying agencies.

A. The boards shall accept the professional certification by examination of the following:

1. American College of Nurse Midwives for ~~nurse midwife practitioners~~ *Certification Council*;
2. American Nurses' Association for ~~nurse practitioners~~ *Credentialing Center*;
3. Council on Certification of Nurse Anesthetists for ~~nurse anesthetist practitioners~~;
4. National *Certification* Board of Pediatric Nurse Practitioners and Associates for ~~nurse practitioners Nurses~~; and
5. Nurses' Association of the American College of Obstetricians and Gynecologists ~~Certification Corporation for nurse practitioners. National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties~~; and
6. *American Academy of Nurse Practitioners.*

B. The boards may accept professional certification from other certifying agencies on recommendation of the Committee of the Joint Boards of Nursing and Medicine provided that the professional certification is awarded on the basis of:

1. Completion of an educational program that meets the criteria of Part IV [~~of these regulations~~]; and
2. Achievement of a passing score on an examination.

[~~§ 2.5. 18 VAC 90-30-100.~~] Renewal of licensure.

A. Licensure of a nurse practitioner shall be renewed biennially at the same time the license to practice as a registered nurse in Virginia is renewed.

B. The application for renewal of the license shall be mailed by the committee to the last known address of each nurse practitioner.

C. The *licensed* nurse practitioner shall complete the application and return it with the license renewal fee prescribed in [~~§ 1.5 of these regulations 18 VAC 90-30-50~~].

[~~§ 2.6. 18 VAC 90-30-110.~~] Reinstatement of license.

A. ~~Reinstatement of lapsed license.~~ 1. An applicant for reinstatement of lapsed license shall:

Final Regulations

- a. 1. File the required application and fee;
- b. 2. Be currently licensed as a registered nurse in Virginia; and
- c. 3. Provide evidence of current professional certification or, if applicable, licensure or certification in another jurisdiction.

B. ~~Reinstatement of license following suspension or revocation.~~ 4. An applicant for reinstatement of license following suspension or revocation shall:

- a. 1. Petition for a hearing pursuant to the Administrative Process Act, ~~§ 9-6.14:12 of the Code of Virginia, before a committee of the boards reinstatement,~~
- b. 2. Present evidence that he is currently licensed as a registered nurse in Virginia; and
- c. 3. Present evidence that he is competent to resume practice as a licensed nurse practitioner in Virginia.

The committee shall act on the petition pursuant to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

PART III.

PRACTICE OF LICENSED NURSE PRACTITIONERS.

[~~§ 3-1. 18 VAC 90-30-120.] Practice of licensed nurse [practitioner practitioners].~~

[A.] A licensed nurse practitioner shall be authorized to engage in practices constituting the practice of medicine [*in collaboration with and*] under the supervision and [*medical*] direction and [*appropriate*] supervision of a licensed physician in accordance with ~~§ 3-2 [or a dentist as authorized in § 3-3 of these regulations]~~.

[~~§ 3-2. Nurse practitioner category. B.] The practice of licensed nurse practitioners [*in the category of nurse practitioner*] shall be based on specialty education preparation as outlined in Part IV [*of these regulations*] and [*in accordance with written protocols as defined in [§ 4-4 of these regulations, and in accordance with professional practice standards established by the American Nurses' Association (Standards of Practice for the Primary Health Care Nurse Practitioner, 1987) 18 VAC 90-30-10*].~~

§ [~~3-3. 18 VAC 90-30-140.] Certified registered nurse category.~~

A [~~The licensed nurse practitioner in the category of~~] Certified registered nurse anesthetist practitioner shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists (*Guidelines and Standards for Nurse Anesthesia Practice, Revised 1992*) and under the [*medical*] direction and [*appropriate*] supervision of [~~a dentist in accordance with rules and regulations promulgated by the Board of Dentistry,~~ or] a doctor of medicine or a doctor of osteopathy [*or a dentist in accordance with rules and regulations promulgated by the Board of Dentistry*].

[~~§ 3-4. 18 VAC 90-30-150.] Certified nurse midwife category.~~

A [~~The licensed nurse practitioner in the category of~~] Certified nurse midwife practitioner shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (*Revised [October 1989 1993]*) defined by the American College of Nurse-Midwives.

§ [~~3-5. 18 VAC 90-30-160.] Prohibited practice.~~

Practice as a licensed nurse practitioner shall be prohibited if:

1. The license has lapsed; or
2. The license is revoked or suspended.

PART IV.

CRITERIA FOR APPROVAL OF NURSE PRACTITIONER EDUCATION PROGRAMS.

[~~§ 4-1. 18 VAC 90-30-170.] Criteria for program approval.~~

The committee may delegate to the staff of the committee the authority to approve nurse practitioner education programs that meet the following criteria.

A. Administration.

1. The nurse practitioner education program shall be offered either:

- a. By a nationally accredited school of nursing that offers a master's degree in nursing; or
- b. Jointly by a nationally accredited school of medicine and a nationally accredited school of nursing that offers a master's degree in nursing.

2. The authority and responsibility for the conduct of the program shall be vested in a nurse educator or coadministered by a physician and a nurse educator who hold faculty appointments at the controlling institution.

3. The controlling institution shall provide each student who successfully completes the program a certificate of completion or equivalent official document.

B. Philosophy and objectives. There shall be clearly written statements of philosophy and objectives of the program that shall include a description of the category of nurse practitioner being prepared.

C. Faculty.

1. Nurse faculty shall include nurse practitioners each currently certified in the area of specialization in which he is teaching.
2. Medical faculty shall include currently licensed physicians each having preparation in his specialty area.

D. Curriculum.

1. The program shall be at least one academic year in length including planned clinical practice under the direction of a preceptor.
2. Course descriptions and objectives shall be available in writing.
3. The curriculum shall provide:

- a. Instruction in the biological, behavioral, medical and nursing sciences relevant to practice as a nurse practitioner in the specialized field;
- b. Instruction in legal, ethical and professional responsibilities of a nurse practitioner; and
- c. Supervised clinical practice of those skills essential for a nurse practitioner in the specialized field.

4. Major curriculum changes shall be approved by the boards.

[~~§ 4.2.~~ 18 VAC 90-30-180.] Denial of approval of programs.

Approval will be denied if the program does not meet the criteria set forth in [~~§ 4.1 of these regulations~~ 18 VAC 90-30-170.]. The controlling institution may request a hearing before the committee, and the provisions of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the Code of Virginia) shall apply. (~~§ 9-6.14:1 et seq.~~)

[~~§ 4.3.~~ 18 VAC 90-30-190.] Continued approval of programs.

Each program shall be subject to periodic review by the boards to determine whether standards for approval are being maintained.

[~~§ 4.4.~~ 18 VAC 90-30-200.] Withdrawal of approval.

A. If the boards determine that an approved program is not maintaining the standards set forth in these regulations, the controlling institution shall be given a reasonable period of time to correct the identified deficiencies.

B. If the controlling institution fails to correct the identified program deficiencies within the time specified, the boards shall withdraw the approval following a ~~hearing~~ *proceedings* held pursuant to the provisions of the Administrative Process Act.

[~~§ 4.5.~~ 18 VAC 90-30-210.] Exemptions from program approval requirements.

Programs accredited by any agency listed in the definition of accredited program in [~~§ 4.1 of these regulations~~ 18 VAC 90-30-10] are exempt from the program approval requirements of [~~these regulations~~ *this chapter*].

PART V. DISCIPLINARY PROVISIONS.

[~~§ 5.1.~~ 18 VAC 90-30-220.] Grounds for disciplinary action against the license of a licensed nurse practitioner.

[A.] The boards may deny licensure or relicensure, revoke or suspend the license, or place on probation, censure or reprimand a nurse practitioner upon proof that the nurse practitioner:

- 1. Has had his license to practice nursing in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;
- 2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;
- 3. Has exceeded his authority as a licensed nurse practitioner;

4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing or nurse practitioners;

5. Has become unable to practice with reasonable skill and safety to patients as the result of a physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material; or

6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration or distribution of drugs.

[~~§ 5.2.~~ 18 VAC 90-30-230.] Hearings.

A. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of [~~§ 5.1 of these regulations~~ 18 VAC 90-30-220].

B. The Committee of the Joint Boards of Nursing and Medicine shall conduct all ~~hearings~~ *proceedings* prescribed herein and shall take action on behalf of the boards.

C. When a person's license to practice nursing has been suspended or revoked by the Board of Nursing, the nurse practitioner license shall be suspended pending a hearing simultaneously with the institution of proceedings for a hearing.

D. Sanctions or other terms and conditions imposed by consent orders entered by the Board of Nursing on the license to practice nursing may apply to the nurse practitioner license, provided the consent order has been accepted by the Committee of the Joint Boards of Nursing and Medicine.

VA.R. Doc. No. R96-5; Filed September 6, 1995, 11:09 a.m.

Documents Incorporated by Reference

~~Standards of Practice for the Primary Health Care Nurse Practitioner, 1987, American Nurses' Association.~~

Guidelines and Standards for Nurse Anesthesia Practice, 1992, American Association of Nurse Anesthetists.

Standards for the Practice of Nurse-Midwifery, 1992 1993, American College of Nurse-Midwives.



**APPLICATION FOR LICENSURE
AS A NURSE PRACTITIONER**

\$50
Make check payable to
Treasurer of Virginia
Fee is not refundable

I hereby make application for licensure as a Nursing Practitioner
in the category of _____ (See categories in regulations)

Name: Last		First	Middle	Maiden
Address: Street		City	State	Zip Code
Birthdate	Social Security Number		Area Code & Telephone Number	
Virginia RN License Number	Expiration Date			
Nurse Practitioner, Nurse Anesthetists or Nurse Midwife Program Name:				
Program Address:		City	State	
Completed Program on:	Length of Program:			
Program accredited/approved by: (Accrediting Authority)				
Professional certification held from: (Name of organization)				
I (am)(am not) certified or registered with an equivalent title in another state.				
Title:	State:			
Date Certified or Registered:	Current [] Lapsed []			
Prospective employer:	(Name)			
	(Location)			
Date you expect to begin employment as a Licensed Nurse Practitioner in Virginia:				

AFFIDAVIT

(To be completed by a Notary Public)

State of _____ County/City of _____

Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application; that the statements contained herein are true; that he/she has complied with all requirements of the law, and that he/she has read and understands the affidavit.

Signature of Applicant

Sworn to and subscribed to before me this _____ day of _____ 19____.

My commission expires _____.

Signature of Notary Public

SEAL

For Office Use Only

Computer File Pending # _____
Practitioner Type Code # _____
Practitioner _____
Date Issued _____
Approved by: _____ Board of Nursing



COMMONWEALTH of VIRGINIA

Department of Health Professions
Board of Nursing

Corinna F. Dorsey, R.N.
Executive Director of the Board

6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717
(804) 662-9909
Nurse Aide Registry (804) 662-7310
FAX (804) 662-9943
TDD (804) 662-7197

DATE:
TO:
FROM: VICKIE ANGELINI, REGISTRAR

YOUR APPLICATION FOR LICENSURE AS A NURSE PRACTITIONER IN VIRGINIA WAS RECEIVED ON 1995. IN ORDER TO COMPLETE THE APPLICATION, THE FOLLOWING MUST BE RECEIVED.

- () TRANSCRIPT FROM YOUR PROGRAM SENT DIRECTLY TO THIS OFFICE FROM YOUR SCHOOL.
- () REQUEST THAT VERIFICATION OF PROFESSIONAL CERTIFICATION FROM THE COUNCIL ON CERTIFICATION OF NURSE ANESTHETISTS, ONE OF THE AGENCIES LISTED IN SECTION 2.4.A OF THE REGULATIONS, OR AMERICAN COLLEGE OF NURSE MIDWIVES OR EVIDENCE THAT YOU ARE SCHEDULED TO TAKE THE NEXT AVAILABLE EXAMINATION, BE SENT FROM THE COUNCIL, ACNM, OR THE PROFESSIONAL CERTIFICATION ORGANIZATION. (COPY OF CARD OR CERTIFICATE WILL NOT BE ACCEPTED).
- () OTHER:

PLEASE NOTIFY THIS OFFICE IMMEDIATELY OF ANY CHANGE OF ADDRESS.

Final Regulations

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

Title of Regulation: [~~VR 560-04-04.~~ 18 VAC 115-40-10 et seq.] Regulations Governing the Certification of Rehabilitation Providers.

Statutory Authority: §§ 54.1-2400 and 54.1-3514 of the Code of Virginia.

Effective Date: November 1, 1995.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Janet Delorme, Board of Professional Counselors and Marriage and Family Therapists, 6606 West Broad Street, 4th Floor, Richmond, VA 23219, telephone (804) 662-9575.

Summary:

New regulations governing the certification of rehabilitation providers have been adopted by the Board of Professional Counselors and Marriage and Family Therapists to provide for (i) fees to cover the application processing (\$100) and annual certification renewal (\$50); and (ii) standards of practice that establish guidelines for professional conduct, grounds for disciplinary action for misconduct, and reinstatement procedures following denial of certification or disciplinary action. Although there have been no substantive changes made since the proposed regulations were published, the following minor changes have been made to the text of the regulation.

1. By action of the 1995 General Assembly, the name of the Board of Professional Counselors was changed to the "Board of Professional Counselors and Marriage and Family Therapists";
2. The application deadline of September 30 listed in 18 VAC 115-40-30 has been changed to January 31, since this regulation will not be in effect by September 30; and
3. Conviction of a felony or misdemeanor involving moral turpitude was added to 18 VAC 115-40-50.

18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers.

[CHAPTER 40. REGULATIONS GOVERNING THE CERTIFICATION OF REHABILITATION PROVIDERS]

PART I. GENERAL PROVISIONS.

[~~§ 1-1.~~ 18 VAC 115-40-10. Definitions.

The following words and terms, when used in this [regulation chapter], shall have the following meaning unless the context indicates otherwise:

"Board" means the Board of Professional Counselors [and Marriage and Family Therapists] as established by Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia.

[~~§ 1-2.~~ 18 VAC 115-40-20.] Fees required by the board.

A. The board has established the following fees applicable to the certification of rehabilitation providers:

Application processing	\$100
Certification renewal	\$50

B. Fees shall be made by check or money order payable to the Treasurer of Virginia and forwarded to the Board of Professional Counselors [and Marriage and Family Therapists].

PART II. RENEWAL AND REINSTATEMENT.

[~~§ 2-1.~~ 18 VAC 115-40-30.] Annual renewal of certificate.

Every certificate issued by the board shall expire on [~~September 30~~ January 31] of each year.

1. To renew certification, the certified rehabilitation provider shall submit a renewal application form and fee as prescribed in [~~§ 1-2.~~ 18 VAC 115-40-20].
2. Failure to receive a renewal notice and application form shall not excuse the certified rehabilitation provider from the renewal requirement.

PART III. STANDARDS OF PRACTICE; DISCIPLINARY ACTIONS; REINSTATEMENT.

[~~§ 3-1.~~ 18 VAC 115-40-40.] Standards of practice.

A. The protection of the public health, safety and welfare, and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Each person certified by the board shall:

1. Provide services in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Provide services only within the competency areas for which one is qualified by training or experience.
3. Not provide services under a false or assumed name, or impersonate another practitioner of a like, similar or different name.
4. Not represent oneself as "board certified" without specifying the complete name of the specialty board.
5. Be aware of the areas of competence of related professions and make full use of professional, technical and administrative resources to secure for rehabilitation clients the most appropriate services.
6. Not commit any act which is a felony under the laws of this Commonwealth, other states, the District of Columbia or the United States, or any act which is a misdemeanor under such laws and involves moral turpitude.

7. Stay abreast of new developments, concepts and practices which are important to providing appropriate services.

8. State a rationale in the form of an identified objective or purpose for the provision of services to be rendered to the rehabilitation client.

9. Not engage in offering services to a rehabilitation client who is receiving services from another rehabilitation provider without attempting to inform such other providers in order to avoid confusion and conflict for the rehabilitation client.

10. Represent accurately one's competence, education, training and experience.

11. Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.

12. Not engage in improper direct solicitation of rehabilitation clients and announce services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality.

13. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

14. Report to the board known or suspected violations of the laws and regulations governing the practice of rehabilitation providers.

15. Report to the board any unethical or incompetent practices by other rehabilitation providers that jeopardize public safety or cause a risk of harm to rehabilitation clients.

16. Provide rehabilitation clients with accurate information of what to expect in the way of tests, evaluations, billing, rehabilitation plans and schedules before rendering services.

17. Provide services and submission of reports in a timely fashion and ensure that services and reports respond to the purpose of the referral and include recommendations, if appropriate. All reports shall reflect an objective, independent opinion based on factual determinations within the provider's area of expertise and discipline. The reports of services and findings shall be distributed to appropriate parties and shall comply with all applicable legal regulations.

18. Specify, for the referral source and the rehabilitation client, at the time of initial referral, what services are to be provided and what practices are to be conducted. This shall include the identification, as well as the clarification, of services that are available by that member.

19. When considering personal or confidential information, the provider must assure that the rehabilitation client is aware, from the outset, if the delivery of service is being observed by a third party.

Professional files, reports and records shall be maintained under conditions of security and provisions will be made for their destruction when appropriate.

20. Never engage in nonprofessional relationships with rehabilitation clients, that compromise the rehabilitation client's well-being, impair the rehabilitation providers objectivity and judgment or increase the risk of rehabilitation client exploitation.

21. Never engage in sexual intimacy with rehabilitation clients or former rehabilitation clients, as such intimacy is unethical and prohibited.

[~~§-3.2.~~ 18 VAC 115-40-50.] Grounds for revocation, suspension, probation, reprimand, censure, denial of renewal of certificate; petition for rehearing.

Action by the board to revoke, suspend, decline to issue a certificate, place such a certificate on probation or censure, reprimand or fine a certified rehabilitation provider may be taken in accord with the following:

1. Violation of the standards of practice in [~~§-3.4~~ of these regulations 18 VAC 115-40-40].

2. Procuring of certification by fraud or misrepresentation.

3. Violation of or aid to another in violating any provision of Title 54.1 of the Code of Virginia.

4. The denial, revocation, suspension or restriction of a license or certificate to practice in another state, or a United States possession or territory or the surrender of any such license or certificate while an active administrative investigation is pending.

[5. Conviction of a felony or misdemeanor involving moral turpitude.]

[~~§-3.3.~~ 18 VAC 115-40-60.] Reinstatement following disciplinary action.

In order to be eligible for reinstatement, any person whose certificate has been suspended, revoked or denied by the board under the provisions of [~~§-3.2~~ 18 VAC 115-40-50] shall, at the conclusion of the term of suspension or two years subsequent to denial or revocation of certification, (i) submit a new application to the board, (ii) pay the appropriate reinstatement fee, and (iii) submit any other credentials as prescribed by the board. After a hearing, the board may, at its discretion grant the reinstatement if the provider demonstrates that he is able to resume providing services in a manner which does not endanger the public.

COMMONWEALTH OF VIRGINIA

RENEWAL NOTICE AND APPLICATION

Board of

Telephone

TYPE OF RENEWAL	CURRENT EXPIRATION	RENEWAL PERIOD FROM _____ TO _____
	CURRENT AMOUNT DUE \$	LATE PAYMENT PAY: ONLY IF AFTER

NUMBER:

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

INSTRUCTIONS

1. Complete item 1 below if you do not wish to renew.
2. Make any address changes on this application when renewing.
3. Make any name changes on this application and enclose a copy of your marriage license or court order.
4. Note name and license number on all enclosures.
5. Return this application in the enclosed envelope.

1. Check here if you do not wish to renew, and sign below.

Signature

Editor's Note: The application form submitted with the proposed regulation is now obsolete because the "grandfathering" provision provided in § 54.1-3514 has expired. The board will develop a new application when approval is granted to develop the regulation for education and experience requirements for certification.

COMMONWEALTH OF VIRGINIA

Board of Professional Counselors

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717
(804) 662-9575

APPLICATION FOR CERTIFICATION AS A REHABILITATION PROVIDER¹

SECTION I - PERSONAL

APPLICANT - Please provide the information requested below and on the next two pages. (Print or type). Use full name, not initials.		
Name - Last	First	Middle
Residence Address	Area Code and Telephone Number	
City	State	Zip Code
Business Address	Area Code and Telephone Number	
City	State	Zip Code
Birthdate	Social Security # (optional)	

PLEASE CIRCLE THE ADDRESS YOU PREFER FOR MAILINGS (RESIDENCE OR BUSINESS)

SECTION II - PROFESSIONAL CREDENTIALS (To be used for informational purposes only)

A. Education

1. () HS/GED 2. () Associate 3. () BS/BA 4. () MS/MAM/Ed 5. () PhD/EdD/MD 6. () Other _____

B. Professional Licenses

1. () RN 4. () MD 6. () LCSW 8. () DPM 10. () LCP
2. () LPN 5. () LSW 7. () OD 9. () DC 11. () OTHER _____
3. () LPC

C. Certifications/Registrations

1. () CCM 3. () CRC 5. () CRC-SAC 7. () CSAC 9. () CWAS
2. () CIRS 4. () RRSW 6. () CRRN 8. () CVE 10. () OTHER _____

¹ As defined in the Virginia Code § 54.1-3510, a *rehabilitation provider* is a person who, functioning within the scope of his practice, performs, coordinates, manages or arranges for rehabilitation services.
Rehabilitation services means and includes evaluation, assessment, training services, services to family members, interpreter services, rehabilitation teaching, coordination of telecommunications, placement in suitable employment, post-employment services and other related services provided to a person with a disability for the purpose of restoring the person's productive capacity.

SECTION III - WORK EXPERIENCE (To be used for informational purposes only)

A. Present Employment Setting

1. Business or industry
2. College or university
3. Community Residential Program
4. Employee Assistance Program
5. Health Insurance Company
6. Health Insurance Company
7. HMO, PPO, EPO
8. Home Care Agency
9. In-Patient Substance Abuse Program
10. Independent Case Management Program
11. Company
12. Independent Living Center

B. Present Job Title

1. Administrator (Manager)
2. Admissions Liaison
3. Bill Auditor
4. Billing Manager
5. Billing Specialist
6. Billing Planner
7. Billing Program Administrator
8. Insurance Benefits Manager
9. Job Development
10. Job Placement
11. Medical Doctor

C. Services Provided (Check only those services that you provide, not those provided by your entire agency or company)

1. assessment
2. AT liaison services
3. case management
4. case management
5. coordination of services
6. dental examination
7. developing and monitoring medical services and care
8. documentation
9. education of client, family members and community resources
10. education
11. educational progress and student evaluations
12. evaluation
13. extended employment services
14. family assessment
15. group counseling
16. guidance
17. hearing and speech services
18. home modification
19. home health care
20. housekeeping
21. independent living skills instruction
22. job assessment
23. interpreter services
24. job coaching and interpersonal jobbing skills
25. job analysis
26. job seeking skills training
27. job coach training and service
28. job development
29. job placement
30. medical and surgical examination
31. mobility training
32. monitoring adequacy of services
33. nursing and attendant care
34. occupational therapy
35. case management
36. on-the-job training
37. physical therapy
38. planning
39. post-employment services
40. psychiatric evaluation
41. psychological testing
42. psychological evaluations
43. referral and advocacy services
44. rehabilitation services planning, implementation and delivery
45. rehabilitation engineering
46. retraining
47. services to family members
48. situational assessment
49. social skills training
50. study skills training
51. substance abuse assessment
52. substance abuse counseling
53. substance abuse prevention
54. supervised work experience
55. support services
56. support services
57. support services
58. using provisions of stability legislation
59. vehicle modifications
60. vocational evaluation
61. vocational services
62. work adjustment training

D. Client Base (Check all that apply)

1. Amputation
2. Back Injuries
3. Brain Injuries
4. Burns
5. Cancer
6. Cauda Equina
7. Cerebral Palsy
8. Chemical Abuse
9. Chemical Dependence
10. Cystic Fibrosis
11. Developmental Disabilities
12. Emotionally Disabled
13. General Medical/Surgical Conditions
14. General Rehabilitation
15. Geriatrics
16. Hearing Impaired
17. Hemiplegia
18. HIV/AIDS
19. Injunctive Disorders
20. Learning Disabilities
21. Mental Illness
22. Multiple Sclerosis
23. Muscular Dystrophy
24. Musculoskeletal Disorders
25. Neurological Disorders
26. Neurological Diseases
27. Neurological Disorders
28. Neurological Diseases
29. Neurological Disorders
30. Neurovascular Disorders
31. Orthopedic Injuries
32. Orthopedic Injuries
33. Physical Disabilities
34. Polio
35. Psychiatric Illness
36. Renal Failure
37. Respiratory or Pulmonary Dysfunction
38. Respiratory Conditions
39. Severe Impairments
40. Spinal Cord Injuries/Conditions
41. Traumatic Brain Injuries
42. Visually Impaired

SECTION IV - ORGANIZATIONAL AFFILIATIONS (Check all that apply)

1. () ADARA
2. () ARCA
3. () ARN
4. () CARP
5. () CARPPS
6. () CMSA
7. () CSAVR
8. () ICMA
9. () IRSG
10. () JPD
11. () NAAWRW
12. () NASPPS
13. () NASPPR
14. () NCRE
15. () NRA
16. () ARCA
17. () RING
18. () VAHI
19. () VACHN
20. () VARN
21. () VCA
22. () VEWA
23. () VRA
24. () VRCA
25. () OTHER

SECTION V - GENERAL (A response to each of the following questions is required)

1. Have you ever been convicted of, pled guilty to or plea nolo contendere to the violation of a federal or state statute, or other regulation or ordinance or entered into any plea bargain relating to a felony? Yes ___ No ___
2. Have you been censured, warned, requested to withdraw, or had your employment terminated from any facility, agency or practice? Yes ___ No ___
3. Have you had a professional license, certificate or registration to practice revoked, suspended or restricted in any way in any state, the District of Columbia, the United States possession or territory, or a foreign jurisdiction? Yes ___ No ___

SECTION VI - AFFIDAVIT OF APPLICANT (Required)

(To be completed before a notary public)

I, _____ being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I declare under penalty of perjury that the information that I have provided on this application is true and correct. In addition, I declare that I was actively engaged in providing rehabilitation services as of January 1, 1994.

Signature of Applicant _____

State of _____ County/City of _____

Subscribed to and sworn to before me this _____ day of _____, 19__

My commission expires _____

12/94

Notary Public

EMERGENCY REGULATIONS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993.

Statutory Authority: §§ 36-98 and 36-99.9:1 of the Code of Virginia.

Effective Dates: October 1, 1995, through September 30, 1996.

Preamble:

The Board of Housing and Community Development has concluded that amendments to VR 394-01-22, Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993, relating to fire suppression systems in existing hospitals, must be promulgated with the Governor's prior approval by October 1, 1995, as mandated in § 36-99.9:1 of the Code of Virginia.

/s/ David L. Caprara
Director, Department of Housing and Community
Development
Date: May 15, 1995

/s/ Robert W. Lauterberg
Director, Department of Planning and Budget
Date: June 21, 1995

/s/ George Allen
Governor
Date: September 5, 1995

VR 394-01-22. Virginia Uniform Statewide Building Code,
Volume II - Building Maintenance Code/1993.

Chapter 1. Administration.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1993 edition of the Virginia Uniform Statewide Building Code (USBC). Except as otherwise indicated, Building Maintenance Code (BMC) or code, shall mean Volume II - Building Maintenance Code of the 1993 edition of the USBC.

Note: See Volume I - New Construction Code of the USBC for regulations applicable to new construction.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The Building Maintenance Code shall become effective on April 1, 1994.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6 § 36-97 et seq.) of Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that have been or may be enacted or adopted, except as modified by Section 100.6, below.

Note: This will not prevent adoption in accordance with Chapter 1 (§ 15.1-1 et seq.) of Title 15.1 of the Code of Virginia or other special or general legislation, or other requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.6. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the USBC shall be maintained in compliance with the Building Maintenance Code. No provisions of the Building Maintenance Code shall require alterations to buildings or equipment unless an unsafe or unhealthy condition exists.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of Section 108.0.

100.6.2. Nursing homes and homes for adults: Pre-USBC nursing homes licensed by the Virginia Department of Health, and pre-USBC homes for adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of Section 108.0.

100.6.3. Reserved.

100.6.4. Hospitals: Pre-USBC Hospitals shall also comply with applicable provisions of Section 108.0.

100.7. Application to post-USBC buildings: Buildings or portions thereof that were subject to the USBC when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

100.7.1. Hotels and motels: Post-USBC hotels and motels shall also comply with applicable provisions of Section 108.8.

100.7.2. Nursing homes and homes for adults: Post-USBC nursing homes licensed by the Virginia Department of Health, and post-USBC homes for adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of Section 108.0.

100.7.3. Reserved.

100.7.4. Hospitals: Post-USBC Hospitals shall also comply with applicable provisions of Section 108.0.

100.8. Exemptions for certain equipment: The provisions of the Buildings Maintenance Code shall not apply to equipment installed by a provider of publicly regulated utility services, or

Emergency Regulations

to electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

Exception: Buildings or service equipment associated with the exempt equipment.

100.9. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code.

Exception: Farm structures lying within a flood plain or in a mudslide-prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

100.10. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by Sections 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/1993 EDITION

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60478-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Chapter 1 of the Building Maintenance Code.

101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified chapters and sections of the BOCA National Property Maintenance Code/1993 edition for use as part of this code.

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of Volume I, New Construction Code of the USBC shall be exceeded.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. The terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: When enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, that agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of Volume I of the USBC.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed in a manner selected by the local government having jurisdiction. The local government shall notify the Training and Certification Office within 30 days of the appointment or release of the code official. The code official shall complete an orientation course approved by the Department of Housing and Community Development within 90 days of appointment.

102.4.2. Qualifications: The code official shall have at least five years of experience as a licensed professional engineer, building inspector, fire inspector, housing inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The code official shall have general knowledge with respect to the design and construction of buildings, the basic principles of fire prevention, plumbing, electrical and mechanical systems, building safety, and other accepted requirements for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.4.3. Certification: The code official shall be certified in accordance with the Virginia Certification Standards (VR 394-01-2) within three years from the date of employment.

Exception: An individual employed as the code official in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the code official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

102.5. Qualifications of technical assistants: A technical assistant shall have at least three years in general building construction, building, fire or housing inspections, and general knowledge of plumbing, electrical and mechanical systems. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.5.1. Certification of technical assistants: Any person employed by, or under contract to, a local enforcing agency for determining compliance with the Building Maintenance Code shall be certified in accordance with the Virginia Certification Standards (VR 394-01-2) within three years from the date of employment.

Exception: An individual employed as the technical assistant in any locality in Virginia prior to April 1, 1995, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction.

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

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

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

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this code for the health, safety and general welfare of the public.

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

103.4. Modifications: The code official may grant modifications to any of the provisions of this code upon application by the owner or the owner's agent provided the spirit and intent of the Building Maintenance Code are observed and public health, welfare, and safety are assured. A copy of the application for a modification and a copy of the final decision of the code official shall be kept in the permanent records of the enforcing agency.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the hazardous condition.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to Section 103.2 of the administrative provisions of the Volume I of the USBC, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia), (a) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (b) after three years in the case of all other buildings.

SECTION 104.0. VIOLATIONS.

104.1. Code violations prohibited: Buildings and equipment in violation of the provisions of this code shall not be used except as approved by the code official.

104.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this code. Such order shall reference the code section that serves as a basis for the violation and specify a time limit for the discontinuance or abatement of the violation. Such notice of violation shall be in writing, and be served by either delivering a copy of the notice to such person by mail to the last known post office address, delivering in person or by delivering it to

Emergency Regulations

and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

104.3. Prosecution of violation: If the notice of violation is not complied with, the code official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this code.

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

104.5. Abatement of violation: Conviction of a violation of this code shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of this code relating to maintenance and use of the building or premises.

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

SECTION 105.0. UNSAFE BUILDINGS.

105.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a hazard or public nuisance, or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings or other structures declared by the code official to be a public nuisance or unfit for human habitation shall either be: made safe through compliance with this code, or be vacated and secured against public entry, or taken down and removed as determined by the code official. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

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

105.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

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

105.5. Disregard of notice: If the person served with a notice of unsafe building refuses or neglects to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

105.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building or other structure is declared a public nuisance, or unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

105.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

105.8. Abatement or removal: Whenever the owner of a building or structure that has been deemed to be a public nuisance pursuant to § 105.1 fails to comply with the requirements of the notice to abate, the code official may cause the building to be razed or removed.

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

SECTION 106.0. APPEALS.

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

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

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

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

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

106.4. Disqualification of member: A member shall not hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

106.5. Application for appeal: The owner of a building or structure or the owner's agent may appeal a decision of the code official concerning the application of the BMC or his refusal to grant a modification to the provisions of the BMC covering the manner of maintenance or use or the materials to be used in the maintenance or repair of that building or structure. The applicant shall submit a written request for appeal to the BBCA within 21 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the code official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise

marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

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

106.7. Hearing procedures: All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

106.7.1. Postponement: When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

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

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

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

Copies of the resolution shall be furnished to all parties.

106.9. Appeal to the State Building Code Technical Review Board (TRB): After final determination by the BBCA, any person who was a party to the local appeal may appeal to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution.

106.9.1. Information to be submitted: Copies of the decision of the code official and the resolution of the BBCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the jurisdiction shall submit a copy of all pertinent information from the record of the BBCA.

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

Emergency Regulations

SECTION 107.0. DEMOLITION OF BUILDINGS.

107.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this code, the work shall be carried out in compliance with the requirements of Volume I of the USBC.

SECTION 108.0. SPECIAL PROVISIONS.

108.1. General: The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions shall apply equally to both pre- and post-USBC buildings.

108.2. Hotels and motels: Existing hotels and motels shall comply with the provisions of this section.

108.2.1. Fire sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.
2. Hotels and motels which are three stories or less in height.

108.2.2. Single and multiple station smoke detectors: Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels.

Exception: Hotels and motels that are equipped throughout with single and multiple station smoke detectors.

108.3. Nursing homes and nursing facilities: Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

108.3.1. Automatic sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities as follows:

1. NFIPA 13D Standard for one story buildings.
2. NFIPA 13R Standard for buildings two or three stories in height.
3. NFIPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

108.3.1.1. Quick response sprinklers; Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to Section 108.3.1.

108.3.1.2. Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFIPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 1987 Edition, Third Amendment including, but not limited to, the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)
5. Section 808 (Capacity of Egress Components)
6. Section 809 (Number of Exits)
7. Section 810 (Exit Access Passageways and Corridors)
8. Section 921 (Firestopping and Draftstopping)

108.3.2. Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective signaling system.

108.3.3. Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

108.3.3.1. Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from Section 108.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

108.4. Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

108.4.1. Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

108.4.2. Single and multiple station smoke detectors: Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with single and multiple station smoke detectors.

108.5. Identification of handicapped parking spaces: All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with a bottom edge no lower than four feet nor higher than seven feet above the parking surface. Such signs shall be installed in accordance with applicable provisions of the current edition of Volume I of the USBC.

108.6. Reserved.

108.7. Hospitals: Existing hospitals licensed by the Virginia Department of Health shall comply with this section.

108.7.1. Fire Sprinkler System: An automatic sprinkler system meeting the requirements of National Fire Protection Association Standard 13-91, listed in USBC, Volume 1, Chapter 35, shall be provided in existing hospitals by January 1, 1998.

Exceptions:

1. The Commissioner of the Virginia Department of Health may, at his discretion, extend the time for compliance with this section for any hospital that can demonstrate its inability to comply, if such hospital submits, prior to January 1, 1998, a plan for compliance by a date certain which shall be no later than July 1, 1998.

2. Any hospital located in a city having a population of more than 16,100 but less than 18,000, or in a county having a population of more than 17,350, but less than 17,500, may submit a plan of compliance by a date certain which shall be no later than July 1, 2003.

3. Hospitals that are equipped throughout with a sprinkler system.

108.7.1.1 Areas of protection: Sprinkler protection shall only be required in patient sleeping rooms, operating and emergency treatment rooms and spaces adjoining such rooms. The area of protection shall extend to an approved smoke barrier or a minimum one half hour rated assembly. The one half hour rated assembly shall have self-closing doors and shall be continuous from floor slab to floor or roof deck above.

108.7.1.2. Sprinkler: Patient sleeping rooms shall be provided with quick response sprinklers.

108.7.1.3. Water-control valves: All valves in water supply pipes to sprinkler systems, except underground valves in roadway boxes, shall be supervised open with an audible and visual alarm to signal at a constantly attended location.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/1993 EDITION.

As provided in Section 101.3 of Volume II - Building Maintenance Code of the 1993 edition of the USBC, the amendments noted in this Addendum shall be made to the BOCA National Property Maintenance Code/1993 edition for use as part of the Building Maintenance Code.

CHAPTER 1. ADMINISTRATION AND ENFORCEMENT.

Chapter 1, Administration and Enforcement, is deleted in its entirety and replaced with Chapter 1 of the Building Maintenance Code.

CHAPTER 3. ENVIRONMENTAL REQUIREMENTS.

(A) Delete Section PM-303.1.

(B) Delete Section PM-303.4.

(C) Delete Section PM-303.5.

(D) Delete Section PM-303.8.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-97(7) of the Code of Virginia.

(E) Change Section PM-304.1 to read:

PM-304.1. General: The exterior of all structures, occupied, vacant or otherwise, shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(F) Change Section PM-304.12 to read:

PM-304.12. Insect screens: During the period from April 1 to December 1 every door, window and other outside opening required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

(G) Change Section PM-305.4 to read as follows:

PM-305.4. Lead-based paint: Interior and exterior painted surfaces of dwellings, child and day care facilities, including fences and outbuildings, that contain in excess of 0.5% lead by weight shall be removed or covered in an approved manner.

(H) Delete Section PM-306.2.

(I) Delete Section PM-306.3.

CHAPTER 4. LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

(A) Change Section PM-403.1 to read:

PM-403.1. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total

Emergency Regulations

window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(B) Delete Section PM-405.10.

CHAPTER 6. MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) Change Section PM-602.2 to read:

PM-602.2. Residential buildings: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours. When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Chapter 8, the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in a full open position.

(B) Delete Sections PM-602.2.1 and PM-602.2.2.

(C) Change Section PM-602.3 to read:

PM-602.3. Nonresidential structures: Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours.

Exceptions:

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

(D) Add new Section PM-606.3 to read:

PM-606.3. Inspection: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8.

CHAPTER 7. FIRE SAFETY REQUIREMENTS.

(a) Add new section PM-705.5.4.

PM-705.5.4. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

CHAPTER 8. REFERENCED STANDARDS.

(A) Delete standard reference number BOCA NBC 93, BOCA National Building Code and substitute the Virginia Uniform Statewide Building Code, Volume I/1993 edition.

(B) Delete standard reference number BOCA NFPC 93, BOCA National Fire Prevention Code and substitute the Virginia Statewide Fire Prevention Code/1993 Edition.

VA.R. Doc. No. R96-15; Filed September 13, 1995, 11:48 a.m.

Title of Regulation: VR 394-01-101. Virginia Enterprise Zone Program Regulations.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Effective Dates: September 13, 1995, through June 30, 1996.

Preamble:

Chapter 792 of the 1995 Acts of Assembly, enactment 3, requires the Board of Housing and Community Development to establish policies and procedures for the Virginia Enterprise Zone Program on or before July 1, 1995.

VR 394-01-101. Virginia Enterprise Zone Program Regulations.

PROCEDURAL AND REPORTING REQUIREMENTS. PROCEDURE I.

Designating an Enterprise Zone.

~~1. Procedure: Obtain an Application for Enterprise Zone Designation (Form EZ-1). Joint applicants should also obtain a copy(ies) of Form EZ-1 JA.~~

~~Remarks: Forms EZ-1 and EZ-1 JA may be obtained from the Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219.~~

~~2. Procedure: Complete the application.~~

~~Remarks: In its application, a locality may propose local incentives to stimulate private investment in a proposed zone.~~

~~3. Procedure: Hold at least one public hearing on the application.~~

~~4. Procedure: Submit the completed application and a resolution by the local governing body to the department.~~

Emergency Regulations

~~Remarks: Applications must be submitted by the submission date to be established by the department.~~

~~5. Procedure: The department reviews and forwards to the Governor those applications determined to be eligible for Enterprise Zone designation.~~

~~6. Procedure: The director of the Department of Housing and Community Development recommends to the Governor those applications determined to have the greatest potential for accomplishing the purpose of the program.~~

~~7. Procedure: The Governor designates, upon recommendation of the director, up to 25 Enterprise Zones for a period of 20 years.~~

~~Remarks: The Governor's designation shall be final. A local governing body whose application is denied will be notified and provided with the reasons for denial.~~

Application for Enterprise Zone Designation (Form EZ 1).

~~Requirements: Applications for zone designation must be submitted to the department on Form EZ 1. Form EZ 1 requires the following information on a proposed zone: location and boundaries; development history; local revitalization efforts; land use characteristics; physical deficiencies and investment opportunities; local development objectives; barriers to investment in a zone; proposed local program incentives; projected impact of proposed local incentives; projected impact of state tax incentives; and local assurances and authorization. A resolution of the local governing body must also accompany the application.~~

~~Need for Requirements: Section 59.1-274 of the Code of Virginia stipulates that applications for zone designation shall be made in writing to the department. Section 59.1-275A of the Code of Virginia authorizes the department to solicit whatever information is necessary for the purpose of determining whether an area qualifies to be designated as a zone. Procedures are needed to assure that applications are submitted and reviewed in a consistent manner. All the information requested on Form EZ 1 is necessary in order to determine which applications will best accomplish the purpose of the Act. The requirement for a resolution by a local governing body is considered to be the minimum action needed to assure that an application is being submitted by the local governing body as stipulated in § 59.1-274 of the Code of Virginia.~~

~~Cost of Requirements: Local governments participating in the program would incur costs associated with preparing Form EZ 1 and conducting the required public hearing. Form EZ 1 requests only information which is readily available to the applicant. Therefore, it should impose no significant cost. The secretarial area of Economic Development would incur administrative costs associated with determining zone eligibility and selecting zones. The department does not anticipate the need for additional personnel or budget authorization in order to carry out its responsibility.~~

Joint Application Agreement (Form EZ 1 JA).

~~Requirements: A joint application must be accompanied by a Joint Application Agreement(s) (Form EZ 1 JA). Form EZ 1~~

~~JA requires applicants to certify that they are in agreement in filing the joint application.~~

~~Need for Requirements: Section 59.1-274 of the Code of Virginia permits adjacent jurisdictions to file a joint application for zone designation. Since Form EZ 1 is designed to be completed by a single jurisdiction (the program administrator) Form EZ 1 JA is needed in order to certify that each jurisdiction is in agreement in filing the joint application.~~

~~Cost of Requirements: Jurisdictions participating in the joint application would incur costs associated with preparing Form EZ 1 JA. This additional cost would be minimal.~~

PROCEDURE II.

Amendment and Termination Procedures.

A. Amending an application.

~~1. Procedure: Obtain a Request for Application Amendment (Form EZ 2). Joint applicants should also obtain a copy(ies) of a Form EZ 2 JA.~~

~~Remarks: Forms EZ 2 and EZ 2 JA are available from the Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219.~~

~~2. Procedure: Complete the Request for Application Amendment.~~

~~3. Procedure: Hold at least one public hearing on the proposed amendment.~~

~~4. Procedure: Submit the completed Request for Application Amendment and a resolution by the local governing body to the department.~~

~~5. Procedure: The department reviews the Request for Application Amendment.~~

~~Remarks: The department will approve an amendment to local program incentives only if the proposed local incentives are equal to or superior to those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries only if the proposed amendment can be justified.~~

B. Terminating a zone.

~~1. Procedure: Notify the department in writing of any inability or unwillingness to provide approved local program incentives.~~

~~Remarks: Notice must be made within 30 days.~~

~~2. Procedure: Request an amendment to the approved application in accordance with procedure IIA.~~

~~Remarks: Requests must be submitted within 60 days following notice to the department.~~

~~3. Procedure: The department reviews requested amendments in accordance with procedure IIA.~~

~~Remarks: Approval of an amendment will allow a zone to continue in operation.~~

Emergency Regulations

4. Procedure: The department recommends to the secretary that the zone be terminated.

Remarks: This step occurs only if a local governing body fails to provide notice in writing of any inability or unwillingness to provide approved local program incentives (step 1) or has its request for amendment denied.

5. Procedure: The secretary reviews the department's recommendation and may recommend that the Governor terminate the zone.

6. Procedure: A zone is terminated upon written notice to a local governing body.

Remarks: The date of such notice is considered to be the date of zone termination. Qualified business firms located in a terminated zone remain eligible to receive state tax incentives under this program for any remaining taxable years in the qualification period for which they are eligible. No additional business firms may become qualified to receive state tax incentives after the date of zone termination.

Request for Application Amendment (Form EZ-2).

Requirements: A request for an amendment must be submitted to the department on Form EZ-2. Form EZ-2 requires the following information for an amendment incentives to be deleted or revised; local incentives to be added or revised; impact of the amended local incentives; and local assurances and authorization. Form EZ-2 requires the following information for an amendment to expand zone boundaries: location of proposed addition and new zone boundaries; development history; local revitalization efforts; land-use characteristics; physical deficiencies and investment opportunities; local development objectives; barriers to investment in amended zone area; any new proposed local program incentives; projected impact of state tax incentives; and local assurances and authorization. A resolution of the local governing body must also accompany Form EZ-2.

Need for Requirements: Section 59.1-284 of the Code of Virginia permits localities to request an enlargement of their enterprise zone boundaries and amendments to the local incentives proposed in their approved applications for zone designation. Procedures are needed to assure that such requests are submitted and reviewed in a consistent manner. All the information requested on Form EZ-2 is considered to be necessary in order to determine if a boundary change is justified or whether a proposed new incentive is "equal to or superior to the unamended application" as required in § 59.1-284 of the Code of Virginia. The requirement for a resolution of the local governing body is considered to be the minimum action needed to assure that a request for application amendment is being submitted by the local governing body as stipulated in § 59.1-284 of the Code of Virginia.

Cost of Requirements: A jurisdiction would incur costs associated with preparing a Request for Application Amendment. This form asks only for information readily available to the applicant and, therefore, the costs it imposes should not be significant. The department would incur costs associated with processing the proposed amendment. The department does not anticipate a need for additional

personnel or budget authorization in order to carry out this responsibility.

Joint Application Amendment Agreement (Form EZ-2 JA).

Requirements: Form EZ-2 JA must be attached to Form EZ-2 in the case of an amendment to a joint application. Form EZ-2 JA requires applicants to certify that they are in agreement in filing the amendment.

Need for Requirements: Form EZ-2 JA eliminates the need for two application amendment forms: one for single applicants and one for joint applicants.

Cost of Requirements: Jurisdictions would incur costs associated with preparing a Joint Application Amendment Agreement (Form EZ-2 JA). This cost would be minimal.

PROCEDURE III.

Local Administrative Procedures.

A. Surveying zone business conditions.

1. Procedure: Obtain Survey of Zone Business Conditions (Form EZ-3 S).

Remarks: Form EZ-3 S is available from the Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219.

2. Procedure: Complete Survey of Zone Business Conditions by collecting and summarizing data on zone businesses and employment.

Remarks: Information from the Survey of Zone Business Conditions will be used by the department as a basis for program evaluation.

3. Procedure: Submit the completed Survey of Zone Business Conditions to the department.

Remarks: Form EZ-3 S must be submitted to the department within 90 days following the date of zone designation.

B. Submitting an annual report.

1. Procedure: Obtain Annual Report (Form EZ-3 AR).

Remarks: Form EZ-3 AR may be obtained from the Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219.

2. Procedure: Complete Annual Report by updating the following: (i) a list of surplus public land and actions taken to sell such land; (ii) an evaluation of zone development progress; and (iii) a summary of zone business and employment data.

Remarks: Information from annual reports will be used by the department in monitoring local compliance with program requirements and in preparing an annual evaluation report to the Governor.

3. Procedure: Submit the completed annual report to the department.

Remarks: Form EZ-3-AR must be submitted to the department within 90 days of the anniversary date of zone designation.

Survey of Zone Business Conditions (Form EZ-3-S).

Requirements: Form EZ-3-S must be submitted by an applicant to the department following zone designation. It requires information on zone business characteristics and zone business activity.

Need for Requirements: Section 59.1-273 of the Code of Virginia requires the department to submit annual reports to the Governor evaluating the effectiveness of the program. In order to do so, the department must obtain uniform baseline data on business conditions in designated zones. Such data is not readily available to the department, nor does the department have the resources to collect it. Local governments participating in the program and receiving its benefits are the appropriate agencies to collect information on zone conditions. Procedures and regulations are needed to assure that the reporting requirements of localities are consistent and that all reporting is carried out in a uniform manner.

Cost of Requirements: Local governments would incur costs from making a survey to collect data on the number of business firms and employment levels. However, the survey need not be sophisticated or costly.

Annual Report (Form EZ-3-AR).

Requirements: Form EZ-3-AR must be submitted by an applicant to the department within 90 days of the anniversary date of zone designation. It requires the following information: status of local actions to sell surplus public land within a zone; evaluation of the program's success in achieving local development objectives; state program evaluation data; and assurances.

Need for Requirements: In order to evaluate the effectiveness of the program, the department must obtain uniform data on an annual basis indicating changes in zone business conditions. Regulations are needed to assure that the reporting requirements of localities are consistent and that all reporting is carried out in a uniform manner. Section 59.1-273 of the Code of Virginia also requires the department to monitor the implementation and operation of the program. Regulations are needed to assure that the department's monitoring of local compliance with administrative requirements (i.e., sale of surplus public land) is consistent and fair.

Cost of Requirements: Local governments would incur costs associated with providing the information requested in the annual report. However, several steps have been taken to minimize such costs. First, the information required regarding the sale of surplus public land is readily available to localities. Second, localities are allowed to structure their local program evaluations as they see fit. Finally, the data requested on business conditions is structured in the same way as on Form EZ-3-S in order to simplify reporting. The type of data requested has been carefully considered and reasonable estimates are permitted, where appropriate, in order to minimize the need for localities to conduct surveys on an annual basis.

PROCEDURE IV.

Requesting State Tax Incentives.

1. Procedure: Obtain a Request to Qualify for State Tax Incentives—New Firms (Form EZ-4N) or a Request to Qualify for State Tax Incentives—Existing Firms (Form EZ-4E).

Remarks: Forms EZ-4N and EZ-4E may be obtained from the Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219.

2. Procedure: Complete the Request to Qualify for State Tax Incentives to the department.

Remarks: Forms EZ-4N and Form EZ-4E must be completed and signed by an independent certified public accountant.

3.a. Procedure: Submit the completed Request to Qualify for State Tax Incentives to the department.

Remarks: Form EZ-4N or Form EZ-4E must be submitted to the department no later than 30 calendar days prior to the firm's normal or extended deadline for filing its return for state income, franchise or license tax.

b. Attach to Form EZ-4N or Form EZ-4E a statement requesting one or more of the state tax incentives provided for in the program.

Remarks: Business firms may receive state tax incentives for only the length of their qualification period, five or 10 consecutive years beginning with the first taxable year in which the firm qualifies.

4. Procedure: Within 14 calendar days of receiving Form EZ-4N or Form EZ-4E, the department reviews the form and certifies to the appropriate state agency the applicability of the state tax incentive requested by a qualified business firm.

Remarks: The department forwards to the appropriate local governing body a copy of the business firm's statement requesting state tax incentives, along with a determination that the firm is qualified or not qualified to receive such state tax incentives.

5. Procedure: The department notifies the business firm that it is qualified or not qualified to receive the requested state tax incentives.

Remarks: The department forwards to a qualified business firm three copies of the certification submitted to the appropriate state agency: one copy for the firm's records, one for the firm to attach to its state sales tax return and one for the firm to attach to its return for state income, franchise or license tax.

6. Procedure: File the applicable state tax return with an attached copy of the certification of qualification to receive state tax incentives.

Remarks: The return must be filed by the normal filing deadline unless an extension has been granted.

7. Procedure: Qualified business firms receive appropriate state tax credits or refunds.

Emergency Regulations

~~Request to Qualify for State Tax Incentives (Form EZ-4N or Form EZ-4E).~~

~~Requirements: Form EZ-4N or EZ-4E must be submitted by a business firm to the department in order to qualify for state tax incentives. Each form requires information regarding the location of the firm and its zone establishment(s), data necessary to determine whether the firm is qualified under the program and a declaration that the information is accurate.~~

~~Need for Requirements: Section 59.1-279 of the Code of Virginia requires a business firm to submit annually to the department a form stating that it qualifies to receive state tax incentives. Procedures are needed so that such forms are filed in a consistent and timely manner. The information requested on Form EZ-4E and EZ-4N is the minimum needed to establish that a firm meets all requirements and to provide the department with basic record-keeping data.~~

~~Cost of Requirements: A business firm would incur minimal costs associated with the requirements. Firms are not required to change their taxable years or alter their accounting practices in order to qualify to receive state tax incentives. The department would incur annual administrative costs associated with certifying the applicability of a requested tax incentive. The Virginia Department of Taxation and State Corporation Commission would incur costs related to the crediting or refunding of taxes for qualified businesses within a zone. The extent of costs to be borne by the department and other state agencies cannot be measured until zones are designated and the level of interest in the program by qualified business firms can be determined.~~

~~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.~~

~~"Average number of full time employees" means the number of full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:~~

~~1. In calculating the average number of full-time employees, a business firm may count only those full-time employees who worked at least one-half of their normal work days during the payroll period. Paid leave time may be counted as work time.~~

~~2. For a business firm which uses different payroll periods for different classes of employees, the average number of full-time employees of the firm shall be defined as the sum of the average number of full-time employees for each class of employee.~~

~~"Base taxable year" means the taxable year preceding the first taxable year for which a firm qualifies for state tax incentives under this program.~~

~~"Business firm" means any business entity, incorporated or unincorporated, which is authorized to do business in the~~

~~Commonwealth of Virginia and which is subject to state individual income tax, state corporate income tax, state franchise or license tax on gross receipts, or state bank franchise tax on net taxable capital:~~

~~1. The term "business firm" includes partnerships and small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to state income tax as partnerships or corporations, but the taxable income of which is passed through to and taxed as income of individual partners and shareholders.~~

~~2. The term "business firm" does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, § 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code, § 528.~~

~~"Department" means the Department of Housing and Community Development.~~

~~"Develop" means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure(s) to accommodate the principal use to which the land is or will be put. Improvements to land where parking is the principal use shall not constitute development pursuant to the requirements in § 7.1 A, except where the buyer can demonstrate to the satisfaction of the seller that such use is necessary in order to further the purpose of the program (see § 2.3) and the local development objectives outlined in the application for zone designation.~~

~~"Employee of a zone establishment" means a person employed by a business firm who is on the payroll of the firm's establishment(s) within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment(s) for at least one-half of his normally scheduled work days.~~

~~"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed:~~

~~1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.~~

~~2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.~~

~~"Family" means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's federal income tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the~~

other person's family; or (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

"Family income" means all income actually received by all family members over age 16 from the following sources:

1. Gross wages and salary (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing family income, income of a spouse and/or other family members shall be counted for the portion of the income determination period that the person was actually a part of the family.

"Family size" means the largest number of family members during the income determination period.

"Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 36 hours per week during the firm's payroll period or two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. The term "full-time employee" does not include unpaid volunteer workers.

"Gross receipts attributable to the active conduct of trade or business within an Enterprise Zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment(s) within the zone. The proportion of gross receipts arising from the firm's activities, or from its investment and use of capital within the zone, shall be calculated by dividing the total expenses of the firm's establishment(s) within the zone by the firm's total expenses both inside and outside the zone:

1. This calculation must be used to allocate and apportion taxable gross receipts against which state franchise or license tax credits may be claimed (see § 9-2-C).

2. This calculation may not be used to allocate and apportion Virginia taxable income against which state corporate and individual income tax credits may be claimed or taxable net capital against which state franchise tax credits may be claimed.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives under this program.

"Low-income person" means a person who is a full-time employee of a business firm seeking qualification and whose family had an income which was less than 80% of median family income during the income determination period.

"Median family income" means the dollar amount, adjusted for family size, as determined annually by the department for the city or county in which the zone is located.

"Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Secretary" means the Secretary of Economic Development.

"Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards:

1. In the case of land owned by a unit of local government, (i) the land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.

2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

3. In the case of land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the needs of the Commonwealth Transportation Board and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154 of the Code of Virginia. The Commonwealth Transportation Board, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other state agencies in accordance with procedures

Emergency Regulations

established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

"Tax year" means the year in which the assessment is made.

"Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts or state taxable net capital is accrued.

"Unit of local government" means any county, city or town. Special purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

"Zone" means an Enterprise Zone declared by the Governor to be eligible for the benefits of this program.

PART II. GENERAL PROVISIONS.

§ 2.1. Authority.

These regulations are issued by the Board of Housing and Community Development, Commonwealth of Virginia, as required by § 50.1-278 of the Code of Virginia.

§ 2.2. Scope and applicability.

These regulations describe the procedures and requirements that will be used to implement the Virginia Enterprise Zone Program.

§ 2.3. Purpose of program.

The purpose of the Virginia Enterprise Zone Program is to stimulate business and industrial growth which would result in commercial and economic revitalization by means of regulatory flexibility and tax incentives. This program is to be directed to areas of the Commonwealth that need special governmental attention to attract private sector investment.

§ 2.4. Compliance with the Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, shall govern the issuance and administration of these regulations.

PART III. ELIGIBILITY CRITERIA.

§ 3.1. Eligible applicants for zone designation.

Eligible applicants include the governing body of any county, city or town.

A. Applications on behalf of towns.

The governing body of a county may apply for designation of an Enterprise Zone on behalf of a town located within the county.

B. Joint applications.

Two or more adjacent eligible jurisdictions may file a joint application for an Enterprise Zone lying in the jurisdictions submitting the application.

C. Limit on applications.

Eligible jurisdictions may submit only one application for the designation of an Enterprise Zone. This limitation includes the submission of a joint application with other jurisdictions.

§ 3.2. Zone eligibility requirements.

To be eligible for consideration, an application for an Enterprise Zone must meet the following requirements.

A. Contiguous area.

The proposed zone must consist of a contiguous area.

B. Distress criteria.

The proposed zone must meet at least one of the following criteria as enumerated in the most current U.S. Census or current data from the Center for Public Service or local planning district commission: (i) 25% or more of the households must have had incomes below 80% of the median household income of the county or city; (ii) the unemployment rate must have been at least 1.5 times the state average; or (iii) demonstrate a floor area vacancy rate of industrial or commercial properties of 20% or more.

C. Zone size.

The proposed zone shall conform to the following size guidelines. In a joint application, the portion of the zone proposed in each jurisdiction shall conform to the guidelines:

1. Size limits for zones in Metropolitan Central Cities.

Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.

Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.

2. Size limits for zones in towns and cities other than Metropolitan Central Cities.

Minimum: 1/4 square mile (160 acres). In no instance shall a zone consist only of a site for a single business firm.

Maximum: 1/2 square mile (320 acres) or 7% of the jurisdiction's land area or population, whichever is largest.

3. Size limits for zones in unincorporated areas of counties.

Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.

Maximum: 4 square miles (2,560 acres).

4. Exception for zones in cities formed through consolidation. Zones in cities, the existing boundaries of which were created through the consolidation of a city and county, or the consolidation of two cities, shall conform substantially to the minimum and maximum size

~~guidelines for unincorporated areas of counties as set forth in § 3.2C(3).~~

~~PART IV. PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.~~

~~§ 4.1. Procedures for zone application and designation.~~

~~Up to 25 Enterprise Zones will be designated by the Governor in accordance with the following procedures and requirements.~~

~~A. Applications for zone designation.~~

~~Applications for zone designation will be solicited by the department in accordance with the following procedures and requirements:~~

~~1. Application form. An application for zone designation must be submitted on Form EZ 1 to the Director, Virginia Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219, on or before the submission date established by the department.~~

~~2. Local public hearing. The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the department.~~

~~3. Application requirements. In order to be considered in the competitive zone designation process an application must provide all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in § 4.1 A(2).~~

~~4. Proposed local incentives. As part of its application a locality may propose local incentives such as regulatory and tax relief, and infrastructure and service delivery improvements, in order to stimulate private investment in the proposed zone. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of state tax incentives, will be factors in evaluating applications.~~

~~The local governing body may propose incentives which it will make generally available throughout the zone or available only under specified conditions. Likewise, the local governing body may propose incentives to be provided for the entire life of the zone or for any shorter period.~~

~~Proposed local incentives may be provided by the local governing body itself or by an assigned agent(s) such as a local redevelopment and housing authority, a private nonprofit entity or a private for profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing unincorporated county areas as well as~~

~~portions of one or more towns, the county may designate the governing body(ies) or the town(s) to serve as its assigned agent(s).~~

~~B. Departmental review of applications.~~

~~Within 60 days following the application submission date, the department shall review and forward to the Governor those applications determined to be eligible for Enterprise Zone designation under § 3.2.~~

~~C. Director's review of eligible applications.~~

~~Within 30 days of forwarding eligible applications to the Governor, the Director of the Department of Housing and Community Development shall recommend to the Governor those which are determined to have the greatest potential for accomplishing the purpose of the program.~~

~~D. Governor's designation.~~

~~The Governor shall designate, upon recommendation of the Director, Enterprise Zones for a period of 20 years. The Governor's designation shall be final.~~

~~E. Notification of denial.~~

~~A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.~~

~~§ 4.2. Procedures and requirements for joint applications.~~

~~Two or more adjacent jurisdictions submitting a joint application as provided for in § 3.1 B must meet the following requirements:~~

~~A. Designation of a program administrator.~~

~~The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in §§ 7.2 and 7.3.~~

~~B. Submission of joint applications.~~

~~In order to submit a joint application, Form EZ 1 must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in §§ 4.1 A(1) through 4.1 A(4). In addition, a copy of Form EZ 1-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy(ies) of Form EZ 1-JA must be submitted to the department with Form EZ 1.~~

~~C. Other requirements.~~

~~The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.~~

~~PART V. PROCEDURES FOR ZONE AMENDMENT.~~

~~§ 5.1. Relationship to federal enterprise zone program.~~

~~If any portion of an area designated as an Enterprise Zone by the Governor is included in an area designated as an~~

Emergency Regulations

enterprise zone by an agency of the federal government, the area designated by the Governor shall be enlarged to include the area designated by the federal agency.

~~§ 5.2. Amendment of approved applications.~~

~~A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the following procedures and requirements provided that the amendments relate to local program incentives or to expansions of zone boundaries.~~

~~A. Local public hearing on proposed amendment.~~

~~The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the department.~~

~~B. Submission of a request for an amendment.~~

~~A request for an amendment must be submitted to the department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in § 5.2 A. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by Form EZ-2 JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.~~

~~C. Limit on applications for amendments to expand zone boundaries.~~

~~The first application for an amendment to expand zone boundaries may be submitted at any time. Thereafter, only one application for an amendment to expand zone boundaries will be permitted every four years.~~

~~D. Eligibility criteria for amendments to expand zone boundaries.~~

~~A proposed boundary amendment must meet the following requirements:~~

- ~~1. Contiguous area. The area proposed for expansion must be contiguous to the existing zone.~~
- ~~2. Distress criteria.~~

~~The enlarged zone must meet at least one of the distress criteria outlined in § 3.2 B of the program regulations.~~

~~E. Boundary amendment size.~~

~~The enlarged zone shall not exceed the maximum size guidelines outlined in § 3.2 C of the program regulations. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.~~

~~F. Approval of an amendment.~~

~~The department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries only if the proposed amendment is deemed to be justified in the opinion of the department.~~

~~G. Notification of denial.~~

~~A local governing body that is denied either a boundary or local incentive amendment shall be provided with the reasons for denial.~~

~~PART VI.~~

~~PROCEDURES FOR ZONE TERMINATION.~~

~~§ 6.1. Failure to provide local program incentives.~~

~~If a local governing body or its assigned agent(s) is unable or unwilling to provide any of the approved local program incentives, the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent(s) is unable or unwilling to provide approved local incentives.~~

~~A. Notification.~~

~~A local governing body must notify the department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.~~

~~B. Request for an amendment.~~

~~A local governing body will have 60 days after submission of the notice required in § 6.1 A to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in § 5.2 C.~~

~~C. Departmental review.~~

~~The department will review requests for amendments in accordance with the criterion set forth in § 5.2 F. Approval of an amendment will allow a zone to continue in operation. If a local governing body fails to provide notice as set forth in § 6.1 A, or has its request for an amendment denied, then the department may recommend to the secretary that the zone be terminated.~~

~~D. Secretarial review of recommendation for zone termination.~~

~~The secretary, upon review of the department's recommendation, may recommend that the Governor terminate the zone.~~

~~§ 6.2. Zone termination.~~

~~A zone shall be terminated in accordance with the procedures set forth in § 6.1 upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.~~

~~A. Continued availability of state tax incentives to previously qualified business firms.~~

~~Qualified business firms located in a terminated zone may continue to request state tax incentives provided under this program for any remaining taxable years in the qualification period for which they are eligible.~~

~~B. Limits on business firm qualification.~~

~~After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program.~~

PART VII. ADMINISTRATIVE REQUIREMENTS.

§ 7.1. Sale of surplus public land.

The Commonwealth and any unit of local government that owns land within the zone shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. The department may waive this requirement only if the owner can demonstrate to the department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.

A. Conditions on the sale of public land.

The Commonwealth or any unit of local government that sells surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional conditions upon the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the program (See § 2.3) and the local development objectives outlined in the application for zone designation. If the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.

B. Monitoring of compliance.

In order to monitor compliance with the requirements of § 7.1, the department will request annually from local governing bodies and state agencies with responsibility for overseeing the disposition of surplus state land, information concerning the identification and sale of surplus land. A local governing body shall document compliance with § 7.1 in its annual report to the department (see § 7.3). The department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Transportation, lists of surplus state land within zones and actions taken to sell such land.

§ 7.2. Survey of zone business conditions.

Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing zone business conditions to serve as a basis for program evaluation. Survey data shall be submitted to the department on Form EZ-3-S. The survey shall include information on business and employment conditions in the zone as requested on Form EZ-3-S.

§ 7.3. Annual report.

A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the department on Form EZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with § 7.1 and data for the purpose of program evaluation as requested on Form EZ-3-AR. Annual reports

shall also include an evaluation of the program's success in achieving identified local development objectives.

PART VIII. BUSINESS FIRM REQUIREMENTS.

§ 8.1. Requirements for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives, a business firm must meet the requirements of § 8.1 A or § 8.1 B.

A. Requirements for new firms.

A business firm which begins the operation of a trade or business within a zone after the date of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; and (ii) at least 40% of the average number of full-time employees of its zone establishment(s) must be low-income persons.

B. Requirements for existing firms.

A business firm which is engaged in the conduct of a trade or business in a zone at the time of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; (ii) the average number of full-time employees of its zone establishment(s) must be at least 10% greater than the average for the base taxable year; and (iii) at least 40% of such increase must be low-income persons.

§ 8.2. Prohibition of duplicate government assistance.

A business firm may not use the same expense to qualify for state tax incentives under this program as is used to qualify for state tax incentives under any other program.

PART IX. BUSINESS FIRM PROCEDURES.

§ 9.1. Procedures for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives under this program, a new business firm must submit to the department Form EZ-4N stating that it meets the requirements of § 8.1 A. An existing business firm must submit Form EZ-4E stating that it meets the requirements of § 8.1 B. These forms must be prepared by an independent certified public accountant (CPA) licensed by the Commonwealth.

A. Proof of qualification.

Form EZ-4N or Form EZ-4E, when completed and signed by an independent CPA, shall be prima facie evidence that a business firm is qualified to receive state tax incentives.

B. Determination of employee low-income status.

In determining whether a business firm meets the requirements of § 8.1 A or § 8.1 B, an independent CPA may accept a signed statement from an employee affirming that he meets the definition of a low-income person.

C. Annual submission of form.

Emergency Regulations

~~A business firm must submit either Form EZ-4N or Form EZ-4E for each year in which state tax incentives are requested. Form EZ-4N or Form EZ-4E must be submitted to the department no later than 30 calendar days prior to the firm's normal or extended deadline for filing a return for state corporate income tax, state individual income tax, state franchise or license tax on gross receipts, or state franchise tax on net capital.~~

~~D. Certification by the department—Within 14 calendar days of receipt of Form EZ-4N or Form EZ-4E, the department will:~~

- ~~1. Review the form;~~
- ~~2. Certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and~~
- ~~3. Forward three copies of the certification to the firm (one copy for the firm's records and two copies to be filed with the applicable state tax returns) or notify the firm that it fails to qualify for state tax incentives under Part VIII.~~

~~E. Submission of state tax returns.~~

~~A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the credit or refund requested, the appropriate copy of the certificate of qualification must be attached to firm's tax return.~~

~~When a partnership or small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code requests a credit(s) against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.~~

~~F. Time limits for receiving Virginia state tax incentives.~~

~~Businesses that began operations before July 1, 1992, are eligible to receive five years of tax incentives beginning with the first taxable year in which the firm qualifies. Businesses that began operations after July 1, 1992, are eligible to receive tax incentives for 10 years beginning with the first taxable year in which they qualify. If a firm fails to become qualified for any taxable year during its qualification period, it forfeits the right to request state tax incentives for that year. However, the firm is eligible to become qualified for any remaining taxable years of its five- or 10-year cycle.~~

~~G. Prohibition on requalification due to reorganization of a firm.~~

~~A business firm may not qualify for state tax incentives for more than its qualification period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.~~

~~§ 0.2. Procedures for requesting state tax incentives.~~

~~A business firm shall submit annually to the department, along with Form EZ-4N or Form EZ-4E, a statement requesting one or more of the state tax incentives provided for in this section. In the case of a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code, the statement requesting state tax incentives shall include the name, address and social security number of each partner or shareholder requesting a credit(s) against state individual income tax as provided for in § 0.2 B.~~

~~A. State corporate income tax credits.~~

~~A qualified business firm subject to tax under Article 10, Chapter 3, Title 58.1, of the Code of Virginia, may request credits against any such tax due. Corporate income tax credits shall not extend for more than five consecutive tax years for firms that began operations before July 1, 1992, or 10 consecutive tax years for firms that began operations after July 1, 1992. The sum of the corporate income tax credits claimed under this section shall not exceed the business firm's state corporate income tax liability. Corporate income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside a zone shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.~~

~~1. General credit.—A credit may be claimed against corporate income tax liability for each of five or ten consecutive tax years in an amount equaling:~~

- ~~a. Firms beginning operations before July 1, 1992:
80% of the tax due for the first tax year;
60% of the tax due for the second tax year;
40% of the tax due for the third tax year; and
20% of the tax due for the fourth and fifth tax years.~~

- ~~b. Firms beginning operations after July 1, 1992:
80% of the tax due for the first tax year; and
60% of the tax due for the second through tenth tax years.~~

~~An unused tax credit may not be applied to future tax years.~~

~~2. Unemployment tax credit.—A credit may be claimed against corporate income tax liability for each of five or ten consecutive tax years in an amount equaling:~~

- ~~a. Firms beginning operations before July 1, 1992:
80% of the state unemployment tax due on employees of zone establishments for the first tax year;
60% of such tax due for the second tax year;
40% of such tax due for the third tax year; and
20% of such tax due for the fourth and fifth tax years.~~

- b. Firms beginning operations after July 1, 1992:
 80% of the tax due for the first tax year; and
 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable corporate income remaining after the subtraction of any general credit claimed under § 9.2 A(1). An unused employment tax credit may be applied to future tax years within the five to ten year period established by this section.

B. State individual income tax credits.

A qualified business firm which is subject to state individual income tax may request credits against any such tax due. Individual income tax credits shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992, or ten consecutive tax years for firms beginning operations after July 1, 1992. The sum of the individual income tax credits claimed under this section shall not exceed the business firm's state individual income tax liability. When a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code is eligible for this tax credit, each partner or shareholder may request the credit on his individual income tax in proportion to the amount of income received by that partner from the partnership, or shareholder from his corporation, respectively. Individual income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside the zone shall allocate and apportion its taxable income attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit. A credit may be claimed against individual income tax liability for each of five or ten consecutive tax years in an amount equaling:

- a. Firms beginning operations before July 1, 1992:
 80% of the tax due for the first tax year;
 60% of the tax due for the second tax year;
 40% of the tax due for the third tax year; and
 20% of the tax due for the fourth and fifth tax years.

- b. Firms beginning operations after July 1, 1992:
 80% of the tax due for the first tax year; and
 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit. A credit may be claimed against individual income tax liability for each of five or ten consecutive tax years in an amount equaling:

- a. Firms beginning operations before July 1, 1992:
 80% of the state unemployment tax due on employees of zone establishments for the first tax year;

- 60% of such tax due for the second tax year;
 40% of such tax due for the third tax year; and
 20% of such tax due for the fourth and fifth tax years.

- b. Firms beginning operations after July 1, 1992:
 80% of the tax due for the first tax year; and
 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under § 9.2 B(1). An unused employment tax credit may be applied to future tax years within the five year period established by this section.

C. Credits against state franchise or license tax on gross receipts.

A qualified business firm which is subject to state franchise tax on gross receipts or state license tax on gross premium receipts may request a credit against any such tax due. Credits against state franchise or license tax on gross receipts shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992, or 10 consecutive tax years for firms beginning operations after July 1, 1992. The sum of the credits against state franchise or license tax on gross receipts claimed under this section shall not exceed the business firm's state franchise or license tax liability. Credits against state franchise or license tax on gross receipts shall apply only to taxable gross receipts attributable to the active conduct of trade or business within a zone. A business firm having taxable gross receipts from business activity both inside and outside the zone shall allocate and apportion its taxable gross receipts attributable to conduct of business in accordance with the procedures outlined in the definition for "gross receipts attributable to the active conduct of a trade or business within an Enterprise Zone":

1. General credit. A credit may be claimed against tax liability on gross receipts for each of five or ten consecutive tax years in an amount equaling:

- a. Firms beginning operations before July 1, 1992:
 80% of the tax due for the first tax year;
 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; and
 20% of the tax due for the fourth and fifth tax years.

- b. Firms beginning operations after July 1, 1992:
 80% of the tax due for the first tax year; and
 60% of the tax due for the second through tenth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit. A credit may be claimed against tax liability on gross receipts for each of five or ten consecutive tax years in an amount equaling:

Emergency Regulations

a. Firms beginning operations before July 1, 1992:

80% of the state unemployment tax due on employees of zone establishments for the first tax year;

60% of such tax due for the second tax year;

40% of such tax due for the third tax year; and

20% of such tax due for the fourth and fifth tax years.

b. Firms beginning operations after July 1, 1992:

80% of the tax due for the first tax year; and

60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of the taxable gross receipts remaining after the subtraction of any general credit claimed under § 9.2 C(1). An unused unemployment tax credit may be applied to future tax years within the five or ten-year period established by this section.

D. Credits against state franchise tax on net capital.

A qualified business firm which is subject to state franchise tax on net capital may request credits against any such tax due. Credits against state franchise tax on net capital shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992, or 10 consecutive tax years for firms beginning operations after July 1, 1992. The sum of the credits against state franchise tax on net capital claimed under this section shall not exceed the business firm's state franchise tax liability. Credits against state franchise tax on net capital shall apply only to taxable net capital attributable to the active conduct of business within a zone. A business firm having taxable net capital arising from business activity both inside and outside the zone shall allocate and apportion its net capital attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420 of the Code of Virginia.

1. General credit. A credit may be claimed against tax liability on net capital for each of five or ten consecutive tax years in an amount equaling:

a. Firms beginning operations before July 1, 1992:

80% of the tax due for the first tax year;

60% of the tax due for the second tax year;

40% of the tax due for the third tax year; and

20% of the tax due for the fourth and fifth tax years.

b. Firms beginning operations after July 1, 1992:

80% of the tax due for the first tax year; and

60% of the tax due for the second through tenth tax years.

An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit. A credit may be claimed against tax liability on net capital for each of five or ten consecutive tax years in an amount equaling:

a. Firms beginning operations before July 1, 1992:

80% of the state unemployment tax due on employees of zone establishments for the first tax year;

60% of such tax due for the second tax year;

40% of such tax due for the third tax year; and

20% of such tax due for the fourth and fifth tax years.

b. Firms beginning operations after July 1, 1992:

80% of the tax due for the first tax year; and

60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable net capital remaining after the subtraction of any general credit claimed under § 9.2 D(1). An unused unemployment tax credit may be applied to future tax years within the qualification period established by this section.

E. State sales and use tax exemption.

A qualified business firm may request an exemption from state taxes on all items purchased or leased for the conduct of trade or business within a zone as required under §§ 58-441.1, 58.1-600 et seq. of the Code of Virginia. This exemption applies only to the state portion of the sales and use tax and not to any portion of the tax levied under local option. A business firm in its statement to the department requesting an exemption shall specify the amount of state sales and use tax actually paid during the year for which the exemption is claimed. The Virginia Department of Taxation shall review the amount requested and make an appropriate refund to the firm. State sales and use tax exemptions shall not extend for more than five consecutive tax years.

F. Notification to localities of requests for state tax incentives.

The department shall forward to the local governing body of the jurisdiction in which the zone is located: (i) a copy of the business firm's statement requesting state tax incentives; and (ii) the department's determination that the firm is qualified or not qualified to receive such incentives in accordance with the requirements of Part VIII.

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:

"Average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods:

1. In calculating the average number of permanent full-time employees, a business firm may count only those permanent full-time employees who worked at least half of their normal work days during the payroll period. Paid leave time may be counted as work time.

2. For a business firm which uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm shall be defined as the sum of the average number of permanent full-time employees for each class of employee.

"Base taxable year" (for purposes of qualifying for the general tax credit) means the taxable year preceding the first taxable year for which a firm qualifies for State tax incentives under this Program. This definition only applies to business firms qualified prior to July 1, 1995 and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. The following definition applies to businesses applying for enterprise zone incentives on or after July 1, 1995: "Base taxable year" (for purposes of qualifying for the general tax credit) means the lower of two taxable years immediately preceding the first year of qualification, at the choice of the business firm.

"Base year" (for purposes of qualifying for enterprise zone incentive grants) as provided in Part VII of this regulation means either of the two calendar years immediately preceding a business firm's first year of grant eligibility, at the choice of the business firm.

"Business firm" means any business entity, incorporated or unincorporated, which is authorized to do business in the Commonwealth of Virginia and which is subject to State individual income tax, State corporate income tax, State franchise or license tax on gross receipts, or State bank franchise tax on net taxable capital.

1. The term "business firm" includes partnerships and small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to State income tax as partnerships or corporations, but the taxable income of which is passed through to and taxed as income of individual partners and shareholders.

2. The term "business firm" does not include organizations which are exempt from State income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code, Section 528.

"Common control" means those firms as defined by Internal Revenue Code § 52(b).

"Department" means the Department of Housing and Community Development.

"Develop" means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure(s) to accommodate the principal use to which the land is or will be put. This definition only

applies to business firms qualified prior to July 1, 1995 and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995 shall use the term qualified zone improvements for purposes of qualification for credits under § 59.1-280 of the Code of Virginia.

"Employee of a zone establishment" means a person employed by a business firm who is on the payroll of the firm's establishment(s) within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment(s) for at least one-half of his normally scheduled work days.

"Establishment" means a single physical location where business is conducted where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

"Enterprise zone incentive grant" or "grant" means a grant provided for creating permanent full-time positions pursuant to § 59.1-282.1 of the Code of Virginia.

"Existing business firm" means one that was actively engaged in the conduct of trade or business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone.

"Family" means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's Federal Income Tax Return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family; or (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

"Family income" means all income actually received by all family members over 16 from the following sources:

1. gross wages and salary (before deductions);
2. net self-employment income (gross receipts minus operating expenses);
3. interest and dividend earnings; and
4. other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits,

Emergency Regulations

pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. non-cash benefits such as food stamps and housing assistance;
2. public assistance payments;
3. disability payments;
4. unemployment and employment training benefits;
5. capital gains and losses; and
6. one-time unearned income.

When computing family income, income of a spouse and/or other family members shall be counted for the portion of the income determination period that the person was actually a part of the family.

"Family size" means the largest number of family members during the income determination period.

"First year of grant eligibility" means the first calendar year for which a business firm was both eligible and applied for an enterprise zone incentive grant.

"Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period or two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. The term "Full-time employee" does not include unpaid volunteer workers, leased employees or contract labor. This definition only applies to business firms qualified prior to July 1, 1995 and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. Businesses applying for enterprise zone tax credits on or after July 1, 1995 shall use the term permanent full-time position for purposes of qualification pursuant to § 5.3 of this regulation.

"Grant year" means the calendar year for which a business firm applies for an enterprise zone incentive grant pursuant to § 59.1-282.1 of the Code of Virginia.

"Gross receipts attributable to the active conduct of trade or business within an Enterprise Zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment(s) within the zone. The proportion of gross receipts arising from the firm's activities or from its investment and use of capital within the zone shall be calculated by dividing the total expenses of the firm's establishment(s) within the zone by the firm's total expenses both inside and outside the zone.

1. This calculation must be used to allocate and apportion taxable gross receipts against which State franchise or license tax credits may be claimed (see § 4.2.C of this regulation).
2. This calculation may not be used to allocate and apportion Virginia Taxable Income against which State corporate and individual income tax credits may be

claimed or taxable net capital against which State franchise tax credits may be claimed.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for State tax incentives under this Program.

"Jurisdiction" means the county, city or town which made the application to have an enterprise zone. In the case of a joint application, it means all parties making the application.

"Local zone administrator" means the chief executive of the county, city, or town in which an enterprise zone is located, or their designee.

"Low-income person" means a person who is a full-time employee of a business firm seeking qualification and whose family had an income which was less than 80% of median family income during the income determination period. This definition only applies to business firms qualified prior to July 1, 1995 and only for the purpose of qualifying for enterprise zone incentives offered prior to July 1, 1995. The following definition applies to businesses applying for enterprise zone incentives on or after July 1, 1995: "Low-income person" means a person who is employed in a permanent full-time position with a business firm in an enterprise zone that is seeking qualification for enterprise zone incentives and whose family income was less than or equal to 80% of area median family income during the income determination period.

"Median family income" means the dollar amount, adjusted for family size, as determined annually by the Department for the city or county in which the zone is located.

"Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

"Net loss" means (i) that the gross permanent full-time employment of a business firm located in the Commonwealth was greater than the gross permanent full-time employment of the business firm after relocating within an enterprise zone(s); or (ii) after the business firm expands a trade or business into an enterprise zone the gross permanent full-time employment of a business firm's locations outside of an enterprise zone(s) in the Commonwealth has been reduced.

"New business" means a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

"Number of eligible permanent full-time positions" means the amount by which the number of permanent full-time positions at a business firm in a grant year exceeds the threshold number.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Permanent full-time position" means a job of indefinite duration at a business firm located in an enterprise zone, and requiring either (i) a minimum of thirty-five hours of an employee's time a week for the entire normal year of the business firm's operations, which normal year must consist of at least forty-eight weeks, or (ii) a minimum of thirty-five hours of an employee's time a week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm. Seasonal, temporary, leased or contract labor positions, or a position created when a job function is shifted from an existing location in this Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions.

"Placed in service" means (i) the final certificate of occupancy has been issued by the local jurisdiction for real property improvements; or (ii) the first moment that machinery becomes operational and is used in the manufacturing of a product for consumption; or (iii) in the case of tools and equipment it means the first moment they are used in the performance of duty or service.

"Qualified business firm" means a business firm meeting the business firm requirements in §§ 4.2 or 5.3 of these regulations and designated a qualified business firm by the Department.

"Qualified zone improvements" means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use.

1. Qualified zone improvements include, but are not limited to, the costs associated with excavation, grading, paving, driveways, roads, sidewalks, landscaping or other land improvements, demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning and clean-up.

2. Qualified zone improvements do not include (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees, (iii) loan fees; points or capitalized interest; (iv) legal, accounting, realtor, sales and marketing or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, inspection fees; (vi) bids insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; utility hook-up or access fees; outbuildings or the cost of any well, septic, or sewer system; or (vi) cost of acquiring land or an existing building.

"Qualified zone investment" means the sum of qualified zone improvements and the cost of machinery, tools and equipment used in manufacturing tangible personal property

and placed in service on or after July 1, 1995. Machinery, tools and equipment shall not include the basis of any property: (i) for which a credit was previously granted under § 59.1-280.1, of the Code of Virginia; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, or a trade or business under common control; or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person whom acquired, or Internal Revenue Code § 1014 (a).

"Qualified zone resident" means an owner or tenant of real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business by such owner or tenant within the enterprise zone. In the case of a partnership, limited liability company or S corporation, the term "qualified zone resident" means the partnership, limited liability company or S corporation.

"Redetermined base year" means the base year for calculation of the number of eligible permanent full-time positions in a second or subsequent three year grant period. If a second or subsequent three year grant period is requested within two years after the previous three year period, the redetermined base year will be the last grant year. If a business firm applies for subsequent three-year periods beyond the two years immediately following the completion of a three-year grant period, the firm shall use one of the two preceding calendar years as the base year, at the choice of the business firm.

"Real property improvements tax credit" means a credit provided to a qualified zone resident pursuant to § 59.1-280.1 B of the Code of Virginia.

"Related party" means those as defined by Internal Revenue Code § 267(b).

"Seasonal employment" means any employee who normally works on a full-time basis and whose customary annual employment is less than 9 months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three month period are seasonal employees.

"Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards.

1. In the case of land owned by a unit of local government, (i) the land is not being used for a public purpose nor designated targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.

2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to

Emergency Regulations

the Commonwealth in accordance with criteria and procedures established pursuant to §§ 52.1-504 through 2.1-512, of the Code of Virginia.

3. In the case of land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the needs of the State Highway Commission and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154, of the Code of Virginia. The State Transportation Commission, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other State agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512, of the Code of Virginia.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

"Tax year" means the year in which the assessment is made.

"Taxable year" means the year in which the tax due on State taxable income, State taxable gross receipts or State taxable net capital is accrued.

"Threshold number" means 110% of the number of permanent full-time positions in the base year for the first three-year period in which a business firm is eligible for an enterprise zone incentive grant. For a second and any subsequent three-year period of eligibility, the threshold means 120% of the number of permanent full-time positions in the applicable base year as redetermined for the subsequent three-year period. If such number would include a fraction, the threshold number shall be the next highest integer. Where there are no permanent full-time positions in the base year, the threshold will be zero.

"Transferred employee" means an employee of a firm in the Commonwealth that is relocated to an enterprise zone facility owned or operated by that firm.

"Unit of local government" means any county, city or town. Special-purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

"Zone" means an Enterprise Zone declared by the Governor to be eligible for the benefits of this Program.

"Zone investment tax credit" means a credit provided to a qualified zone resident pursuant to § 59.1-280.1 J of the Code of Virginia.

"Zone resident" means a person whose principal place of residency is within the boundaries of an enterprise zone. Zone residency must be verified annually.

PART II. GENERAL PROVISIONS.

§ 2.1. Authority.

These regulations are issued by the Board of Housing and Community Development, Commonwealth of Virginia as required by § 59.1-278 of the Code of Virginia and the third enactment clause of Chapter 792 of the 1995 Acts of Assembly.

§ 2.2. Scope and applicability.

These regulations describe the procedures and requirements that will be used to implement the Virginia Enterprise Zone Program.

§ 2.3. Purpose of program.

The purpose of the Virginia Enterprise Zone Program is to stimulate business and industrial growth which would result in neighborhood, commercial and economic revitalization by means of regulatory flexibility and tax incentives. This Program is to be directed to areas of the Commonwealth that need special governmental attention to attract private sector investment.

§ 2.4. Compliance with the Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act, Title 9, Code of Virginia, shall govern the issuance and administration of these regulations.

PART III. BUSINESS FIRM REQUIREMENTS FOR BUSINESSES QUALIFYING PRIOR TO JULY 1, 1995.

§ 3.1. Requirements for becoming a qualified business firm.

In order to become qualified for the purpose of receiving State tax incentives, a business firm must meet the requirements of § 3.1 A or § 3.1 B of this regulation.

A. Requirements for new firms - A business firm which begins the operation of a trade or business within a zone after the date of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which State tax incentives are requested must be attributable to trade or business conducted within the zone; and (ii) at least 40% of the average number of full-time employees of its zone establishment(s) must be low-income persons.

B. Requirements for existing firms - A business firm which is engaged in the conduct of a trade or business in a zone at the time of zone designation must meet the following requirements: (i) at least 50% of its gross receipts earned during the taxable year for which State tax incentives are requested must be attributable to trade or business conducted within the zone; (ii) the average number of full-time employees of its zone establishment(s) must be at least 10% greater than the average for the base taxable year; and (iii) at least 40% of such increase must be low-income persons.

PART IV.
BUSINESS FIRM PROCEDURES FOR BUSINESSES
QUALIFYING PRIOR TO JULY 1, 1995.

§ 4.1. Procedures for becoming a qualified business firm.

In order to become qualified for the purpose of receiving State tax incentives under this Program, a new business firm must submit to the Department Form EZ-4N stating that it meets the requirements of § 3.1 A of this regulation. An existing business firm must submit Form EZ-4E stating that it meets the requirements of § 3.1 B of this regulation. These forms must be prepared by an independent certified public accountant (CPA) licensed by the Commonwealth.

A. Proof of qualification - Form EZ-4N or Form EZ-4E, when completed and signed by an independent CPA, shall be prima facie evidence that a business firm is qualified to receive State tax incentives.

B. Determination of employee low-income status - In determining whether a business firm meets the requirements of § 3.1 A or § 3.1 B of this regulation, an independent CPA may accept a signed statement from an employee affirming that he meets the definition of a low-income person.

C. Annual submission of form - A business firm must submit either Form EZ-4N or Form EZ-4E for each year in which State tax incentives are requested. Form EZ-4N or Form EZ-4E must be submitted to the Department no later than 30 calendar days prior to the firm's normal or extended deadline for filing a return for State corporate income tax, State individual income tax, State franchise or license tax on gross receipts, or State franchise tax on net capital.

D. Certification by the Department - Within 14 calendar days of receipt of Form EZ-4N or Form EZ-4E, the Department will:

1. Review the form;
2. Certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and
3. Forward three copies of the certification to the firm (one copy for the firm's records and two copies to be filed with the applicable State tax returns) or notify the firm that it fails to qualify for State tax incentives under PART III of this regulation.

E. Submission of state tax returns - A business firm, upon receipt from the Department of copies of the certificate of its qualification to receive State tax incentives, may file the applicable State tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive(s) requested, the appropriate copy of the certificate of qualification must be attached to firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit(s) against State individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its State individual

income tax return a photocopy of the appropriate certificate of qualification received by the firm.

F. Time limits for receiving Virginia state tax incentives - Businesses that began operations before July 1, 1992 are eligible to receive five years of tax incentives beginning with the first taxable year in which the firm qualifies. Businesses that began operations after July 1, 1992 are eligible to receive tax incentives for ten years beginning with the first taxable year in which they qualify. If a firm fails to become qualified for any taxable year during its qualification period, it forfeits the right to request State tax incentives for that year. However, the firm is eligible to become qualified for any remaining years of its five-or ten-year cycle.

G. Prohibition on requalification due to reorganization of a firm - A business firm may not qualify for State tax incentives for more than its qualification period by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

§ 4.2. Procedures for requesting state tax incentives.

A business firm shall submit annually to the Department, along with Form EZ-4N or Form EZ-4E, a statement requesting one or more of the State tax incentives provided for in this Section. In the case of a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code, the statement requesting State tax incentives shall include the name, address and social security number of each partner or shareholder requesting a credit(s) against State individual income tax as provided for in § 4.2B of this regulation.

A. State corporate income tax credits - A qualified business firm subject to the corporate income tax under Article 10, Chapter 3, Title 58.1, of the Code of Virginia, may request credits against any such tax due. Corporate income tax credits shall not extend for more than five consecutive tax years for firms that began operations before July 1, 1992 or ten consecutive tax years for firms that began operations after July 1, 1992.

The sum of the corporate income tax credits claimed under this Section shall not exceed the business firm's State corporate income tax liability. Corporate income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside a zone shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420, of the Code of Virginia.

1. General credit - A credit may be claimed against corporate income tax liability for each of five or ten consecutive years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms Beginning Operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future years.

Emergency Regulations

2. *Unemployment tax credit* - A credit may be claimed against corporate income tax liability for each of five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the State unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable corporate income remaining after the subtraction of any general credit claimed under § 4.2 A(1) of this regulation. An unused unemployment tax credit may be applied to future tax years within the five- to ten-year period established by § 4.2 B(2) of this regulation.

B. *State individual income tax credits* - A qualified business firm which is subject to State individual income tax under Article 2 of Chapter 3 of Title 58.1, may request credits against any such tax due. Individual income tax credits shall not extend more than five consecutive tax years for firms beginning operations before July 1, 1992 or ten consecutive tax years for firms beginning operations after July 1, 1992. The sum of the individual income tax credits claimed under § 59.1-280 of the Code of Virginia shall not exceed the business firm's State individual income tax liability. When a partnership or a small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code is eligible for this tax credit, each partner or shareholder may request the credit on his individual income tax in proportion to the amount of income received by that partner from the partnership, or shareholder from his corporation, respectively.

Individual income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside the zone shall allocate and apportion its taxable income attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ 58.1-406 through 58.1-420, of Title 58.1 of the Code of Virginia.

1. *General credit* - A credit may be claimed against individual income tax liability for each of the five or ten consecutive tax years in an amount equaling: Firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. *Unemployment tax credit* - A credit may be claimed against individual income tax liability for each of the five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the

State unemployment tax due on employees of zone establishments for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years.

An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under § 4.2 B(1) of this regulation. An unused employment tax credit may be applied to future tax years within the five- or ten-year period established by § 4.2 B(2) of this regulation.

C. *Credits against state franchise or license tax on gross receipts* - A qualified business firm which is subject to State franchise tax on gross receipts or State license tax on gross premium receipts may request a credit against any such tax due. Credits against State franchise or license tax on gross receipts shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992 or ten consecutive tax years for firms beginning operations after July 1, 1992. The sum of the credits against State franchise or license tax on gross receipts claimed under this Section shall not exceed the business firm's State franchise or license tax liability. Credits against State franchise or license tax on gross receipts shall apply only to taxable gross receipts attributable to the active conduct of trade or business within a zone. A business firm having taxable gross receipts from business activity both inside and outside the zone shall allocate and apportion its taxable gross receipts attributable to conduct of business in accordance with the procedures outlined in the definition for "gross receipts attributable to the active conduct of a trade or business within an "Enterprise Zone".

1. *General credit* - A credit may be claimed against tax liability on gross receipts for each of the five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. *Unemployment tax credit* - A credit may be claimed against tax liability on gross receipts for each of the five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the State unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under § 4.2 D(1) of this regulation. An unused unemployment tax

credit may be applied to future tax years within the five or ten-year period established by § 4 of this regulation.

D. Credits against state franchise tax on net capital - A qualified business which is subject to State franchise tax on net capital may request credits against any such tax due. Credits against State franchise tax on net capital shall not extend for more than five consecutive tax years for firms beginning operations before July 1, 1992 or ten consecutive tax years for firms beginning operations after July 1, 1992.

1. General credit - A credit may be claimed against tax liability on net capital for each of the five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second tax year; 40% of the tax due for the third tax year; 20% of the tax due for the fourth and fifth tax years. Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unused tax credit may not be applied to future tax years.

2. Unemployment tax credit - A credit may be claimed against tax liability on net capital for each of the five or ten consecutive tax years in an amount equaling: firms beginning operations before July 1, 1992; 80% of the State unemployment tax due on employees of zone establishments for the first tax year; 60% of such tax due for the second tax year; 40% of such tax due for the third tax year; 20% of such tax due for the fourth and fifth tax years.

Firms beginning operations after July 1, 1992; 80% of the tax due for the first tax year; 60% of the tax due for the second through tenth tax years. An unemployment tax credit may only be claimed against the amount of taxable net capital remaining after the subtraction of any general credit claimed under § 4.2 D(1) of this regulation. Any unused unemployment tax credit may be applied to future tax years within the qualification period established by § 4.2 D(2) of this regulation.

3. State sales and use tax exemption - A qualified business firm may request an exemption from State taxes on all items purchased or leased for the conduct of trade or business within a zone as required under §§ 58.1-600 et seq., of the Code of Virginia: This exemption applies only to the State portion of the sales and use tax and not to any portion of the tax levied under local option. A business firm in its statement to the Department requesting an exemption shall specify the amount of State sales and use tax actually paid during the year for which the exemption is claimed. The Virginia Department of Taxation shall review the amount requested and make an appropriate refund to the firm. State sales and use tax exemptions shall not extend for more than five consecutive tax years.

F. Notification to localities of requests for state tax incentives - The Department shall forward to the local governing body of the jurisdiction in which the zone is located: (i) a copy of the business firm's statement requesting State tax incentives; and (ii) the Department's determination

that the firm is qualified or not qualified to receive such incentives in accordance with the requirements of PART III of this regulation.

§ 4.3. Allowance for business firms qualified prior to July 1, 1995 to use other enterprise zone incentives.

Business firms already qualified prior to July 1, 1995 may apply for both the real property tax credits provided by Part VI of this regulation and enterprise zone incentive grants provided in Part VII of this regulation, provided the appropriate provisions are met. However, businesses qualified prior to July 1, 1995 are not eligible for additional general tax credit periods other than those previously qualified for.

PART V.

BUSINESS FIRM PROCEDURES FOR BUSINESSES QUALIFYING FOR GENERAL TAX CREDIT ON OR AFTER JULY 1, 1995.

§ 5.1. Effective dates.

Beginning on and after July 1, 1995, but before January 1, 2005, a qualified business firm shall be allowed a credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.) Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia as provided in this regulation for ten consecutive years in an amount equaling up to 80% of the tax due the first tax year, and up to 60% of the tax due for the second through tenth tax years.

§ 5.2. Calculation of credit.

A. The amount of credit allowed shall not exceed the tax imposed for such taxable year. An unused tax credit may not be applied to future years. Any credit not useable for the taxable year the credit was allowed shall not be carried back to a preceding taxable year. The credit is not refundable.

B. If a qualified business firm makes qualified zone investments in excess of \$25 million dollars, and such qualified zone investments result in the creation of at least 100 full-time positions, the percentage amounts of the income tax credits available to such qualified business firms under § 5.1 of this regulation shall be determined by agreement between the Department and the qualified business firm. The negotiated percentage amount shall not exceed the percentages specified in § 5.1 A of this regulation.

C. Any business firm having taxable income from business activity both within and without the enterprise zone, shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ 58.1-406 through 58.1-420 of Title 58.1 of the Code of Virginia.

D. The credit provided for in this §§ 5.1 and 6.2 of this regulation are subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in § 59.1-280 A of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's

Emergency Regulations

annual fiscal limitation each taxpayer shall be granted a pro rata amount as determined by the Department. The amount of such prorated grant shall be determined by applying a fraction, the numerator of which shall be the gross credits requested by the taxpayer for such year, and the denominator of which shall be the total gross credits requested by all taxpayers for such year, to the Commonwealth's annual financial limitation. The credit which may be requested each year shall be subject to the limitations provided by §§ 5.2 A and 6.4 A of this regulation.

E. In the event that a taxpayer who is subject to the annual fiscal limitation imposed pursuant to § 5.2 D of this regulation and is also allowed another credit pursuant to another section of the Code of Virginia, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carry forward provision, and then any credit which is carried forward from a preceding taxable year, prior to utilization of any credit granted pursuant to this section.

§ 5.3. Qualified business.

Qualification for the credit can occur by satisfying the criteria in § 5.3 A through § 5.3 C of this regulation. Any business firm may be designated a qualified business for the purpose of this credit if:

A. A business firm establishes within an enterprise zone a trade or business not previously conducted in the Commonwealth of Virginia by such taxpayer, and at least 40% or more of the permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone either have incomes below 80% of the median income for the jurisdiction prior to employment or are zone residents. Zone residency will be subject to annual verification, while low-income status verification is only required upon initial employment.

A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

B. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth of Virginia, and increases the average number of permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone by at least 10% over the lower of the two preceding taxable years' employment with no less than 40% of such increase being employees who have incomes below eighty percent of the median income for the jurisdiction prior to employment or are zone residents.

In the event that a company has activities both inside and outside the enterprise zone, the business firm may not aggregate activity from outside the zone for calculation of employment increase. Other employment positions that shall not be used in the calculation of the 10% employment increase are referred to in §§ 5.3 C and 5.6 of this regulation.

C. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise

zone and increases the average number of permanent full-time employees by at least 10% over the lower of two preceding taxable years' employment with no less than 40% of such increase being employees who have incomes below eighty percent of the median income for the jurisdiction prior to employment or are zone residents. Current employees of the business firm that are transferred directly to the enterprise zone facility from another site within the state resulting in a net loss of employment at that site shall not be included in calculating the increase in the average number of permanent full-time employees by the business firm within the enterprise zone.

D. A business firm located within a locality's enterprise zone(s) that moves to another location within that locality's enterprise zone(s) must meet the requirements for qualification described in §§ 5.3 A, B, C, 5.4 and 5.6 of this regulation.

E. A business firm moving from one locality's enterprise zone to another locality's enterprise zone prior to being qualified shall be subject to the requirements described in §§ 5.3 C and 5.6 of this regulation.

F. A business firm that has already qualified for enterprise zone incentives and moves from one locality's enterprise zone into another locality's enterprise zone shall no longer be qualified unless the firm increases its permanent full-time employment by an additional 10% over the last year of qualification.

G. The business firm must certify annually to the Department of Housing and Community Development on prescribed form(s), and other documentation as required by the Department, that the firm has met the criteria for qualification prescribed in § 5.3 A, B, C, D, E and F of this regulation. The form(s) referred to in § 5.3 G of this regulation must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the definition of a qualified business.

§ 5.4. Application submittal and processing.

A. Any business firm who qualifies for general tax credits on or after July 1, 1995 and whose taxable year ends on or before December 31, 1995, shall submit an application requesting a general tax credit to the Department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995 and on or before January 1, 1997, applications requesting a general tax credit shall be submitted to the Department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, applications requesting a general tax credit shall be submitted to the Department by no later than May 1 of the subsequent calendar year.

D. The Department shall review all applications for completeness and notify business firms of any errors no later than June 1. Business firms must respond to any unresolved issues by no later than June 15.

E. The Department shall notify all applicants by June 30 as to the amount of applicable general credit it may claim for the taxable year the request was made.

F. Applications must be made on forms prescribed by the Department, and sent by certified mail with a return receipt requested and post marked no later than the date specified in § 5.4 of this regulation.

G. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by §§ 5.2 A and 6.4 A of this regulation.

§ 5.5. Certification to Tax Commissioner in accordance with § 59.1-280 A of the Code of Virginia.

A. The Department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward two copies of the certification to the firm (one) copy for the firm's records and (one) copy to be filed with the applicable State tax return(s) or notify the firm that it fails to qualify for State tax incentives under PART V of this regulation.

B. Submission of state tax returns - A business firm, upon receipt from the Department of copies of the certificate of its qualification to receive State tax incentives, may file the applicable State tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive(s) requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit(s) against State individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its State individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

§ 5.6. Anti-churning.

A. A permanent full-time position shall not include any employee:

1. For which a credit under this regulation was previously earned by a related party, or a trade or business under common control;
2. Who was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;
3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;
4. Whose previous job function previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control;

5. Whose job function counted for purposes of determining a 10% increase by an existing business firm and credited in an earlier taxable year on behalf of the taxpayer, a related party, or a trade or business under common control;

B. A new full-time position which otherwise qualifies for the credit will not be disqualified for purposes of the credit where the employer chooses to use more than one individual to fill the position. This exception is limited to those situations where no more than two employees are used to fill a position, such employees are eligible for essentially the same benefits as full-time employees, and each employee works at least 20 hours per week for at least 48 weeks per year.

§ 5.7. Pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which profits are allocated for federal income tax purposes.

PART VI. PROCEDURES FOR QUALIFYING FOR REAL PROPERTY IMPROVEMENT TAX CREDIT AND ZONE INVESTMENT TAX CREDIT.

§ 6.1. Effective dates.

For taxable years beginning on and after July 1, 1995, but before January 1, 2005, a taxpayer shall be allowed a credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.); Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia, as provided in this regulation.

§ 6.2. Computation of credit.

A. For any qualified zone resident, the amount of credit earned shall be equal to 30% of the qualified zone improvements. In no event shall the cumulative credit allowed to a qualified zone resident exceed \$125,000 dollars in any five-year period. An unused tax credit may not be applied to future years. Any credit not useable for the taxable year the credit was allowed shall not be carried back to a preceding taxable year. Any credit determined in accordance with § 6.2 A of this regulation that exceeds the tax liability for the taxable year it is requested shall be refunded to the taxpayer subject to the limitations contained in § 6.2. C of this regulation.

B. Qualified zone improvements shall not include the basis of any property: (i) for which a credit under this section was previously granted; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, or a trade or business under common control; or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired, or Internal Revenue Code § 1014 (a).

Emergency Regulations

C. The credit provided for in § 6.2 of this regulation is subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in §§ 59.1-280 A and 59.1-280.1 J of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation the taxpayer shall be granted a pro rata amount by the Department, determined in accordance with § 5.2 D of this regulation.

§ 6.3. Eligibility.

A. A business firm is eligible to receive a credit for real property improvements provided:

1. The total amount of the rehabilitation or expansion of depreciable real property placed in service during the taxable year within the enterprise zone equals or exceeds \$50,000 and the assessed value of the original facility immediately prior to rehabilitation or expansion.
2. The cost of any newly constructed depreciable nonresidential real property (as opposed to rehabilitation or expansion) is at least \$250,000 with respect to a single facility. For purposes of this subparagraph, land, land improvements, paving, grading, driveway and interest shall not be deemed to be qualified zone improvements.

B. The business firm must certify to the Department of Housing and Community Development on prescribed form(s), and other documents as prescribed by the Department, that the firm has met the criteria for qualification prescribed in section § 6.3. A and B of this regulation. The form(s) referred to in section § 6.3.B of this regulation must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the qualifications.

§ 6.4. Zone Investment Tax Credits.

A. In the event that a qualified zone resident makes a qualified zone investment in excess of \$100 million and such qualified zone investments result in the creation of at least 200 permanent full-time positions, then the qualified zone resident shall be eligible for a credit in an amount of up to 5% of the qualified zone investments in lieu of the credit provided for in subsection 6.2.A of this regulation. The zone investment tax credit provided by § 6.4 A of this regulation shall not exceed the tax imposed for such taxable year, but any tax credit not usable for the taxable year generated may be carried over until the full amount of such credit has been utilized.

B. The percentage amount of the zone investment tax credit granted to a qualified zone resident shall be determined by agreement between the Department and the qualified zone resident, provided such percentage amount does not exceed 5%.

C. The percentage amounts of the business income tax credit provided in section § 5.2 A of this regulation which may be granted to a qualified business firm is also subject to agreement between the Department in the event that a qualified zone resident is also a qualified business firm, provided such percentage amounts shall not exceed the

percentage amounts otherwise provided in section § 5.2 A of this regulation.

D. The credit provided for in § 59.1-280.1 J of the Code of Virginia (and any credit that is available to a qualified zone resident that is also a qualified business firm pursuant to § 59.1-280) is subject to annual fiscal limitations based on the Commonwealth's fiscal year ending June 30th as provided for in § 59.1-280.1 J of the Code of Virginia. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation, each taxpayer shall be granted a pro rata credit as determined by the Department. The amount of such prorated grant shall be determined by applying a fraction, the numerator of which shall be the gross credit requested by the taxpayer for such year, and the denominator of which shall be the total gross credits requested by all taxpayers for such year to the Commonwealth's annual fiscal limitation. The credit which may be requested each year shall be subject to the limitation provided by § 6.4 A of this regulation.

E. In the event that a taxpayer who is subject to the annual fiscal limitation imposed pursuant to § 6.2 D of this regulation and is also allowed another credit pursuant to another section of the Code of Virginia, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carry forward provision, and then any credit which is carried forward from a preceding taxable year, prior to utilization of any credit granted pursuant to this section.

§ 6.5. Pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which profits are allocated for federal income tax purposes.

§ 6.6. Application submittal and processing.

A. Any business firm whose taxable year begins on or after July 1, 1995 and ends on or before December 31, 1995, shall submit an application for real property improvements tax credit (§ 6.2 of this regulation) and zone investment tax credits (§ 6.4 of this regulation) to the Department by no later than May 1, 1996.

B. For taxable years ending after December 31, 1995 and before January 1, 1997, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the Department by no later than May 1, 1997.

C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the Department by no later than May 1 of the subsequent calendar year.

D. The Department shall review all applications for completeness and notify business firms of any errors by no later than June 1. Business firms must respond to any unresolved issues by no later than June 15.

E. The Department shall notify all applicants by June 30 as to the amount of applicable credit or refund it is eligible for in the taxable year the request was made.

F. Applications must be made on forms prescribed by the Department, and sent by certified mail with a return receipt requested and post marked no later than the date specified in § 6.6 of this regulation.

G. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by §§ 5.2 A and 6.4 A of this regulation.

§ 6.7. Certification to Tax Commissioner in accordance with § 59.1-280.1 G of the Code of Virginia.

A. The Department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward two copies of the certification to the firm (one) copy for the firm's records and (one) copy to be filed with the applicable State tax return(s) or notify the firm that it fails to qualify for State tax incentives under PART V of this regulation.

B. Submission of state tax returns - A business firm, upon receipt from the Department of copies of the certificate of its qualification to receive State tax incentives, may file the applicable State tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive(s) requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit(s) against State individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its State individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

PART VII. PROCEDURES FOR QUALIFYING FOR ZONE INCENTIVE GRANTS.

§ 7.1. Effective dates.

Beginning on and after July 1, 1995, but before January 1, 2005, a business firm shall be eligible to receive enterprise zone incentive grants for the creation of new permanent full-time positions.

§ 7.2. Grant funding.

There is a special fund established in the state treasury known as the Enterprise Zone Grant Fund, which shall be administered by the Department. The fund includes moneys as may be appropriated by the General Assembly from time to time. The Fund shall be used solely for the payment of enterprise zone incentive grants to business firms pursuant to § 59.1-282.1 of the Code of Virginia.

§ 7.3. Computation of grant amount.

A. For any eligible business firm, the amount of any grant earned shall be equal to (i) \$1,000 multiplied by the number of eligible permanent full-time positions filled by zone residents, and (ii) \$500 multiplied by the number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone.

1. The number of eligible permanent full-time positions filled by zone residents shall be determined for any grant year by multiplying the number of eligible permanent full-time positions by a fraction, the numerator of which shall be the number of employees hired for permanent full-time positions from January 1 of the applicable grant year through December 31 of the grant year who are zone residents, and the denominator of which shall be the total number of employees hired for permanent full-time positions by the business firm during the same period. Zone residency is subject to annual verification and if an employee moves outside the zone he cannot be considered a zone resident for the remaining grant period.

2. The number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone shall be determined for any grant year by subtracting the number of eligible positions filled by employees whose permanent place of residence is within the enterprise zone, as determined in § 7.3 A(1) of this regulation, from the number of eligible positions.

B. The amount of the grant for which a business firm is eligible with respect to any employee who is employed in an eligible position for less than 12 full months during the grant year will be determined by multiplying the grant amount by a fraction, the numerator of which is the number of full months that the employee worked for the business firm during the grant year, and the denominator of which is 12.

C. The maximum grant that may be earned by a business firm in one grant year, is limited to \$100,000. Each member of an affiliated group of corporations shall be eligible to receive up to a maximum grant of \$100,000 in a single grant year.

§ 7.4. Eligibility.

A. A business firm shall be eligible to receive job grants for three consecutive calendar years commencing with the first year of grant eligibility. Business firms applying for the first three-year period shall demonstrate that they have increased the business firm's enterprise zone permanent full-time positions by 10% over the base year. Permanent full-time positions created during the second or third year of the grant period are eligible for additional grant funding over the previous year level at the option of the business firm, but only during the three year grant period.

B. For the second and any subsequent three-year period of grant eligibility, the business firm must demonstrate that they have increased employment by 20% over a redetermined base year.

Emergency Regulations

1. If a business firm applies for a subsequent three-year period within two years immediately following the completion of the first three-year period, the firm must base the increase on the number of permanent full-time positions receiving grants in the final year of the previous grant period.

2. If a business firm applies for subsequent three-year periods later than two years following the completion of the first three-year period, the firm must base the increase of permanent full-time positions over one of the two preceding calendar years.

C. The amount of the grant for which a business firm is eligible in any year shall not include amounts for the number of eligible positions in any year other than the preceding calendar year, except as provided in § 7.6 A of this regulation, regarding carry-forward of unsatisfied grant amounts.

D. In order to claim the grant an application must be submitted to the local zone administrator by March 31 of the year following the grant year. Applications for grants shall be made on form(s) as prescribed by the Department and may include other documentation as requested by the local zone administrator or Department. The form(s) referred to in § 7.4 E of this regulation must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the eligibility requirements.

E. The local zone administrator shall review applications and determine the completeness of each application and the requested documentation, and forward applications for grants to the Department by no later than April 30 of the year following the grant year.

F. The Department shall review all applications for completeness and notify business firms of any errors no later than June 1 of the year following the grant year. Business firms must respond to any unresolved issues by no later than June 15 of the year following the grant year.

G. The Department shall notify all businesses by June 30 as to the amount of applicable zone incentive grant it is eligible for the calendar year the request was made.

H. Any business firm receiving an enterprise zone incentive grant under § 59.1-282.1 of the Code of Virginia shall not be eligible for a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia with respect to any enterprise zone location which is receiving an enterprise zone incentive grant.

§ 7.5. Anti-churning.

A. No grant shall be allowed for any permanent full-time position:

1. For which a grant under this regulation was previously earned by a related party, or a trade or business under common control;

2. Who was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;

3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;

4. Whose previous job function previously qualified for a grant in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control.

§ 7.6. Grant allocations.

A. Upon receiving applications for grants from the local zone administrators, the Department shall determine the amount of the grant to be allocated to each eligible business firm by June 30 of the year following the grant year. The Department shall allocate moneys in the following order of priority:

1. First, to unpaid grant amounts carried forward from prior years because business firms did not receive the full amount of any grant to which they were eligible for in a prior year.

2. Second, to other eligible applicants.

B. In the event that moneys in the Fund are less than the amount of grants to which applicants in any class of priority are eligible, the moneys in the Fund shall be apportioned among eligible applicants in such class pro rata, based upon the amount of the grant to which an applicant is eligible and the amount of money in the Fund available for allocation to such class.

C. In the event that a business firm is allocated less than the full grant amount to which it is eligible in any year, the firm shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which the firm was eligible shall be carried forward by the Department to the following year and shall be in the class of priority as provided in § 7.6. A of this regulation.

§ 7.7. Assignment of enterprise zone incentive grants.

A. A business firm may assign all or any portion of any enterprise zone incentive grant to which it is eligible to the owner of any real property within an enterprise zone occupied by the business firm as tenant or to a financial institution regularly engaged in business of lending money which has made a loan to the business firm for the purpose of expanding, constructing or rehabilitating a nonresidential building or facility for the conduct of a trade or business by the business firm within the enterprise zone, or both, as they may agree.

B. A business firm that has assigned its interest in an enterprise zone incentive grant shall notify the Department within 30 days. Following the receipt of such notification, the Department may request the Comptroller to issue warrants in the name of the firm's assignee for grant payments that the business firm would have received.

PART VIII. ENTERPRISE ZONE ELIGIBILITY CRITERIA.

§ 8.1. Eligible applicants for zone designation.

Eligible applicants include the governing body of any county, city or town.

A. The governing body of a county may apply for designation of an Enterprise Zone on behalf of a town located within the county.

B. Two or more adjacent jurisdictions may file a joint application for an Enterprise Zone lying in the jurisdictions submitting the application.

C. Jurisdictions may apply for more than one Enterprise Zone enterprise zone designation. This includes the submission of a joint application with other jurisdictions. Each county, city and town is limited to a total of three enterprise zones, however, a county with a population of 150 or fewer persons per square mile at the most recent decennial census shall be limited to a total of two zones.

§ 8.2. Zone eligibility requirements.

To be eligible for consideration, an application for an Enterprise Zone must meet the following requirements.

A. For counties, cities and towns the proposed zone must consist of a contiguous area. However, counties with a population density of 150 or fewer persons per square mile at the most recent decennial census may have one zone which contains no more than two noncontiguous areas of at least one square mile each.

B. The proposed zone must meet at least one of the following distress criteria as enumerated in the most current U. S. Census or current data from the Center for Public Service or local planning district commission: (i) 25% or more of the households must have had incomes below 80% of the median household income of the county or city; (ii) the unemployment rate must have been at least 1.5 times the State average; or (iii) demonstrate a floor area vacancy rate of industrial and/or commercial properties of twenty percent (20%) or more.

C. All proposed zones shall conform to the following size guidelines:

1. Metropolitan Central Cities - Minimum: ½ square mile (320 acres); Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.
2. Towns and cities other than Metropolitan Central Cities - Minimum: ¼ square mile (160 acres); Maximum: ½ square mile (320 acres) or 7% of the jurisdiction's land area or population, whichever is largest.
3. Unincorporated areas of counties - Minimum: ½ square mile (320 acres); Maximum: 6 square miles (3,840 acres).
4. Counties with a population density of 150 or fewer persons per square mile at the most recent decennial census may have one zone which contains no more than two noncontiguous areas and each area must be at least

1 square mile (640 acres). The maximum combined land area cannot exceed 6 square miles (3,840 acres).

5. Consolidated cities - Zones in cities the boundaries of which were created through the consolidation of a city and county or the consolidation of two cities, shall conform substantially to the minimum and maximum size guidelines for unincorporated areas of counties as set forth in § 9.2 C(3).

6. In no instance shall a zone consist only of a site for a single business firm.

PART IX. PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.

§ 9.1. Procedures for zone application and designation.

Up to 50 Enterprise Zones may be designated by the Governor in accordance with the following procedures and requirements.

A. Applications for zone designation will be solicited by the Department in accordance with the following procedures and requirements:

1. An application for zone designation must be submitted on Form EZ-1 to the Director, Virginia Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia 23219, on or before the submission date established by the Department.
2. The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the Department. Notification of the public hearing is to be in accordance with § 15.1-431 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application as Attachment A.
3. In order to be considered in the competitive zone designation process an application from a jurisdiction must include all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in § 9.1 A(2) of this regulation.
4. As part of its application a locality may propose local incentives including but not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) special subclassifications and rates for business professional and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221 of the Code of Virginia; (v) infrastructure improvements; (vi) crime reduction measures; and (viii) partial rebate of machinery and tools tax. When making an application jurisdictions may also make proposals for regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform; (iii) exemptions from local ordinances; (iv) removal of

Emergency Regulations

regulatory barriers to affordable housing; and (vi) other public incentives proposed. A jurisdiction may also create a Local Enterprise Zone Association to assist in the planning process and future management of the enterprise zone to assure that major decisions affecting the zone's future take into account the needs of both the public and private sector, including citizens of the involved zone communities.

5. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of State tax incentives, will be factors in evaluating applications.

6. A locality may establish eligibility criteria for local incentives for business firms that are the less than, the same as, or more stringent than, the criteria for eligibility of grants or other benefits that the state provides.

7. Proposed local incentives may be provided by the local governing body itself or by an assigned agent(s) such as a local redevelopment and housing authority, a industrial development authority, a private non-profit entity or a private for-profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing unincorporated county areas as well as portions of one or more towns, the county may designate the governing body(ies) of the town(s) to serve as its assigned agent(s).

B. Within 60 days following the application submission date, the Department shall review and the Director shall recommend to the Governor those applications that meet a minimum threshold standard as set by the Department and are competitively determined to have the greatest potential for accomplishing the purposes of the Program.

C. The Department, in consultation with the Virginia Department of Economic Development, may allow up to five enterprise zone designations to be utilized in an open submission process for significant economic development opportunities in areas that are otherwise qualified under provisions of these regulations and meet minimum threshold standards. The selection of these zones by the Governor shall be made upon recommendation and certification of consistency with the Program regulations by the Department.

D. The Governor shall designate, upon recommendation of the Director, Enterprise Zones for a period of 20 years. The Governor's designation shall be final.

E. A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

§ 9.2. Procedures and requirements for joint applications.

Two or more adjacent jurisdictions submitting a joint application as provided for in § 9.1 B of this regulation must meet the following requirements.

A. The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in §§ 12.2 and 12.3 of this regulation.

B. In order to submit a joint application, Form EZ-1 must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in §§ 9.1 A(1) through 9.1 A(4). In addition, a copy of Form EZ-1-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy(ies) of Form EZ-1-JA must be submitted to the Department with Form EZ-1.

C. The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

PART X.

PROCEDURES FOR ZONE AMENDMENT.

§ 10.1. Relationship to federal enterprise zone program.

If any portion of an area designated as an Enterprise Zone by the Governor is included in an area designated as an enterprise zone by an agency of the federal government, the area designated by the Governor shall be enlarged to include the area designated by the federal agency.

If an area that has not been designated as an enterprise zone is designated by an agency of the federal government as a federal enterprise zone, that area shall then receive designation as a state zone effective January 1 of the year following its designation as a federal enterprise zone.

§ 10.2. Amendment of approved applications.

A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the following procedures and requirements.

A. The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the Department.

B. A request for an amendment must be submitted to the Department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in § 10.2 A of this regulation. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by Form EZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.

C. Beginning on and after July 1, 1995 enterprise zone jurisdictions will be required to thoroughly examine their previously approved applications every five years. The jurisdiction shall review all aspects of the application boundaries, goals, objectives, strategies, actions and incentives, as well as barriers to development, and include as part of their annual report an explanation of why the

application or sections of the application need or do not need to be amended to improve enterprise zone performance. Application amendments relating to these requirements will be required every five years if:

1. The jurisdiction has not yet developed goals, objectives, strategies and actions to overcome barriers to development within the zone.
2. The jurisdiction has incentives that have not been utilized during the five year period.

D. An enterprise zone application may be amended annually by the jurisdiction. Amendments may be to the entire application or individual sections such as the boundary, goals, objectives, strategies and actions, or incentives.

E. A proposed boundary amendment must meet the following requirements:

1. The area proposed for expansion must be contiguous to the existing zone, except for a county with a population density of 150 or fewer persons per square mile (see § 8.2 C(4)).
2. The enlarged zone must meet at least one of the distress criteria outlined in § 8.2B of this regulation.
3. Boundary amendments shall only include expansion of zone boundaries. Areas that have been previously approved cannot be eliminated from the application.

F. The enlarged zone shall not exceed the maximum size guidelines outlined in § 8.2 C of this regulation. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.

G. The Department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment or if the proposed cumulative local incentive package is equal to or greater than those in the application prior to the proposed amendment. The Department will approve an amendment to expand zone boundaries or the goals, objectives, strategies and actions only if the proposed amendment is deemed to be consistent with the purposes of the Program as determined by the Department.

H. A local governing body that is denied either a boundary, goals, objectives, strategies and actions, or local incentive amendment shall be provided with the reasons for denial.

PART XI.

PROCEDURES FOR ZONE TERMINATION.

§ 11.1. Failure to provide local program incentives.

If a local governing body or its assigned agent(s) is unable or unwilling to provide any of the approved local program incentives, the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent(s) is unable or unwilling to provide approved local incentives.

A. A local governing body must notify the Department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.

B. A local governing body will have 60 days after submission of the notice required in § 11.1 A of this regulation to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in § 10.2 C of this regulation.

C. The Department will review requests for amendments in accordance with the criterion set forth in § 10.2 F of this regulation. Approval of an amendment will allow a zone to continue in operation. If a local governing body fails to provide notice as set forth in § 11.1 A of this regulation, or has its request for an amendment denied, then the Department may recommend to the Governor that the zone be terminated.

D. The Secretary, upon review of the Department's recommendation, may recommend that the Governor may terminate the zone.

§ 11.2. Failure to qualify for state incentives.

If no business firms have qualified for state incentives within a five-year period beginning on July 1, 1995, the Department shall terminate the enterprise zone designation.

A. The Department shall annually provide enterprise zone localities with a current listing of all business firms that have applied and qualified for state incentives.

§ 11.3. Zone termination and business qualification.

A zone shall be terminated in accordance with the procedures set forth in §§ 11.1 and 11.2 upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.

A. Qualified business firms located in a terminated zone may continue to request State tax incentives provided under §§ 59.1-280 and 59.1-282 for any remaining taxable years in the qualification period for which they are eligible.

B. After the date of zone termination, no additional business firms may become qualified to receive State tax incentives provided under this Program.

PART XII.

ADMINISTRATIVE REQUIREMENTS.

§ 12.1. Sale of surplus public land.

The Commonwealth and any unit of local government that owns land within the zone shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. The Department may waive this requirement only if the owner can demonstrate to the Department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.

A. The Commonwealth or any unit of local government that sells surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional

Emergency Regulations

conditions on the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the Program and the local development objectives outlined in the application for zone designation. If the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.

B. In order to monitor compliance with the requirements of § 12.1 of this regulation, the Department will request annually from local governing bodies and State agencies with responsibility for overseeing the disposition of surplus State land, information concerning the identification and sale of surplus land. A local governing body shall document compliance with § 12.1 of this regulation in its annual report to the Department (see § 12.3 of this regulation). The Department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Transportation, lists of surplus State land within zones and actions taken to sell such land.

§ 12.2. Survey of zone business conditions.

Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing business conditions to serve as a basis for Program evaluation. Survey data shall be submitted to the Department on Form EZ-3-S. The survey shall include information on business and employment conditions in the zone as requested on Form EZ-3-S.

§ 12.3. Annual reporting.

A. A local governing body shall submit annual reports to the Department for the purpose of Program monitoring and evaluation. Annual reports shall be submitted to the Department on Form EZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with § 12.1 and data for the purpose of Program evaluation as requested on Form EZ-3-AR. Annual reports shall also include an evaluation of the Program's success in achieving identified local development objectives.

B. The Department shall annually review the effectiveness of state and local incentives in increasing investment and employment in each of the enterprise zones and provide an annual report of its findings to the Senate Finance Committee, Senate Committee on Commerce and Labor, the House Finance Committee, and the House Committee on Labor and Finance.

When the potential exists that the annual fiscal limitations on the general tax credit, the real property improvements tax credit, the zone investment tax credits, or zone incentive grants will be fully utilized, thus triggering their pro rata distribution, the Department shall include this information in the annual report.

/s/ George Allen
Governor
Date: September 5, 1995

VA.R. Doc. No. R96-17; Filed September 13, 1995, 11:47 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-03-3.1100. Amount, Duration and Scope of Services (Reductions in Covered Inpatient Hospital and Physician Services).

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

Effective Dates: September 6, 1995, through September 5, 1996.

Summary:

REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Reductions in Covered Inpatient Hospital and Physician Services. This regulation will reduce the average length of stay in inpatient hospitals.

RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Reductions in Covered Inpatient Hospital and Physician Services. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Robert C. Metcalf
Director
Date: August 7, 1995

/s/ Kay C. James
Secretary of Health and Human Resources
Date: August 29, 1995

/s/ George Allen
Governor
Date: September 5, 1995

FILED WITH:

/s/ Jane Chaffin for Joan W. Smith
Registrar of Regulations
Date: September 6, 1995

DISCUSSION

BACKGROUND: The section of the State Plan affected by this action is Supplement 1 to Attachment 3.1 A & B: Amount, Duration and Scope of Services (VR 460-03-3.1100).

DMAS completed an analysis of inpatient hospital claims which showed that the length of stay for inpatient services among Medicaid patients in Virginia, by admission diagnosis and procedure performed, is higher than the length of stay among patients covered by private insurance. By reducing the average Medicaid length of stay in inpatient hospitals to levels similar to that of patients with private insurance, DMAS estimated that the Commonwealth could generate significant cost savings in Medicaid expenditures. Based on this analysis, the Governor included in his 1995 amendments to the 1994-96 Appropriations Act an amendment reducing the Medicaid budget by decreasing the average length of stay for inpatient hospital services from 6 days to 5 days.

An amendment was also included to shorten the stay for obstetrical services for patients with uncomplicated

deliveries, based on the success of a pilot program implemented collaboratively by DMAS and the Virginia Hospital Association (VHA). The 1995 General Assembly concurred with these amendments. In order to comply with these amendments to the Appropriations Act and achieve the cost savings in Fiscal Year 1996, amendments must be made to the State Plan Under Title XIX of the Social Security Act to update the section that establishes the amount, duration and scope of services.

DMAS has adopted a three part approach to adjust Medicaid policies to more accurately reflect current medical practice. The three parts, as described below, address the documentation of medical necessity for hospital admissions exceeding 3 days, for preoperative stays, and for weekend admissions based on the redefinition of a weekend. DMAS has also addressed the requirements for documentation of medical necessity for obstetrical admissions for uncomplicated vaginal deliveries. All of these changes are required to achieve the cost savings in FY 1996 as required by the Governor's budget amendments. The advantage of these changes is that they enhance the economical performance of Virginia's Medicaid Program by preventing reimbursement for services that are not medically necessary.

Currently under the State Plan, DMAS requires hospitals to submit documentation of medical necessity for claims for inpatient hospital services on all admissions that exceed 7 days. The purpose of this requirement is to ensure that the Virginia Medicaid Program is only reimbursing for services that are truly medically necessary. In order to decrease Medicaid's average length of stay, DMAS is reducing the current standard for submission of documentation of medical necessity from "admissions that exceed 7 days" to "admissions that exceed 3 days." Claims requiring this additional justification will continue to be reviewed by DMAS utilization review analysts to determine the medical necessity of the length of stay. Days that are determined medically unnecessary by the utilization review analyst are denied payment. The change in the medical necessity documentation standard will require that hospital providers of inpatient services submit medical justification for all inpatient hospital admissions that exceed 3 days. In addition, DMAS proposes that the standard for submission of documentation of medical justification for obstetrical admissions be changed to "admissions that exceed 2 days." Both of these changes are consistent with insurance practices under indemnity and managed care plans.

In addition to lowering the threshold for the submission of documentation of medical justification for obstetrical admissions, DMAS will offer hospitals the option of participating in the Home Tomorrow Program. This program provides an all-inclusive reimbursement that includes delivery, postpartum care and a home visit within 48 hours of delivery. This program is designed to shorten the length of stay to approximately one day in cases which are medically appropriate. No documentation of medical justification will be required for deliveries billed under the Home Tomorrow Program.

A second change to the State Plan needed to achieve the reduction in the average length of stay addresses medical justification for preoperative stays. DMAS currently allows

payment for a one day stay prior to surgery without submission of documentation of medical necessity. Only stays beyond one day prior to surgery require medical justification to be considered for payment. Since this policy was written, medical practice has changed so that preoperative stays are almost non-existent. The majority of preoperative procedures are now conducted on an outpatient basis. Therefore, DMAS is revising its policy so that any admission in which preoperative days are necessary be medically justified. Utilization review analysts will review all preoperative days for medical necessity.

The third change to the State Plan needed to achieve the reduction in the average length of stay is to redefine a weekend admission. DMAS currently prohibits reimbursement for weekend admissions, unless medically justified. A weekend admission is defined as an admission on Friday or Saturday. By redefining a weekend admission to be an admission on Saturday or Sunday, DMAS anticipates that medically unnecessary admissions on Sunday will be reduced or avoided, thereby reducing the overall average Medicaid length of stay. Sunday admission must be for medically justified emergencies. Not only will this change prevent the payment of claims for medically unnecessary admissions on Sunday, but it will also prevent hospitals from having to provide documentation of medical necessity for Friday admissions. At the time a weekend admission was originally defined, Friday was not a routine surgery day and, therefore, any admission on a Friday had to be a medically justified emergency. Medical practice has since changed, so that Friday is now a common, routine day for surgery. Therefore, by eliminating Friday from and adding Sunday to the definition of a weekend admission, DMAS' State Plan will be brought up-to-date with current medical practices, which in turn will contribute to the reduction in the average length of stay. Saturday admissions will continue to require documentation of medical necessity.

AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. 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.

The Governor's 1995 Amendments to the 1994-96 Appropriations Act included cost savings for Fiscal Year 1996 that must be achieved from a reduction in the average length of stay for inpatient hospital services and a shorter stay for obstetrical services for patients with uncomplicated vaginal deliveries. These budget amendments are identified as Number 710 and 712 respectively in the Department of Planning and Budget's budget system. Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent

Emergency Regulations

comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the September 1, 1995, effective date in order to achieve the savings in Fiscal Year 1996 set out by the Governor and approved by the General Assembly.

NEED FOR EMERGENCY ACTION: The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director, in lieu of the Board of Medical Assistance Services, to comply with the required cost savings for FY 96, the regulatory change must be effective September 1, 1995. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because Virginia statutory law requires this regulation be effective within 280 days from the enactment of the law or regulation. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is initiating the Administrative Process Act Article 2 procedures.

FISCAL/BUDGETARY IMPACT: The 1995 Appropriation Act reduced DMAS' FY 1996 appropriation by \$10 million (\$5.0 million GF; \$5.0 million NGF) and authorized DMAS to reduce the average length of stay for inpatient hospital services from 6 to 5 days. Also, DMAS' FY 1996 appropriation was reduced by \$6 million (\$3.0 million GF; \$3.0 million NGF) and DMAS was authorized to implement shorter hospital stays for obstetrical services for uncomplicated vaginal deliveries. The sum of these budget reductions, \$16 million, represents 4% of the FY 1995 total Medicaid expenditures of \$386,064,725 for inpatient hospital services. DMAS intends to accomplish these savings by updating Medicaid policies for claims paid on a fee-for-service basis to reflect current medical practice. Specific changes address the documentation of medical necessity for lengths of stay exceeding 3 days, for preoperative stays, for weekend admissions, and for uncomplicated vaginal deliveries. The implementation of Medicaid managed care and the corresponding reduction of Medicaid services reimbursed on a fee-for-service basis may reduce the savings set out in the Appropriation Act.

Those affected by these changes include all Medicaid providers of inpatient hospital services, Medicaid recipients who are hospitalized, and DMAS utilization review staff.

The impact of lowering the threshold for providing medical justification and requiring medical justification for all preoperative days and Saturday/Sunday admissions is that hospital providers will have to submit medical justification for approximately 10,000 claims that previously did not require justification. This estimate accounts for the fact the elimination of medical justification for Friday admissions will result in a decrease of approximately 2,000 claims. Also, instituting the more rigorous requirements for medical justification will result in hospitals avoiding unnecessary preoperative days and weekend admissions. Reducing the threshold for medical justification for obstetrical admissions for uncomplicated vaginal deliveries will increase the number of claims requiring justification by approximately 1,400.

In addition to the increase in providing medical justification, hospital providers will have to ensure that medical staff, utilization review committee staff, and reimbursement staff are aware of these changes. Medical and nursing staff will have to ensure that medical justification is documented in the chart. If claims are submitted without the appropriate medical justification, hospitals may experience an aging of their accounts receivable until the claim is resubmitted with the proper justification.

The estimated 102,000 Medicaid recipients who are hospitalized annually will not be adversely affected by these changes since they reflect current medical practice and are based on medical necessity. This number includes approximately 12,500 recipients who experienced uncomplicated vaginal deliveries.

DMAS will reallocate one staff member to assist the Utilization Review staff with the increased number of claims to review. Therefore, no additional costs will be incurred by DMAS for these changes.

There are no localities which are uniquely affected by these regulations as they apply statewide.

RECOMMENDATION: Recommend approval of this request to adopt this emergency regulation to become effective on September 1, 1995. 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 would lack the authority to make these changes to the State Plan section for the amount, duration and scope of services in a timely manner in order to realize the anticipated expenditure reduction.

APPROVAL SOUGHT FOR VR 460-03-3.1100.

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 460-03-3.1100. Amount, Duration and Scope of Services.

Page 1

General

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 8 4 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified.

For all admissions that exceed 7 3 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to item F below.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to item F below.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

~~D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification, regardless of the number of days prior to surgery, must be medically justified.~~ The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for ~~additional~~ all pre-operative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

Page 2

E. Reimbursement will not be provided for weekend (Friday/Saturday/Sunday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday or Sunday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied. EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under twenty-one (21) years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of twenty-one (21) days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical

staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

~~G. Reserved. Coverage shall be limited to two days of inpatient hospital care for obstetrical services for uncomplicated vaginal deliveries unless additional days are medically justified. The hospital must attach medical justification to the billing invoice for consideration of reimbursement coverage for these days. Medically unjustified days in such admission shall be denied.~~

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

Page 9

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine and psychologists clinical licensed by the Board of Psychology are covered.

~~I. Reserved. Reimbursement shall not be provided for physician services provided to recipients in the inpatient setting whenever the facility is denied reimbursement.~~

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be based upon a rate negotiated with providers on an individual case basis, or a flat rate by procedure, or by procedure and facility. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

VA.R. Doc. No. R96-3; Filed September 6, 1995, 10:03 a.m.

STATE CORPORATION COMMISSION

BUREAU OF FINANCIAL INSTITUTIONS

AT RICHMOND, SEPTEMBER 7, 1995

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI950108

Ex Parte: In the matter of proposed amendments to rules relating to surety bonds of money orders sellers

ORDER SETTING A HEARING

On February 15, 1995, the Commission entered an Order Directing Notice pursuant to which persons currently licensed to sell money orders under Chapter 12 of Title 6.1 of the Code of Virginia, and others, were given notice of proposed amendments to regulations adopted under said Chapter, and an opportunity to file written comments and requests for a hearing with the Clerk. On July 21, 1995, the Commission entered an Order Directing Additional Notice pursuant to which certain money order seller licensees were given notice of an additional proposed amendment to said regulations, and an opportunity to file written comments and requests for a hearing with the Clerk. The time period for filing comments and requests for hearing under those orders has expired. Several comments were filed in this case and three written requests for hearing were filed. Accordingly,

IT IS ORDERED THAT this matter is set for hearing at 2:00 p.m. on October 11, 1995 in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia.

ATTESTED COPIES of this Order shall be sent to George H. Heilig, Jr., Heilig, McKenry, Fraim & Lollar, Stoney Point Center, 700 Newtown Road, Norfolk, Virginia 23502; William A. Saraille, Howrey & Simon, 1299 Pennsylvania Avenue, N.W., Washington, D.C. 20004; Ralph L. Axselle, Jr., Williams, Mullen, Christian & Dobbins, 4401 Waterfront Drive, Suite 140, Glen Allen, Virginia 23060; James H. Addington, Addington Oil Corporation, 163 West Jackson Street, P.O. Box 125, Gate City, Virginia 24251; and the Commissioner of Financial Institutions.

VA.R. Doc. No. R96-10; Filed September 11, 1995, 3:52 p.m.

BUREAU OF INSURANCE

September 4, 1995

Administrative Letter 1995-8

TO: All Companies Licensed to Write Title Insurance in Virginia

RE: Closing Protection Letters

The State Corporation Commission Bureau of Insurance is issuing this administrative letter to advise title insurers licensed in Virginia that closing protection letters may not be used to indemnify lenders for losses which are unrelated to the condition of the title to property or the status of any lien on property. Section 38.2-123 of the Code of Virginia defines

title insurance as "...insurance against loss by reason of liens and encumbrances upon property, defects in the title to property, and other matters affecting the title to property or the right to the use and enjoyment of property. 'Title insurance' includes insurance of the condition of the title to property and the status of any lien on property."

By statute, title insurers are monoline insurance companies. Section 38.2-135 prohibits insurers licensed to write title insurance from obtaining a license to write any other lines of insurance. By issuing a closing protection letter that indemnifies lenders for losses which are unrelated to the condition of the title to property or the status of any lien on property, a title insurance company is exceeding its license authority.

Closing protection letters used by title insurance companies licensed in Virginia must, therefore, limit coverage to matters affecting the condition of the title to property or the status of any lien on property. Coverage (whether on an individual or blanket basis) provided beyond this will be considered a violation of § 38.2-135. Any closing protection letter issued in the past on a blanket basis which indemnifies lenders for losses unrelated to the condition of the title to property or the status of any lien on property should be rescinded.

Please be advised that title insurance companies are permitted under § 38.2-4615 to act in concert with each other and with others with respect to any or all matters pertaining to the preparation of forms of title insurance policies. Section 38.2-4615 also states that title insurers may exchange information, consult, and cooperate with each other with respect to policy forms and contracts. Therefore, title insurance companies licensed in Virginia may work together to develop a revised closing protection letter or endorsement that limits coverage to matters affecting the condition of the title to property or the status of any lien on property. Any revisions to existing closing protection letters or endorsements must be filed with the Bureau of Insurance as required by § 38.2-4606.

/s/ Steven T. Foster
Commissioner of Insurance

VA.R. Doc. No. R96-9; Filed September 11, 1995, 9:22 a.m.

September 11, 1995

Administrative Letter 1995-10

TO: All Insurers, Health Maintenance Organizations, and Interested Parties

RE: Capitated Administrative Services Only (ASO) Agreements are insurance and may subject both the provider and administrator to the provisions of Title 38.2 of the Code of Virginia.

The State Corporation Commission's Bureau of Insurance (the "Bureau") has received several inquiries regarding capitated Administrative Services Only (ASO) agreements. A capitated ASO contract is an arrangement that purports to

provide only administrative services to a self-funded health plan, but which, in fact, involves a transfer of all or part of the risk of loss for health care claims through capitation, i.e. through a fixed charge per time unit (e.g. month) per member (or other unit) enjoying health care coverage.

It has come to the Bureau's attention that certain insurers, health maintenance organizations, health services plans, third party administrators, health care providers, or other entities may have entered into capitated ASO agreements with several employer groups and others in Virginia. Capitated ASO agreements are insurance and, under such agreements, the health care providers as well as the health plan administrators may be subject to the provisions of Title 38.2 of the Code of Virginia.

An employer may self-fund health benefits for its employees and contract with an administrator in an ASO agreement to process claims and provide access to a network of providers. In such cases, the employer bears the ultimate risk of loss for all health care claims incurred by its employees. Furthermore, the employer may self-fund to cover its entire risk of loss, or it may self-fund to a certain dollar cap and purchase stop-loss insurance to cover any health care claims that exceed an individual or aggregate cap.

However, with a capitated ASO agreement, the employer, for a fixed fee per employee, transfers all or a portion of its risk of loss for health care claims of its employees to an administrator, health care provider or other entity. This type of agreement constitutes a contract of insurance under Virginia law. Such contracts are subject to the appropriate provisions of Title 38.2 of the Code of Virginia, including provisions relating to licensing, contract and benefit requirements, taxes, and assessment for maintenance of the Bureau of Insurance.

No insurer, health maintenance organization, health services plan, third party administrator, health care provider, or other entity should enter into a capitated ASO agreement in Virginia unless the contract as well as the entity are in compliance with all the requirements of Title 38.2 of the Code of Virginia. Furthermore, any capitated ASO agreements currently in effect in Virginia should not be renewed. The Bureau will continue to monitor capitated health care arrangements in the Commonwealth, and will take appropriate regulatory action when it finds violations of Title 38.2 of the Code of Virginia.

Questions concerning this Administrative Letter shall be directed to:

Victoria I. Savoy, CPA
Chief Financial Auditor
Financial Regulation Division
Bureau of Insurance
P.O. Box 1157
Richmond, VA 23209
(804) 371-9869

/s/ Steven T. Foster
Commissioner of Insurance

VA.R. Doc. No. R96-22; Filed September 13, 1995, 11:46 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD FOR ACCOUNTANCY

Title of Regulation: VR 105-01-2. Board for Accountancy Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It will help increase government efficiency by reducing the cost of its services to accountants in Virginia while the quality of such services remains the same. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor

Date: September 5, 1995

VA.R. Doc. No. R96-6; Filed September 8, 1995, 1:05 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

Title of Regulation: VR 480-04-2. Board of Examiners Certification Regulations (REPEAL).

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by state law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor

Date: September 5, 1995

VA.R. Doc. No. R96-7; Filed September 8, 1995, 1:05 p.m.

* * * * *

Title of Regulation: VR 480-04-3. Certification Requirements for Mineral Miners.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by state law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor

Date: September 5, 1995

VA.R. Doc. No. R96-8; Filed September 8, 1995, 1:05 p.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

The following regulations will be reviewed pursuant to Executive Order Number Fifteen (94).

VR 380-01-00. Public Participation Guidelines.

VR 380-01-01. Regulations for the Senior Citizen Higher Education Program.

VR 380-02-01. Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas and Certificates.

VR 380-03-01:1. College Scholarship Assistance Program Regulations.

VR 380-03-02:1. Virginia Work-Study Program Regulations.

VR 380-03-03:1. Virginia Scholars Program Regulations.

VR 380-03-04:1. Tuition Assistance Grant Program Regulations.

VR 380-03-05. Policies and Procedures for the Virginia Graduate and Undergraduate Program.

VR 380-03-06. Policies and Procedures for the Eminent Scholars Program.

VR 380-03-07. Virginia Guaranteed Assistance Program Regulations.

VR 380-04-01:01. Guidelines for Determining Domicile and Eligibility for In-State Tuition Rates.

Contact: Frances C. Bradford, Legislative and Public Relations Specialist, Council of Higher Education, James Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

maintenance, eligibility based on income and eligibility based on universal access.)

- VR 615-50-4. Family Based Social Services.
- VR 615-53-01:2. Child Day Care Services.

Public comments will be received through November 15, 1995. Comments will be received by Paula Mercer, Child Day Care Specialist, Virginia Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-2201.

DEPARTMENT OF SOCIAL SERVICES

The Virginia Department of Social Services, Division of Services Programs, will be reviewing the following regulations as per Executive Order Number Fifteen (94), which requires a review of all existing agency regulations.

REGULATIONS TO BE REVIEWED:

- VR 615-52-1. Policy Regarding Purchased Services.
- VR 615-50-2. Elimination of Financial Eligibility Criteria for Direct Social Services.

(Defines the eligibility determination process for social services, including eligibility based on income

GENERAL NOTICES/ERRATA

Symbol Key

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

Public Notice

Notice is hereby given that the Department of Environmental Quality (DEQ) is requesting information to use in developing study plans to research four technical issues that have been raised with the agency. These issues appertain to the Water Quality Standards Regulation, VR 680-21-01, § 14 B (Table of Standards). Conclusions reached from these studies might warrant appropriate amendments to the regulation. The issues are:

1. Mercury - The DEQ is looking for data/information for possible development of an appropriate action level for methyl mercury in fish tissue which could be used to determine compliance with a Virginia Pollutant Discharge Elimination System (VPDES) permit limit for total mercury. The DEQ is looking for any other information to develop an appropriate mechanism which would determine compliance with the mercury water quality standard via the VPDES permitting system.
2. Ammonia - The DEQ is examining whether it is appropriate to express the ammonia standard as a 30-day average in effluents with low variability rather than the current four-day average. The DEQ is also looking for information to determine acceptable limits of ammonia concentration variability in effluents to allow the longer averaging period. The DEQ is also seeking additional information outside of the EPA Water Quality Criteria for Ammonia, 1984 data base which would potentially support this change.
3. Lead - The DEQ is looking for new acute and chronic toxicity data for lead or suggestions on how to improve and update the data base for the lead standards.
4. Copper - The DEQ is looking for data to be used in determining the relationship of total organic carbon to the toxicity of dissolved copper and possibly developing an equation to use in establishing a hardness and total/dissolved organic carbon based copper standard. Also, DEQ is seeking information to be used in developing an estuarine copper standard similar to the State of Maryland's acute copper standard of 6.1 ug/L.

Any questions or comments should be directed to the address listed below and must be received no later than 4 p.m. on Wednesday, October 4, 1995. Please address any correspondence to: Dr. Alan J. Anthony, Director, Division of Scientific Research, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4114.

STATE BOARD OF HEALTH

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 1996

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Section 203 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 1996.

Written comments on the proposed plan will be accepted in the office of the Director, Division of Public Health Nutrition, Virginia Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219, until 5 p.m. on October 6, 1995.

The proposed State Plan for WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning September 5, 1995. Please contact your local health department for the location of this office in your area.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Significant Change in Statewide Methods and Standards for Setting Payment Rates

(Title 42 Code of Federal Regulations 447.205)

Regulation Title and Issue: Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care: Reimbursement Rate for Home Tomorrow Services

This public notice of significant change in statewide methods and standards of setting payment rates addresses the issue of reimbursement to hospitals for their participation in the Home Tomorrow program.

Description: The Home Tomorrow program is an optional program wherein women who have normal, uncomplicated vaginal deliveries may be discharged from the hospital within 24 hours of their delivery. They are provided a comprehensive home health visit, including a maternal assessment, a newborn assessment, and a home assessment. Hospitals participating in this program will be reimbursed a flat per-case rate intended to cover a day of hospital care as well as the home health visit.

Estimate of Expected Changes in Annual Aggregate Expenditures:

This program is one of three initiatives to control hospital utilization, which were required by the 1995 Budget Act. Taken together, this and another program related to obstetrical and newborn care are expected to reduce expenditures by \$3 million General Funds and \$3 million Non-General Funds.

Why the Agency is Changing its Methods and Standards:

This program represents a cooperative initiative developed by the DMAS and the Virginia Hospital Association. It enables hospitals to reduce lengths of stay while still providing quality care, by providing a "package" rate that includes funding for home health visits, which are not separately reimbursable under the Medicaid benefit package. The program and the cost savings were mandated by the 1995 General Assembly.

Availability of Proposed Changes and Address for Comments:

Copies of the proposed change are available from either Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, or at (804) 371-8850.

Written comments should be directed to Scott Crawford, Division of Financial Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

- NOTICE of INTENDED REGULATORY ACTION - RR01
- NOTICE of COMMENT PERIOD - RR02
- PROPOSED (Transmittal Sheet) - RR03
- FINAL (Transmittal Sheet) - RR04
- EMERGENCY (Transmittal Sheet) - RR05
- NOTICE of MEETING - RR06
- AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

ERRATA

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-17-200. Biosolids Use Regulations.

Publication: 11:24 VA.R. 3962-4009 August 21, 1995

Correction to Final Regulation:

Page 3978, § 3.1 B 1, column 1, line 4, after "reactor" insert "."

Page 3978, § 3.1, Table 7, lines 3 and 4, change "Maximum Dia-meter" to "Maximum Diameter"

Page 3978, § 3.1, Table 7, line 6, delete line under "Discharge"

Page 3978, § 3.1, Table 7, row heading "Gas Flow (CFM)" should read across "95, 95, 95, 150, 150, 150, 200, 250,300"

Page 3980, § 3.1 E, column 2, line 2, change "800#oF" to "800°F"

Page 3988, § 3.11 C 5, column 2, line 3, begin a new paragraph after "operations."

Page 3996, Table 11 A, Note (1), line 3, change "Appendix A" to "Part IV"

Page 3997, Table 11 B, Note (5), line 4, change "Appendix A" to "Part IV"

Page 3997, Table 11 B, Note (6), line 5, delete ")"

Page 4002, § 4.1 B, column 1, last line, change "edrock" to "bedrock"

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

BOARD FOR ACCOUNTANCY

October 23, 1995 - 10 a.m. -- Open Meeting
October 24, 1995 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action will be held immediately after a public hearing on Executive Order 15(94). A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting date so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

† December 4, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: VR 105-01-2. **Board for Accountancy Regulations.** Current fees will be adjusted resulting in a decrease in renewal, application and late filing fees. Further, the proposal will eliminate specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Egg Board

† October 24, 1995 - 10 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will convene for the purpose of reviewing financial statements and proposed recommendations for education advertising and promotion programs of the Virginia Egg Board. Other business may be discussed before the board at that time. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

Contact: Cecilia Glembocki, Executive Director, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984 or toll-free 1-800-779-7759.

Virginia Horse Industry Board

October 4, 1995 - 10 a.m. -- Open Meeting
† December 14, 1995 - 10 a.m. -- Open Meeting
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ♿

The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD

Virginia Irish Potato Board

October 11, 1995 - 8 p.m. -- Open Meeting
Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia

A meeting to discuss programs (promotion, research and education); the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

Pesticide Control Board

October 13, 1995 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Board Room 204, Richmond, Virginia

A general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any other matter not on the agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 401, P.O. Box 1163 Richmond, VA 23209, telephone (804) 371-6558.

Virginia Pork Industry Board

† **October 13, 1995 - 3 p.m.** -- Open Meeting
Fort Magruder Inn, U.S. 60 East, Conference Center, Williamsburg, Virginia

A meeting to discuss promotion, research, national association reports, and plans for the 1996 Pork Industry Conference. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact John Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Virginia Pork Industry Board, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-7092.

Virginia Seed Potato Board

November 1, 1995 - 8 p.m. -- Open Meeting
Eastern Shore Agricultural Experiment Station, Research Drive, Painter, Virginia

A meeting to review regulations and to plan for the 1996 seed season. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

STATE AIR POLLUTION CONTROL BOARD

State Advisory Board on Air Pollution

October 16, 1995 - 9 a.m. -- Open Meeting
October 17, 1995 - 8:30 a.m. -- Open Meeting
Ramada Plaza Resort Oceanfront, Oceanfront at 57th, Virginia Beach, Virginia

The 29th annual meeting of the advisory board. Topics for the meeting include overviews of Clean Air Act issues from Congress, EPA, and the Commonwealth; regional air quality management and modeling; regulatory negotiation; cost/benefit analysis of environmental regulations; and regulatory reform. Speakers will include the Honorable Thomas J. Bliley (Congressman, 7th District of Virginia and Chair, House Commerce Committee), the Honorable Becky Norton Dunlop (Secretary of Natural Resources for the Commonwealth of Virginia) and Mary Nichols (Assistant Administrator for Air and Radiation, USEPA).

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4376 or FAX (804) 762-4346.

† **November 9, 1995 - 10 a.m.** -- Public Hearing
Hampton Roads Planning District Commission, The Regional Building, 723 Woodlake Drive, Chesapeake, Virginia.

† **November 13, 1995 - 11 a.m.** -- Public Hearing
James McCort Administration Building, One County Complex Court, Board Chamber Room, Prince William, Virginia.

Calendar of Events

† **November 14, 1995 - 10 a.m.** -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond,
Virginia.

† **December 1, 1995** -- Written comments may be submitted
until the close of business on 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 adopt regulations entitled: **VR 120-99-05. Regulations for the Control of Emissions from Fleet Vehicles.** The proposed regulation requires that owners or operators of fleets with 10 or more vehicles make a percentage of annual vehicle purchases clean-fuel fleet (CCF) vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) the Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Additional Issues for Public Comment: In addition to comments on the proposal, the department is particularly interested in any comments on the following:

1. Whether the regulation should provide that a credit generated by the purchase of an extra CFF vehicle stay with the vehicle or be traded and sold freely.

2. Whether the reporting requirements in this regulation are adequate, although they require less extensive

documentation than the requirements detailed in the federal regulations.

3. Whether the regulation should provide for trading of credits between program areas, although the federal regulations prohibit the trading of credits generated in one nonattainment area with another nonattainment area except in the case of an interstate nonattainment area.

4. Whether the regulation should provide that (i) credits not depreciate over time, although it would be in conflict with provisions of most emissions and trading programs provided for in the Clean Air Act and under consideration by many other states and (ii) credits may be traded between mobile and stationary sources.

5. Whether the Commonwealth should change its vehicle registration process in order to be able to determine where fleet vehicles are primarily operated.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and at the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4900 Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5300

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Northern Virginia Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Written comments may be submitted until the close of business on December 1, 1995, to the Director, Office of Air

Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. The purpose of this notice is to provide the public the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Contact: Mary E. Major, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

October 2, 1995 - 9:30 a.m. -- Open Meeting
October 16, 1995 - 9:30 a.m. -- Open Meeting
October 30, 1995 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

October 2, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

October 18, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

VIRGINIA AVIATION BOARD

† **October 24, 1995 - 3 p.m.** -- Open Meeting
Department of Aviation, 5702 Gulfstream Road, Sandston, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† **October 25, 1995 - 9 a.m.** -- Open Meeting
Sheraton Inn Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

VIRGINIA PUBLIC BUILDING AUTHORITY

October 4, 1995 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A meeting to discuss the issuance of State Building Reserve Bonds and other board business.

Contact: John A. McQueen, Policy Analyst, Department of the Treasury, P. O. Box 1879, Richmond, VA 23215, telephone (804) 371-6235.

GOVERNOR'S COMMISSION ON CHAMPION SCHOOLS

† **October 10, 1995 - 9:30 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Rooms C, D and E, Richmond, Virginia.

A regular meeting of the full Governor's Commission on Champion Schools.

Contact: Randolph A. Beales, Executive Director, Governor's Commission on Champion Schools, Ninth Street Office Bldg., Room 506, Richmond, VA 23219, telephone (804) 692-0244.

Calendar of Events

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

† October 5, 1995 - 2 p.m. -- Open Meeting

† November 2, 1995 - 2 p.m. -- Open Meeting

† December 7, 1995 - 2 p.m. -- Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

Northern Area Review Committee

† October 12, 1995 - 10 a.m. -- Open Meeting

† November 16, 1995 - 10 a.m. -- Open Meeting

† December 6, 1995 - 10 a.m. -- Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

Southern Area Review Committee

† October 5, 1995 - 10 a.m. -- Open Meeting

† November 2, 1995 - 10 a.m. -- Open Meeting

† December 7, 1995 - 10 a.m. -- Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location

and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

CHILD DAY-CARE COUNCIL

† October 12, 1995 - 9:30 a.m. -- Open Meeting

Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level Conference Room, Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comment period will be at noon. Please call ahead of time for possible changes in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1775.

DEPARTMENT OF CONSERVATION AND RECREATION

October 23, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to adopt regulations entitled: **VR 217-03-00. Nutrient Management Training and Certification Regulations.** This regulation is being promulgated to govern a voluntary program for training and certifying persons preparing nutrient management plans. The plans are prepared to manage land application of fertilizers, sewage sludge, manure, and other nutrient sources for agronomic benefits and in ways which protect water quality. The regulation provides for certification standards, revocation or suspension of certificates, criteria for the development of nutrient management plans, and program fees. The Department of Conservation and Recreation will administer this program as part of the nutrient management program.

The development of a voluntary nutrient management training and certification program was authorized by the 1994 Session of the General Assembly. The program should expand the number of persons in the private and public sector capable of developing nutrient management plans beyond that of the limited number of agency personnel currently involved. Nutrient management is a key strategy to assist in efforts to reduce nitrogen and phosphorus levels in the Chesapeake Bay necessary to protect ecological and economic interests dependent on the Chesapeake Bay.

The program should assist the Commonwealth in achieving a 40% reduction in controllable nutrient loads entering the Chesapeake Bay tributaries consistent with the Chesapeake Bay Agreement of 1983, as amended in 1987 and 1992. The program should also protect groundwater and surface waters in the Commonwealth while retaining the agronomic benefits of efficient nutrient use on farms crops and other lands.

Statutory Authority: § 10.1-104.2 of the Code of Virginia.

Contact: E. J. Fanning, Assistant Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095.

October 5, 1995 - 7:30 p.m. -- Open Meeting
Augusta County Government Center, 4801 Lee Highway, Public Meeting Room, Verona, Virginia.

October 7, 1995 - 10 a.m. -- Open Meeting
Northern Virginia Community College, Woodbridge Campus, 15200 Neabsco Mills Road, Woodbridge, Virginia.

The Department of Conservation and Recreation and the Department of Environmental Quality will conduct a series of six public meetings (the first meeting was September 14 in Middleton) throughout the Northern Virginia area to gather citizen comments on the development of tributary strategies. Strategies will focus on ways to reduce nutrient flows from controllable sources into the Potomac River basin and the Chesapeake Bay by 40% by the year 2000, with 1985 as the base year. The strategies emphasize the need to address at the local level nutrient pollution of the area's tributaries. Site-specific, balanced, scientifically sound, cost-effective solutions, in particular, regarding point and nonpoint source pollution are being sought.

Contact: Ivy L. Joyner, Office Services Specialist, Department of Conservation and Recreation, 203 Governor St., Suite 214, Richmond, VA 23219, telephone (804) 786-1712, FAX (804) 371-2072 or (804) 786-2121/TDD ☎

Falls of the James Scenic River Advisory Board

October 19, 1995 - Noon -- Open Meeting
November 16, 1995 - Noon -- Open Meeting
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to discuss river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

Board on Conservation and Development of Public Beaches

October 25, 1995 - 10:30 a.m. -- Open Meeting
Virginia Institute of Marine Science, Director's Conference Room, Richmond, Virginia. ☎

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Carlton Lee Hill, Chief Shoreline Engineer, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

CRIMINAL JUSTICE SERVICES BOARD

† **October 13, 1995 - 2 p.m.** -- Open Meeting
Richmond Hyatt Hotel, Richmond, Virginia. ☎

† **November 1, 1995 - 11 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8730 or FAX (804) 371-8981.

Committee on Training

† **November 1, 1995 - 9 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8730 or FAX (804) 371-8981.

VIRGINIA DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Telecommunications Relay Service Advisory Board

† **October 11, 1995 - 10 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 11th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Calendar of Events

A regular business meeting. This meeting is open to the public. Public comment will be permitted with advance notice.

Contact: Gloria L. Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 (V/TTY) or (804) 225-2570/TDD ☎

BOARD OF EDUCATION

October 26, 1995 - 8 a.m. -- Open Meeting

November 16, 1995 - 8 a.m. -- Open Meeting

General Assembly Building, Ninth and Broad Streets, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

October 5, 1995 - 5:30 p.m. -- Open Meeting

November 2, 1995 - 5:30 p.m. -- Open Meeting

6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

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

October 12, 1995 - 10 a.m. -- Public Hearing

Call (703) 246-3934 for location and directions.

A meeting to conduct a public hearing for the 1995 Hazardous Materials Emergency Response Plan (HMERP) followed by a membership meeting to formulate the future goals and objectives of the committee.

Contact: Nell Rose Jarvis, Fairfax County Staff to the LEPC, 4100 Chain Bridge Rd., 4th Floor, Fairfax, VA 22030, telephone (703) 246-3971 or FAX (703) 385-7591.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

October 11, 1995 - 9 a.m. -- Open Meeting

American Red Cross Chapter 352, Church Avenue, Roanoke, Virginia. ☎

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committees.

Contact: Danny W. Hall, Fire Chief, Emergency Services Coordinator, 105 S. Market St., Salem, VA 24153, telephone (540) 375-3080.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

October 4, 1995 - 3 p.m. -- Open Meeting

Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire Chief, Winchester Fire and Rescue Dept., 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 17, 1995 - 7 p.m. -- Open Meeting

Norfolk City Council Chambers, 310 Union Street, City Hall, 11th Floor, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request)

October 25, 1995 - 7 p.m. -- Open Meeting

Spotsylvania County Board of Supervisor's Room, County Administration Building, Route 208, Spotsylvania, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to § 10.1-1184 of the Code of Virginia, representatives of the State Water Control Board, State Air Pollution Control Board and Virginia Waste Management Board will hold a joint public forum to receive public comments about environmental issues of concern to the Commonwealth. Additionally, the meeting will provide an opportunity for public comment on the Department of Environmental Quality's regulations under review.

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, Policy and Legislation, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4376, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

Litter Control and Recycling Fund Advisory Committee

NOTE: CHANGE IN MEETING DATE

October 17, 1995 - 1:30 p.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, 4th Floor, West Conference Room, Richmond, Virginia. ☎

A meeting to (i) review and make recommendations on applications for grants from the fund; (ii) promote the control, prevention and elimination of litter from the Commonwealth and encourage recycling; and (iii) advise the Director of the Department of Environmental Quality on other litter control and recycling matters. Committee meetings, if appropriate, will be held prior to or after the board meeting. Please call the department for details.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

BOARD OF FORESTRY

† **October 16, 1995 - 1 p.m.** -- Open Meeting

† **October 17, 1995 - 8 a.m.** -- Open Meeting

Virginia Tech, Donaldson Brown Center, Conference Room C, Blacksburg, Virginia. ☎

A tour of the forestry school and facilities at Virginia Tech on October 16, and a formal meeting to discuss general business on October 17.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903-0758, telephone (804) 977-6555, FAX (804) 296-2369 or (804) 977-6555/TDD

BOARD OF GAME AND INLAND FISHERIES

October 11, 1995 - 6 p.m. -- Open Meeting

Best Western Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia. ☎ (Interpreter for the deaf provided upon request.

The board will visit an electrofishing site to observe agency staff perform this activity, or they will tour department-owned lands and facilities in the area. The observation or visitation is open to the public.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

October 12, 1995 - 8 a.m. -- Open Meeting

Best Western Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia. ☎ (Interpreter for the deaf provided upon request.

A meeting to adopt non-native animal regulations. The board will hear and discuss general and administrative matters, as necessary, and take action as appropriate. The board may hold an executive session. The board plans to adjourn its meeting by 10:30 a.m. After adjournment, Dr. Mike Vaughan will make a presentation on black bear research to board members and others present. At the conclusion of Dr. Vaughan's presentation, board members will meet with national forest personnel at a site yet to be selected, where the board members will receive tours and presentations

concerning national forest lands and programs. All events are open to the public.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

DEPARTMENT OF HEALTH

Biosolids Use Information Committee

† **October 12, 1995 - 2 p.m.** -- Open Meeting

The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☎

A meeting to review and evaluate specific concerns relating to the land application and agricultural use of biosolids, including issues related to the final Biosolids Use Regulations recently adopted by the State Board of Health to regulate the land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Division Director, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

Biosolids Use Regulations Advisory Committee

† **October 12, 1995 - 9 a.m.** -- Open Meeting

The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☎

A meeting to discuss issues concerning the implementation of the Biosolids Use Regulations involving land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Division Director, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 371-2891.

Shellfish and Crustacea Advisory Committee

† **November 1, 1995 - 9 a.m.** -- Open Meeting

Virginia Tech Seafood Experiment Station, Hampton, Virginia.

A meeting to review existing Virginia Board of Health regulations governing the harvesting and processing of oysters, clams and other shellfish.

Contact: Keith Skiles, Program Manager, Department of Health, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-7937.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **October 24, 1995 - 9:30 a.m.** -- Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

Calendar of Events

A monthly meeting of the council.

Contact: Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

† **October 13, 1995 - 2 p.m.** -- Open Meeting
† **October 14, 1995 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct an examination workshop consisting of a review of the Written and Practical Examinations.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD

COMMISSION ON THE FUTURE OF HIGHER EDUCATION

† **October 11, 1995 - 10 a.m.** -- Open Meeting
† **November 15, 1995 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Richmond, Virginia.

A general business meeting. For information about the meeting agenda, contact the Council of Higher Education.

Contact: Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2636.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 10, 1995 - 9 a.m.** -- Open Meeting
† **October 20, 1995 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Council Conference Room, 9th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. Contact the Council of Higher Education for additional information.

Contact: Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2636.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources and State Review Board

† **October 18, 1995 - 10 a.m.** -- Open Meeting
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A joint meeting to review the department's work program for 1995/96 and to consider the following properties for nomination to the Virginia Landmarks Register and to the National Register of Historic Places.

1. Brandon Plantation, Halifax County
2. Brooklyn Store, Halifax County
3. Brooklyn Tobacco Factory, Halifax County
4. East Belmont, Albemarle County
5. R.T. Greer and Company (Herb House), Marion, Smyth County
6. Hotel Roanoke, Roanoke, Virginia
7. Key Bridge, Arlington County
8. Long Glade Farm, Augusta County
9. Southwest Virginia Holiness Association Camp Meeting, Salem
10. Sunnyside, Northumberland County
11. Thornton-Motley House, Caroline County
12. Victoria High School, Victoria, Lunenburg County

National Cemeteries:

1. Culpeper National Cemetery, Culpeper, Culpeper County
2. Glendate National Cemetery, Henrico County
3. Hampton National Cemetery, Hampton
4. Staunton National Cemetery, Staunton
5. Winchester National Cemetery, Winchester

Contact: Margaret Peters, Preservation Program Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 3, 1995 - 9 a.m. -- Open Meeting
November 7, 1995 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† **October 16, 1995 - 10 a.m.** -- Public Hearing
501 North Second Street, Richmond, Virginia.

† **December 29, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume 1 - New Construction Code/1993.** The purpose of the proposed action is to (i) amend the "Notice of Violation" section to comport with the Code of Virginia; (ii) amend the requirements for the spacing of intermediate supports for guardrails; (iii) amend the sections that establish "Wind Zones" in Virginia to comply with those required by new federal regulation; (iv) delete vague and subjective text in the regulation regarding ice damming on roofs for one and two family dwellings; (v) raise the size and occupancy threshold regarding when permits are required for tents; and (vi) amend the "Existing Building" section for clarity and remove vague and subjective language which may be barriers to revitalization of existing buildings.

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

State Building Code Technical Review Board

† **October 20, 1995 - 10 a.m.** -- Open Meeting
The Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, State Building Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **October 24, 1995 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Commissioners to review and, if appropriate, (i) approve the minutes from

the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

VIRGINIA INTERAGENCY COORDINATING COUNCIL

October 11, 1995 - 9:30 a.m. -- Open Meeting
Henrico Area Mental Health and Mental Retardation Services, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss ongoing issues pertaining to the implementation of Part H (Early Intervention for Infants and Toddlers with Disabilities) in Virginia.

Contact: Richard B. Corbett, Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710 or FAX (804) 371-7959.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 9, 1995 - 1 p.m. -- Open Meeting
Virginia Beach, Virginia (meeting place to be announced).

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 8th Street Office Building, Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508 or FAX (804) 371-7999.

STATE COUNCIL ON LOCAL DEBT

October 18, 1995 - 11 a.m. -- Open Meeting
November 15, 1995 - 11 a.m. -- Open Meeting
December 20, 1995 - 11 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting to ascertain whether or not the meeting is to be held as scheduled.

Calendar of Events

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

MARINE RESOURCES COMMISSION

† **October 24, 1995 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

† **October 17, 1995 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☎

An open meeting to discuss medical assistance service and to take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 East Broad St., Richmond, VA 23219, telephone (804) 786-8099.

BOARD OF MEDICINE

† **October 12, 1995 - 8 a.m.** -- Open Meeting
† **October 13, 1995 - 8 a.m.** -- Open Meeting
† **October 14, 1995 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1, 2, 3 and 4, Richmond, Virginia. ☎

A meeting 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 October 12, 13 and 14 to review reports, interview licensees, and make decisions on disciplinary

matters. The board will also review any regulations that may come before it.

Contact: Warren W. Koontz, M.D., Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Credentials Committee

† **October 14, 1995 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general board business, to interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

October 28, 1995 - 8:30 a.m. -- Open Meeting
Smith Hall Board Room, Virginia Military Institute, Lexington, Virginia. ☎

A regular meeting of the Board of Visitors to receive committee reports. Public comment will not be received at this meeting. Public comment is received at the August meeting of the board.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (540) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

† **November 15, 1995 - 10 a.m.** -- Public Hearing
Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia.
† **December 1, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Mineral Mining Examiners intends to adopt regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed regulation is to establish a separate regulation setting requirements for the certification of mineral miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000.

MOTOR VEHICLE DEALER BOARD

October 25, 1995 - 9 a.m. -- Open Meeting

November 21, 1995 - 9 a.m. -- Open Meeting

Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Department of Motor Vehicles (DMV) at (804) 367-6606 at least 10 days prior to the meeting so that suitable arrangements can be made. DMV and the board fully comply with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Department of Motor Vehicles. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's "Guidelines for Public Comment."

Contact: W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† November 8, 1995 - 1 p.m. -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Millicent Ford, Program Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2052.

VIRGINIA MUSEUM OF FINE ARTS

Collections Committee

† October 16, 1995 - 11 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Library, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to consider gifts, purchases and loans of works of art. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

† October 19, 1995 - 11 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A bi-monthly meeting to review the budget. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† October 19, 1995 - Noon -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A bi-monthly meeting of the full Board of Trustees to discuss committee reports, staff reports, and budget review. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† October 28, 1995 - 10 a.m. -- Open Meeting

Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. (Interpreter for the deaf provided upon request)

A meeting to include reports from the executive, finance, legislative, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the August meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD

BOARD OF NURSING

† October 18, 1995 - 10 a.m. -- Open Meeting

Court of Appeals, 520 King Street, Courtroom #3, 4th Floor Judge's Chamber, Alexandria, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct a formal hearing with a licensee. Public comment will not be received.

Calendar of Events

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Special Conference Committee

† **October 11, 1995 - 9 a.m.** -- Open Meeting
† **October 12, 1995 - 9 a.m.** -- Open Meeting
† **October 13, 1995 - 9 a.m.** -- Open Meeting
† **October 17, 1995 - 9 a.m.** -- Open Meeting
† **October 18, 1995 - 9 a.m.** -- Open Meeting
† **October 19, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee, comprised of two members of the Virginia Board of Nursing, will conduct informal conferences with licensees and certificate holders 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, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

October 13, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action will be held immediately after a public hearing on Executive Order Number Fifteen (94). A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the public hearing and/or meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the public hearing/meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF PHARMACY

† **October 25, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

Formal hearings before a panel of the board. No public comment will be received.

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

† **October 26, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting of the board. This is a public meeting and there will be a 15 minute public comment period from 9:15 to 9:30 a.m.

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

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† **October 6, 1995 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A Substance Abuse Counselors Ad Hoc Committee meeting. No public comments will be heard at the meeting.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

† **October 10, 1995 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9567.

October 17, 1995 - 10:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A meeting to conduct general board business and to approve draft regulations for sex offender treatment providers. Public comment will be received between 10:45 a.m. and 11 a.m.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **October 19, 1995 - 10 a.m.** -- Open Meeting
Department of Information Technology, Plaza Building, 110 South 7th Street, 1st Floor East, Richmond, Virginia.

A quarterly meeting. The agenda will include an update on the Infrastructure Task Force, approval of Executive Committee actions on contracts for 1995-96, budget requests for 1996-98, and updates on other items of interest.

Contact: Judy Garnett, Executive Secretary Senior, Department of Information Technology, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 344-5601.

REAL ESTATE APPRAISER BOARD

† **October 5, 1995 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

The board will conduct a cut-score and item review workshop for the Real Estate Appraiser Certified General Written Examination.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753 ☎

REAL ESTATE BOARD

November 9, 1995 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting to include review of investigative matters, consideration of applications, various requests to the board for information, and other business.

Contact: Emily O. Wingfield, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, or (804) 367-9753/TDD ☎

STATE REHABILITATION ADVISORY COUNCIL

October 27, 1995 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business of the council.

Contact: Kathy Hayfield, SRAC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

BOARD OF REHABILITATIVE SERVICES

November 30, 1995 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

VIRGINIA RESOURCES AUTHORITY

October 10, 1995 - 9:30 a.m. -- Open Meeting
November 14, 1995 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the Authority's operations for the prior months; and to 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: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† **October 26, 1995 - 4 p.m.** -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia. ☎

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

November 1, 1995 - 10 a.m. -- Open Meeting
November 2, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, Senate Room A, Capitol Square, Ninth and Broad Streets, Richmond, Virginia. ☎

The board will hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to

Calendar of Events

§§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

Contact: Beth B. Dubis, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

VIRGINIA SMALL BUSINESS ADVISORY BOARD

† **October 25, 1995 - 9 a.m.** -- Open Meeting
Department of Economic Development, Riverfront Towers West, 901 East Byrd Street, 19th Floor Board Room, Richmond, Virginia.

A regular meeting of the board.

Contact: Laura McElligott, Associate State Director, Department of Economic Development, 901 E. Byrd St., Suite 1800, Richmond, VA 23219, telephone (804) 371-8251.

STATE BOARD OF SOCIAL SERVICES

† **October 18, 1995 - 1:30 p.m.** -- Open Meeting
† **October 19, 1995 - 9 a.m. (if necessary)** -- Open Meeting
Omni Newport News Hotel, 1000 Batten Bay Boulevard, Newport News, Virginia. ♿

† **November 15, 1995 - 1:30 p.m.** -- Open Meeting
† **November 16, 1995 - 9 a.m. (if necessary)** -- Open Meeting
Wythe Building, Koger Executive Center, 1604 Santa Rosa Road, Richmond, Virginia. ♿

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 692-1949, toll-free 1-800-552-7096 or 1-800-552-3431/TDD ♿

VIRGINIA STUDENT ASSISTANCE AUTHORITIES

† **October 5, 1995 - 10 a.m.** -- Open Meeting
737 North Fifth Street, 3rd Floor Board Room, Richmond, Virginia. ♿

A meeting to discuss matters relating primarily to legislation affecting the Virginia Education Loan Authority.

Contact: Leondra Brown Turner, Executive Assistant, 411 E. Franklin St., Suite 300, Richmond, VA 23219, telephone (804) 775-4648, FAX (804) 775-4005 or toll-free 1-800-792-5626.

COMMONWEALTH TRANSPORTATION BOARD

† **October 18, 1995 - 2 p.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **October 19, 1995 - 10 a.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the Chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TRANSPORTATION SAFETY BOARD

NOTE: CHANGE IN MEETING DATE

† **October 12, 1995 - 9 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The quarterly meeting of the board to discuss matters regarding highway safety.

Contact: Angelisa C. Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026 or FAX (804) 367-6031.

TREASURY BOARD

October 18, 1995 - 9 a.m. -- Open Meeting
November 15, 1995 - 9 a.m. -- Open Meeting
December 20, 1995 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

† **October 10, 1995 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A board meeting to conduct regulatory review and general board business.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915 or (804) 662-7197/TDD

† **October 11, 1995 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915 or (804) 662-7197/TDD

BOARD FOR THE VISUALLY HANDICAPPED

October 19, 1995 - 1:30 p.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided if requested no later than 5 p.m. on October 5, 1995)

The Board for the Visually Handicapped is an advisory board responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

October 14, 1995 - 11 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request. Request must be received no later than 9/5/95 at 5 p.m.)

A quarterly meeting to advise the Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD or toll-free 1-800-622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

October 18, 1995 - 10 a.m. -- Public Hearing
James Madison Building, 109 Governor Street, Main Floor, Conference Room, Richmond, Virginia.

The board will hold a public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on May 1, 1994. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on October 18, 1995, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

† **November 30, 1995 - 10:30 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 3, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled meeting.

Calendar of Events

Contact: Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

October 19, 1995 - 10:30 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to obtain comments from the public on the Virginia Solid Waste Management Regulations (VR 672-20-10). These comments will form the basis for Amendment 2 that is the subject of the Notice of Intended Regulatory Action published in Volume 11, Issue 26 of the Virginia Register.

Contact: Walt Gulevich, Department of Environmental Quality, Waste Division, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4021.

October 23, 1995 - 1 p.m. -- Public Hearing
Norfolk City Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

October 24, 1995 - 2 p.m. -- Public Hearing
War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

October 25, 1995 - 2 p.m. -- Public Hearing
Roanoke County Board of Supervisors Room, 5204 Bernard Drive, Roanoke, Virginia.

November 20, 1995 -- Public comments may be submitted until 4 p.m. on 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 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendment is to incorporate recent changes to federal regulations governing hazardous materials transport and motor carrier safety and new state law requiring a register of shippers.

Statutory Authority: §§ 10.1-1402, 10.1-1450 and 44-146.30 of the Code of Virginia.

Contact: Julia King-Collins, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4247.

STATE WATER CONTROL BOARD

October 11, 1995 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regularly scheduled meeting.

Contact: Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

October 12, 1995 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public meeting to receive views and comments and to answer questions from the public on the board's notice of intent to amend VR 680-01-01, Fees for Permits and Certificates.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

October 18, 1995 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will receive comments and views from the public on the State Water Control Board's intent to adopt/readopt regulations governing General Permits for Discharges from fish farms, sewage discharges of less than or equal to 1,000 gallons per day, ready-mixed concrete facilities, car washes and cooling tower discharges to municipal separate storm sewer systems.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

† October 26, 1995 - 1 p.m. -- Open Meeting
Municipal Building, 112 North Main Street, Board of Supervisor's Room, Bridgewater, Virginia.

The Department of Environmental Quality staff is scheduling meetings of the North River Surface Water Management Area Advisory Group. The advisory group assists in determining appropriateness of a designation, the boundary of the SWMA area and the minimum instream flow level that will activate the surface water withdrawal permits/certificates, and review any local agreements among water withdrawers in the North River. Another tentatively scheduled meeting is Thursday, November 30, 1995. Contact the Department of Environmental Quality prior to the meeting date so as to be informed of any changes in meeting time, location or cancellation or postponement.

Contact: Tom Mizell, Environmental Manager - Field, Department of Environmental Quality, Valley Regional Office, 116 N. Main St., P.O. Box 268, Bridgewater, VA 22812, telephone (703) 828-2595 or FAX (703) 828-4016.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

October 5, 1995 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

GOVERNOR'S ADVISORY COMMISSION ON WELFARE REFORM

† **October 2, 1995 - 10 a.m.** -- Open Meeting
† **October 2, 1995 - 2 p.m.** -- Open Meeting
Central Virginia Community College, Lynchburg, Virginia.
(Interpreter for the deaf provided upon request)

A regular meeting will be held from 10 a.m. to noon. The commission will hold a business roundtable with the Governor in attendance from 2 p.m. to 4 p.m. Business will be conducted according to items listed on the agenda which has not yet been determined. Please call Gail Nottingham for additional information.

Contact: Gail Nottingham, Commission Secretary, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9800, FAX (804) 367-6172 or (804) 367-6283/TDD ☎

October 12, 1995 - 1 p.m. -- CANCELLED
Department of Social Services, 730 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

This meeting of the commission has been cancelled.

Contact: Gail Nottingham, Commission Secretary, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9800, FAX (804) 367-6172 or (804) 367-6283/TDD ☎

JUDICIAL

VIRGINIA CRIMINAL SENTENCING COMMISSION

† **October 30, 1995 - 10 a.m.** -- Open Meeting
100 North 9th Street, 3rd Floor, Judicial Conference Room,
Richmond, Virginia. ☎

A regular quarterly meeting of the commission to review sentencing guidelines, compliance rates, and the work of commission subcommittees.

Contact: Dr. Richard Kern, Director, Virginia Criminal Sentencing Commission, 100 N. 9th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-4565 or (804) 225-4398, or FAX (804) 786-3934.

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **October 10, 1995 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A staff briefing on jail population and inspection.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

COMMISSION ON YOUTH

† **October 13, 1995 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force for dissemination of statewide survey results and presentation of task force workgroup recommendations. HJR 604.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481

† **November 21, 1995 - 11 a.m.** -- Open Meeting
† **November 21, 1995 - 1 p.m.** -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force for dissemination of draft legislative proposals. A public hearing will be held at 1 p.m. on proposals. HJR 604.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

† **December 13, 1995 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Calendar of Events

A meeting of the Juvenile Justice System Study Task Force to discuss Task Force approval of legislation and final report. HJR 604.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 2

Alcoholic Beverage Control Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Welfare Reform, Governor's Advisory Commission on

October 3

Hopewell Industrial Safety Council
Waste Management Board, Virginia

October 4

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Building Authority, Virginia Public
Emergency Planning Committee, Local - City of Winchester

October 5

† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee
Conservation and Recreation, Department of
Emergency Planning Committee, Local - Chesterfield County
† Real Estate Appraiser Board
† Student Assistance Authorities, Virginia
Waterworks and Wastewater Works Operators, Board for

October 6

† Professional Counselors and Marriage and Family Therapists, Board of

October 7

Conservation and Recreation, Department of

October 9

Intergovernmental Relations, Advisory Commission on

October 10

† Champion Schools, Governor's Commission on
† Higher Education, Commission on the Future of
† Higher Education for Virginia, State Council of
† Joint Legislative Audit and Review Commission
† Psychology, Board of
Resources Authority, Virginia
† Veterinary Medicine, Board of

October 11

Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board

† Deaf and Hard-of-Hearing, Department for the
- Telecommunications Relay Service Advisory Board
Emergency Planning Committee, Local - Roanoke Valley
Game and Inland Fisheries, Board of
† Higher Education, Commission on the Future of
Interagency Coordinating Council, Virginia
† Nursing, Board of
† Veterinary Medicine, Board of
Water Control Board, State

October 12

† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Child Day-Care Council
Game and Inland Fisheries, Board of
† Health, Department of
- Biosolids Use Information Committee
- Biosolids Use Regulations Advisory Committee
† Medicine, Board of
† Nursing, Board of
† Transportation Safety Board
Water Control Board, State

October 13

† Agriculture and Consumer Services, Department of
- Pesticide Control Board
- Virginia Pork Industry Board
† Criminal Justice Services Board
† Hearing Aid Specialists, Board for
† Medicine, Board of
† Nursing, Board of
Opticians, Board for
† Youth, Commission on

October 14

† Hearing Aid Specialists, Board for
† Medicine, Board of
- Credentials Committee
Visually Handicapped, Department for the
- Advisory Committee on Services

October 16

Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board
† Forestry, Board of
† Museum of Fine Arts, Virginia
- Collections Committee

October 17

Air Pollution, State Advisory Board on
Environmental Quality, Department of
- Litter Control and Recycling Fund Advisory Board
† Forestry, Board of
† Medical Assistance Services, Board of
† Nursing, Board of
Psychology, Board of

October 18

Auctioneers Board
† Historic Resources, Board of
- State Review Board
Local Debt, State Council on
† Nursing, Board of
† Social Services, State Board of
† Transportation Board, Commonwealth

Treasury Board
 Voluntary Formulary Board, Virginia
 Water Control Board, State

October 19

Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
 † Museum of Fine Arts, Virginia
 - Finance Committee
 - Board of Trustees
 † Nursing, Board of
 † Public Telecommunication Board, Virginia
 † Social Services, State Board of
 † Transportation Board, Commonwealth
 Visually Handicapped, Board for the
 Waste Management Board, Virginia

October 20

† Higher Education for Virginia, State Council of
 † Housing and Community Development, Department of
 - State Building Code Technical Review Board

October 23

Accountancy, Board for

October 24

Accountancy, Board for
 † Agriculture and Consumer Services, Department of
 - Virginia Egg Board
 † Aviation Board, Virginia
 † Health Services Cost Review Council, Virginia
 † Housing Development Authority, Virginia
 † Marine Resources Commission

October 25

† Aviation Board, Virginia
 Conservation and Recreation, Department of
 - Board on Conservation and Development of Public
 Beaches
 Environmental Quality, Department of
 Motor Vehicle Dealer Board
 † Pharmacy, Board of
 † Small Business Advisory Board, Virginia

October 26

Education, Board of
 † Pharmacy, Board of
 † Richmond Hospital Authority
 - Board of Commissioners
 † Water Control Board, State

October 27

Rehabilitation Advisory Council, State

October 28

Virginia Military Institute
 - Board of Visitors
 † Museum of Natural History, Virginia
 - Board of Trustees

October 30

Alcoholic Beverage Control Board
 † Criminal Sentencing Commission, Virginia

November 1

Agriculture and Consumer Services, Department of

- Virginia Seed Potato Board
 † Criminal Justice Services Board
 - Committee on Training
 † Health, Department of
 Sewage Handling and Disposal Appeals Review Board

November 2

† Chesapeake Bay Local Assistance Board
 - Central Area Review Committee
 - Southern Area Review Committee
 Emergency Planning Committee, Local - Chesterfield
 County
 Sewage Handling and Disposal Appeals Review Board

November 7

Hopewell Industrial Safety Council

November 8

† Motor Vehicles, Department of
 - Medical Advisory Board

November 9

Real Estate Board

November 13

† Mines, Minerals and Energy, Department of
 - Division of Mined Land Reclamation

November 14

Resources Authority, Virginia

November 15

† Higher Education, Commission on the Future of
 Local Debt, State Council on
 † Social Services, State Board of
 Treasury Board

November 16

† Chesapeake Bay Local Assistance Board
 - Northern Area Review Committee
 Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
 Education, Board of
 † Social Services, State Board of

November 21

Motor Vehicle Dealer Board
 † Youth, Commission on

November 30

Rehabilitative Services, Board of
 † Voluntary Formulary Board, Virginia

December 6

† Chesapeake Bay Local Assistance Board
 - Northern Area Review Committee

December 7

† Chesapeake Bay Local Assistance Board
 - Central Area Review Committee
 - Southern Area Review Committee

December 13

† Youth, Commission on

December 14

† Agriculture and Consumer Services, Department of
 - Virginia Horse Industry Board

Calendar of Events

December 20

Local Debt, State Council on
Treasury Board

PUBLIC HEARINGS

October 12

Emergency Planning Committee, Local - Fairfax

October 16

† Housing and Community Development, Board of

October 18

Voluntary Formulary Board, Virginia

October 23

Accountancy, Board for
Waste Management Board, Virginia

October 24

Waste Management Board, Virginia

October 25

Waste Management Board, Virginia

November 9

† Air Pollution Control Board, State

November 13

† Air Pollution Control Board, State

November 14

† Air Pollution Control Board, State

November 15

† Mines, Minerals and Energy, Department of