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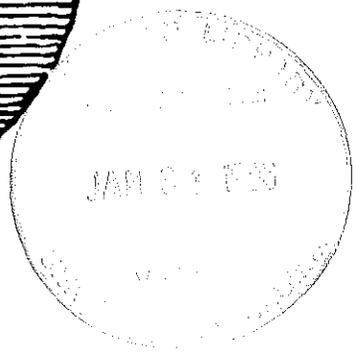
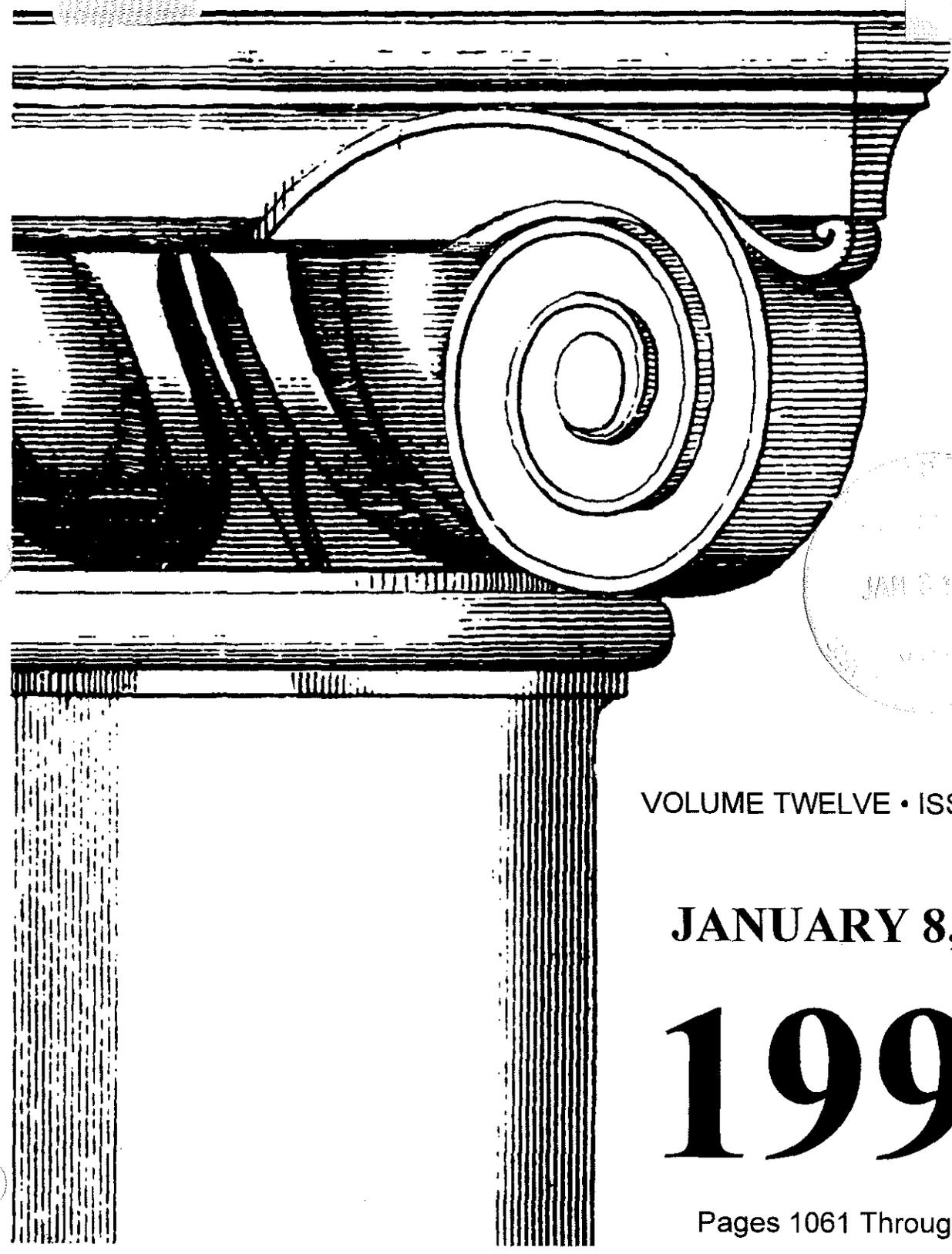
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1996

# THE VIRGINIA REGISTER

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OF REGULATIONS

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JANUARY 8, 1996

# 1996

Pages 1061 Through 1168

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# THE VIRGINIA REGISTER INFORMATION PAGE

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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.

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

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# PUBLICATION DEADLINES AND SCHEDULES

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## January 1996 through December 1996

**Material Submitted  
By Noon Wednesday**

**Will Be Published On**

**Volume 12**

December 19, 1995 (Tuesday)  
January 3, 1996  
January 17, 1996  
January 31, 1996  
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February 28, 1996

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January 22, 1996  
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February 19, 1996  
March 4, 1996  
March 18, 1996

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May 8, 1996  
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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## STATE AIR POLLUTION CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (New Source Review Permits)**. The purpose of the proposed action is make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.

**Public Meeting:** A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Thursday, February 8, 1996, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on Friday, February 9, 1996, 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 recommended regulation amendments 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 amendments drafted pursuant to this notice.

**Need:** The contemplated regulation is essential to protect the health, safety or welfare of citizens and for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are

within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance).

A state implementation plan is the key to the air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards - that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the Federal Clean Air Act and its requirements.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain the air quality standards. Once the air quality standard is attained, the agency must have a program to continuously monitor air quality to ensure that it meets the standards. The agency must also have a means to monitor compliance by sources, to prevent the construction of a new or modified source if it will cause a violation of the air quality standards, and to take action as necessary to prevent air pollution levels in the air from creating an emergency condition. In addition, development and enforcement of regulations under the SIP must be continually pursued, as well as development of new plan revisions as federal laws and regulations change.

Most of the agency's regulations are designed to provide the means for implementing and enforcing control measures (primarily stationary source and some mobile source) necessary to carry out the SIP. The chief stationary source control measures are to establish emission standards for existing sources and to require a permit for new or modified sources. The permit is the agency's means to limit the amount of pollutant from the source by means of new source performance standards, and in some cases, to determine its siting.

Section 120-08-04 provides a way to establish source-specific regulatory requirements for a specific source without having to adopt broad-based regulatory requirements for a category of sources. The regulation provides a means to make control measures federally enforceable without federal review through

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## Notices of Intended Regulatory Action

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the use of state operating permits. In this way, the state is in control of the issuance of the permits.

Section 120-08-04 was developed to provide a procedural and legal basis for the issuance, as needed, of a permit to operate for stationary sources that (i) enhances the agency's ability to ensure compliance with emission standards, (ii) reduces the levels of allowable emissions for existing stationary sources to provide for growth of new emissions, and (iii) provides a state and federally enforceable mechanism to enforce source specific program requirements. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the application review. In addition, the regulation was intended to provide a transition into the implementation of the federal Title V operating permit program in the state.

While the rationale for the existence of the regulation is still valid, the immediate need for the regulation has changed somewhat since the time of its development. Due to insufficient resources, the department has been unable to implement the state operating permit program until now and to provide the transition into the Title V program that was intended. At this time, numerous sources have been determined to be subject to the Title V program because of their potential to emit. Potential to emit must be calculated at maximum design capacity and maximum hours of operation except where federally enforceable permit conditions limit these factors. Permits issued under the state operating permit program will be used to limit the potential to emit of many of the sources which would otherwise be subject to the Title V program.

The regulation has been adopted into the State Implementation Plan by EPA. Due to this status, permits issued under the regulation are both federally and state enforceable. Therefore, the regulation can be used to write permits that limit emissions for sources whose owners are willing to take limits that can legally exempt them from the requirements for an operating permit under Title V of the federal Clean Air Act. Such permits, because they are federally enforceable, do not need EPA approval.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option meets the stated purpose of the regulation amendments: to make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option could involve the adoption of numerous new regulations that would impose undue administrative burdens and require extensive federal oversight. This approach would not be consistent with current state goals for the air quality program.
3. Take no action to amend the regulations and continue to use the regulation in its current state. This option would not be consistent with current federal

requirements and the state objectives for the permit program.

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 contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

- (1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
- (2) establish schedules for compliance;
- (3) establish a program for the enforcement of the emission limitations and schedules for compliance; and
- (4) require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 161 mandates that a state implementation plan include emissions limitations and other such measures as may be necessary to prevent significant deterioration of air quality in each region designated pursuant to § 107 as attainment or unclassifiable.

40 CFR 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including the following:

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and record-keeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

# Notices of Intended Regulatory Action

Subpart L (Legal Authority) specifies identification of legal authority to implement plans.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

- (1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
- (2) enforce applicable laws, regulations, and standards, and seek injunctive relief;
- (3) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;
- (4) abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
- (5) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;
- (6) require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
- (7) make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

- (1) the provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and
- (2) the plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

As an alternative to traditional administrative means (regulations, orders, and new source permits), EPA has recognized the use of state operating permits for the purpose of making CAA requirements federally enforceable. This has been done through the promulgation of a final rule (54 FR 27274, June 28, 1989) which addresses the approval of state operating permit programs into state implementation plans. The final rule also specifies the five criteria that must be met by

a state operating permit program in order to be approved into a state implementation plan.

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

Public comments may be submitted until 4:30 p.m. on Friday, February 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Mary E. Major, Policy Analyst Senior, Office of Air Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R96-151; Filed December 15, 1996, 1:48 p.m.

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## Notices of Intended Regulatory Action

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The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain the air quality standards. Once the air quality standard is attained, the agency must have a program to continuously monitor air quality to ensure that it meets the standards. The agency must also have a means to monitor compliance by sources, to prevent the construction of a new or modified source if it will cause a violation of the air quality standards, and to take action as necessary to prevent air pollution levels in the air from creating an emergency condition. In addition, development and enforcement of regulations under the SIP must be continually pursued, as well as development of new plan revisions as federal laws and regulations change.

Most of the agency's regulations are designed to provide the means for implementing and enforcing control measures (primarily stationary source and some mobile source) necessary to carry out the SIP. The chief stationary source control measures are to establish emission standards for existing sources and to require a permit for new or modified sources. The permit is the agency's means to limit the amount of pollutant from the source by means of new source performance standards, and in some cases, to determine its siting.

A key strategy for managing the growth of new emissions is the permit program for new and modified stationary sources. The basic program requires that owners obtain a permit from the

agency prior to the construction of a new industrial or commercial facility or the expansion of an existing one. Through preconstruction technology reviews and the issuance of permits, the agency ensures that new or modified facilities progressively minimize their adverse impact upon the air quality. Therefore, the implementation of new and modified source permit program, emission increases from new and expanding stationary sources can be managed so that affected areas can attain and maintain the air quality standards and accommodate growth.

The basic program (in existence since 1972) was later supplemented by mandate of the CAA with requirements that differ according to the facility's potential to emit a specified amount of a specific pollutant and the air quality status of the various areas within the state where the facility is or will be located. Requirements for facilities considered to be major due to their potential to emit a specified pollutant are more stringent than for less polluting facilities. Requirements for major facilities located or locating in those areas which have ambient air quality concentrations that have not been maintained at or below the health-based standard for a pollutant (nonattainment areas) are considerably more stringent than for those areas which have concentrations maintained at or below the standard (prevention of significant deterioration (PSD) areas). Permits issued in nonattainment areas require the facility owner to apply control technology that meets the lowest achievable emission rate and to obtain emission reductions from existing sources in the area such that the reductions offset the increases from the proposed facility by a ratio greater than one for the emissions contributing to the nonattainment situation. Permits issued in PSD areas require the facility owner to employ control technology that is the best available and, in some cases, to monitor ambient air quality at the site where the facility will be located to determine ambient air background levels of the pollutants to be emitted.

Section 120-08-01 provides a procedural and legal basis for the issuance of a new source permit for proposed new or expanded facilities that will (i) enable the agency to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards, (ii) to assess the impact of the emissions from the facility on air quality, and (iii) provide a state and federally enforceable mechanism to enforce permit program requirements. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review.

Section 120-08-01 requires permits for major new and modifying sources that do not qualify either as PSD or nonattainment area major sources. Permits under § 120-08-01 are also required for sources emitting at levels that are above the exemption levels specified in Appendix R of the regulations.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulation to satisfy the provisions of the law and associated regulations and policies. This option is being considered because it meets the stated purpose of the regulation: to make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.

## Notices of Intended Regulatory Action

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because the regulation needs to be made consistent with current federal requirements and the state objectives for the permit program.

3. Take no action to amend the regulation and continue to use the regulation in its current state. This option is not being considered because, without change, the regulation would not be consistent with current federal requirements and the state objectives for the permit program.

**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 contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

- (1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
- (2) establish a program for the enforcement of the emission limitations and schedules for compliance; and
- (3) establish programs for the regulation and permitting of the modification and construction of any stationary source within the areas covered by the plan to assure the achievement of the ambient air quality standards.

40 CFR 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, as summarized below.

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart I (Review of New Sources and Modifications) specifies legally enforceable procedures, public availability of information on sources, identification of responsible agency, and administrative procedures.

Section 51.160 of Subpart I specifies that the plan must stipulate legally enforceable procedures that enable the permitting agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in either a violation of any part of a control strategy or interference with attainment or maintenance of a national standard and, if such violation or interference would occur, the means by which the construction or modification can be prevented. The procedures must identify types and sizes of facilities, buildings, structures or installations which will be subject to review and discuss the basis for determining which facilities will be subject to review. The procedures must provide that owners of facilities, buildings, structures or installations must submit information on the nature and amounts of emissions and on the location, construction and operation of the facility. The procedures must ensure that owners comply with applicable control strategies after permit approval. The procedures must discuss air quality data and modeling requirements on which applications must be based.

Section 51.161 of Subpart I specifies that the permitting agency must provide opportunity for public comment on information submitted by owners and on the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. Section 51.161 also specifies the minimum requirements for public notice and comment on this information.

Section 51.162 of Subpart I specifies that the responsible agency must be identified in the plan.

Section 51.163 of Subpart I specifies that the plan must include administrative procedures to be followed in determining whether the construction or modification of a facility, building, structure or installation will violate applicable control strategies or interfere with the attainment or maintenance of a national standard.

Subpart L (Legal Authority) specifies identification of legal authority to implement plans and assignment of legal authority to local agencies.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

- (1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
- (2) enforce applicable laws, regulations, and standards, and seek injunctive relief;
- (3) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources; and

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# Notices of Intended Regulatory Action

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(4) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

(1) the provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

(2) the plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

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

Public comments may be submitted until 4:30 p.m. on Friday, February 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Office of Air Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4021, FAX (804) 698-4510 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R96-150, Filed December 15, 1996, 1:48 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 Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution, specifically operating permits and permit fees.** The purpose of the proposed action is to bring the regulations into compliance with Title V of the federal Clean Air Act (42 U.S.C. §§ 7661-7661f) and with federal regulations concerning state operating permit programs (40 CFR 70).

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 amendments drafted pursuant to this notice.

Need: On November 12, 1993, the Commonwealth of Virginia submitted to the U.S. Environmental Protection Agency (EPA) the various elements of an operating permit program to meet the requirements of Title V of the new Clean Air Act. The program was based upon emergency operating permit and fee program regulations adopted by the State Air Pollution Control Board at its June 1993 meeting.

On December 5, 1994 (59 FR 62324), EPA disapproved the operating permit program submitted by the Commonwealth on November 12, 1993. This disapproval constitutes disapproval under § 502(d) of the Clean Air Act (CAA). As provided under § 502(d)(1) of the CAA, the Commonwealth has up to 180 days (July 5, 1996) from the date of EPA's notification of final disapproval for the Governor of Virginia to revise and resubmit

the program. EPA disapproved the program on the basis that Virginia has not met the following requirements:

1. Pursuant to § 502(b)(6) of the CAA and 40 CFR 70.4(b)(3)(x) and 70.7(h), adequate provisions for public participation in the permit process, including statutory authority that meets the minimum threshold for judicial standing.
2. Pursuant to § 505(b)(3) of the CAA and 40 CFR 70.8(e), authority to prevent default issuance of permits.
3. Regulations that are permanent (emergency regulations expired on June 28, 1994).
4. Authority to issue permits to the proper universe of sources required by 40 CFR 70.
5. Regulations that meet the requirements of 40 CFR 70 ensuring issuance of permits that contain all applicable federal requirements and correctly delineate provisions only enforceable by the Commonwealth.

In addition to the above, EPA indicates in the notice that a number of other deficiencies (mostly regulatory) that are explained in the Technical Support Document need to be corrected.

On January 9, 1995, the Commonwealth submitted revised regulations, adopted by the board on December 16, 1994, to correct the deficiencies noted in items 3, 4 and 5 above and those noted in the Technical Support Document. On that same day, the Commonwealth filed suit in federal court disputing the legal basis of item 1 above. On May 17, 1995, the Commonwealth submitted revised code provisions to correct the deficiency noted in item 2 above.

On September 19, 1995 (60 FR 48435), EPA once again proposed disapproval of the operating permit program. This includes disapproval of the regulation corrections submitted on January 9, 1995, and reaffirmation of disapproval of the original program submittal. If promulgated, this disapproval will constitute a disapproval under § 502(d) of the Clean Air Act (CAA). As provided under § 502(d)(1) of the CAA, the Commonwealth will have up to 180 days from the date of EPA's notification of final disapproval for the Governor of Virginia to revise and resubmit the program. EPA is proposing to disapprove this program on the grounds that it does not substantially meet the requirements of the CAA and of the implementing regulations at 40 CFR 70. EPA's primary objections to Virginia's program are as follows:

1. As required by § 502(b)(6) of the CAA and 40 CFR 70.4(b)(3)(x), the program does not adequately afford persons the opportunity to seek judicial review of final permit decisions.
2. As required by § 502(b)(5) of the CAA and 40 CFR 70.3, the program does not assure that all sources required by the CAA to obtain Title V permits will be required to obtain such permits.
3. As required by § 502(b)(3) of the CAA and 40 CFR 70.9, the program does not contain an adequate provision for collection of Title V program fees.

In addition to the above, EPA indicates in the notice that a number of other deficiencies (mostly regulatory) that are

## Notices of Intended Regulatory Action

explained in the Technical Support Document need to be corrected.

On October 16, 1995, the State Air Pollution Control Board approved an emergency regulation revision correcting the deficiencies noted by EPA. This revision was submitted to EPA on November 8, 1995. The emergency revision, however, has a life of only one year from the effective date of October 20, 1995. Upon the expiration of that year, it must be replaced by a permanent regulation revision developed through the Administrative Process Act procedures.

EPA concludes that it must disapprove Virginia's program and cannot merely grant it interim approval because the deficiencies are so significant that they prevent the entire program from substantially meeting the requirements of 40 CFR 70. EPA will not approve Virginia's operating permit program until the state amends § 10.1-1318 B of the Code of Virginia as well as the applicable provisions of Rules 8-5 and 8-6 in Regulations for the Control and Abatement of Air Pollution.

If Virginia's program does not have interim approval status by November 15, 1995, EPA must promulgate, administer, and enforce a federal permit program for Virginia on that date. In addition, if EPA finalizes its proposed disapproval, Virginia may become subject to sanctions under the CAA. The possible sanctions include the cessation of certain federal highway funding and a requirement that new or modified major sources achieve an emissions reduction-to-increases ratio of at least 2:1. EPA may apply the sanctions at any time after the final disapproval notice; however, EPA must apply one of these sanctions 18 months following the date of a final disapproval unless Virginia has submitted a revised program and EPA has determined that it corrects the noted deficiencies. A second sanction will apply 6 months after the first if the deficiencies have not been corrected. EPA will be required to apply sanctions against Virginia on July 5, 1996, unless by that date all deficiencies noted in the first disapproval have been corrected. Thus, to ensure that the sanctions are not imposed for regulatory deficiencies, new regulatory corrections need to be submitted by July 5, 1996. The emergency regulation revision temporarily meets this need.

The regulation revision is necessary because a failure to promulgate it will pose an imminent threat to public safety and possibly to public health because of the severe highway funds sanction that the federal government will impose in the Northern Virginia, Richmond, and Hampton Roads ozone nonattainment areas if the Commonwealth fails to correct the noted regulatory provisions before the sanction is implemented. Furthermore, if Virginia fails to submit a federally approvable program, EPA will assume responsibility for administering the program within Virginia, thus depriving the state of decision-making power as well as fee revenue to the disadvantage of Virginia's government, the regulated community, and the public.

Title V of the Act provides a mechanism to implement the various requirements under the other titles in the Act through the issuance of operating permits. Under this title, the EPA is required to develop regulations with specific operating permit requirements. The states are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations.

The operating permits issued under this program will enhance the ability of EPA, the states, and citizens to enforce the requirements of the Act; clarify for the permitted sources exactly which air quality requirements apply; and also aid in implementing the Act by providing states with permit fees to support their programs.

A permit sets out for both the department and the owner the regulatory requirements appropriate to that source's operation. The benefits are that the operator or owner knows what requirements must be fulfilled and the department has an agreement with the owner through the permit that these requirements will be carried out. The permit enables the department to more efficiently and effectively carry out its source surveillance activities while providing a clear mandate for each source on what its responsibility entails. An operating permit inclusive of all requirements pertaining to the source ensures that the owner of the source is fully informed of all applicable state and federal regulations. The operating permit program provides that both the department and the owner conduct a periodic review of polluting activities to ensure that effective emission reductions are taking place.

An operating permit provides the mechanism for the department to assess any facility's compliance with the air quality standards and regulations that provide a basis to protect human health and the environment. The permit provides a direct enforcement mechanism for the department to determine a facility's compliance whereas the enforcement of the standards and regulations without the permit is more difficult because specific conditions for the individual facility have not been derived from those standards and regulations.

The public participation requirements of the operating permit program provide an opportunity for citizens to review and to provide comments about the compliance performance of facilities emitting air pollutants along with the department.

**Alternatives:** Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being considered because it meets the stated purpose of the regulation amendments: to bring the regulations into compliance with federal law and regulation.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not necessarily meet the stated purpose of the regulation. Further, alternative regulatory changes could also go beyond the stated purpose by imposing requirements that may not be consistent with federal statutory and regulatory requirements.
3. Take no action to amend the regulations. This option is not being considered because it would not accomplish the goals of federal and state statutory and regulatory requirements or the stated purpose of the regulation. Furthermore, not taking any action would lead to federal sanctions, possible including the removal of federal highway funds and the imposition of a federal operating permit program on Virginia in which the permit fee

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# Notices of Intended Regulatory Action

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revenues would go to the federal government rather than to Virginia.

**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 create a major change to the approach taken by the U.S. Congress in previous promulgations of the Clean Air Act (the Act or CAA). Title V of the Act requires the states to develop operating permit programs to cover all stationary sources defined as major by the Act. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source. The federal regulations required to be developed under Title V, 40 CFR 70 (57 FR 32250, July 21, 1992), specify the minimum elements that must be included in state operating permit programs.

CAA, § 502(a) and 40 CFR 70.3(a) require that the following sources be covered under the provisions of any Title V program:

1. Affected sources as defined under the acid deposition provisions of Title IV of the Act.
2. Major sources, defined as follows:
  - a. Any source of air pollutants with the potential to emit 100 tons per year (tpy) or more of any pollutant;
  - b. In ozone nonattainment areas designated as serious, any source emitting 50 tpy or more of VOCs or NO<sub>x</sub> (in Virginia, the Northern Virginia area is designated serious); for severe or extreme nonattainment areas, sources emitting 25 and 10 tpy or more of VOCs or NO<sub>x</sub>, respectively; and
  - c. Any source with the potential to emit 10 tpy of any hazardous air pollutant or 25 tpy of any combination of hazardous air pollutants regulated under § 112 of the Act.
3. Any other source, including an area source, subject to a hazardous air pollutant standard under § 112 of the Act.
4. Any source subject to new source performance standards under § 111 of the Act.
5. Any source required to have a preconstruction review permit pursuant to the requirements of the prevention of significant deterioration program under Title I, Part C of the Act or the nonattainment area new source review program under Title I, Part D of the Act.
6. Any other stationary source in a category that EPA designates in whole or in part by regulation, after notice and comment.

CAA, § 502(b) and 40 CFR 70.4(b) and other provisions of 40 CFR 70, as noted, set out the minimum elements that must be included in each program, as follows:

1. Requirements for permit applications, including standard application forms, compliance plans and criteria

for determining the completeness of applications. (40 CFR 70.5)

2. Monitoring and reporting requirements. (40 CFR 70.6(a)(3))

3. A permit fee system. (40 CFR 70.9)

4. Provisions for adequate personnel and funding to administer the program.

5. Authority to issue permits and assure that each permitted source complies with applicable requirements under the Act. (40 CFR 70.7(a)(1))

6. Authority to issue permits for a fixed term, not to exceed five years. (40 CFR 70.6(a)(2))

7. Authority to assure that permits incorporate emission limitations in an applicable implementation plan. (40 CFR 70.6(a)(1))

8. Authority to terminate, modify, or revoke and reissue permits for cause and a requirement to reopen permits in certain circumstances. (40 CFR 70.7)

9. Authority to enforce permits, permit fees, and the requirement to obtain a permit, including civil penalty authority in a maximum amount of not less than \$10,000 per day, and appropriate criminal penalties. (40 CFR 70.11)

10. Authority to assure that no permit will be issued if EPA objects to its issuance in a timely fashion. (40 CFR 70.8(c) and (e))

11. Procedures for (i) expeditiously determining when applications are complete, (ii) processing applications, (iii) public notice, including offering an opportunity for public comment, and a hearing on applications, (iv) expeditious review of permit actions, and (v) state court review of the final permit action. (40 CFR 70.5 (a)(2) and 70.7 (h))

12. Authority and procedures to provide that the permitting authority's failure to act on a permit or renewal application within the deadlines specified in the Act shall be treated as a final permit action solely to allow judicial review by the applicant or anyone also who participated in the public comment process to compel action on the application.

13. Authority and procedures to make available to the public any permit application, compliance plan, permit emissions or monitoring report, and compliance report or certification, subject to the confidentiality provisions of § 114(c) of the Act; the contents of the permit itself are not entitled to confidentiality protection.

14. Provisions to allow operational flexibility at the permitted facility.

CAA, § 503(b) and 40 CFR 70.5(c)(8) and (9) require that applicants shall submit with the permit application a compliance plan describing how the source will comply with all applicable requirements of the Act. The compliance plan must include a schedule of compliance and a schedule under which the permittee will submit progress reports to the permitting

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authority no less frequently than every six months. The permittee must also certify that the facility is in compliance with any applicable requirements of the permit no less frequently than annually. The permittee must also promptly report any deviations from permit requirements to the permitting authority.

CAA, § 503(d) and 40 CFR 70.7(b) specify that a source's failure to have an operating permit shall not be a violation of the Act if the source owner submitted a timely and complete application for a permit and if he submitted other information required or requested to process the application in a timely fashion.

CAA, § 503(e) and 40 CFR 70.4(b)(3)(viii) require that a copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. Any information that is required of an applicant to submit and which is entitled to protection from disclosure under § 114 (c) of the Act can be submitted separately.

CAA, § 504 and 40 CFR 70.6(a)-(c) specify what is to be included in each operating permit issued under this program. These provisions require each permit to include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every six months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements, including the requirements of any state implementation plan.

CAA, § 504(b) indicates that the EPA administrator may prescribe, by rule, procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated by the Act. Continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance.

CAA, § 504(c) and 40 CFR 70.6(a)(3) require that each permit issued under the program shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to applicable regulations issued under § 504(b) and to any other requirements specified in federal regulation. Any report required to be submitted by a permit issued to a corporation shall be signed by a responsible corporate official, who shall certify its accuracy.

CAA, § 504(d) and 40 CFR 70.6(d) allow the state permitting authority to issue a general permit covering numerous similar sources after notice and opportunity for public hearing. Any general permit shall comply with all program requirements. Any source governed by a general permit regulation must still file an application under this program.

CAA, § 504(e) and 40 CFR 70.6(e) allow the state permitting authority to issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of the Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under the Act. Any such permit shall in

addition require the owner or operator to notify the permitting authority in advance of each change in location.

CAA, § 504(f) and 40 CFR 70.6(f) provide a permit shield for permittees. This section specifies that compliance with a permit issued in accordance with Title V shall be deemed in compliance with CAA, § 502, or with the program. And unless otherwise provided by the EPA administrator and by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of the Act that relate to the permittee, if:

1. The permit includes the applicable requirements of those provisions, or
2. The permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

CAA, § 503(c) and 40 CFR 70.5(a)(1) specify that all sources required to be permitted under a Title V program are required to submit an application within twelve months after the date EPA approves the state's program. The state permitting authority may specify an earlier date for submitting applications. The state permitting authority must establish a phased schedule for acting on permit applications submitted within the first full year after program approval, and must act on at least one-third of the permits each year over a period not to exceed three years after approval of the program. After acting on the initial application, the permitting authority must issue or deny a complete application within 18 months after receiving that application.

CAA, § 505(a) and 40 CFR 70.8(a) require the state permitting authority to send EPA a copy of each permit application and each permit proposed to be issued. For each permit application or proposed permit sent to EPA, CAA, § 505(a) and 40 CFR 70.8(b) also require the permitting authority to notify all states whose air quality may be affected and that are contiguous to the state in which the emission originates, or that are within 50 miles of the source. This notice must provide an opportunity for these affected states to submit written recommendations respecting the issuance of the permit and its terms and conditions. CAA, § 505(b) and 40 CFR 70.8(c) provide for EPA objections to any permit which contains provisions that are not in compliance with the requirements of the Act or with the applicable State Implementation Plan. This section also provides that any person may petition the EPA administrator within 60 days after the expiration of the 45-day review period, if no objections were submitted by the EPA administrator. Furthermore the state permitting authority may not issue the permit if the EPA administrator objects to its issuance unless the permit is revised to meet the objection. If the state permitting authority fails to revise and resubmit the permit, EPA must issue or deny the permit in accordance with the requirements of Title V. Under § 505(d) and 40 CFR 70.8(a)(2), the permit program submitted by the state may not have to meet these requirements for sources other than major sources covered by the program. CAA, § 505(e) and 40 CFR 70.7(g) allow the EPA administrator to terminate, modify, or revoke and reissue an operating permit issued under a state's program, if he finds that cause exists for such action.

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

Public comments may be submitted until 4:30 p.m. on January 11, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4413, FAX (804) 762-4510 or (804) 762-4021/TDD ☎

VA.R. Doc. No. R96-123; Filed November 21, 1995, 4:46 p.m.

### DEPARTMENT OF EDUCATION (STATE BOARD OF)

#### 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 Board of Education intends to consider amending regulations entitled: **VR 270-01-0036 [8 VAC 20-370-10 et seq.] Regulations Governing Fees and Charges.** The purpose of the proposed action is to allow local school boards to charge a fee for students to take an optional summer administration of the Literacy Passport Test. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 22.1-6 of the Code of Virginia.

Public comments may be submitted until January 12, 1996.

**Contact:** Kathryn S. Kitchen, Division Chief, Department of Education, James Monroe Bldg., P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2025, FAX (804) 225-2053 or (804) 225-2300, toll-free 1-800-292-3820, or (804) 786-8389/TDD ☎

VA.R. Doc. No. R96-121; Filed November 21, 1995, 11:36 a.m.

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

#### 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 Council of Higher Education for Virginia intends to consider amending regulations entitled: **VR 380-02-01 [ 8 VAC 40-30-10 et seq. ] Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas and Certificates.** The purpose of the proposed action is to address inefficiencies contained in current regulations, update regulations to reflect changing technologies, and address a gap in the state's quality assurance measures. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 23-265 of the Code of Virginia.

Public comments may be submitted until January 26, 1996, to Elizabeth Griffin, State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Richmond, VA 23219.

**Contact:** Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

VA.R. Doc. No. R96-134; Filed December 5, 1995, 12:44 p.m.

### STATE MILK COMMISSION

#### 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 Milk Commission intends to consider amending regulations entitled: **VR 475-02-01 [ 2 VAC 15-10-10 et seq. ] Public Participation Guidelines.** The purpose of the proposed action is to amend regulations to comply with style, form and format recommended by the Registrar of Regulations to provide consistency and uniformity, in general, with public participation guidelines utilized by other state agencies. This action is consistent with the regulatory analysis performed pursuant to Executive Order 15(94). The commission has formed an ad-hoc advisory committee to draft amendments to the regulations. The committee desires to solicit public comment, oral and written, to assist in drafting amendments. The committee will welcome oral comments at its first scheduled meeting on January 17, 1996. Further, information concerning the time and location of the meeting may be obtained from Edward C. Wilson, Jr. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-430 of the Code of Virginia.

Public comments may be submitted until January 15, 1996.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R96-78; Filed October 26, 1995, 1:26 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 Milk Commission intends to consider amending regulations entitled: **VR 475-02-02 [ 2 VAC 15-20-10 et seq. ] Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.** The purpose of the proposed action is to amend §§ 1, 2, 3, 5, 6, 9, 10, 11, 12 and 13 of VR 475-02-02 to achieve regulatory control in the least intrusive manner, providing for the protection of the safety and welfare of Virginians as mandated by law, and for the efficient administration of the regulations. This action is consistent with the regulatory analysis performed pursuant to Executive Order 15(94). The commission has formed an ad-hoc advisory committee to draft amendments to the regulations. The committee will welcome oral comments at its first scheduled meeting on January 17, 1996. Further, information concerning the time and location of the meeting may be obtained from Edward C. Wilson, Jr. The agency

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intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-430 of the Code of Virginia.

Public comments may be submitted until January 15, 1996.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R96-79; Filed October 26, 1995, 1:26 p.m.

## DEPARTMENT OF TAXATION

### 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 Taxation intends to consider promulgating regulations entitled: **VR 630-10-9.1. Retail Sales and Use Tax: Audiovisual Tape and Film Production.** The purpose of the proposed regulation is to explain the department's policy regarding the exemption for tapes and other audiovisual works for broadcasting or commercial exhibition generally, and for the production, transfers of tangible property, and equipment and parts used in the production of such audiovisual works. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until February 1, 1996.

**Contact:** W. Bland Sutton, III, Tax Policy Analyst, Department of Taxation, Office of Tax Policy, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-6358 or FAX (804) 367-0045.

VA.R. Doc. No. R96-127; Filed December 5, 1995, 3:02 p.m.

## VIRGINIA RACING COMMISSION

### 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 Racing Commission intends to consider promulgating regulations entitled: **11 VAC 10-180-10 et seq. Medication.** The purpose of the proposed action is to prescribe the circumstances and procedures under which furosemide and phenylbutazone may be administered to racehorses and the circumstances and procedures under which all other medications will be prohibited. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until January 16, 1996.

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

VA.R. Doc. No. R96-120; Filed November 21, 1995, 8:54 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 repealing regulations entitled: **VR 680-14-07 [ 9 VAC 25-90-10 et seq. ] Oil Discharge Contingency Plans and Administrative Fees for Approval.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into new regulations (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements, and VR 680-14-08:1, Tank Vessel Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] and VR 680-14-08:1 [ 9 VAC 25-105-10 et seq. ]). The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-100; Filed November 8, 1995, 11:32 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 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] Facility and Aboveground Storage Tank Requirements.** The purpose of the proposed action is to adopt a new regulation which combines the necessary requirements for facilities and aboveground storage tanks into a single regulation in order to provide a clearly written and understandable regulation that can be implemented more efficiently. Combining VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13 will aid DEQ's efforts to streamline government services, provide uniformity in regulation, eliminate duplication and increase performance and efficiency. The action is also necessary (i) to consider providing operators with a coordinated federal/state approach by acceptance of the federally approved response plans and (ii) to provide regulatory relief and variance options to those facilities and oil products addressed in the 1994 amendments to state law.

**Need:** The regulations protect the health and safety of the citizens within the Commonwealth and the protection of the environment. This regulatory action is necessary to coordinate the implementation of these regulations and to eliminate confusion as to applicability of each regulation. For instance, definitions found in § 62.1-44.34:14 were added and modified as additional legislation was developed thereby causing definitions to be fragmented among the regulations.

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## Notices of Intended Regulatory Action

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Combining the four regulations into two will provide more clearly written and understandable regulations that can be implemented more efficiently. The recent promulgation of final federal tank vessel and facility regulations by the U.S. Coast Guard (USCG) and Environmental Protection Agency (EPA) allows the DEQ to develop a coordinated approach for planning and emergency response efforts within state waters.

**Subject Matter and Intent:** Currently four regulations (VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13) apply to facilities located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil and tank vessels. Each regulation was developed as a result of separate statutory changes and with each statutory amendment, the definitions of Article 11 (§ 62.1-44.34:14 et. seq.) were modified. For example, a facility may be subject to the Oil Discharge Contingency Plan (ODCP) regulations and not subject to the pollution prevention requirements. Inconsistencies between the regulations can be eliminated by this proposal, resulting in a more efficient and understandable regulation for preventing or responding to a discharge of oil.

In addition, the DEQ has reviewed final tank vessel and facility response plan regulations implementing the provisions of the federal Oil Pollution Act of 1990 and found them to be compatible with the ODCP requirements of VR 680-14-07. The EPA facility regulations will not be applicable to the vast majority of facilities subject to the DEQ ODCP regulations. To better facilitate the one plan concept, DEQ will evaluate and take the necessary steps to accept USCG and EPA approved response plans either wholly or with state specific information added. Reevaluation of the administrative fee for approval will also be undertaken.

Section 62.1-44.34:15.1 of the State Water Control Law was amended to exempt certain ASTs located at facilities not engaged in the resale of oil from inventory control and testing for significant inventory variations requirements. Section 62.1-44.34:15.1.5 was added to enable the board to establish criteria for granting variances from the AST Pollution Prevention Requirements (VR 680-14-13) for facilities not engaged in the resale of oil.

In addition, § 62.1-44.34:17 was amended to provide that facilities not engaged in the resale of oil shall not be subject to § 62.1-44.34:15.1 until July 1, 1995 (changed until variance requirements are promulgated) and ASTs with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored be exempt from any requirements of § 62.1-44.34:15.1. In addition, the amendment provides that the definition of oil, for the purposes of §§ 62.1-44.34:15.1 and 62.1-44.34:16 and for any requirement under § 62.1-44.34:15 to install ground water monitoring wells, ground water protection devices, or to conduct ground water characterization studies, does not include asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure.

**Estimated Impacts:** All impacts associated with this intended regulatory action are expected to be beneficial to the regulated community as well as the DEQ. Consolidation of regulations within the AST program will enable the public, industry and the DEQ to better understand the impact of the regulations and to provide for options to be considered.

Providing a coordinated spill response with the USCG and the EPA by accepting federally approved spill plans will demonstrate Virginia's concern for protecting the environment and eliminate duplication of regulatory requirements. The DEQ will require specific information to be submitted with the addition to demonstration of federal approvals. It is estimated that 450 AST facilities with approximately 2,500 ASTs will each save \$550 per year by not having to perform the inventory control or testing for variance requirements. Estimates are that the ability to grant variances will save approximately 100 facilities approximately \$1,000 per year. The extension of compliance is projected to affect 450 AST facilities with approximately 2,500 ASTs and will save each facility \$500 for the year extension. Exemption from pollution prevention requirements for heating oil ASTs of 5,000 gallons or less will save 750 AST facilities approximately \$500 per year per facility. The asphalt exemption will save 20 facilities statewide approximately \$10,000 per facility initially and \$1,000 per facility annually.

**Alternatives:** An alternative is to retain, unchanged, the existing separate regulations. This is not considered to be an efficient alternative. The proposed amendment to combine the four regulations into two is the least burdensome and intrusive alternative available.

Having to determine individual applicability of the regulations is counterproductive and not in the best interest of the DEQ or the regulated community. It is confusing at best and difficult for staff to coordinate compliance efforts. Additionally, having several response plans on a tank vessel or at a facility often leads to confusion of responsibility and therefore an ineffective response.

The 1994 statutory amendments to § 62.1-44.34:15.1 provided that facilities not engaged in the resale of oil should not be subject to VR 680-14-13 until July 1, 1995 (the new date is until variance provisions are promulgated); that specific ASTs located at these facilities should not be subject to inventory control; and, that these facility operators should be able to request variances to VR 680-14-13 based on established criteria. This requirement is mandated by statute and provides a beneficial extension of the compliance date as well as enables DEQ to evaluate evolving technologies for acceptance within the regulation.

**Comments:** The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on this intended regulatory action and on the costs and benefits of the stated alternatives as well as other alternatives. To be considered, comments should be directed to Mr. David Ormes, at the address below and should be received by 4 p.m. on Wednesday, January 17, 1996.

**Public Meetings:** Public meetings will be held on Monday, January 8, 1996, at 7 p.m. at the Virginia War Memorial Auditorium, 621 S. Belvidere Street, Richmond, and on Wednesday, January 10, 1996, at 7 p.m. in the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke.

**Accessibility to Persons with Disabilities:** The meeting will be 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. David Ormes, Department of Environmental Quality, P.O. Box 10009,

## Notices of Intended Regulatory Action

Richmond, Virginia 23240-0009, or by telephone at (804) 762-4263 (effective 12/1/95 - 698-4263) or TDD (804) 762-4021 (effective 12/1/95 - 698-4021). Persons needing interpreter services for the deaf must notify Mr. Ormes no later than Wednesday, December 27, 1995.

**Advisory Committee/Group:** All legal requirements related to public participation and all public participation guidelines will be strictly followed. An ad hoc advisory group will be convened to provide input to the department regarding the content of the proposed regulation and to ensure that the citizens have reasonable access and opportunity to present their comments and concerns. The ad hoc group may be composed of representatives from state, federal and local agencies; industry, manufacturers, facility and tank vessel owners/operators, environmental groups and the public. This group will meet at least twice during the regulation development.

The DEQ intends to hold at least one public hearing (informational proceeding) on the proposed regulation after it is published in the Register of Regulations. The public hearing will be convened by a member of the board. The DEQ does not intend to hold a formal hearing (evidentiary) on the proposed regulation after the proposal is published in the Register of Regulations.

**Impact on Family Formation, Stability and Autonomy:** DEQ will consider the impact of the regulatory actions on family formation, stability and autonomy during the formulation of proposals. However, it is not anticipated that these regulations will have a direct impact on families. There may be positive indirect impacts in that the proposals will result in regulatory efficiency, thus promoting job retention and economic growth.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-102; Filed November 8, 1995, 11:32 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 repealing regulations entitled: **VR 680-14-08 [ 9 VAC 25-100-10 et seq. ] Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-08:1, Tank Vessel Requirements). (See notice regarding VR 680-14-08:1 [ 9 VAC 25-105-10 et seq. ]) The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-99; Filed November 8, 1995, 11:32 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 680-14-08:1 [ 9 VAC 25-105-10 et seq. ] Tank Vessel Requirements.** The purpose of the proposed action is to adopt a new regulation which combines the necessary requirements of two existing tank vessel regulations (part of VR 680-14-07 and VR 680-14-08) and to evaluate acceptance of federally approved oil spill response plans and financial responsibility requirements. Combining VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13 will aid DEQ's efforts to streamline government services, provide uniformity in regulation, eliminate duplication and increase performance and efficiency. The action is also necessary (i) to consider providing operators with a coordinated federal/state approach by acceptance of the federally approved response plans and (ii) to provide regulatory relief and variance options to those facilities and oil products addressed in the 1994 amendments to state law.

**Need:** The regulations protect the health and safety of the citizens within the Commonwealth and the protection of the environment. This regulatory action is necessary to coordinate the implementation of these regulations and to eliminate confusion as to applicability of each regulation. For instance, definitions found in § 62.1-44.34:14 were added and modified as additional legislation was developed thereby causing definitions to be fragmented among the regulations.

Combining the four regulations into two will provide more clearly written and understandable regulations that can be implemented more efficiently. The recent promulgation of final federal tank vessel and facility regulations by the U.S. Coast Guard (USCG) and Environmental Protection Agency (EPA) allows the DEQ to develop a coordinated approach for planning and emergency response efforts within state waters.

**Subject Matter and Intent:** Currently four regulations (VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13) apply to facilities located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil and tank vessels. Each regulation was developed as a result of separate statutory changes and with each statutory amendment, the definitions of Article 11 (§ 62.1-44.34:14 et. seq.) were modified. For example, a facility may be subject to the Oil Discharge Contingency Plan (ODCP) regulations and not subject to the pollution prevention requirements. Inconsistencies between the regulations can be eliminated by this proposal, resulting in a more efficient and understandable regulation for preventing or responding to a discharge of oil.

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In addition, the DEQ has reviewed final tank vessel and facility response plan regulations implementing the provisions of the federal Oil Pollution Act of 1990 and found them to be compatible with the ODCP requirements of VR 680-14-07. The EPA facility regulations will not be applicable to the vast majority of facilities subject to the DEQ ODCP regulations. To better facilitate the one plan concept, DEQ will evaluate and take the necessary steps to accept USCG and EPA approved response plans either wholly or with state specific information added. Reevaluation of the administrative fee for approval will also be undertaken.

Section 62.1-44.34:15.1 of the State Water Control Law was amended to exempt certain ASTs located at facilities not engaged in the resale of oil from inventory control and testing for significant inventory variations requirements. Section 62.1-44.34:15.1.5 was added to enable the board to establish criteria for granting variances from the AST Pollution Prevention Requirements (VR 680-14-13) for facilities not engaged in the resale of oil.

In addition, § 62.1-44.34:17 was amended to provide that facilities not engaged in the resale of oil shall not be subject to § 62.1-44.34:15.1 until July 1, 1995 (changed until variance requirements are promulgated) and ASTs with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored be exempt from any requirements of § 62.1-44.34:15.1. In addition, the amendment provides that the definition of oil, for the purposes of §§ 62.1-44.34:15.1 and 62.1-44.34:16 and for any requirement under § 62.1-44.34:15 to install ground water monitoring wells, ground water protection devices, or to conduct ground water characterization studies, does not include asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure.

**Estimated Impacts:** All impacts associated with this intended regulatory action are expected to be beneficial to the regulated community as well as the DEQ. Consolidation of regulations within the AST program will enable the public, industry and the DEQ to better understand the impact of the regulations and to provide for options to be considered. Providing a coordinated spill response with the USCG and the EPA by accepting federally approved spill plans will demonstrate Virginia's concern for protecting the environment and eliminate duplication of regulatory requirements. The DEQ will require specific information to be submitted with the addition to demonstration of federal approvals. It is estimated that 450 AST facilities with approximately 2,500 ASTs will each save \$550 per year by not having to perform the inventory control or testing for variance requirements. Estimates are that the ability to grant variances will save approximately 100 facilities approximately \$1,000 per year. The extension of compliance is projected to affect 450 AST facilities with approximately 2,500 ASTs and will save each facility \$500 for the year extension. Exemption from pollution prevention requirements for heating oil ASTs of 5,000 gallons or less will save 750 AST facilities approximately \$500 per year per facility. The asphalt exemption will save 20 facilities statewide approximately \$10,000 per facility initially and \$1,000 per facility annually.

**Alternatives:** An alternative is to retain, unchanged, the existing separate regulations. This is not considered to be an

efficient alternative. The proposed amendment to combine the four regulations into two is the least burdensome and intrusive alternative available.

Having to determine individual applicability of the regulations is counterproductive and not in the best interest of the DEQ or the regulated community. It is confusing at best and difficult for staff to coordinate compliance efforts. Additionally, having several response plans on a tank vessel or at a facility often leads to confusion of responsibility and therefore an ineffective response.

The 1994 statutory amendments to § 62.1-44.34:15.1 provided that facilities not engaged in the resale of oil should not be subject to VR 680-14-13 until July 1, 1995 (the new date is until variance provisions are promulgated); that specific ASTs located at these facilities should not be subject to inventory control; and, that these facility operators should be able to request variances to VR 680-14-13 based on established criteria. This requirement is mandated by statute and provides a beneficial extension of the compliance date as well as enables DEQ to evaluate evolving technologies for acceptance within the regulation.

**Comments:** The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on this intended regulatory action and on the costs and benefits of the stated alternatives as well as other alternatives. To be considered, comments should be directed to Mr. David Ormes, at the address below and should be received by 4 p.m. on Wednesday, January 17, 1996.

**Public Meetings:** Public meetings will be held on Monday, January 8, 1996, at 7 p.m. at the Virginia War Memorial Auditorium, 621 S. Belvidere Street, Richmond, and on Wednesday, January 10, 1996, at 7 p.m. in the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke.

**Accessibility to Persons with Disabilities:** The meeting will be 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. David Ormes, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, or by telephone at (804) 762-4263 (effective 12/1/95 - 698-4263) or TDD (804) 762-4021 (effective 12/1/95 - 698-4021). Persons needing interpreter services for the deaf must notify Mr. Ormes no later than Wednesday, December 27, 1995.

**Advisory Committee/Group:** All legal requirements related to public participation and all public participation guidelines will be strictly followed. An ad hoc advisory group will be convened to provide input to the department regarding the content of the proposed regulation and to ensure that the citizens have reasonable access and opportunity to present their comments and concerns. The ad hoc group may be composed of representatives from state, federal and local agencies; industry, manufacturers, facility and tank vessel owners/operators, environmental groups and the public. This group will meet at least twice during the regulation development.

The DEQ intends to hold at least one public hearing (informational proceeding) on the proposed regulation after it is published in the Register of Regulations. The public hearing will be convened by a member of the board. The

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DEQ does not intend to hold a formal hearing (evidentiary) on the proposed regulation after the proposal is published in the Register of Regulations.

**Impact on Family Formation, Stability and Autonomy:** DEQ will consider the impact of the regulatory actions on family formation, stability and autonomy during the formulation of proposals. However, it is not anticipated that these regulations will have a direct impact on families. There may be positive indirect impacts in that the proposals will result in regulatory efficiency, thus promoting job retention and economic growth.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-101; Filed November 8, 1995, 11:32 a.m.

agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-103; Filed November 8, 1995, 11:32 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 repealing regulations entitled: **VR 680-14-12 [ 9 VAC 25-130-10 et seq. ] Facility and Aboveground Storage Tank Registration Requirements Regulation**. The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-98; Filed November 8, 1995, 11:32 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 repealing regulations entitled: **VR 680-14-13 [ 9 VAC 25-140-10 et seq. ] Aboveground Storage Tanks Pollution Prevention**. The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] The

# 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.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

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

**Title of Regulation:** ~~VR-400-04-0004~~, 13 VAC 10-10-10 et seq. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

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

### Summary:

*The proposed amendments (i) delete the existing definition of "household," (ii) insert definitions of "family" and "legal custodial relationship," and (iii) substitute the term "family" for "household" in a number of places in the rules and regulations.*

13 VAC 10-10-10 et seq. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

### CHAPTER 10. RULES AND REGULATIONS - GENERAL PROVISIONS FOR PROGRAMS OF THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY.

#### § 4. 13 VAC 10-10-10. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24 et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such

person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the applicable rules and regulations of the authority, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the applicable rules and regulations of the authority) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or "mortgage loan" means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

"Dwelling unit" or "unit" means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"Family" means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption or by legal custodial relationship, living together on the premises as a single nonprofit-housekeeping unit. In all contexts other than the financing of a single family dwelling unit, "family" means two or more individuals living together in accordance with law.

"FHA" means the Federal Housing Administration and any successor entity.

"For-profit housing sponsor" means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

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

~~"Household" means, in the context of the financing of a single family dwelling unit, two or more individuals living together on the premises as a single nonprofit housekeeping unit.~~

"Legal custodial relationship" means (i) a parent or other person having, or in the process of securing, legal custody of any individual or individuals with whom such parent or other person is domiciled and who have not attained the age of 18 years, or (ii) the designee of such parent or other person having, or in the process of securing, legal custody with the written permission of such parent or other person. For the purpose of this definition, the phrase "in the process of securing" means having filed an appropriate petition to obtain legal custody in a court of competent jurisdiction.

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

"Nonprofit housing sponsor" means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

"Person" means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or
3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii)

limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

"Rent" means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

"Reservation" means the official action, as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

"Single family dwelling unit" means a dwelling unit in single family residential housing.

The foregoing words and terms, when used in any other rules and regulations of the authority, shall have the same meaning as set forth above, unless otherwise defined in such rules and regulations. Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

## § 2. 13 VAC 10-10-20. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or household family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or rules and regulations shall specify whether the person's or household's family's income shall be calculated as adjusted family income or gross income. To be considered eligible for the financing of a single family dwelling unit, a person or household family shall not have an adjusted family income or gross income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross income, as applicable, household composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on

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behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above.

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every three years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or

debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

### ~~§-3.~~ 13 VAC 10-10-30. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

### ~~§-4.~~ 13 VAC 10-10-40. Interest rates.

The executive director shall establish the interest rate or rates to be charged in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this ~~§-4~~ section shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

### ~~§-5.~~ 13 VAC 10-10-50. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

### ~~§-6.~~ 13 VAC 10-10-60. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal

government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

§-7. 13 VAC 10-10-70. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall, if and to the extent required thereby, utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

§-8. 13 VAC 10-10-80. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not

less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established in accordance with subdivision (2) of § 36-55.35 of the Code of Virginia.

§-9. 13 VAC 10-10-90. Waiver.

The executive director may for good cause in any particular case waive or vary any of the provisions of these rules and regulations to the extent not inconsistent with the Act or with other applicable provisions of law.

§-10. 13 VAC 10-10-100. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

§-11. 13 VAC 10-10-110. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

VA.R. Doc. No. R96-152; Filed December 18, 1995, 2:13 p.m.

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Title of Regulation: **VR 400-02-0003, 13 VAC 10-40-10 et seq. Rules and Regulations for Single Family Mortgage Loans to Persons and Households Families of Low and Moderate Income.**

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

Summary:

*The proposed amendments (i) provide that a single family mortgage loan may be made by the authority to more than one person only if all such persons are related by blood, marriage or adoption or by legal custodial relationship, except that the executive director may waive the foregoing requirement in cases of personal or financial hardship in which one of such persons is elderly or is physically or mentally disabled; and (ii) substitute the term "family" for "household" in a number of places in the rules and regulations.*

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13 VAC 10-40-10 et seq. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

**CHAPTER 40.**  
**RULES AND REGULATIONS FOR SINGLE FAMILY**  
**MORTGAGE LOANS TO PERSONS AND FAMILIES OF**  
**LOW AND MODERATE INCOME.**

**PART I.**  
**GENERAL.**

**§-1.1. 13 VAC 10-40-10. General.**

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

In order to be considered eligible for a mortgage loan hereunder, a "person" or "household" "family" (as defined in the authority's rules and regulations) must have a "gross income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II (13 VAC 10-40-30 et seq.) hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II (13 VAC 10-40-30 et seq.) hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II (13 VAC 10-40-30 et seq.) hereof.

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

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

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

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the originating and administration of

mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

**§-1.2. 13 VAC 10-40-20. Origination and servicing of mortgage loans.**

A. The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this §-1.2 section, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this §-1.2 section, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

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

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

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

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

For the purposes of these rules and regulations *this chapter*, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent,"

unless otherwise noted or the context indicates otherwise. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted or the context indicates otherwise. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

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

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

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

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

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

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

C. These rules and regulations constitute a portion of the originating guide of the authority. The processing guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a processing guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the processing guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the processing guide) and the servicing guide.

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

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage

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loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director

determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not comply with any requirement under the originating guide, the applicable originating agreement, the Act or these rules and regulations for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;
3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and
4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under these rules and regulations as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on

terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II.  
PROGRAM REQUIREMENTS.

~~§ 2.1.~~ 13 VAC 10-40-30. Eligible persons and households families and citizenship.

A. A one-person household is eligible.

~~B. A single family loan can be made to more than one person only if all such persons to whom the loan is to be made are to live together in the dwelling as a single nonprofit housekeeping unit. A single family loan can be made to more than one person only if all such persons to whom the loan is to be made are related by blood, marriage or adoption or by legal custodial relationship and are living together in the dwelling as a single nonprofit housekeeping unit. Pursuant to authorization set forth in 13 VAC 10-10-90 and 13 VAC 10-40-10, the executive director may waive the requirement that such persons be related by blood, marriage or adoption or by legal custodial relationship, as set forth above and in 13 VAC 10-10-10, in cases of personal or financial hardship in which one of the persons is elderly (62 years or older) or is physically or mentally disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director. In the case of any such waiver, the eligibility of such persons under 13 VAC 10-40-10 and 13 VAC 10-40-140 shall be determined in the same manner as is determined for a family, notwithstanding any provision therein to the contrary.~~

C. Each applicant for an authority mortgage loan must either be a United States citizen or be a lawful permanent (not conditional) resident alien as determined by the U.S. Department of Immigration and Naturalization Service.

~~§ 2.2.~~ 13 VAC 10-40-40. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will perform these procedures and evaluate a borrower's eligibility prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this originating guide.

~~§ 2.2.1.~~ 13 VAC 10-40-50. Eligible borrowers.

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

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See ~~§ 2.2.4~~ subsection B of this section);
2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as described in ~~§ 2.15~~ 13 VAC 10-40-200) after the date of the closing of the mortgage loan. (See ~~§ 2.2.4~~ subsection C of this section);
3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See ~~§ 2.2.4~~ subsection D of this section);
4. Must have contracted to purchase an eligible dwelling. (See ~~§ 2.2.2~~ 13 VAC 10-40-60, Eligible dwellings);
5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;
6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code. (See ~~§ 2.5~~ 13 VAC 10-40-100, Maximum gross income);
7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See ~~§ 2.9~~ 13 VAC 10-40-140, Loan assumptions); and
8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see ~~§ 2.2.3~~ 13 VAC 10-40-70, Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in subdivision 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. "Present ownership interest" includes:
  - a. A fee simple interest,
  - b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
  - c. The interest of a tenant shareholder in a cooperative,
  - d. A life estate,
  - e. A land contract, under which possession and the benefits and burdens of ownership are transferred

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although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
- e. An interest in other than a principal residence during the previous three years.

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

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

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

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

C. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the

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

1. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where more than 15% of the total living area is to be used primarily in a trade or business.

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

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

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

c. He does not intend to subdivide the property.

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

4. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report, and the originating agent must, based on such review, make a determination that the borrower has not used any previous residence or any portion thereof primarily in any trade or business.

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

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

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

2. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

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

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

## ~~§ 2.2.2.~~ 13 VAC 10-40-60. Eligible dwellings.

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

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and

3. Satisfy the acquisition cost requirements set forth below.

B. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in ~~§ 2.3~~ 13 VAC 10-40-80. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

1. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see ~~§ 2.4~~ below 13 VAC 10-40-140).

2. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

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

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

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

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal

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expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

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

3. The originating agent is required to obtain from each eligible borrower a completed affidavit of borrower which shall include a calculation of the acquisition cost of the eligible dwelling in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct calculation of such acquisition cost. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling.

4. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in §-2.4 13 VAC 10-40-80. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see §-2.9 13 VAC 10-40-140). Also, as part of its review, the originating agent must review the affidavit of borrower submitted by each mortgage loan applicant and must make a determination that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the affidavit of borrower with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

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

### §-2.2.3. 13 VAC 10-40-70. Targeted areas.

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

B. Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in ~~the~~ §-2.2 13 VAC 10-40-40 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in §-2.2.4 13 VAC 10-40-50 B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been primarily used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

The following definitions are applicable to targeted areas.

1. A targeted area is an area which is a qualified census tract, as described in subdivision 2 below, or an area of chronic economic distress, as described in subdivision 3 below.

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

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

### §-2.3. 13 VAC 10-40-80. Sales price limits.

The authority's maximum allowable sales price shall be 95% of the applicable maximum purchase prices (except that the maximum allowable sales price for targeted area residences shall be the same as are established for nontargeted residences) permitted or approved by the U.S. Department of the Treasury pursuant to the federal tax code. The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the dollar amounts of the foregoing maximum allowable sales prices for each area of the state. Any changes in the dollar amounts of such maximum allowable sales prices shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

### §-2.4. 13 VAC 10-40-90. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding 50% of the sales price of the eligible dwelling. (The value of life insurance policies, retirement plans, furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

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

§-2.5. 13 VAC 10-40-100. Maximum gross income.

A. As provided in §-2.2.4 13 VAC 10-40-50 A 6 the gross income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this section apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of §-2.2.4 13 VAC 10-40-50 A 6 are automatically met if an applicant's gross income does not exceed the applicable limits set forth in this section.

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

B. For all loans, except loans to be guaranteed by the Rural Economic and Community Development ("RECD"), the maximum gross income shall be a percentage (based on the number of persons expected to occupy the dwelling upon financing of the mortgage loan) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) (the "median family income") as follows:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	85%
3 or more persons	100%

The executive director may from time to time establish maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate on which the interest rate has been reduced due to financial support by the authority:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	65%
3 or more persons	80%

The executive director may from time to time establish maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate if he determines that such maximum gross family incomes will enable the authority to assist the state in achieving its economic and housing goals and policies:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	95%
3 or more persons	110%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross income limits under this subsection B expressed in dollar amounts for each area of the state, as established by the executive director, and the number of persons to occupy the dwelling. Any changes to the dollar amounts of such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

C. With respect to a loan to be guaranteed by RECD, the maximum income shall be the lesser of the maximum gross income determined in accordance with §-2.5 subsection B of this section or RECD income limits in effect at the time of the application.

§-2.6. 13 VAC 10-40-110. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) - Maximum of 97% (or, in the case of an FHA, VA or RECD loan, such other percentage as may be permitted by FHA, VA or RECD) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

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

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

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

### § 2-7. 13 VAC 10-40-120. Mortgage insurance requirements.

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

### § 2-8. 13 VAC 10-40-130. Underwriting.

A. In general, to be eligible for authority financing, an applicant must satisfy the following underwriting criteria which demonstrate the willingness and ability to repay the mortgage debt and adequately maintain the financed property.

1. An applicant must document the receipt of a stable current income which indicates that the applicant will receive future income which is sufficient to enable the timely repayment of the mortgage loan as well as other existing obligations and living expenses.
2. An applicant must possess a credit history which reflects the ability to successfully meet financial obligations and a willingness to repay obligations in accordance with established credit repayment terms.
3. An applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan hereunder. The authority will consider previous

foreclosures (other than on authority financed loans) on an exception basis based upon circumstances surrounding the cause of the foreclosure, length of time since the foreclosure, the applicant's subsequent credit history and overall financial stability. Under no circumstances will an applicant be considered for an authority loan within three years from the date of the foreclosure. The authority has complete discretion to decline to finance a loan when a previous foreclosure is involved.

4. An applicant must document that sufficient funds will be available for required down payment and closing costs.

a. The terms and sources of any loan to be used as a source for down payment or closing costs must be reviewed and approved in advance of loan approval by the authority.

b. Sweat equity, the imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence, generally is not an acceptable source of funds for down payment and closing costs. Any sweat equity allowance must be approved by the authority prior to loan approval.

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

6. All applicants are encouraged to attend a home ownership educational program to be better prepared to deal with the home buying process and the responsibilities related to homeownership. The authority may require all applicants applying for certain authority loan programs to complete an authority approved homeownership education program prior to loan approval.

B. In addition to the requirements set forth in subsection A of this section, the following requirements must be met in order to satisfy the authority's underwriting requirements for conventional loans. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. The following rules apply to the authority's employment and income requirement.

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

b. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2-2-4 13 VAC 10-40-50 C.) Any self-employed applicant must have a minimum of two years of self-

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

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

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

c. The following rules apply to income derived from sources other than primary employment.

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

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

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

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

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

2. The following rules apply to an applicant's credit:

a. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are considered to be important requirements in order to obtain an authority loan.

b. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding

the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

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

4. An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc., do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than six months duration (and payments on debts lasting less than six months, if making such payments will adversely affect the applicant's ability to make mortgage loan payments during the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth above are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

5. Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose unless approved in advance by the authority. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

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

C. The following rules are applicable to FHA loans only.

1. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, the applicant must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 13 VAC 10-40-30 through 13 VAC 10-40-100 hereof remain in effect due to treasury restrictions or authority policy.

2. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be

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financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

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

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

## D. The following rules are applicable to VA loans only.

1. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, the applicant must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements (including those described in ~~§§ 2-1 through 2-5~~ 13 VAC 10-40-30 through 13 VAC 10-40-100 hereof) remain in effect due to treasury restrictions or authority policy.

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

3. VA certificates of reasonable value (CRV's) are acceptable in lieu of an appraisal.

## E. The following rules are applicable to RECD loans only.

1. The authority will normally accept RECD underwriting requirements and property standards for RECD loans. However, the applicant must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in ~~§§ 2-1 through 2-5~~ 13 VAC 10-40-30 through 13 VAC 10-40-100 hereof remain in effect due to treasury restrictions or authority policy.

2. The RECD guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

F. With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see ~~§ 2-43~~ 13 VAC 10-40-180 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection C or D above, as applicable).

G. Unlike the program described in subsection F above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the

buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

## § 2-9. 13 VAC 10-40-140. Loan assumptions.

A. VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross income for the person or household family assuming a loan shall be 100% of the applicable median family income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross income shall be 115% of the applicable median family income (140% for a residence in a targeted area) and if assumed by a person or a household family of less than three persons, the maximum gross income shall be 100% of the applicable median family income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross income for the person or household family assuming loans shall be the highest percentage, as then in effect under ~~§ 2-5~~ 13 VAC 10-40-100 A, of applicable median family income for the number or persons to occupy the dwelling upon assumption of the mortgage loan, unless otherwise provided in the deed of trust. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

### 1. The following rules apply to assumptions of conventional loans.

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

(1) Maximum gross income requirement in this ~~§ 2-9~~ 13 VAC 10-40-140 A

(2) ~~§ 2-2.4~~ 13 VAC 10-40-50 C (Principal residence requirement)

(3) ~~§ 2-8~~ 13 VAC 10-40-130 (Authority underwriting requirements)

(4) ~~§ 2-2.1~~ 13 VAC 10-40-50 B (Three-year requirement)

(5) ~~§ 2-2.2~~ 13 VAC 10-40-60 B (Acquisition cost requirements)

(6) ~~§ 2-7~~ 13 VAC 10-40-120 (Mortgage insurance requirements).

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

(1) Maximum gross income requirement in this ~~§ 2-9~~ 13 VAC 10-40-140 A

(2) ~~§ 2-2.4~~ 13 VAC 10-40-50 C (Principal residence requirements)

(3) ~~§ 2-8~~ 13 VAC 10-40-130 (Authority underwriting requirements)

(4) ~~§ 2-7~~ 13 VAC 10-40-120 (Mortgage insurance requirements).

2. The following rules apply to assumptions of FHA, VA or RECD loans.

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

(1) Maximum gross income requirement in this ~~§ 2-9~~ 13 VAC 10-40-140 A

(2) ~~§ 2-2.4~~ 13 VAC 10-40-50 C (Principal residence requirement)

(3) ~~§ 2-2.4~~ 13 VAC 10-40-50 B (Three-year requirement)

(4) ~~§ 2-2.2~~ 13 VAC 10-40-60 B (Acquisition cost requirements).

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

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

B. Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

~~§ 2-10~~ 13 VAC 10-40-150. Leasing, loan term, and owner occupancy.

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

B. Loan terms may not exceed 30 years.

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

~~§ 2-14~~ 13 VAC 10-40-160. Reservations/fees.

A. The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-

day deadline. Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. An applicant, including an applicant for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been canceled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation.

C. The originating agent or field originator shall collect a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. The following other fees shall be collected.

1. In connection with the origination and closing of the loan, the originating agent shall collect at closing or, at the authority's option, simultaneously with the acceptance of the authority's commitment, an amount equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan does not close, then the origination fee shall be waived.

2. The originating agent shall collect from the seller at the time of closing an amount equal to 1.0% of the loan amount.

~~§ 2-12~~ 13 VAC 10-40-170. Commitment. (Exhibit J)

A. Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. Also enclosed in the commitment package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent within 15 days after the date of the commitment or prior to settlement, whichever occurs first.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. If an additional commitment is issued to an applicant, the interest rate may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

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

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~~§ 2-13.~~ 13 VAC 10-40-180. Buy-down points.

With respect to checks for buy-down points under both the monthly payment buydown program described in ~~§ 2-8~~ 13 VAC 10-40-130 F above and the interest rate buydown program described in ~~§ 2-8~~ 13 VAC 10-40-130 G, a certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

~~§ 2-14.~~ 13 VAC 10-40-190. Property guidelines.

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

In addition, manufactured housing (mobile homes), both new construction and certain existing, may be financed only if the loan is insured 100% by FHA (see subsection C of this section).

B. The following rules apply to conventional loans.

1. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road; provided, however, that the authority may, on a case-by-case basis, approve financing of property located on a private road acceptable to the authority if the right to use such private road is granted to the owner of the residence pursuant to a recorded right-of-way agreement providing for the use of such private road and a recorded maintenance agreement provides for the maintenance of such private road on terms and conditions acceptable to the authority (any other easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority, provided further that cisterns will be considered on a case-by-case basis to determine whether the cistern will be adequate to serve the property.

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

C. The following rules apply to FHA, VA or RECD loans.

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

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

~~§ 2-15.~~ 13 VAC 10-40-200. Substantially rehabilitated.

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

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

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

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

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in ~~§ 2-24~~ 13 VAC 10-40-50 D. The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

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

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

~~§ 2.16.~~ 13 VAC 10-40-210. Condominium requirements.

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

B. For FHA, VA or RECD loans, the authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by RECD, in the case of an RECD loan.

~~§ 2.17.~~ 13 VAC 10-40-220. FHA plus program.

A. Notwithstanding anything to the contrary herein, the authority may make loans secured by second deed of trust liens ("second loans") to provide downpayment and closing cost assistance to eligible borrowers who are obtaining FHA loans secured by first deed of trust liens. Second loans shall not be available to a borrower if the FHA loan is being made under the FHA buydown program or is subject to a step adjustment in the interest rate thereon or is subject to a reduced interest rate due to the financial support of the authority.

B. The second loans shall not be insured by mortgage insurance; accordingly, the requirements of ~~§ 2.7~~ 13 VAC 10-40-120 regarding mortgage insurance shall not be applicable to the second loan.

C. The requirements of ~~§ 2.6~~ 13 VAC 10-40-110 regarding calculation of maximum loan amount shall not be applicable to the second loan. In order to be eligible for a second loan, the borrower must obtain an FHA loan for the maximum loan amount permitted by FHA. The second loan shall be for the lesser of:

1. The lesser of sales price or appraised value plus FHA allowable closing fees (i.e., fees which FHA permits to be included in the FHA acquisition cost and to be financed) minus the FHA maximum base loan amount, seller paid closing costs and 1.0% of the sales price, or
2. 3.0% of the lesser of the sales price or appraised value plus \$1,100.

In no event shall the combined FHA loan and the second loan amount exceed the authority's maximum allowable sales price.

D. With respect to underwriting, no additional requirements or criteria other than those applicable to the FHA loan shall be imposed on the second loan.

E. The second mortgage loan shall be assumable on the same terms and conditions as the FHA loan.

F. No origination fee or discount point shall be collected on the second loan.

G. Upon approval of the applicant, the authority will issue a mortgage loan commitment pursuant to ~~§ 2.12~~ 13 VAC 10-40-170. The mortgage loan commitment will include the terms and conditions of the FHA loan and the second loan and an addendum setting forth additional terms and conditions applicable to the second loan. Also enclosed in the commitment package will be other documents necessary to close the second loan.

VA.R. Doc. No. R96-153; Filed December 18, 1995, 2:14 p.m.

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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## 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.

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## BOARD FOR ACCOUNTANCY

Title of Regulation: ~~VR-105-04-2. 18 VAC 5-20-10 et seq.~~  
**Board for Accountancy Regulations.**

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

Effective Date: February 7, 1996.

### Summary:

*The amendments adjust current fees resulting in a decrease in renewal, application and late filing fees. Further, the amendments 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.*

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 Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 West Broad Street, Richmond, VA 23230-4917.

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

### CHAPTER 20. BOARD FOR ACCOUNTANCY REGULATIONS.

#### PART I. GENERAL.

#### ~~§ 4.1.~~ 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 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 § 5-1 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.

### § 2-1. 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 § 1-4 18 VAC 5-20-10 and shall have completed, at an accredited institution as defined in § 1-4 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

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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
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

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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 ~~§ 5.4 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. 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

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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:

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

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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.

**§ 4.34. 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 \$100 \$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; or 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 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.

**§ 5.5. 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

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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. R96-154; Filed December 19, 1995, 8:58 a.m.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

**Title of Regulation:** [ VR-480-04-3, 4 VAC 25-35-10 et seq. ]  
**Certification Requirements for Mineral Miners.**

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

**Effective Date:** February 7, 1996.

#### Summary:

*The Board of Mineral Mining Examiners has adopted 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 replaces the Board of Examiners regulation VR 480-04-2 (4 VAC 25-20-10 et seq.) as it pertains to mineral miners.*

*The regulation sets forth requirements for mineral miners and is separate from the regulations applying to 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.

The changes made to the regulation since it was published as proposed are (i) the use of the surface foreman - open pit certification has been clarified in 4 VAC 25-35-70; (ii) the new name of the section in the agency which issues journeyman electrical certifications has been noted in 4 VAC 25-35-100 A; (iii) the type of instructors which may teach training classes for the general mineral miner classes has been elaborated upon in 4 VAC 25-35-120; and (iv) the reference to a section of the Code of Virginia has been corrected on form BMME-4.

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 regulations may be obtained from Micki Watson, Board of Mineral Mining Examiners, Fontaine Research Park, 900 Natural Resources Drive, P.O. Box 3727, Charlottesville, VA 22903, telephone (804) 961-5009.

4 VAC 25-35-10 et seq. Certification Requirements for Mineral Miners.

[ CHAPTER 35.  
CERTIFICATION REQUIREMENTS FOR MINERAL  
MINERS. ]

PART I.  
GENERAL AND SPECIFIC REQUIREMENTS.

[ § 1.1. 4 VAC 25-35-10. ] 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 [ (4 VAC 25-35-50 et seq.) ]. 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. 4 VAC 25-35-10 ] 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. 4 VAC 25-35-20. ] 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 4 VAC 25-35-100 ] A [ ~~of this regulation~~ ]. 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. 4 VAC 25-35-30. ] 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. 4 VAC 25-35-40. ] 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

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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~~ 4 VAC 25-35-20 ] 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.

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.~~ 4 VAC 25-35-50. ] 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.~~ 4 VAC 25-35-60. ] 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.~~ 4 VAC 25-35-70. ] Surface foreman, open pit (not applicable to [ ~~mines with on-site blasting~~ drilling and blasting activities ]).

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.~~ 4 VAC 25-35-80. ] 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.~~ 4 VAC 25-35-90. ] 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.~~ 4 VAC 25-35-100. ] 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'~~ Tradesmen Certification Section, ] 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.~~ 4 VAC 25-35-110. ] 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.~~ 4 VAC 25-35-120. ] 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 [ , a certified MSHA instructor, or a certified mine foreman ]. 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 [ § 4-4, 4 VAC 25-35-10 ] shall be considered to have met the first aid requirements.

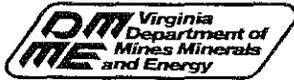
E. Applicants who have completed training may commence work and shall be considered provisionally certified for up to 60 days from the date the instructor completes the training.

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 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.

# Final Regulations



Board of Mineral Mining Examiners  
Fontaine Research Park  
900 Natural Resources Drive  
P.O. Box 3727  
Charlottesville, VA 22903-0723  
(804) 961-5000

## Verification of Training Completed for General Mineral Miner Certification

Type or print this form in ink and submit it to the **Board of Mineral Mining Examiners** 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 Division of Mineral Mining office. Applicants who have completed training shall be provisionally certified for up to 60 days from the date of the training.

1. Full Name \_\_\_\_\_ S.S. # \_\_\_\_\_

2. Address \_\_\_\_\_  
Street or P.O. Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

3. Home Phone No. (\_\_\_\_) \_\_\_\_\_ Date of Employment \_\_\_\_\_

VA Mine Permit Number \_\_\_\_\_ Mine Phone No. \_\_\_\_\_

4. Employer Company Name \_\_\_\_\_ Mine Name \_\_\_\_\_

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., Virginia Regulation (VR) 480-04-3, § 2.8 B and the applicant has satisfactorily demonstrated 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 to provide training

Cert. No. \_\_\_\_\_

DM-BMME-4 (Issued 01/01/96)



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5. I hereby certify, under the penalties of perjury, that the information related to this applicant's experience as submitted on this form is correct.

Signature of Company Official	(Print or Type Name)	Title	Date
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6. 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 #5 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

SEAL

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

DMM-BMME-2 (Revised 01/01/96)



# Final Regulations



Board of Mineral Mining Examiners  
Fontaine Research Park  
900 Natural Resources Drive  
P.O. Box 3727  
Charlottesville, VA 22903-0723  
(804) 961-5000

## Application for Certification Examination

Applicants for certification must complete this form and submit a \$10.00 fee for each exam. Type or print the application in ink and pay the fee with a certified check, cashier's check, or money order made payable to the **Treasurer of Virginia**. Cash will be accepted if paid in person. Submit the application and fee to the **Board of Mineral Mining Examiners** at least **five working days** prior to the date of examination.

1. Full Name \_\_\_\_\_ S.S. # \_\_\_\_\_

2. Address \_\_\_\_\_  
Street or P.O. Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

3. Date of Birth \_\_\_\_\_ Home Phone No. (\_\_\_\_) \_\_\_\_\_  
Month/Day/Year

4. Total years employed at a mineral mine: \_\_\_\_\_  
Underground \_\_\_\_\_ Surface \_\_\_\_\_

5. List your current (or most recent) mining experience:

Company Name \_\_\_\_\_

Address \_\_\_\_\_  
Street or P.O. Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Job Title \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Month/Day/Year Month/Day/Year

6. I have attached a copy of my valid first aid card or MSHA Form 5000-23, the degrees to be used for credit toward the experience requirement, and payment for the exam.

7. Examination Requested (Check One):

Mine inspector (DMME employed)  Mineral mining electrician  Surface blaster

Surface foreman  Surface foreman - open pit  Underground foreman

Underground mining blaster

I hereby certify that the above answers are true to the best of my knowledge and belief.

Signed \_\_\_\_\_ Date \_\_\_\_\_

DMM-BMME-1 (Revised 01/01/96)

VA.R. Doc. No. R96-155; Filed December 19, 1995, 9:01 a.m.

# EMERGENCY REGULATIONS

## REAL ESTATE BOARD

**Title of Regulation:** VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

**Statutory Authority:** § 54.1-2105 of the Code of Virginia.

**Effective Dates:** December 14, 1995, through December 13, 1996.

### Preamble:

The Real Estate Board (Board) intends to promulgate emergency regulations as provided for in § 9-6.14:4.1 C 5 of the Code of Virginia regarding the duties of real estate brokers and salespersons.

Pursuant to the Administrative Process Act the Board is required to promulgate these regulations in order that its regulations will be in accord with amendments to Title 54.1, Chapter 21, found in the 1995 Acts of Assembly, Chapters 741 and 813.

These emergency regulations will remain in effect for no more than one year. The anticipated effective date of the emergency regulations is December 14, 1995. Regulations which have undergone Administrative Process Act review and comment will become effective on or about December 14, 1996.

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

### PART I. GENERAL.

#### § 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"*Actively engaged*" means employment by or affiliation as an independent contractor with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 20 hours per week.

"*Associate broker*" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"*Client*" means a person who has entered into a brokerage relationship with a licensee, as further defined by § 54.1-2130 of the Code of Virginia.

"*Firm*" means any partnership, association, *limited liability company*, or corporation, other than a sole proprietorship, which is required by § 2.1 B of these regulations to obtain a separate brokerage firm license.

"*Inactive status*" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, not affiliated with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"*Independent contractor*" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"*Licensee*" means any person, partnership, association, *limited liability company*, or corporation holding a license issued by the Real Estate Board to act as a real estate broker or real estate salesperson, as defined, respectively, in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"*Standard agent*" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in § 54.1-2130 of the Code of Virginia.

~~"*Principal*" means a party who has engaged a real estate broker to perform real estate purchases, sales or rental services in a principal-agent relationship.~~

"*Principal broker*" means the individual broker who shall be designated by each firm to assure compliance with Title 54.1, Chapter 21 of the Code of Virginia, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"*Principal to a transaction*" means a party to a real estate transaction in the capacity of a seller, buyer, lessee or lessor.

"*Sole proprietor*" means any individual, not a corporation, who is trading under the individual's name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"*Supervising broker*" means the individual associate broker who shall be designated by the firm to supervise the activities of any one of its offices.

### PART II. ENTRY.

#### § 2.1. Necessity for license.

Refer to § 54.1-2106 of the Code of Virginia.

A. Sole proprietor (principal broker owner). A real estate broker's license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein where the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, *limited liability company*, or corporation. Every sole proprietor (nonbroker owner), partnership, association,

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## Emergency Regulations

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*limited liability company*, or corporation must secure a real estate license for its brokerage firm before transacting real estate business. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, *manager of a limited liability company*, and officer of a corporation who is active in the brokerage business.

1. Sole proprietor (nonbroker owner). Each sole proprietor (nonbroker owner) acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of the owner; the name and style of the firm; and the address of the office of the real estate entity. Each change in the information contained on the certificate filed with the board must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

2. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

3. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

4. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the address of the Virginia office of the firm; and the corporation's place of business.

a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.

5. *Limited Liability Company*. Each *limited liability company* acting as a real estate broker shall file with the board a certificate on a form provided by the board,

which shall include the following information: the name, business address, and residential address of each manager of the company; the name and style of the company; and the address of the Virginia office of the company.

C. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

### § 2.2. Qualifications for licensure.

Every applicant to the Real Estate Board for a sales person's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant shall not have been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of *nolo contendere* shall be considered a conviction for purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as *prima facie* evidence of such conviction or guilt.

5. The applicant shall be at least 18 years old.

6. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. Complete applications must be received within the 12-month period.

7. The applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board with regard to conduct at the examination shall be grounds for denial of application.

## § 2.3. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.
2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 48 months immediately preceding application.

## § 2.4. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one separate legal entity upon receipt of a concurrent license form and written affidavits stating that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant is and will be associated. Payment is required for each license.

## § 2.5. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.4 A 5 shall only be applicable for salesperson applicants:

A. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license without taking the Virginia written licensing examination by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have received the salesperson or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.
3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate license law and the regulations of the Real Estate Board.
4. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate for 12 of the preceding 36 months or have met

educational requirements that are substantially equivalent to those required in Virginia.

6. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted or found guilty regardless of adjudication in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.

B. Additional qualifications for reciprocal licensure as a broker.

An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.5 A 1 through A 4, A 6 and A 7.

1. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson for at least 36 of the 48 months immediately prior to making application in Virginia. (See § 1.1 of these regulations for the definition of "actively engaged.")

2. The applicant meets broker educational requirements substantially equivalent to those required in Virginia.

## § 2.6. Activation of license.

A. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license.

B. Any licensee who has not been actively licensed with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.

## § 2.7. Application fees.

A. All application fees for licenses are nonrefundable and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.

B. Application fees for original licenses are as follows:

Salesperson by education and examination, \$ 100

# Emergency Regulations

Salesperson by reciprocity	\$ 125
<i>Individual license - Limited Liability Company or Corporation</i>	\$ 100
Broker by education and examination	\$ 115
Broker by reciprocity	\$ 150
Broker concurrent license	\$ 100
Firm license	\$ 150
Branch office license	\$ 75
Transfer application	\$ 50
Activate application	\$ 50
Bad check penalty	\$ 25

C. Examination fees are as follows:

Registration for sales and brokers	\$68.50
Additional fee for phone or "fax" registrations	\$ 5.00

## PART III. RENEWAL OF LICENSE.

### § 3.1. Renewal required.

Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license.

### § 3.2. Qualification for renewal; continuing education requirements.

A. As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of eight classroom or correspondence hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete this course within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see § 2.6, Activation of license).

1. ~~Schools and instructors Providers~~ shall be those as required under § 54.1-2105 of the Code of Virginia, and § 7.2 defined in § 7.1 of these regulations.

2. ~~The specific course content and curriculum shall be prescribed and approved by the board. The course curriculum shall be provided to each school in final form prior to the course offering and updated periodically to reflect recent developments in federal, state, and local real estate law, regulations and case decisions.~~

a. ~~Continuing education courses offered in other jurisdictions must meet Virginia's statutory requirements and must conform to the board's specifically prescribed course content and curriculum as described in § 54.1-2105(2) of the Code of Virginia. Such courses must be approved in advance of offering to be certified for course credit for licensees.~~

~~b. Correspondence courses will not be approved for credit for continuing education.~~

2. ~~Two of the eight required hours shall cover the subjects of fair housing laws and recent developments in federal, state and local real estate law. The remaining six hours shall be on subjects from the following list:~~

1. ~~Property rights~~
  2. ~~Contracts~~
  3. ~~Deeds~~
  4. ~~Mortgages and deeds of trust~~
  5. ~~Types of mortgages~~
  6. ~~Leases~~
  7. ~~Liens~~
  8. ~~Real property and title insurance~~
  9. ~~Investment~~
  10. ~~Taxes in real estate~~
  11. ~~Real estate financing~~
  12. ~~Brokerage and agency contract responsibilities~~
  13. ~~Real property management~~
  14. ~~Search, examination and registration of title~~
  15. ~~Title closing~~
  16. ~~Appraisal of real property~~
  17. ~~Planning subdivision developments and condominiums~~
  18. ~~Regulatory statutes~~
  19. ~~Housing legislation~~
  20. ~~Fair housing~~
  21. ~~Real Estate Board regulations~~
  22. ~~Land use~~
  23. ~~Business law~~
  24. ~~Real estate economics~~
  25. ~~Real estate investments~~
  26. ~~Federal real estate law~~
  27. ~~Commercial real estate~~
  28. ~~Americans With Disabilities Act~~
  29. ~~Environmental issues impacting real estate~~
  30. ~~Building codes and design~~
  31. ~~Local laws and zoning~~
  32. ~~Escrow requirements~~
3. ~~The board may approve additional subjects at its discretion and in accordance with § 54.1-2105 of the Code of Virginia.~~

~~3. 4. Credit for continuing education course completion is given only for attendance in its entirety for each classroom hour/clock hour, as defined in § 7.1 of these regulations.~~

~~4. It is the responsibility of the licensee to provide 5. Licensees are responsible for retaining for three years and providing proof of continuing education course completion certification. Proof of course completion shall be made on a form prescribed by the board. Failure to provide course completion certification as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to these regulations.~~

~~5. 6. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses. Verification of instructor compliance with the continuing education course required must be verified by the director or dean of the school at which the course was taught.~~

B. Applicants for renewal of a license shall meet the standards for entry as set forth in §§ 2.2 1, 2.2 3 and 2.2 4 of these regulations.

C. The board may deny renewal of a license if the applicant has not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.

### § 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices does not relieve the licensee of the obligation to renew.

B. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall return to the board the renewal application forms and the appropriate fee as outlined in § 3.4 of these regulations.

### § 3.4. Fees for renewal.

All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time, and are as follows:

Salesperson	\$ 100
<i>Individual license - Limited Liability Company or Corporation</i>	\$ 100
Broker	\$ 115
Concurrent broker	\$ 115
Firm	\$ 150
Branch office	\$ 75

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

The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline a current licensee.

## PART IV. REINSTATEMENT.

### § 4.1. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in §§ 3.2 A and 3.2 B of these regulations. Applicants for reinstatement of an active license must have completed the continuing education requirement in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a reinstatement fee of \$ 250 is required.

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. Any real estate activity conducted subsequent to the expiration may constitute unlicensed activity and be subject to prosecution under Chapter 1 of Title 54.1 of the Code of Virginia.

### § 4.2. Board discretion to deny reinstatement.

A. The board may deny reinstatement of a license if the applicant has not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.

B. The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline a current licensee.

## PART V. STANDARDS OF PRACTICE.

### § 5.1. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and
2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office.

D. Every individual, partnership, association, *limited liability company*, or corporation acting as a real estate broker

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may display signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, *limited liability company*, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty," or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.

E. Every principal broker shall have readily available in the main place of business the firm license, the principal broker license and the license of every salesperson and broker associated with or employed by the entity or firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees. The branch office license shall be displayed in the branch office location.

F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 days of the change of name or location, whereupon the board shall reissue the licenses for the unexpired period.

### § 5.2. Maintenance of licenses.

A. Salespersons and individual brokers shall at all times keep the board informed of their current home address and changes of address must be reported to the board in writing within 10 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee shall notify the board in a written form acceptable to the board within 10 days of any change in the licensee's legal name. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use.

B. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.

C. Salespersons and brokers on inactive status shall receive written acknowledgment of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.

D. When any salesperson or broker is discharged or in any way terminates his employment or affiliation or changes status as a principal or associate broker with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination or status change. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.

F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, change of license status, change of licensee name or address such licenses must be returned with proper instruction to the board within 10 days.

### § 5.3. Maintenance and management of escrow accounts and financial records.

#### A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's *principal client* or expended on behalf of the *principal client*, or other escrow funds received by him or his associates on behalf of his *principal client* or any other person shall be deposited unless all principals to the transaction have agreed otherwise in writing. The principal broker shall be held responsible for these accounts. The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts. All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account will necessarily include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by § 6.13 5 of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall

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constitute commingling as prohibited by § 6.13 5 of these regulations.

## B. Disbursement of funds from escrow accounts.

1. a. Purchase transactions. Upon acceptance of a contract (ratification), earnest money deposits and down payments received by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each principal to the transaction by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

b. Lease transactions: security deposits. Any security deposit held by a broker shall be placed in an escrow account. Each such security deposit shall be treated in accordance with the provisions of ~~§ 55-248.11 of the Code of Virginia, generally known as the Virginia Residential Landlord and Tenant Act~~ security deposit provisions of the *Virginia Residential Landlord and Tenant Act*, § 55-248.2 of the Code of Virginia, unless exempted therefrom, in which case the terms of the lease or other applicable law shall control.

c. Lease transactions: rents and escrow fund advances. Unless otherwise agreed in writing by all principals to the transaction, all rents and other money paid to the licensee in connection with the lease shall be placed in an escrow account and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable.

2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

b. Lease transactions. Unless otherwise agreed in writing by the principals to the lease and property management agreement, as applicable, a licensee shall not be entitled to any part of the security deposit or to any other money paid to the licensee in

connection with any real estate lease as part of the licensee's commission until the terms of the lease have been met.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals involved in the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

## C. Maintenance of financial records.

1. A complete record of financial transactions conducted under authority of the principal broker's Virginia license shall be maintained in the principal broker's place of business, or in a designated branch office. When the principal broker's office is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. The principal broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in this section. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

## § 5.4. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

A. Definitions. The following definitions apply as used in § 5.4 unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of

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one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements.

"*Institutional advertising*" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is identified, and a service mark is identified.

"*Service mark*" means the trade name or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise.

B. Every licensee is prohibited from advertising and marketing under the licensee's own name (except for sole proprietors trading under the principal broker's own name) in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The firm's licensed name must be clearly and legibly displayed on all display signs and other types of advertising and marketing.

C. If a licensee advertises property which he owns or in which he has any ownership interest without using the services of a licensed real estate entity, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

D. Service marks and institutional advertising.

1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state, affirmatively, that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising: of specific property for sale or lease;

a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;

b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published;

c. Telephone directory advertisements disclosing that the licensed brokerage firm or sole proprietorship is

independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall disclose that the licensed firm or sole proprietorship is independently owned and operated.

## PART VI. STANDARDS OF CONDUCT.

### § 6.1. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, or any regulation of the board.

### § 6.2. Disclosure of interest.

A. If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property through purchase or lease and the licensee is a party to the transaction, the licensee must disclose that information to the owner in writing in the offer to purchase or lease.

B. A licensee selling or leasing property in which he has any interest must disclose that he is a real estate licensee and he has an interest in the property to any purchaser or lessee in the written offer to purchase, the application, the offer to lease, or the lease, whichever occurs first.

### § 6.3. Disclosure of agency brokerage relationships.

~~A. Before the licensee has substantive discussions about specific property(ies) with a principal or prospective principal to a sale or option transaction, the licensee shall disclose to the principal or prospective principal the person(s) whom the licensee represents in a principal agency relationship. This disclosure shall be made in writing at the earliest practical time, but in any case not later than the time specific real estate assistance is first provided. This written disclosure shall be acknowledged by the principals.~~

A. 1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective buyer or seller with whom the licensee has substantive discussions about a specific property or properties the person(s) whom the licensee represents in a brokerage relationship, as that term is defined in § 54.1-2130 of the Code of Virginia.

2. Except as otherwise provided in § 6.3 A 3, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time specific real estate assistance is first provided. Any disclosure complying with the provisions of § 54.1-2138 A of the Code of Virginia shall be deemed in compliance with this disclosure requirement.

3. A licensee acting as a dual or designated representative shall obtain the written consent of all clients to the transaction at the earliest practical time. Such consent shall be presumed to have been given by a client who signs a disclosure complying with the provisions of § 54.1-2139 of the Code of Virginia. Such disclosure shall be given to, and consent obtained from, (i) the buyer or tenant not later than the time an offer to purchase or to lease is presented to the licensee, and (ii) the seller or landlord not later than the time the offer to purchase or to lease is presented to the seller or landlord.

4. Any disclosure required by § 6.3 A may be given in combination with other disclosures or information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box.

5. Any such disclosure shall advise a prospective buyer, seller, landlord, or tenant, who is not the client of the licensee of the duties of real estate brokers and salespersons under Virginia law and that there may be other relevant information concerning the transaction which may be obtained from other sources.

~~B. All licensees shall promptly disclose their agency relationships to all actual and prospective lessors and lessees. A disclosure statement shall be included in writing in all applications for lease or in the lease itself, whichever occurs first.~~

B. 1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective landlord or tenant that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in the application for lease or the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, the disclosure shall be made in writing not later than the signing of the lease.

2. ~~The~~ This disclosure requirement shall not apply to lessors and or lessees in single or multi-family residential units ~~on leases for lease terms~~ of less than two months.

#### § 6.4. Licensees dealing on own account.

Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

#### § 6.5. Provision of records to the board.

A licensee of the Real Estate Board shall upon request produce to the board or any of its agents any document, book, or record concerning any real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents.

#### § 6.6. Response to inquiry of the board.

A licensee must respond to an inquiry by the board or its agents within 15 days.

#### § 6.7. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in these regulations;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury;
7. Having been found in a court or an administrative body, of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed; and
8. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct.

#### § 6.8. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;
2. Acting for more than one party client in a transaction without first obtaining the written consent of all principals for whom the licensee acts clients, as provided by § 54.1-2139 of the Code of Virginia;

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3. ~~Acting as an agent for any principal in a real estate transaction a standard agent or independent contractor for any client outside the licensee's brokerage firm(s) or sole proprietorship(s).~~

## § 6.9. Improper brokerage commission.

Actions resulting in an improper brokerage commission or fee include:

1. Offering to pay or paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54.1, Chapter 21 of the Code of Virginia, or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate entity licensed in this or another jurisdiction, or to any referral entity in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

2. Accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;

3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor; and

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's ~~principal client~~ for expenditures made on behalf of that ~~principal client~~ without the written consent of the ~~principal client~~.

## § 6.10. Improper dealing.

Actions constituting improper dealing include:

1. ~~Making an exclusive agency contract or an exclusive right to sell contract which does not have a definite termination date; Entering a brokerage relationship that does not specify a definite termination date;~~

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's

authorized agent representative, or on any terms other than those authorized by the owner or the owner's authorized agent representative;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized agent representative;

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship; and

5. Acting in the capacity of settlement agent in a real estate closing by a salesperson, except:

a. When the salesperson is under the direct supervision of the principal/supervising broker;

b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed;

c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar; or

d. When the settlement agent is a title insurance company or an agency thereof or a firm regularly engaged in the business of closing real estate transactions;

## § 6.11. Misrepresentation/omission.

Actions constituting misrepresentation and/or omission include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee did in fact have at least that quantity for sale or rent;

2. ~~Failing to disclose any material information in a timely manner to a prospective purchaser/lessee, or seller/lessor, related to the property, the physical condition of the property, or the transaction reasonably available to the licensee; Failure by a licensee representing a seller or landlord as a standard agent to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee.~~

3. Failing as a licensee to tender promptly to the buyer and seller every written offer, every written counteroffer, and every written rejection to purchase, option or lease obtained on the property involved;

4. ~~Failure by a licensee acting as a standard agent to disclose in a timely manner to the licensee's client all material facts related to the property or concerning the transaction which are actually known by the licensee.~~

5. ~~Notwithstanding the provisions of § 6.11 4, a licensee acting as a dual representative shall not disclose to one~~

*client represented in the dual representation confidential information relating to the transaction obtained during the representation of another client in the same dual representation.*

4. 6. Failing to include the complete terms and conditions of the real estate transaction in any lease or offer to purchase;

6. 7. Failing to include in any application, lease, or offer to purchase identification of all those holding any deposits;

6. 8. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in this subdivision 6. 8 whether by renewal, deferment of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in subdivision 6. 8 a of this section without the prior written consent of the principals to the transaction.

7. 9. Making any misrepresentation; and

8. 10. Making a false promise through agents, salespersons, advertising, or other means.

## § 6.12. Delivery of instruments.

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each principal to a transaction, complete and legible copies of any written disclosures required by §§ 54.1-2138 and 54.1-2139 of the Code of Virginia, listings, lease leases, offers to purchase, counteroffers, addenda, ratified agreements, and other documentation required by the agreement;

2. Failing to provide in a timely manner to all principals to the transaction written notice of any material changes to the transaction;

3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and

4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

## § 6.13. Record keeping and escrow funds.

Actions constituting improper record keeping and maintenance of escrow funds include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing or ratification, if the transaction fails to close, a complete and legible copy of each contract, agreement, and closing statement related to a real estate transaction, and all other documents material to that transaction;

2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing or termination of a lease or conclusion of the licensee's involvement in the lease;

3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;

4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;

5. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association; and

6. Failure to deposit escrow funds in an account or accounts designated to receive only such funds as required by these regulations (see § 5.3 A 1).

## § 6.14. Principal and supervising broker's responsibility for acts of licensees and employees.

Any unlawful act or violation of any of the provisions of Title 54.1, Chapter 21 or of Title 36, Chapter 5 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal broker, supervising broker, or both, may not be cause for disciplinary action against the principal broker, supervising broker, or both, unless it appears to the satisfaction of the board that the principal broker, supervising broker, or both, knew or should have known of the unlawful act or violation.

## § 6.15. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals affiliated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to § 5.2 B.

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# Emergency Regulations

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## PART VII. SCHOOLS.

### § 7.1. Definitions.

~~As used in these regulations, unless a different meaning is plainly required by the context:~~ *The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:*

~~"Accredited colleges, universities and university, college, community colleges college, or other school or educational institution,"~~ as used in the first paragraph of § 54.1-2105 2 of the Code of Virginia, means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

"Classroom hour/clock hour" means 50 minutes.

"Equivalent course" means any course encompassing the basic educational curriculum of Virginia courses and approved by the board.

"Proprietary school" means (i) a privately owned school, or (ii) a real estate educational institution or program affiliated with or sponsored by a real estate professional association, or related entities, which are not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

"Provider" means an accredited university, college, community college, high school offering adult distributive education courses, other school or educational institution, or real estate professional association or related entities.

§ 7.2. Proprietary school standards: educational environment; instructor qualifications; courses.

A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in this section.

B. *Educational environment.* All schools must ~~be conduct~~ *conduct their activities* in a building or facilities conducive to academic purposes. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

C. *Pre-licensing instructor qualifications.* Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree in real estate, or in business with a concentration in real estate or a closely related field;
2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years;
3. Seven years of discipline-free active experience acquired in the real estate field in the past 10 years and an active broker's license; or
4. Qualified experts in a specific field of real estate who will teach only in the area of their expertise. For

example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the ~~applicant's~~ *applicant's* expertise.

D. *Pre-licensing courses.* All real estate courses must be acceptable to the board and are required to have a monitored, final written examination.

1. Prelicensing courses may be completed by correspondence if such courses are not available in a reasonable proximity to the applicant's residence or business location in the Commonwealth. ~~Students~~ *A student* seeking board approval to take prelicensing correspondence courses must make a written request to the board in which ~~they specify the student specifies~~ that the classroom course(s) *is/are* not available in a reasonable geographical proximity to the applicant's residence or business location.

2. Those schools which propose to offer prelicensing correspondence courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board prior to offering the course(s) and supply the following information:

- a. Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in § 7.6. All requests to offer broker courses must include a comparable course syllabus from an accredited university, college, or community college to establish equivalency.
  - b. Name of the course's text and any research materials used for study assignments.
  - c. Description of any research assignments.
  - d. Copies of test or quizzes.
  - e. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with § 54.1-2105 of the Code of Virginia.
  - f. Information about record keeping for this type of course delivery.
3. *Pre-licensing* correspondence courses must have a final, monitored written examination which is administered at the school's main, or branch, site.

E. *Continuing education courses.* Providers shall submit all subjects to the Board at least 14 days prior to initially offering the course.

F. All schools must establish and maintain a record for each student. The record shall include: the student's name and address; the course name and clock hours attended; *the course syllabus or outline; the name(s) of the instructor(s);* and the date of successful completion. Records shall be

available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

G. All schools must provide each student with a certificate of course completion or other document that the student may use as proof of course completion. The certificate or other document shall contain the hours of credit completed.

## § 7.3. Fees.

A. The application fee for original certificate for a proprietary school shall be \$ 150.

B. The renewal fee for proprietary school certificates expiring annually on June 30 shall be \$ 150.

C. The board in its discretion may deny renewal of a certificate. Upon such denial, the certificate holder may request that a hearing be held.

## § 7.4. Posting school certificate of approval and registration.

School certificates of approval and registration, and instructor certificates must be displayed in each approved school facility in a conspicuous place readily accessible to the public.

## § 7.5. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

1. The school, instructors, or courses, or subjects no longer meet the standards established by the board.
2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.
3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.
4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.
5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

## § 7.6. Course content of real estate principles and practices.

The following shall be included in the four-semester-hour or six-quarter-hour course which shall not have less than 60 classroom hours:

1. Economy and social impact of real estate
2. Real estate market and analysis
3. Property rights
4. Contracts
5. Deeds
6. Mortgages and deeds of trust

7. Types of mortgages
8. Leases
9. Liens
10. Home ownership
11. Real property and title insurance
12. Investment
13. Taxes in real estate
14. Real estate financing
15. Brokerage and agency contract responsibilities
16. Real estate marketing
17. Real property management
18. Search, examination, and registration of title
19. Title closing
20. Appraisal of residential and income producing property
21. Planning subdivision developments and condominiums
22. Regulatory statutes
23. Housing legislation
24. Fair housing statutes
25. Real Estate Board regulations

## § 7.7. Related subjects.

"Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

## § 7.8. Required specific course.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

## § 7.9. Credit for broker-related courses.

No more than three semester hours or four quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

## § 7.10. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval.

/s/ Jack E. Kotvas  
Acting Director  
Department of Professional and Occupational Regulation  
Date: September 25, 1995

/s/ Robert W. Lauterberg  
Director  
Department of Planning and Budget

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# Emergency Regulations

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Date: October 30, 1995

/s/ Robert T. Skunda  
Secretary of Commerce and Trade  
Date: December 6, 1995

/s/ George Allen  
Governor  
Date: December 13, 1995

VA.R. Doc. No. R96-146; Filed December 14, 1995, 11:45 a.m.

# STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 13, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC950080

Ex Parte: In the matter of investigating the resale of local exchange telephone service

## ORDER PRESCRIBING NOTICE AND INVITING COMMENTS

The Commission's Order Adopting Rules ("Order") entered December 13, 1995, in Case No. PUC950018, Commonwealth of Virginia ex rel., State Corporation Commission Ex Parte: In the matter of investigating local exchange telephone competition, including adopting rules pursuant to Virginia Code § 56-265.4:4.C.3, adopted rules for granting certificates of public convenience and necessity to new entrants proposing to furnish competitive local exchange telephone service. The Order did not resolve the issue of the resale of local exchange telephone service. However, it did prescribe that a docket be initiated to investigate resale. Accordingly,

IT IS HEREBY ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC950080.

(2) On or before January 26, 1996, the Division of Communications shall complete publication of the following notice, to be published as a classified advertisement in major newspapers of general circulation throughout the Commonwealth:

### NOTICE OF AN INVESTIGATION BY THE VIRGINIA STATE CORPORATION COMMISSION CONCERNING WHETHER THE RESELL OF LOCAL EXCHANGE TELEPHONE SERVICE IS IN THE PUBLIC INTEREST CASE NO. PUC950080

The Virginia State Corporation Commission ("Commission") is considering whether to require the resale of local exchange telephone service and, if so, how best to implement such resale. This investigation is conducted pursuant to the provisions of Virginia Code § 56-265.4:4.C. That section authorizes the Commission to grant certificates of public convenience and necessity to new entrants proposing to furnish local exchange telephone service in the established service territory of another certificate holder. The Commission issued rules governing local telephone competition on December 13, 1995.

That same day, the Commission issued an Order Prescribing Notice and Inviting Comments on the resale of local exchange telephone service. That order may be reviewed by the public in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, Monday through Friday, 8:15 a.m. to 5:00 p.m. Copies may be requested by

writing to the Division of Communications at P.O. Box 1197, Richmond, Virginia 23218, or by calling (804) 371-9420.

Interested persons shall submit the original and five (5) copies of written comments or requests for hearing concerning the resale of local exchange telephone service on or before March 1, 1996. All comments and requests shall be filed with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC950080. Interested persons may also contact the Division of Communications at the phone number listed above to obtain more information about the Commission's Rules for Local Exchange Telephone Competition.

Comments concerning the resale of local exchange telephone service should first discuss whether resale is in the public interest and should be required under the provisions of Virginia Code § 56-265.4:4.C. Then, assuming resale will be required, the comments should address the policies, rules, terms, and conditions that should govern such resale. Comments or requests for hearing must also specifically identify factual issues to be heard and determined in such a hearing.

### VIRGINIA STATE CORPORATION COMMISSION

(3) On or before December 29, 1995, a copy of this Order shall be made available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, from 8:15 a.m. to 5:00 p.m., Monday through Friday. Interested parties may also request a copy from the Division of Communications, P.O. Box 1197, Richmond, Virginia 23218, or by calling (804) 371-9420.

(4) On or before March 1, 1996, any interested person shall file an original and five (5) copies of written comments concerning the resale of local exchange telephone service. All written comments shall be filed with William J. Bridge, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC950080.

(5) This Order shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register.

(6) On or before February 15, 1996, the Division of Communications shall file with the Clerk of the Commission proof of publication of the notice prescribed herein.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to: local exchange telephone companies as set out in Attachment A hereto; all Virginia certificated interexchange carriers as set out in Attachment B hereto; Edward L. Petrini, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jean Ann Fox, President, Virginia Citizens

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# State Corporation Commission

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Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald G. Owens, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Louis R. Monacell, Esquire, and Alexander F. Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Ronald B. Mallard, Director, Fairfax County Department of Consumer Affairs, 12000 Government Center Parkway, Suite 433, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber of Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, Suite 210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., Suite 750, Washington, D.C. 20005-3934; Cecil O. Simpson, Jr., U.S. Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tettelbaum, Citizens Telecommunications, 1400 16th Street, N.W., Suite 500, Washington, D.C. 20036-3917; Naomi C. Klaus, Esquire, Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Suite 218, Alexandria, Virginia 22314; Brian Sulmonetti, WorldCom, Inc., d/b/a LDDS, 1515 South Federal Highway, Suite 400, Boca Raton, Florida 33432; D.R. Maccarelli, CFW Communications, P.O. Box 1990, Waynesboro, Virginia 22980-7590; Jodie Donovan-May, Esquire, Teleport Communications Group, Inc. 1133 21st Street, N.W., Washington, D.C. 20036; Andrew O. Isar, Telecommunications Resellers Association, 4312 92nd Avenue, N.W., Gig Harbor, Washington, D.C. 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K. Street, N.W., Suite 300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James W. Wright, Esquire, Central Telephone/United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, Economics and Finance, and Public Service Taxation.

## Appendix A

### TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation  
Ms. Joy Brown, Manager  
P. O. Box 76  
Amelia, Virginia 23002

Buggs Island Telephone Cooperative  
Mr. M. Dale Tetterton, Jr., Manager  
P. O. Box 129  
Bracey, Virginia 23919

Burke's Garden Telephone Exchange  
Ms. Sue B. Moss, President  
P. O. Box 428  
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia  
Mr. Martin H. Bocock  
Vice President and General Manager  
P. O. Box 6788  
Charlottesville, Virginia 22906

Bell Atlantic - Virginia  
Mr. Hugh R. Stallard, President  
and Chief Executive Officer  
600 East Main Street  
P.O. Box 27241  
Richmond, Virginia 23261

Citizens Telephone Cooperative  
Mr. James R. Newell, Manager  
Oxford Street  
P. O. Box 137  
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company  
Mr. David R. Maccarelli, President  
P. O. Box 1990  
Waynesboro, Virginia 22980-1990

GTE South  
Stephen C. Spencer, Reg. Director  
External Affairs  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219

GTE  
Joe W. Foster, Esquire  
Law Department  
P.O. Box 110 - FLTC0007  
Tampa, Florida 33601-0110

Highland Telephone Cooperative  
Mr. Elmer E. Halterman, General Manager  
P.O. Box 340  
Monterey, Virginia 24465

Mountain Grove-Williamsville Telephone Company  
Mr. L. Ronald Smith  
President/General Manager  
P. O. Box 105  
Williamsville, Virginia 24487

New Castle Telephone Company  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

New Hope Telephone Company  
Mr. K. L. Chapman, Jr., President  
P. O. Box 38  
New Hope, Virginia 24469

North River Telephone Cooperative  
C. Douglas Wine, Manager  
P. O. Box 236, Route 257  
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative  
Mr. Stanley G. Cumbee, General Manager  
P. O. Box 549  
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.  
Mr. E. B. Fitzgerald, Jr.  
President & General Manager  
P. O. Box 367  
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company  
Mr. Allen Layman, President  
Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin  
Executive Vice President  
P. O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President  
P. O. Box 459  
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.  
Mr. H. John Brooks  
Vice President & General Manager  
112 Sixth Street, P. O. Box 699  
Bristol, Tennessee 37620

Virginia Telephone Company  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

Central Telephone Company of Virginia  
Mr. James W. Spradlin, III  
Government & Industry Relations  
1108 East Main Street, Suite 1200  
Richmond, Virginia 23219-3535

Citizens Telephone Cooperative  
Mr. James R. Newell, Manager  
Oxford Street  
P.O. Box 137  
Floyd, Virginia 24091

GTE South, Inc.  
Mr. Stephen Spencer  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219

Institutional Communications Company - Virginia  
Ms. Dee Kindel  
8100 Boone Boulevard, Suite 500  
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia  
Robert C. Lopardo  
Senior Attorney  
1133 19th Street, N.W., 11th Floor  
Washington, D.C. 20036

MCImetro Access Transmission Services of Virginia, Inc.  
Robert C. Lopardo  
1133 195th Street, N.W., 11th Floor  
Washington, D.C. 20036

Metromedia Communications Corporation  
d/b/a LDDSMetromedia Communications  
Mr. Brian Sulmonetti  
Regulatory Affairs  
1515 South Federal Highway  
Boca Raton, Florida 33432

R&B Network, Inc.  
Mr. Allen Layman, Executive Vice President  
P. O. Box 174  
Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin, Executive VP & Manager  
P.O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President & General Manager  
P. O. Box 459  
Edinburg, Virginia 22824

SouthernNet of Va., Inc.  
Peter H. Reynolds, Director  
780 Douglas Road, Suite 800  
Atlanta, Georgia 30342

## Appendix B

### INTER-EXCHANGE CARRIERS

AlterNet of Virginia  
Mr. Leonard J. Kennedy, Counsel  
Dow, Lohnes & Albertson  
1255 Twenty-Third Street  
Washington, D.C. 20037-1194

AT&T Communications of Virginia  
Ms. Wilma R. McCarey, General Attorney  
3033 Chain Bridge Road, Third Floor  
Oakton, Virginia 22185-0001

CF-W Network Inc.  
Mr. James S. Quarforth  
Chairman and CEO  
P. O. Box 1990  
Waynesboro, Virginia 22980-1990

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# State Corporation Commission

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TDX Systems, Inc.  
d/b/a Cable and Wireless, Inc.  
Mr. Charles A. Tievsky  
Regulatory Attorney  
1919 Gallows Road  
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.  
Mr. Kenneth Prohoniak  
Staff Director, Regulatory Affairs  
1850 "M" Street, N.W. Suite 110  
Washington, DC 20036

Virginia MetroTel, Inc.  
Mr. Richard D. Gary  
Hunton & Williams  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074

Virginia WorldCom, Inc.  
Brian K. Sulmonetti, Director  
Regulatory Affairs - Virginia  
1515 South Federal Highway, Suite 400  
Boca Raton, Florida 33432

VA.R. Doc. No. R96-149; Filed December 13, 1995, 4:18 p.m.

AT RICHMOND, DECEMBER 13, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC950081

Ex Parte: In the matter of  
investigating universal  
telephone service

## ORDER PRESCRIBING NOTICE AND INVITING COMMENTS

In the Commission's Order Adopting Rules ("Order") entered December 13, 1995, in Case No. PUC950018, Commonwealth of Virginia ex rel., State Corporation Commission Ex Parte: In the matter of investigating local exchange telephone competition, including adopting rules pursuant to Virginia Code § 56-265.4:4.C.3, we stated that we would establish a separate investigation to determine whether a funding mechanism is needed to preserve and maintain universal service, to evaluate the definition of services that should be affordable and available universally, and to calculate any subsidy that might be required to support the affordability and ubiquity of such services. Accordingly,

IT IS HEREBY ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC950081.

(2) On or before February 23, 1996, the Division of Communications shall complete publication of the following notice, to be published as a classified advertisement in major newspapers of general circulation throughout the Commonwealth:

## NOTICE OF AN INVESTIGATION BY THE VIRGINIA STATE CORPORATION COMMISSION CONCERNING UNIVERSAL TELEPHONE SERVICE - CASE NO. PUC950081

The Virginia State Corporation Commission ("Commission") is investigating universal telephone service pursuant to the provisions of Virginia Code § 56-265.4:4.C. That section authorizes the Commission to grant certificates of public convenience and necessity to new entrants proposing to furnish local exchange telephone service in the established service territory of another certificate holder. The Commission issued rules governing local telephone competition on December 13, 1995.

The purpose of this investigation is to determine if it is necessary to establish a subsidy or funding mechanism to ensure that basic local telephone service remains affordable for all Virginians in a competitive marketplace.

On December 13, 1995, the Commission issued an Order Prescribing Notice and Inviting Comments on universal telephone service. That order may be reviewed by the public in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, Monday through Friday, 8:15 a.m. to 5:00 p.m. Copies may be requested by writing the Division of Communications at P.O. Box 1197, Richmond, Virginia 23218, or by calling (804) 371-9420.

Interested persons shall submit the original and five (5) copies of written comments or requests for hearing concerning universal telephone service on or before April 1, 1996. All comments and requests shall be filed with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC950081. Interested persons may also contact the Division of Communications at the phone number listed above to obtain more information about the Commission's Rules for Local Exchange Telephone Competition. Any request for an evidentiary hearing must specify the factual issues to be heard and determined in such a hearing.

### VIRGINIA STATE CORPORATION COMMISSION

(3) On or before December 29, 1995, a copy of this Order shall be made available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, from 8:15 a.m. to 5:00 p.m., Monday through Friday. Interested parties may also request a copy from the Division of Communications, P.O. Box 1197, Richmond, Virginia 23218, or by calling (804) 371-9420.

(4) On or before April 1, 1996, any interested person shall file an original and five (5) copies of written comments concerning universal local exchange telephone service. All written comments shall be filed with William J. Bridge, Clerk, State Corporation Commission, c/o Document Control

Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC950081.

Appendix A

(5) This Order shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register.

(6) On or before March 15, 1996, the Division of Communications shall file with the Clerk of the Commission proof of publication of the notice prescribed herein.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to: local exchange telephone companies as set out in Attachment A hereto; all Virginia certificated interexchange carriers as set out in Attachment B hereto; Edward L. Petrini, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald G. Owens, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Louis R. Monacell, Esquire, and Alexander F. Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Ronald B. Mallard, Director, Fairfax County Department of Consumer Affairs, 12000 Government Center Parkway, Suite 433, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber of Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, Suite 210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., Suite 750, Washington, D.C. 20005-3934; Cecil O. Simpson, Jr., U.S. Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tettelbaum, Citizens Telecommunications, 1400 16th Street, N.W., Suite 500, Washington, D.C. 20036-3917; Naomi C. Klaus, Esquire, Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Suite 218, Alexandria, Virginia 22314; Brian Sulmonetti, WorldCom, Inc., d/b/a LDDS, 1515 South Federal Highway, Suite 400, Boca Raton, Florida 33432; D.R. Maccarelli, CFW Communications, P.O. Box 1990, Waynesboro, Virginia 22980-7590; Jodie Donovan-May, Esquire, Teleport Communications Group, Inc. 1133 21st Street, N.W., Washington, D.C. 20036; Andrew O. Isar, Telecommunications Resellers Association, 4312 92nd Avenue, N.W., Gig Harbor, Washington, D.C. 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K. Street, N.W., Suite 300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James W. Wright, Esquire, Central Telephone/United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, Economics and Finance, and Public Service Taxation.

## TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation  
Ms. Joy Brown, Manager  
P. O. Box 76  
Amelia, Virginia 23002

Buggs Island Telephone Cooperative  
Mr. M. Dale Tetterton, Jr., Manager  
P. O. Box 129  
Bracey, Virginia 23919

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Ms. Sue B. Moss, President  
P. O. Box 428  
Burke's Garden, Virginia 24608

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Mr. Martin H. Bocock  
Vice President and General Manager  
P. O. Box 6788  
Charlottesville, Virginia 22906

Bell Atlantic - Virginia  
Mr. Hugh R. Stallard, President  
and Chief Executive Officer  
600 East Main Street  
P.O. Box 27241  
Richmond, Virginia 23261

Citizens Telephone Cooperative  
Mr. James R. Newell, Manager  
Oxford Street  
P. O. Box 137  
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company  
Mr. David R. Maccarelli, President  
P. O. Box 1990  
Waynesboro, Virginia 22980-1990

GTE South  
Stephen C. Spencer, Reg. Director  
External Affairs  
One James Center  
901 East Cary Street  
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GTE  
Joe W. Foster, Esquire  
Law Department  
P.O. Box 110 - FLTC0007  
Tampa, Florida 33601-0110

Highland Telephone Cooperative  
Mr. Elmer E. Halterman, General Manager  
P.O. Box 340  
Monterey, Virginia 24465

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## State Corporation Commission

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Mountain Grove-Williamsville Telephone Company  
Mr. L. Ronald Smith  
President/General Manager  
P. O. Box 105  
Williamsville, Virginia 24487

New Castle Telephone Company  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
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Knoxville, Tennessee 37933-0995

New Hope Telephone Company  
Mr. K. L. Chapman, Jr., President  
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North River Telephone Cooperative  
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P. O. Box 549  
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President & General Manager  
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Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin  
Executive Vice President  
P. O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President  
P. O. Box 459  
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.  
Mr. H. John Brooks  
Vice President & General Manager  
112 Sixth Street, P. O. Box 699  
Bristol, Tennessee 37620

Virginia Telephone Company  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
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Knoxville, Tennessee 37933-0995

1255 Twenty-Third Street  
Washington, D.C. 20037-1194

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Ms. Wilma R. McCarey, General Attorney  
3033 Chain Bridge Road, Third Floor  
Oakton, Virginia 22185-0001

CF-W Network Inc.  
Mr. James S. Quarforth  
Chairman and CEO  
P. O. Box 1990  
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia  
Mr. James W. Spradlin, III  
Government & Industry Relations  
1108 East Main Street, Suite 1200  
Richmond, Virginia 23219-3535

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Floyd, Virginia 24091

GTE South, Inc.  
Mr. Stephen Spencer  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219

Institutional Communications Company - Virginia  
Ms. Dee Kindel  
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Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia  
Robert C. Lopardo  
Senior Attorney  
1133 19th Street, N.W., 11th Floor  
Washington, D.C. 20036

MCImetro Access Transmission Services of Virginia, Inc.  
Robert C. Lopardo  
1133 195th Street, N.W., 11th Floor  
Washington, D.C. 20036

Metromedia Communications Corporation  
d/b/a LDDSMetromedia Communications  
Mr. Brian Sulmonetti  
Regulatory Affairs  
1515 South Federal Highway  
Boca Raton, Florida 33432

R&B Network, Inc.  
Mr. Allen Layman, Executive Vice President  
P. O. Box 174  
Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin, Executive VP & Manager  
P.O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President & General Manager

### Appendix B

#### INTER-EXCHANGE CARRIERS

AlterNet of Virginia  
Mr. Leonard J. Kennedy, Counsel  
Dow, Lohnes & Albertson

P. O. Box 459  
Edinburg, Virginia 22824

SouthernNet of Va., Inc.  
Peter H. Reynolds, Director  
780 Douglas Road, Suite 800  
Atlanta, Georgia 30342

TDX Systems, Inc.  
d/b/a Cable and Wireless, Inc.  
Mr. Charles A. Tievsky  
Regulatory Attorney  
1919 Gallows Road  
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.  
Mr. Kenneth Prohoniak  
Staff Director, Regulatory Affairs  
1850 "M" Street, N.W. Suite 110  
Washington, DC 20036

Virginia MetroTel, Inc.  
Mr. Richard D. Gary  
Hunton & Williams  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074

Virginia WorldCom, Inc.  
Brian K. Sulmonetti, Director  
Regulatory Affairs - Virginia  
1515 South Federal Highway, Suite 400  
Boca Raton, Florida 33432

VA.R. Doc. No. R96-148; Filed December 13, 1995, 4:18 p.m.

**FINAL REGULATIONS**

**Bureau of Financial Institutions**

**Title of Regulation:** VR-225-01-1201. 10 VAC 5-120-10 et seq. Surety Bond Required of Money Order Sellers and Money Transmitters.

**Statutory Authority:** §§ 6.1-372 and 12.1-13 of the Code of Virginia.

**Effective Date:** January 1, 1996.

**Agency Contact:** Copies of the regulation may be obtained from Jonathan B. Orne, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9671. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, DECEMBER 13, 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 order sellers

**ORDER ADOPTING AMENDMENTS TO A REGULATION**

By order herein dated February 15, 1995, the Commission directed that notice be given of proposed amendments to Virginia Regulation VR 225-01-1201 entitled "Surety Bond Standard Required of Money Order Sellers." Notice of the proposed amendments was published in the Virginia Register on March 6, 1995, and was also given to all licensees under Chapter 12 of Title 6.1 of the Virginia Code. Interested parties were afforded an opportunity to file written comments in favor of or against the proposal, and written requests for a hearing, on or before April 3, 1995.

Several written comments and three written requests for hearing were filed before that date. One commenter proposed that the Commission establish a minimum surety bond requirement of \$100,000. Notice of that proposal, and opportunity to file further written comments and requests for a hearing, was published in the Virginia Register on August 21, 1995, and was given to licensees that would be affected thereby. Further written comments were filed and an additional request for hearing was also filed.

By order dated September 7, 1995, this matter was set for hearing before the Commission at 2:00 p.m. on October 11, 1995. At the hearing, appearances and statements were made by or on behalf of the Ad Hoc Industry Group of Non-Bank Money Transmitters; Global Express Money Orders, a licensee; Merchants Express Money Order Company, a licensee; Addington Oil Corporation, a licensee; and the Bureau of Financial Institutions. At the conclusion of the hearing, the Commission directed the Bureau to send new amendments to the persons who appeared at the hearing.

The new amendments were duly sent to such persons and they filed written comments thereon. The new amendments establish minimum and maximum surety bond requirements; create reporting requirements to aid in setting the proper surety bond to be required of individual licensees; require the surety bond to be continuously maintained; and permit the amount of the surety bond to be changed from time to time with changed circumstances.

The Commission, having considered the new amendments and all submissions made in this case, concludes that the new amendments, with certain modifications, fulfill the surety bond requirement of Virginia Code § 6.1-372 and properly protect the interests of purchasers of money orders and money transmission services in Virginia. The Commission is, therefore, of the opinion that the new amendments, as modified, should be adopted.

THEREFORE, IT IS ORDERED THAT:

- (1) The amended regulation VR 225-01-1201 entitled "Surety Bond Required of Money Order Sellers and Money Transmitters," attached hereto, is adopted effective January 1, 1996.
- (2) The amended regulation shall be transmitted for publication in the Virginia Register.
- (3) Copies of the amended regulation be sent by the Bureau of Financial Institutions to all licensees, and current applicants for licenses, under Chapter 12 of Title 6.1 of the Virginia Code.

# State Corporation Commission

(4) There being nothing further to be done in this matter, this case is dismissed and the papers herein shall be placed among the ended cases.

AN ATTESTED COPY of this order shall be sent to Ezra C. Levine, Howrey & Simon, 1299 Pennsylvania Avenue, N.W., Washington, D.C. 20004; George H. Heilig, Jr., Heilig, McKenry, Fraim & Lollar, Stoney Point Center, 700 Newtown Road, Norfolk, Virginia 23502; Ralph L. Axelle, Jr., Williams, Mullen, Christian & Dobbins, 4401 Waterfront Drive, Suite 140, Hewlett-Packard Building, 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.

10 VAC 5-120-10 et seq. Surety Bond Required of Money Order Sellers and Money Transmitters.

[ ~~§ 1. Surety bond standards.~~

~~1. A. Every seller of money orders and every money transmitter shall be bonded in a principal amount as follows: determined by the Commissioner of Financial Institutions. The commissioner's determination shall be based upon the person's or company's financial condition, actual or projected business volume, and other factors deemed pertinent. The commissioner may redetermine the amount of bond required from time to time based upon changed circumstances.~~

~~1 office \_\_\_\_\_ \$ 25,000  
Each additional office \_\_\_\_\_ \$ 5,000  
Maximum bond required \_\_\_\_\_ \$250,000~~

~~2. B. The form of the bond will be prescribed and provided by the Bureau commissioner.~~

~~3. C. Evidence of an appropriate The required bond shall be submitted prior to the issuance of a license, and shall be maintained continuously thereafter as long as the money order seller or money transmitter has money orders outstanding or unfulfilled money transmission agreements. ]~~

~~4. The seller must continuously maintain its bond thereafter as long as it has money orders outstanding, and for a reasonable period after any termination of business. In any case where a bond of less than \$250,000 is maintained, it shall be the duty of the licensee to keep the amount of the bond commensurate with the number of offices.~~

~~By order of the State Corporation Commission dated November 13, 1987, effective that date.~~

[ CHAPTER 120.

SURETY BOND REQUIRED OF MONEY ORDER SELLERS AND MONEY TRANSMITTERS. ]

10 VAC 5-120-10. Definitions.

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

"Money order," "money transmission," and "licensee" have the meaning ascribed to them in § 6.1-370 of the Code of Virginia.

"Reporting period" means a calendar quarter, the first six months of a calendar year, or the last six months of a calendar year, as the case may be.

10 VAC 5-120-20. Surety bond standards.

A. Every licensee shall be bonded in a principal amount determined by the Commissioner of Financial Institutions. The bond amount shall be equal to the licensee's Virginia average monthly money order sales during the preceding two reporting periods, or its Virginia average monthly money transmission volume during such periods, or both, as applicable, rounded to the next highest multiple of \$10,000, but not exceeding \$500,000. The commissioner, however, may increase the amount of bond required to a maximum of \$1 million upon the basis of the impaired financial condition of a licensee, as evidenced by net worth reduction, financial losses, or other relevant criteria.

B. Licensees licensed for less than three years shall file reports with the commissioner within 45 days after the end of each calendar quarter. Licensees licensed for three years or longer shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. Licensees affiliated by common ownership with another licensee licensed for three years or longer, and licensees which acquire all or part of the money order sales business or money transmission business of another licensee licensed for three years or longer, shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. The reports shall contain such information as the commissioner may require. The commissioner may require such additional reports as he deems necessary.

C. The amount of bond required of a new licensee shall be based upon the applicant's financial condition, capitalization, projected Virginia monthly money order sales and money transmission volume, experience, and other factors deemed pertinent.

D. The minimum bond required shall be \$25,000.

E. The form of the bond will be prescribed and provided by the commissioner. The required bond shall be submitted prior to the issuance of license, and shall be maintained continuously thereafter as long as the licensee or former licensee has money orders outstanding or unfulfilled money transmission agreements. ]

V.A.R. Doc. No. R96-147; Filed December 15, 1995, 11:38 a.m.

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## Division of Communications

Title of Regulation: 20 VAC 5-400-180. Rules Governing the Offering of Competitive Local Exchange Telephone Service.

Statutory Authority: §§ 12.1-13 and 56-265.4:4 of the Code of Virginia.

Effective Date: December 13, 1995.

Agency Contact: Copies of the regulation may be obtained from Kathleen A. Cummings, State Corporation Commission,

# State Corporation Commission

Division of Communications, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9420. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, DECEMBER 13, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC950018

Ex Parte: In the matter of investigating local exchange telephone competition, including adopting rules pursuant to Virginia Code § 56-265.4:4.C.3

## ORDER ADOPTING RULES

By order entered June 9, 1995, the Commission prescribed notice and invited comments regarding Draft Rules for Local Exchange Telephone Competition which had been prepared by the Commission Staff and were denoted as Appendix A of that order. Pursuant to that order, numerous comments regarding the draft rules and answers to the questions attached to the order as Appendix B were received by the deadline of August 4, 1995. In addition, several parties requested a hearing before the Commission or the ability to make reply comments.

By order entered August 18, 1995, the Commission scheduled for September 26, 1995, a hearing to receive oral argument. At that hearing, the Commission heard oral argument from the parties and testimony from one public witness. At the conclusion of the hearing, the parties were directed to file, within ten days of the hearing, letters indicating the issues upon which each party desired to present evidence. Five days thereafter, the parties were allowed to reply to the initial letters of other parties. Accordingly, letters were filed by numerous parties on October 6, 1995, describing potential evidentiary issues, and reply letters were filed on October 11, 1995.

After consideration of the record in this matter, we find that the rules attached hereto as Appendix A provide the minimum certification and other policy requirements necessary for potential new entrants to apply for certification as local exchange telephone service providers. These rules do not resolve any issues that require a factual or evidentiary determination. Rather, the rules permit subsequent resolution of controversial issues, such as interconnection rates and terminating traffic compensation, through negotiations among the parties, and preserve the opportunity for evidentiary hearings when needed.

The Commission is aware that it is likely that resolution of additional issues and further inter-company agreements beyond the scope of interconnection will be necessary as local telephone competition unfolds. The Commission encourages the parties to include any such issues in the negotiation process. However, as these rules have been established only as the minimum necessary for certification, the Commission shall initiate proceedings to incorporate additional rules as needed.

As such, the Commission is also of the opinion that separate dockets should be established to address the issues of resale and universal service obligations. Parties to this case argued that these vital issues could only be decided after evidentiary hearings are held to develop the pertinent facts. However, most of the parties also contended that the certification rules need not be delayed while these issues are being heard and determined, and the Commission agrees.

The adoption of certification rules in this order will not prejudice or impair the subsequent development of facts and determination of other vital issues. Rule 9, for example, addresses the guiding principles of universal service, but allows flexibility in determining specific issues. It permits the Commission to establish a universal service fund after fixing the definition of basic local exchange telephone service and calculating any subsidy necessary to keep such service ubiquitous. Evidentiary hearings will be necessary to develop this definition and to determine the need for and the amount of any subsidy. The Rule designates the incumbents as the carriers of last resort until the Commission determines otherwise. Thus, Rule 9 lays the conceptual foundation for full development of the facts necessary for ultimate determination of these issues.

Resale is not specifically addressed in the certification rules, but many parties believe it is essential to the development of competition in all areas of the Commonwealth. Since construction of duplicate facilities consumes considerable time and requires capital, many areas of Virginia will have only the current telecommunications network for the foreseeable future. Our rules do not prohibit the resale of a local exchange carrier's services, but resale should not be summarily decreed. It is necessary for the Commission to consider a number of issues before requiring the resale of existing local exchange services. A determination should be made of whether wholesale rates should be established and the applicable price or discount. It should also be determined what services should be available for resale and what criteria should be utilized to determine such availability. The Commission needs a thorough analysis of such issues before determining the best policy concerning resale.

The certification rules permit parties to negotiate on two crucial elements -- interconnection arrangements and terminating traffic compensation. Interconnection of networks for the mutual exchange of local traffic between and among new entrants and incumbents is necessary and vital to the development of competitive local exchange markets and to provide for continued ubiquitous calling for all telecommunications users. Determination of proper compensation for termination of traffic among carriers is also a crucial element of the competitive arena. Ideally, new entrants would know the precise terms, conditions, and prices of these items before applying for certification. However, these two issues involve fundamental policy questions and resolving them would require the weighing of extensive evidence. With these rules, we encourage and provide a structure for the good faith negotiation of these issues, and a process for litigating any unresolved matters.

The availability of local number portability will be another critical element in promoting competition and assessing the

# State Corporation Commission

potential for competition in the local exchange market. Interconnection agreements should therefore include provisions regarding local number portability, and Rule 8 provides guidance on this subject.

The rules fulfill the mandates of § 56-265.4:4.C.3 of the Code of Virginia. They promote and seek to assure the provision of competitive services to all classes of customers throughout all geographic areas of the Commonwealth by a variety of service providers. As just noted, the rules encourage competition and require equity in the treatment of new entrants and incumbents by encouraging negotiations on the important issues of terminating traffic compensation and interconnection arrangements, as well as providing for litigation of issues. They also consider the impact on competition of any government-imposed restrictions limiting the markets to be served or the services offered by any provider. Rule 4 provides the form of rate regulation by imposing price ceilings for new entrants providing local exchange services that are comparable to those noncompetitive services currently provided by the incumbents and also allows new entrants to submit an alternative regulatory plan for the Commission to consider. Finally, Rule 5F specifically provides requirements to ensure there is no cross-subsidization of a new entrant's competitive local exchange telephone services by any other of its services over which it has a monopoly.

We are establishing, by separate orders, two new dockets, Case No. PUC950080 and Case No. PUC950081 to investigate the issues of resale and universal service, respectively. Initially, comments will be invited on each new docket, and later, procedural schedules will be established that provide for the prefilng of testimony and the setting of hearing dates.

In conclusion, the attached rules provide potential new entrants with the fundamental parameters they need to consider in deciding whether to offer local exchange services in Virginia and to apply for certification. The process of negotiating for interconnection arrangements and terminating traffic compensation, together with the generic proceedings on resale and universal service, will complement the rules and the certification process, thereby establishing the framework for providing local exchange telephone competition throughout the Commonwealth. Accordingly,

IT IS, THEREFORE, ORDERED THAT:

(1) The Commission rules attached hereto as Appendix A are hereby adopted pursuant to Virginia Code § 56-265.4:4.C.3.

(2) There being nothing further to come before the Commission herein, this case shall be, and is hereby, closed and the papers herein shall be placed in the Commission's files for ended causes.

AN ATTESTED COPY of this Order shall be sent by the Clerk of the Commission to: local exchange telephone companies as set out in Attachment 1 hereto; all Virginia certificated interexchange carriers as set out in Attachment 2 hereto; Edward L. Petrini, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219; Richard D. Gary, Esquire, Hunton & Williams, Riverfront

Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald G. Owens, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Louis R. Monacell, Esquire, and Alexander F. Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Ronald B. Mallard, Director, Fairfax County Department of Consumer Affairs, 12000 Government Center Parkway, Suite 433, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber of Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, Suite 210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., Suite 750, Washington, D.C. 20005-3934; Cecil O. Simpson, Jr., U.S. Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tettelbaum, Citizens Telecommunications, 1400 16th Street, N.W., Suite 500, Washington, D.C. 20036-3917; Naomi C. Klaus, Esquire, Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Suite 218, Alexandria, Virginia 22314; Brian Sulmonetti, WorldCom, Inc., d/b/a LDDS, 1515 South Federal Highway, Suite 400, Boca Raton, Florida 33432; D.R. Maccarelli, CFW Communications, P.O. Box 1990, Waynesboro, Virginia 22980-7590; Jodie Donovan-May, Esquire, Teleport Communications Group, Inc. 1133 21st Street, N.W., Washington, D.C. 20036; Andrew O. Isar, Telecommunications Resellers Association, 4312 92nd Avenue, N.W., Gig Harbor, Washington, D.C. 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K. Street, N.W., Suite 300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James W. Wright, Esquire, Central Telephone/United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, Economics and Finance, and Public Service Taxation.

ATTACHMENT 1

## TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

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Bracey, Virginia 23919

# State Corporation Commission

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GTE  
Joe W. Foster, Esquire  
Law Department  
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Highland Telephone Cooperative  
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Monterey, Virginia 24465

Mountain Grove-Williamsville Telephone Company  
Mr. L. Ronald Smith  
President/General Manager  
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P. O. Box 236, Route 257

Mt. Crawford, Virginia 22841-0236

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P. O. Box 549  
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.  
Mr. E. B. Fitzgerald, Jr.  
President & General Manager  
P. O. Box 367  
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company  
Mr. Allen Layman, President  
Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin  
Executive Vice President  
P. O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President  
P. O. Box 459  
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.  
Mr. H. John Brooks  
Vice President & General Manager  
112 Sixth Street, P. O. Box 699  
Bristol, Tennessee 37620

Virginia Telephone Company  
Mr. Bruce H. Mottern, Director  
State Regulatory Affairs  
P.O. Box 22995  
Knoxville, Tennessee 37933-0995

ATTACHMENT 2

## INTER-EXCHANGE CARRIERS

AlterNet of Virginia  
Mr. Leonard J. Kennedy, Counsel  
Dow, Lohnes & Albertson  
1255 Twenty-Third Street  
Washington, D.C. 20037-1194

AT&T Communications of Virginia  
Ms. Wilma R. McCarey, General Attorney  
3033 Chain Bridge Road, Third Floor  
Oakton, Virginia 22185-0001

CF-W Network Inc.  
Mr. James S. Quarforth  
Chairman and CEO  
P. O. Box 1990  
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia  
Mr. James W. Spradlin, III  
Government & Industry Relations  
1108 East Main Street, Suite 1200  
Richmond, Virginia 23219-3535

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# State Corporation Commission

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Citizens Telephone Cooperative  
Mr. James R. Newell, Manager  
Oxford Street  
P.O. Box 137  
Floyd, Virginia 24091

GTE South, Inc.  
Mr. Stephen Spencer  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219

Institutional Communications Company - Virginia  
Ms. Dee Kindel  
8100 Boone Boulevard, Suite 500  
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia  
Robert C. Lopardo  
Senior Attorney  
1133 19th Street, N.W., 11th Floor  
Washington, D.C. 20036

MCImetro Access Transmission  
Services of Virginia, Inc.  
Robert C. Lopardo  
1133 19th Street, N.W., 11th Floor  
Washington, D.C. 20036

Metromedia Communications Corporation  
d/b/a LDDSMetromedia Communications  
Mr. Brian Sulmonetti  
Regulatory Affairs  
1515 South Federal Highway  
Boca Raton, Florida 33432

R&B Network, Inc.  
Mr. Allen Layman, Executive Vice President  
P. O. Box 174  
Daleville, Virginia 24083

Scott County Telephone Cooperative  
Mr. William J. Franklin, Executive VP & Manager  
P.O. Box 487  
Gate City, Virginia 24251

Shenandoah Telephone Company  
Mr. Christopher E. French  
President & General Manager  
P. O. Box 459  
Edinburg, Virginia 22824

SouthernNet of Va., Inc.  
Peter H. Reynolds, Director  
780 Douglas Road, Suite 800  
Atlanta, Georgia 30342

TDX Systems, Inc.  
d/b/a Cable and Wireless, Inc.  
Mr. Charles A. Tievsky  
Regulatory Attorney  
1919 Gallows Road  
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.  
Mr. Kenneth Prohoniak  
Staff Director, Regulatory Affairs

1850 "M" Street, N.W. Suite 110  
Washington, DC 20036

Virginia MetroTel, Inc.  
Mr. Richard D. Gary  
Hunton & Williams  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074

Virginia WorldCom, Inc.  
Brian K. Sulmonetti, Director  
Regulatory Affairs - Virginia  
1515 South Federal Highway, Suite 400  
Boca Raton, Florida 33432

20 VAC 5-400-180. Rules Governing the Offering of  
Competitive Local Exchange Telephone Service.

## APPENDIX A

### [ § 4. A. ] Definitions.

*The following words and terms, when used in this [ regulation section ] , shall have the following [ meaning meanings ] unless the context clearly indicates otherwise:*

[ ~~"Competing local exchange carriers" means all certificated providers of local exchange telephone service, whether incumbents or new entrants.~~ ]

*"Incumbent local exchange telephone company" [ or "incumbent" ] means a public service company providing local exchange telephone service in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity.*

*"Interconnection" means the point of interface between [ competing ] local exchange carriers' networks. Interconnection can be achieved at different points of the network.*

*"Interim number portability" means the service provided in lieu of true number portability [ by the incumbent local exchange telephone company ]. Interim solutions [ available from the incumbent local exchange telephone company, which ] include remote call forwarding and direct inward dialing, [ which ] enable customers to change providers without the appearance of changing telephone numbers, but rely on the incumbent's network to process [ some or ] all calls.*

[ ~~"Local exchange carriers" means all certificated providers of local exchange telephone service, whether incumbents or new entrants.~~ ]

*"Mutual exchange of traffic" means the reciprocal arrangement by which [ a competing ] local exchange [ carrier terminates carriers terminate ] the local calls of [ its competitor's customers on its network in exchange for the completion of its customers' calls on the competitor's network other local exchange carriers' customers on their networks ] .*

*"New entrant" means an entity certificated to provide local exchange telephone service in Virginia after January 1, 1996, under § 56-265.4:4 [ C ] of the Code of Virginia. [ An incumbent local exchange telephone company shall be considered a new entrant in any territory for which it obtains a*

certificate to provide local exchange service on or after January 1, 1996, in accordance with these rules and which is outside the territory it is certificated to serve as of December 31, 1995.]

"Terminating compensation" means the payment or other exchange mechanism [ ~~(e.g., bill and keep) designed to recover the expense used by local exchange carriers~~ ] for terminating [ the ] local exchange traffic of [ ~~competing other~~ ] local exchange carriers.

"True number portability" means the technical capability of a competing local exchange carrier to allow customers to retain their telephone number when they change providers (without a change in location) without reliance on calls being routed through the [ ~~incumbent's~~ ] end office where the original NXX is assigned.

"Unbundling" means the process by which a local exchange telephone carrier's network is disaggregated into functional components.

[ ~~§ 2. B.~~ ] Certification requirements.

[ ~~The certification requirements for local competition are provided in subdivisions 1 through 7 below:~~ ]

1. An original and 15 copies of [ ~~applications an application~~ ] for [ ~~certificates a certificate~~ ] of public convenience and necessity shall be filed with the Clerk of the State Corporation Commission.

2. Notice of the application shall be given to all [ ~~competing~~ ] local exchange [ ~~companies carriers~~ ] in the applicant's proposed [ ~~erving service~~ ] territory. Each applicant shall publish notice in newspapers having general circulation in the [ ~~requested proposed~~ ] service [ area territory ] in a form to be prescribed by the commission.

3. The [ ~~applicant shall submit information which identifies application shall identify~~ ] the applicant including (i) its name, address, and telephone number; (ii) [ the name, address, and telephone number of ] its corporate [ ~~ownership parent or parents, if any~~ ]; (iii) [ ~~the name, address, and telephone number of its corporate parent or parents, if any;~~ (iv) ] a list of its officers and directors or, if the applicant is not a corporation, a list of its principals [ ~~and their directors if the principals are corporations~~ ]; [ ~~and~~ (v) (iv) ] the names, addresses, and telephone numbers of its legal counsel [ ; and (v) any other identifying information the commission determines to be necessary ] .

4. Each incorporated applicant [ ~~for a certificate~~ ] shall demonstrate that it is authorized to do business in the Commonwealth of Virginia as a public service company.

5. Applicants shall be required to show their financial, managerial, and technical ability to render local exchange telephone service.

a. As a minimum requirement, a showing of financial ability shall [ ~~be made by attaching include~~ ] the applicant's most recent [ ~~audited financial statements, most recent~~ ] stockholders annual report and [ its ] most recent SEC [ Form ] 10 [ - ] K [ ~~or~~ ] if the

company is [ ~~not~~ ] publicly traded [ , ~~its most recent financial statements~~ ] .

b. To demonstrate managerial experience, each applicant shall attach a brief description of its history of providing [ ~~local exchange telephone service and telecommunications or other relevant services, if any;~~ ] shall list the geographic areas in which it has [ ~~been~~ ] and is currently providing service [ ~~Newly-created companies ; and~~ ] shall list the experience of each principal officer [ ~~in order to show its ability to provide service~~ ] .

c. [ ~~Technical abilities shall be indicated by~~ The applicant shall demonstrate its technical ability by attaching ] a description of [ ~~the applicant's its~~ ] experience in providing [ ~~telephone services, or in the case of newly-created companies, telecommunications or other relevant services, if any, or~~ ] the applicant may provide other documentation which supports its technical abilities.

6. Each application for a certificate to provide local exchange service shall include the applicant's initial tariffs, [ which shall include ] rules, regulations, terms, and conditions. Applicants [ ~~who that~~ ] desire to have any of their services deregulated or detariffed shall file such a proposal in accordance with [ ~~§ 4 of this regulation subsection D of this section~~ ] .

7. The applicant shall file maps [ or other acceptable documents ] with the application for certification in sufficient detail [ ~~that to~~ ] designate the actual geographic area or areas to be served. Such maps should also identify [ ~~the each~~ ] proposed initial local calling [ areas area ] of the applicant.

8. Each application shall include the applicant's proposed form of regulation for its services if such form of regulation differs from that set forth in [ ~~§ 4 of this regulation subsection D of this section~~ ] .

[ ~~§ 3. C.~~ ] Conditions for certification.

[ A. 1. ] In the public interest evaluation of the applicant's request for a certificate to provide local exchange service, the commission will, at a minimum, require a new entrant, either directly or through arrangements with [ ~~other carriers others~~ ] , to provide the following:

[ ~~1. a.~~ ] Access to 911 and E911 services;

[ ~~2. b.~~ ] White page directory listings;

[ ~~3. c.~~ ] Access to telephone relay services;

[ ~~4. d.~~ ] Access to directory assistance;

[ ~~5. e.~~ ] Access to operator services;

[ ~~6. f.~~ ] Equal access to interLATA long distance carriers;

[ ~~7. Compliance with applicable commission service and billing standards or rules;~~

[ ~~8. Free blocking of 900 and 700 type services;~~

# State Corporation Commission

g. Free blocking of 900- and 700-type services so long as the same requirement applies to incumbent local exchange companies; and ]

[ 9. h. ] Interconnection on a nondiscriminatory basis with other local exchange telephone service [ providers; companies. ]

~~[ 10. At a minimum, the applicable intraLATA access requirements of incumbent local exchange telephone companies as determined in PUC850035. ]~~

[ B. 2. ] To the extent [ economically and technically ] feasible, the new entrant should be willing and able to provide service to all customers in the same service classification in its designated geographic service area in accordance with its tariff offerings.

~~[ C. The commission may, in the public interest, attach or waive any conditions or exceptions to these rules that it finds appropriate to any certificate issued under § 56-265.4:4 C of the Code of Virginia. ]~~

3. The new entrant shall have procedures to prevent deceptive and unfair marketing practices.

4. The new entrant shall comply with applicable commission service and billing standards or rules.

5. The new entrant shall, at a minimum, comply with the applicable intraLATA access requirements of incumbent local exchange telephone companies as determined in Case No. PUC850035, Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Investigation of competition for intraLATA, interexchange telephone service (20 VAC 5-400-120). ]

[ §-4. D. ] Regulation of new entrants providing local exchange telephone service.

[ A. 1. ] Unless otherwise allowed by the commission, tariffs are required for all [ local exchange ] service offerings [ with the exception of those which are determined to be except those that are ] comparable to "competitive" offerings of the incumbent telephone company [ which that ] do not require tariffs. [ The commission may convene a hearing to determine the applicable requirements and classification of any new entrant's local exchange service offerings. ]

[ B. 2. ] The new entrant may petition the commission to consider deregulation or detariffing treatment for any of its specific service offerings.

[ C. 3. ] Unless otherwise allowed by the commission, prices for local exchange services provided by the new entrant shall not exceed [ those the highest ] of the comparable tariffed services provided by the incumbent local exchange [ carrier or carriers telephone company or companies ] in the same local serving areas. Tariff changes within this price ceiling plan shall be implemented as follows:

[ 4. a. ] Price decreases shall become effective on one-day notice to the commission.

[ 2. b. ] Price increases below ceiling rates shall become effective after 30 days notice is provided to [ the commission, and notice to ] customers [ is provided ] through billing inserts or publication for two consecutive weeks as display advertising in newspapers having general circulation in the areas served by the new entrant.

[ 3. c. ] Price ceilings [ are the shall be the highest ] tariffed rates [ for comparable services of the incumbent local exchange telephone companies ] as of January 1, 1996 [ , for comparable services of any incumbent local exchange telephone company or companies serving within the certificated local service area of the new entrant ]. Price ceilings [ will shall ] be increased as [ an incumbent's prices are the highest tariffed rate of an incumbent is ] raised through applicable regulatory procedures. Unless otherwise determined by the commission, price decreases for an incumbent's service [ , ] whether initiated by the carrier or adopted by the commission [ will , shall ] not require a corresponding decrease in the price ceilings applicable to the new entrant.

~~[ 4. A pricing structure d. The commission may permit pricing structures ] or [ proposed ] rates of a new entrant's local exchange service(s) that do not conform with the established price ceilings [ may be permitted subject to commission approval , unless there is a showing that the public interest will be harmed ] .~~

[ 5. e. ] These pricing requirements [ do shall ] not apply to a new entrant's services [ which are determined by the commission to be that: (i) are ] comparable to services classified as competitive for the incumbent [ , or (ii) have been provided regulatory treatment different than that specified by these rules ] .

~~[ D. A new entrant may submit an alternative regulatory plan to that described in this section for the commission's consideration in the applicant's certification proceeding or at a later date. ]~~

4. Services offered by the new entrant that are not comparable to services offered by the incumbent and for which the commission has not provided regulatory treatment different than that specified by these rules shall be filed with 30-days notice to the commission. Price decreases for these services shall become effective on one-day notice to the commission. Price increases shall become effective after 30-days notice to the commission and notice to customers in the manner prescribed by subdivision 3 b of this subsection. ]

~~[ E. No form of earnings regulation will be required for the regulation of new entrants. However, new entrants will be required to file financial and other reports as identified in § 5 of this regulation to enable the commission to evaluate the effectiveness of local exchange telephone competition. ]~~

5. A new entrant may, pursuant to § 56-481.2 of the Code of Virginia, submit an alternative regulatory plan to that described in this section for the commission's consideration in the applicant's certification proceedings or at a later date.

6. No form of earnings regulation shall be required for the regulation of new entrants. However, new entrants shall be required to file financial and other reports as identified in subsection E of this section to enable the commission to evaluate the effectiveness of local exchange telephone competition. ]

[ F. 7. ] No new entrant providing local exchange telephone service shall abandon or discontinue [ local exchange ] service except with the approval of the commission, and upon such terms and conditions as the commission may prescribe.

[ G. 8. ] Should the commission [ ever ] determine that [ this the ] form of regulation of new entrants does not effectively, or is no longer necessary to, regulate the prices of their services, it may, pursuant to § 56-481.2 of the Code of Virginia, modify the form of regulation.

[ §-5. E. ] Financial and reporting requirements for new entrants.

[ A. 1. ] All providers of local exchange telephone service certificated under this regulation shall be required to file the following reports with the [ commission's ] Division of Economics and Finance [ , unless specified otherwise ] :

[ 1. a. ] Annual report on the number of access lines by local exchange area and classified by residential and business lines.

[ 2. b. ] Annual price list for all detariffed competitive [ local exchange ] telephone services provided by the applicant.

[ 3. c. ] Quarterly statement of units and revenues for all competitive telephone services provided by the applicant.

[ 4. ~~Stockholders annual report for the parent company and the applicant, if available. Otherwise, an auditor's annual report. The~~ d. Audited financial statement, stockholders annual report, ] SEC Form 10-K and FCC Form M for the parent [ company ] and [ applicant should also be attached the new entrant ] , if available.

[ 5. 2. ] Reports and information required by the Division of Public Service Taxation in performing its functions [ per under ] §§ 58.1-2600 through 58.1-2690 of the Code of Virginia [ ~~This information is to~~ shall ] be filed with the [ commission's ] Division of Public Service Taxation.

[ B. 3. ] A new entrant [ is shall be ] required to remit the telecommunications relay surcharge amount to the commission [ per pursuant to ] the October 5, 1990, [ final ] order issued in Case No. PUC900029 [ , Commonwealth of Virginia at the relation of the State Corporation Commission Ex Parte: In the matter of implementing dual-party relay service pursuant to Article 5, Chapter 15, Title 56 of the Code of Virginia (20 VAC 5-400-170) ] . The remittance, along with any other required information, [ should shall ] be made to the commission's Division of Public Service Taxation.

[ C. 4. ] Any expansion or reduction of the geographic service area of a new entrant [ that does not involve an

expansion of the territory covered by an existing certificate ] shall require the filing of amended maps [ or other acceptable documentation ] with the [ commission's ] Division of Communications.

[ D. 5. ] Upon [ the ] request of the [ commission ] staff, any new entrant [ will shall ] file such other information with respect to any of its services or practices as may be required of public service companies under [ current ] Virginia law [ , or any amendments thereto. If any new entrant fails to provide data required by the staff, it may be penalized for a violation of a commission order ] .

[ E. 6. ] A new entrant, [ when it is ] determined by the commission to have a monopoly over any of its services, whether or not those services are telephone services, shall file annual data to demonstrate that its revenues from local exchange telephone services cover [ their the ] long run incremental costs [ of such local exchange telephone services ] in the aggregate.

[ §-6. F. ] Interconnection.

[ ~~The commission recognizes that interconnection of local exchange networks between and among new entrants and incumbent local exchange telephone companies is necessary and vital to the development of competitive local exchange markets. The following requirements will apply: ]~~

1. Interconnection arrangements [ should between local exchange carriers shall ] make available [ the network ] features, functions, interface points [ , ] and other service elements on an unbundled basis [ requested by a competing local exchange carrier to provide quality service ] . The commission [ may shall ] , on petition by any [ interconnecting ] party [ to the proposed interconnection or on its own motion ] , determine the reasonableness of any interconnection request.

2. Interconnection arrangements should apply equally and on a nondiscriminatory basis to all [ competing ] local exchange carriers.

3. Interconnection arrangements [ must shall ] be made available pursuant to a bona fide written request. No refusal or unreasonable delay by any provider to another carrier will be [ allowed tolerated ] .

4. [ ~~Competing local exchange telephone companies must~~ Local exchange carriers shall ] provide nondiscriminatory use [ , on a tariffed basis, ] of pole attachments, conduit space, and rights-of-way.

5. [ Negotiation of interconnection agreements should be completed within 90 days of a bona fide request. ] Interconnection [ agreements are to be negotiated in good faith. Such ] agreements shall be filed [ with the commission ] within [ 30 10 ] days of [ the conclusion of negotiations and reviewed by the commission to determine if they are their execution. Upon complaint of any affected party or on its own motion, the commission may initiate a proceeding to determine if any such agreement is ] reasonable and nondiscriminatory.

6. [ ~~Negotiations for interconnection arrangements should be completed within 90 days of a bona fide~~

# State Corporation Commission

~~request. After a minimum of No sooner than ] 45 days [ of from ] the initial interconnection request, any [ affected ] party [ to the request ] may petition the commission for a hearing in lieu of negotiations or as a result of unsuccessful negotiations [ to establish . Upon such petition, the commission shall establish a proceeding to determine ] tariffed prices and service arrangements for interconnection.~~

7. Unbundled functional elements of a local exchange [ telephone company's carrier's ] network that are made available through interconnection agreements [ should shall ] also be made available on an individual tariffed basis within 60 days of [ commission review of any interconnection arrangement filing unless otherwise ordered by the commission ] .

## [ §-7. G. ] Terminating traffic compensation.

~~[ The mutual exchange of local traffic between competing local exchange carriers is necessary in a competitive market to provide for continued ubiquitous calling for all telecommunications users in the Commonwealth. The following requirements will apply: ]~~

1. Any compensation arrangement for the mutual exchange of local traffic should reflect the reciprocal relationship between [ competing ] local exchange carriers and the development of local exchange competition.

2. ~~[ The commission encourages good faith negotiations between competing local exchange carriers on terminating compensation arrangements. ]~~ The commission may establish at any time, upon application or its own motion, appropriate compensation levels for mutual exchange of local traffic [ if negotiations are unsuccessful or any arrangements are found to be unreasonable or discriminatory ] .

3. ~~[ Any compensation arrangement for the mutual exchange of local traffic will conform to the established local calling areas of the incumbent local exchange telephone companies. The new entrants Local exchange carriers ]~~ may only deliver [ this ] local traffic for termination on [ the incumbent's another carrier's ] local network at the compensation level established in conformance with this regulation.

4. Any compensation arrangements for the mutual exchange of local traffic shall provide for [ equal equitable ] treatment or rates between the [ competing ] local exchange carriers.

## [ §-8. H. ] Number portability and number assignment.

~~[ The availability of local number portability will be a critical element in promoting competition and assessing the potential for competition in the local exchange market. The following requirements will apply: ]~~

1. Consumers shall have the ability to retain the same telephone number if they [ do not change locations remain in the same geographic area where the NXX is normally provided ] , regardless of their chosen local exchange carrier.

2. True number portability shall be made available when technically [ and economically ] feasible. ~~[ In the near term, the commission will rely on national and industry efforts to establish appropriate standards and resolve implementation issues. ]~~

3. Interim number portability arrangements shall be utilized until true number portability is available. ~~[ The parties shall include interim number portability issues in initial interconnection negotiations. ]~~

4. To the extent feasible, the incumbent local telephone company shall provide new entrants with reservations for a reasonably sufficient block of numbers for their use.

[ §-9. I. ] Universal service. The goals of universal service and affordability of basic local exchange telephone service need to be maintained in a competitive local exchange environment for the citizens of Virginia. The following requirements shall apply:

1. The commission may, if necessary, establish a Universal Service Fund and applicable payment mechanism. Any such fund shall require the participation and support of all [ competing ] local exchange carriers.

2. The establishment of a Universal Service Fund shall first require the evaluation of the definition of basic local exchange telephone service and the calculation of the subsidy required to support the ubiquity of such service.

3. The incumbent local exchange companies shall be designated as the carriers of last resort in their current local serving areas until such time as the commission determines otherwise.

[ J. Commission authority. The commission may, in its discretion, waive or grant exceptions to any of these rules and may also attach conditions or limitations to any certificate issued under these rules or § 56-265.4:4 C of the Code of Virginia. ]

VA.R. Doc. No. R96-146; Filed December 13, 1995, 4:39 p.m.

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# GENERAL NOTICES/ERRATA

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## Symbol Key

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

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## DEPARTMENT OF LABOR AND INDUSTRY

## ERRATA

### † Notice to the Public

On December 11, 1995, the Safety and Health Codes Board approved a request for registration by CONOCO, Inc., Materials and Mechanical Integrity (M&MI), to become an Owner-User Inspection Agency (OUJA) for the pressure vessels it owns and operates in Virginia. This action was taken in compliance with § 2.11 of the Boiler and Pressure Vessel Regulations, VR 425-01-75 [16 VAC 25-50-120]. CONOCO, Inc., is a wholly owned subsidiary of E.I. du Pont de Nemours and Company (DuPont) and operates pressure vessels at multiple sites which are part of its Keene Mountain/Buchanan facility in Southwest Virginia.

## 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

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: 24 VAC 30-60-10 et seq. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities (REPEALED)

Title of Regulation: 24 VAC 30-61-10 et seq. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.

Publication: 12:2 VA.R. 307-308 October 16, 1995.

Addition to Final Regulation:

Effective Date: November 15, 1995.

# 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

### BOARD FOR ACCOUNTANCY

**January 22, 1996 - 10 a.m.** -- Open Meeting

**January 23, 1996 - 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. 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 interpreter 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, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**January 10, 1996 - Noon** -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. ♿

A regular meeting of the board to receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ♿

### Virginia Corn Board

† **February 14, 1996 - 8:30 a.m.** -- Open Meeting

Marriott Hotel, 50 Kingsmill Road, Conference Center, Williamsburg, Virginia. ♿

The board will meet in regular session to discuss issues related to the corn industry and to hear project reports and proposals. 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 David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** David Robishaw, Program Director, Virginia Corn Board, 116 Reservoir St., Harrisonburg, VA 22801, telephone (540) 434-2699.

### Virginia Farmers' Market Board

† **January 25, 1996 - 10 a.m.** -- Open Meeting

† **January 25, 1996 - 1:30 p.m.** -- Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. ♿

The board will convene at 10 a.m. for an annual planning session. At 1:30 p.m., the board will convene to receive reports on operation and management of network wholesale farmers' markets and process routine business. 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 Susan Simpson at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Susan Simpson, Program Director, Virginia Farmers' Market Board, 1100 Bank St., Suite 1002, Richmond, VA 23219, telephone (804) 786-2112.

## Virginia Horse Industry Board

**January 19, 1996 - 1 p.m. -- Open Meeting**  
Embassy Suites Hotel, 2925 Emerywood Parkway, 1st Floor, Richmond, 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., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

## Virginia Irish Potato Board

**† January 24, 1996 - Noon -- Open Meeting**  
Captain's Deck Restaurant, 2120 Lankford Highway, Nassawadox, Virginia. ☎

A meeting to discuss programs including promotion, research and education, and 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, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

## Pesticide Control Board

**January 11, 1996 - 9 a.m. -- Open Meeting**  
Council on Information Management, Washington Building, 1100 Bank Street, 9th Floor Board Room, Richmond, Virginia. ☎

Committee meetings and 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 matter not on the board's 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, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558.

## Virginia Plant Pollination Advisory Board

**† February 9, 1996 - 10 a.m. -- Open Meeting**  
Washington Building, 1100 Bank Street, 4th Floor Conference Room, Richmond, Virginia. ☎

A meeting to receive reports from members on the status of honey bee populations and on the past year's production of honey, fruits and vegetables. The board will also consider matters relating to beekeeping education and pollination effectiveness. 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 Frank M. Fulgham at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Frank M. Fulgham, State Apiarist, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or (804) 371-6344/TDD ☎

## Virginia Pork Industry Board

**† January 18, 1996 - 3 p.m. -- Open Meeting**  
Airfield Conference Center, 15189 Airfield Road, Wakefield, Virginia. ☎

A meeting to hear committee reports, board minutes approval, budget review, and a discussion of current national and state issues affecting the state's pork industry. 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 H. Parker at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** John H. Parker, Program Director, Virginia Pork Industry Board, 1100 Bank St., Suite 1012, Richmond, VA 23219, telephone (804) 786-7092.

## Virginia Winegrowers Advisory Board

**† January 10, 1996 - 10 a.m. -- Open Meeting**  
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, 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 Barbara Payton at least one day before the meeting date so that suitable arrangements can be made.

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## Calendar of Events

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**Contact:** Barbara Payton, Secretary, Virginia Winegrowers Advisory Board, 1100 Bank St., Room 1009, Richmond, VA 23219, telephone (804) 786-0481.

### ALCOHOLIC BEVERAGE CONTROL BOARD

**January 8, 1996 - 9:30 a.m.** -- Open Meeting  
**January 22, 1996 - 9:30 a.m.** -- Open Meeting  
**February 5, 1996 - 9:30 a.m.** -- Open Meeting  
**February 21, 1996 - 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 have not yet been determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., 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

#### Board for Land Surveyors

† **January 18, 1996 - 8 a.m.** -- Open Meeting  
† **January 19, 1996 - 8 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Land Surveyor Board will conduct an Examination Development Workshop for the Land Surveyor A and B examinations.

**Contact:** George O. Bridewell, Examination Administrator, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD 

### AUCTIONEERS BOARD

† **January 12, 1996 - 9 a.m.** -- Open Meeting  
Sheraton Inn, 2350 Seminole Trail, Charlottesville, Virginia. 

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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:** 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 

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **February 15, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

A general board meeting to discuss board business. Public comments will be received for 15 minutes at the beginning of the meeting.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD 

#### Legislative Committee

† **February 14, 1996 - 3 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular meeting. Public comments will be received for 15 minutes at the beginning of the meeting.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD 

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **January 16, 1996 - 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 approve grants RFT for Fiscal Year 1997. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. Public comment will be taken early in the meeting.

**Contact:** Florence E. J. Dickerson, 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 

#### Grants Committee

† **January 11, 1996 - 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 consider recommendations for Requests for Proposals for Fiscal Year 1997. 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 meeting; however, written comments are welcome.

**Contact:** Florence E. J. Dickerson, 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

† **January 10, 1996 - 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 meeting; however, written comments are welcome.

**Contact:** Florence E. J. Dickerson, 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

† **January 11, 1996 - 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 meeting; however, written comments are welcome.

**Contact:** Florence E. J. Dickerson, 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

† **January 11, 1996 - 9:30 a.m.** -- Open Meeting  
Theater Row Building, 730 East Broad Street, Lower Level Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school-age programs, and preschool/nursery schools. A public comment period will begin at noon. Council chair will meet with committee chairs at 9:30 a.m., and full council will begin at 10 a.m. Contingent snow date is January 19, 1996. Please call ahead of time for possible change in meeting time.

**Contact:** Rhonda Harrell, Division of Licensing Programs, Child Day-Care Council, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775.

## STATE BOARD FOR COMMUNITY COLLEGES

**January 10, 1996 - 2:30 p.m.** -- Open Meeting

**March 13, 1996 - 2:30 p.m.** -- Open Meeting

Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

**January 11, 1996 - 8:30 a.m.** -- Open Meeting

**March 14, 1996 - 8:30 a.m.** -- Open Meeting

Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled board meeting.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

## COMMONWEALTH COMPETITION COUNCIL

**January 8, 1996 - 10 a.m.** -- Open Meeting

General Assembly Building, 910 Capitol Square, 3rd Floor West Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the council.

**Contact:** Peggy Robertson, Coordinator, Commonwealth Competition Council, P.O. Box 1475, Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 786-0240 or FAX (804) 786-1594.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Caledon Natural Area Ad Hoc Committee

† **January 18, 1996 - 10 a.m.** -- Open Meeting

Caledon Natural Area Visitor Center, 11617 Caledon Road, King George, Virginia. ☎ (Interpreter for the deaf provided upon request)

The second meeting of the committee to review the ideas generated by the three subcommittees. Please give one weeks notice for interpreter services.

**Contact:** Theresa Duffey, Planning and Training Director, Department of Conservation and Recreation, Division of State Parks, 203 Governor St., Suite 306, Richmond, VA 23219, telephone (804) 786-9025, FAX (804) 786-9294 or (804) 786-2121/TDD ☎

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## Calendar of Events

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† **January 25, 1996 - 7 p.m.** -- Open Meeting  
Revercomb Administration Building, 10459 Courthouse Drive,  
Robert Combs Board Room, King George, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting to gather citizen input on their ideas about the future of Caledon Natural Area. Please give one weeks notice for interpreter services.

**Contact:** Theresa Duffey, Planning and Training Director, Department of Conservation and Recreation, Division of State Parks, 203 Governor St., Suite 306, Richmond, VA 23219, telephone (804) 786-9025, FAX (804) 786-9294 or (804) 786-2121/TDD ♿

### Falls of the James Scenic River Advisory Board

**February 1, 1996 - Noon** -- Open Meeting  
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ♿

### Virginia State Parks Foundation

† **January 10, 1996 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, 203 Governor Street, Richmond, Virginia.

A quarterly business meeting.

**Contact:** Gary Waugh, Public Relations Manager, Department of Conservation and Recreation, 203 Governor St., Suite 213, Richmond, VA 23219, telephone (804) 786-5045, FAX (804) 371-2072 or (804) 786-2121/TDD ♿

### BOARD FOR CONTRACTORS

**January 10, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A regularly scheduled quarterly meeting of the board which will address policy and procedural issues; review and render decisions on applications for contractor licenses/certificates; and review and render case decisions on matured complaints against licensees/certificants. The meeting is open to the public; however, a portion of the board's business may be discussed in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

### BOARD OF CORRECTIONS

**January 17, 1996 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss matters which may be presented to the board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

### Administration Committee

**January 17, 1996 - 8:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss administrative matters which may be presented to the full board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

### Correctional Services Committee

**January 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss correctional services matters which may be presented to the full board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

### BOARD FOR COSMETOLOGY

**January 15, 1996 - 10 a.m.** -- CANCELLED  
**January 22, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ♿

## BOARD OF DENTISTRY

**January 19, 1996 - 9 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)

A full board meeting to conduct regular board business and to review reports from the following committees: legislative/regulatory, continuing education, examination, advertising and budget. This is a public meeting and public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

## Advertising Committee

**January 18, 1996 - 3 p.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)

A meeting to discuss advertising issues. This is a public meeting, however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

## Examination Committee

**January 18, 1996 - 4 p.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)

A meeting to discuss examination issues. This is a public meeting, however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

## Continuing Education Committee

**January 17, 1996 - 4 p.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ☒  
(Interpreter for the deaf provided upon request)

A regular meeting. A 20-minute public comment period will be held beginning at 4 p.m.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

## Endorsement Committee

**January 18, 1996 - 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)

An Endorsement Committee meeting for dental endorsement to discuss the status of endorsement, and for dental hygiene to discuss the guidelines for dental hygiene endorsement. This is a public meeting, however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

**January 18, 1996 - 9 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)

A meeting to conduct formal hearings. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☒

## BOARD OF EDUCATION

**January 18, 1996 - 9 a.m. -- Open Meeting**  
**February 22, 1996 - 9 a.m. -- Open Meeting**  
Monroe Building, 101 North 14th Street, Richmond,  
Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** James E. Laws, Jr., Administrative Assistant to the Superintendent for Board Activities, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

**January 9, 1996 - 5:30 p.m. -- Open Meeting**  
Arlington County Fire Station #1, 500 South Glebe Road,  
Arlington, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the planning committee to conduct general business. For more information contact Captain Michael Kilby.

**Contact:** Captain Michael Kilby, Arlington County Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA 22201, telephone (703) 358-4652, (703) 358-4644 or (703) 358-4610/TDD ☒

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# Calendar of Events

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## LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

**January 24, 1996 - 6:30 p.m.** -- Open Meeting  
Gloucester County Administration Office, Conference Room,  
Gloucester, Virginia. ☎ (Interpreter for the deaf provided upon  
request)

The annual organizational meeting of the committee will  
include election of officers, adoption of rules of  
procedure for the year and initial discussion of the  
annual exercise.

**Contact:** Georgette N. Hurley, Assistant County  
Administrator, Gloucester County, P.O. Box 329, Gloucester,  
VA 23061, telephone (804) 693-4042 or (804) 693-1479/TDD  
☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**January 9, 1996 - 7 p.m.** -- Open Meeting  
The Fire House, New Church, Virginia.

A meeting to allow public comment on the request for a  
permit to construct and operate three 132.5 NW simple  
cycle combustion turbines firing 62,335,990 gallons per  
year of No. 2 oil combined, from Commonwealth  
Chesapeake Corporation (CCC), 1.2 kilometers south of  
the Maryland state line, Accomack County near New  
Church, Virginia.

**Contact:** Jane A. Workman or Sally Gullapalli, Department  
of Environmental Quality, Air Division, Tidewater Regional  
Office, Old Greenbrier Village, 2010 Old Greenbrier Rd.,  
Suite A, Chesapeake, VA 23320-2168, telephone (804) 424-  
6707.

## Work Group on Detection/Quantitation Levels

† **February 14, 1996 - 1:30 p.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
6th Floor Conference Room, Richmond, Virginia. ☎

The department has established a work group on  
detection/quantitation levels for pollutants in the  
regulatory and enforcement programs. The work group  
will advise the Director of Environmental Quality. Other  
meetings of the work group have been scheduled at the  
same time and location for February 14, March 6, March  
27, April 10, May 1, May 22, June 12, July 3, and July  
24; however, these dates are not firm. Persons  
interested in the meetings of this work group should  
confirm the date with the contact person below.

**Contact:** Alan J. Anthony, Chairman, Department of  
Environmental Quality, 629 E. Main St., Richmond, VA  
23219, telephone (804) 698-4114.

## Litter Control and Recycling Fund Advisory Board

† **January 12, 1996 - 1:30 p.m.** -- Open Meeting  
Plantation House Building, 1108 East Main Street, 2nd Floor  
Conference Center, 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.

**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.

## Technical Advisory Committee for Solid Waste Management Regulations

**January 12, 1996 - 10 a.m.** -- Open Meeting  
**February 2, 1996 - 10 a.m.** -- Open Meeting  
**February 23, 1996 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
First Floor Training Room, Richmond, Virginia. ☎ (Interpreter  
for the deaf provided upon request)

A meeting to discuss desirable amendments to the  
current Virginia Solid Waste Management Regulations  
(VR 672-20-10) [ 9 VAC 20-80-10 et seq. ]

**Contact:** Dr. Wladimir Gulevich, Office of Technical  
Assistance, Department of Environmental Quality, P.O. Box  
10009, Richmond, VA 23240-0009, telephone (804) 762-  
4218, FAX (804) 762-4327 or (804) 762-4021/TDD ☎

## BOARD OF FORESTRY

**January 10, 1996 - 1 p.m.** -- Open Meeting  
Department of Forestry, 2229 East Nine Mile Road,  
Sandston, Virginia. ☎ (Interpreter for the deaf provided upon  
request)

A general business meeting. Any person requiring an  
interpreter for the deaf should notify the department at  
least five days prior to the meeting.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist,  
P.O. Box 3758, Charlottesville, VA 22903-0758, telephone  
(804) 977-6555/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**January 10, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 3, Richmond, Virginia. ☎

A general board meeting to discuss board business.  
Public comments will be received at the beginning of the  
meeting for 15 minutes. Formal hearings will follow and  
public comments will be received.

**Contact:** Lisa Russell Hahn, Executive Director, Board of  
Funeral Directors and Embalmers, 6606 W. Broad St., 4th  
Floor, Richmond, VA 23230-1717, telephone (804) 662-9907,  
FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Examination Committee

**January 11, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 1, Richmond, Virginia. ☎

The committee will meet to discuss the next examination.

**Contact:** Lisa Russell Hahn, Executive Director, Board of  
Funeral Directors and Embalmers, 6606 W. Broad St., 4th  
Floor, Richmond, VA 23230-1717, telephone (804) 662-9907,  
FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Legislative Committee

**January 11, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 1, Richmond, Virginia. ☎

The committee will meet to discuss surface  
transportation and removal services.

**Contact:** Lisa Russell Hahn, Executive Director, Board of  
Funeral Directors and Embalmers, 6606 W. Broad St., 4th  
Floor, Richmond, VA 23230-1717, telephone (804) 662-9907,  
FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## BOARD OF GAME AND INLAND FISHERIES

**January 9, 1996 - 10 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad  
Street, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

The board will meet and review a study on management  
of the agency's fish hatcheries and will address issues  
related to fox pens. In addition, general and  
administrative matters may be discussed. The board  
may hold an executive session.

**Contact:** Phil Smith, Policy Analyst Senior, Department of  
Game and Inland Fisheries, 4010 W. Broad St., Richmond,  
VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

## GEORGE MASON UNIVERSITY

### Student Affairs Committee

† **January 23, 1996 - 6:30 p.m.** -- Open Meeting  
† **January 24, 1996 - 9:30 a.m.** -- Open Meeting  
George Mason University, Mason Hall, Room D23, Fairfax,  
Virginia.

A regular committee meeting.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita  
Lewis, Administrative Staff Assistant, Office of the President,  
George Mason University, Fairfax, VA 22030-4444, telephone  
(703) 993-8701 or FAX (703) 993-8707.

## Board of Visitors

† **January 24, 1996 - 3:30 p.m.** -- Open Meeting  
George Mason University, Mason Hall, Room D23, Fairfax,  
Virginia.

A regular meeting of the board to hear reports of the  
standing committees of the board and to act on those  
recommendations presented by the standing  
committees. An agenda will be available seven days  
prior to the board meeting for those individuals and  
organizations who request it.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita  
Lewis, Administrative Staff Assistant, Office of the President,  
George Mason University, Fairfax, VA 22030-4444, telephone  
(703) 993-8701 or FAX (703) 993-8707.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**January 11, 1996 - 10 a.m.** -- Open Meeting  
Madison Building, 109 Governor Street, First Floor  
Conference Room, Richmond, Virginia. ☎ (Interpreter for the  
deaf provided upon request)

A worksession, followed by an informal dinner at the  
Radisson Hotel.

**Contact:** Paul W. Matthias, Staff to the Board of Health,  
Department of Health, 1500 E. Main St., Suite 214,  
Richmond, VA 23219, telephone (804) 786-3564.

**January 12, 1996 - 9 a.m.** -- Open Meeting  
Madison Building, 109 Governor Street, First Floor  
Conference Room, Richmond, Virginia. ☎ (Interpreter for the  
deaf provided upon request)

A regular business meeting.

**Contact:** Paul W. Matthias, Staff to the Board of Health,  
Department of Health, 1500 E. Main St., Suite 214,  
Richmond, VA 23219, telephone (804) 786-3564.

## Sewerage Regulations Advisory Committee

† **January 10, 1996 - 10 a.m.** -- Open Meeting  
Department of Health, Main Street Station, 1500 East Main  
Street, Room 109, Richmond, Virginia. ☎

A meeting to discuss issues concerning a regulatory  
review of the sewerage regulations in accordance with  
Executive Order 15(94).

**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.

## Bureau of STD/AIDS

† **January 18, 1996 - 10 a.m.** -- Public Hearing  
Department of Health, Main Street Station, 1500 East Main  
Street, Room 121, Richmond, Virginia. ☎

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## Calendar of Events

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A public hearing to give input into the comprehensive plan for use of funding available under the Ryan White C.A.R.E. Act, Title II, for grant year 1996-1997.

**Contact:** Anne Elam, R.N., Public Health Nurse Supervisor, Department of Health, Bureau of STD/AIDS, 1500 E. Main St., Room 112, Richmond, VA 23219, telephone (804) 225-4844.

### BOARD OF HEALTH PROFESSIONS

**January 16, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A full board meeting with agenda items to include: (i) reports from committees including levels of regulation, regulatory research, and practitioner self-referral; (ii) consideration of a study on disclosure of information in disciplinary cases; and (iii) new committee assignments for 1996-97. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD

### Ad Hoc Levels of Regulations Committee

**January 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to continue work on issues related to barriers to health care delivery. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD

### Practitioner Self-Referral Committee

**January 16, 1996 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the committee to receive public comment on Practitioner Self-Referral Regulations 18 VAC 75-20-10 et seq. (VR 365-01-2) pursuant to Executive Order 15(94), which requires a comprehensive review of all regulations. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD

### Regulatory Research Committee

**January 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will consider comments in response to its Notice of Intended Regulatory Action on issuing regulations for use of titles of "dietitian" or "nutritionist." It may also receive reports on ongoing studies and consider work plans for new activities. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**January 23, 1996 - 9:30 a.m.** -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia.

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

**January 8, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD

### VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

**January 8, 1996 - 1 p.m.** -- Open Meeting  
Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia.

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Building, 101 N. 14th

St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**January 10, 1996 - 9 a.m.** -- Open Meeting  
Monroe Building, 101 North 14th Street, 9th Floor, Council Conference Room, Richmond, Virginia.

A general business meeting. Contact the council for more information. The council plans to meet with the Virginia Community College Board the same day.

**Contact:** Fran Bradford, Regulatory Coordinator, State Council of Higher Education, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

## VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

**† January 11, 1996 - 8:30 a.m.** -- Open Meeting  
Ramada Inn West, 1500 Eastridge Road, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to continue HIV prevention activities for 1996.

**Contact:** Elaine G. Martin, Coordinator, STD/AIDS Education, Bureau of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**February 6, 1996 - 9 a.m.** -- Open Meeting  
**March 5, 1996 - 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)

**† January 22, 1996 - 3 p.m.** -- Open Meeting  
Department of Housing and Community, The Jackson Center, 501 North Second Street, Richmond, Virginia. ♿

A regular monthly business meeting of the board. Public comment will be received.

**Contact:** Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7015, FAX (804) 371-7092 or (804) 371-7089/TDD ♿

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**† January 23, 1996 - 11 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior monthly; 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 St., Richmond, VA 23220, telephone (804) 782-1986.

## STATEWIDE INDEPENDENT LIVING COUNCIL

**† January 24, 1996 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Library and Resource Center, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business.

**Contact:** Jim Rothrock, Statewide Independent Living Council Staff, 1802 Marroit Rd., Richmond, VA 23229, telephone (804) 673-0119, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ♿

## ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

**January 9, 1996 - 1 p.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

A regular meeting to discuss such matters as may be presented.

**Contact:** Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, Eighth Street Office Bldg., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508 or FAX (804) 371-7999.

## LIBRARY BOARD

**January 8, 1996 - 10:30 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ♿

A meeting to discuss administrative matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

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# Calendar of Events

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## Automation and Networking Committee

**January 8, 1996 - 9:45 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square,  
Conference Room B, Richmond, Virginia ☎

A meeting to discuss automation and networking matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 11th Street at Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2332.

## Executive Committee

**January 8, 1996 - 8:45 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, Office  
of State Librarian, Richmond, Virginia ☎

A meeting to discuss automation and networking matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 11th Street at Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2332.

## Legislative and Finance Committee

**January 8, 1996 - 9 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, Office  
of the Deputy State Librarian, Richmond, Virginia ☎

A meeting to discuss legislative and financial matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 11th Street at Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2332.

## Records Management Committee

**January 8, 1996 - 9:45 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square,  
Records Management Conference Room, Richmond,  
Virginia ☎

A meeting to discuss matters pertaining to records management.

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 11th Street at Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2332.

## Research and Information Services Committee

**January 8, 1996 - 9 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square,  
Conference Room B, Richmond, Virginia ☎

A meeting to discuss research and information services.

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 11th Street at Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2332.

## COMMISSION ON LOCAL GOVERNMENT

**January 8, 1996 - 10:30 a.m.** -- Open Meeting  
Town of Round Hill; site to be determined.

Oral presentations regarding the Town of Round Hill -  
County of Loudoun Agreement Defining Annexation  
Rights. Persons desiring to participate in the meeting  
and requiring special accommodations or interpreter  
services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant,  
Commission on Local Government, 702 8th Street Office  
Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508  
or (804) 786-1860/TDD ☎

**January 8, 1996 - 7 p.m.** -- Public Hearing  
Town of Round Hill; site to be determined.

A public hearing regarding the Town of Round Hill -  
County of Loudoun Agreement Defining Annexation  
Rights. Persons desiring to participate in the meeting  
and requiring special accommodations or interpreter  
services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant,  
Commission on Local Government, 702 8th Street Office  
Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508  
or (804) 786-1860/TDD ☎

**January 9, 1996 - 9 a.m.** -- Open Meeting  
Leesburg area; site to be determined.

A regular meeting of the commission to consider such  
matters as may be presented. Persons desiring to  
participate in the meeting and requiring special  
accommodations or interpreter services should contact  
the commission.

**Contact:** Barbara Bingham, Administrative Assistant,  
Commission on Local Government, 702 8th Street Office  
Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508  
or (804) 786-1860/TDD ☎

## STATE MANAGEMENT TEAM FOR COMPREHENSIVE SERVICES FOR AT RISK YOUTH AND THEIR FAMILIES

† **February 1, 1996 - 10 a.m.** -- Open Meeting  
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia ☎

A monthly meeting to develop and recommend to the  
State Executive Council policies and procedures for  
implementing the Comprehensive Services Act. Public  
comment will be received at 1 p.m. Please inform the  
secretary if you wish to be added to the agenda.

**Contact:** Pamela Fitzgerald Cooper or Gloria Jarrell,  
Secretary, State Management Team, P.O. Box 1797,  
Richmond, VA 23218, telephone (804) 371-2177 or FAX  
(804) 371-0091.

## VIRGINIA MANUFACTURED HOUSING BOARD

† **January 24, 1996 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board.

**Contact:** Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD

## MARINE RESOURCES COMMISSION

† **January 23, 1996 - 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)

A meeting to hear and decide marine environmental matters; 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, and shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** 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

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**February 23, 1996** -- 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 Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-160, Narrative for the Amount, Duration, and Scope of Services and Standards Established and 12 VAC 30-60-10 through 12 VAC 30-60-160, Methods Used to Assure High Quality of Care (1995 Expansion of Durable Medical Equipment).** The purpose of this proposal is to eliminate the requirement that recipients meet home bound criteria in order to receive durable medical equipment by expanding the coverage of medically necessary durable

medical equipment and supplies to the entire Medicaid population.

Statutory Authority: § 32.1-325 of the Code of Virginia and § 396 E 5 of the 1995 Appropriations Act.

Public comments may be submitted until February 23, 1996, to C. Mack Brankley, Director, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

## BOARD OF MEDICINE

† **February 8, 1996 - 8 a.m.** -- Open Meeting  
† **February 9, 1996 - 8 a.m.** -- Open Meeting  
† **February 10, 1996 - 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 full board meeting will be held on February 8, 1996, 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 February 8, 9, and 10, 1996, to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

**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

## Credentials Committee

† **February 10, 1996 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia.

The Credentials Committee will meet in open and closed session to conduct general business, interview applicants 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

## Informal Conference Committee

**January 10, 1996 - 10 a.m.** -- Open Meeting  
Sheraton Inn - Roanoke Airport, 2727 Ferndale Drive, Roanoke, Virginia.

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# Calendar of Events

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† **January 19, 1996 - 9:30 a.m.** -- Open Meeting  
Fort Magruder Inn and Conference Center, Route 60,  
Williamsburg, Virginia.

**January 23, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Transportation, 86 Deacon Road, Falmouth,  
Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Legislative Committee

† **January 26, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

The committee will meet to review Memorandum of Understanding with the Medical Society of Virginia, guidelines for physician/patient relationship, mandatory continuing education, telemedicine, amendments to regulations for the use of anorectic agents, and any such other information that shall come before the committee. There will be a public comment period during the first 15 minutes on agenda items.

**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 ☎

## Advisory Board on Occupational Therapy

**January 11, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of VR 465-08-1 (18 VAC 85-80-10 et seq.), Regulations for Certification of Occupational Therapists, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

**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 ☎

## Advisory Board on Physical Therapy

**January 12, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of VR 465-03-1 (18 VAC 85-30-10 et seq.) Regulations Governing the Practice of Physical Therapy, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

**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 ☎

## Advisory Board on Physicians Assistants

**January 12, 1996 - Noon** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of VR 465-05-1 (18 VAC 85-50-10 et seq.) Regulations Governing the Practice of Physicians Assistants, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

**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 ☎

## Advisory Board on Respiratory Therapy

**January 11, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of VR 465-04-1 (18 VAC 85-40-10 et seq.), Regulations Governing the Practice of Respiratory Therapy Practitioners, and such other issues which may be presented. There will be a public comment period during the first 15 minutes on agenda items.

**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 ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### State Human Rights Committee

**January 26, 1996 - 9 a.m.** -- Open Meeting  
Central State Hospital, Petersburg, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Theresa P. Evans, Acting State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**January 17, 1996 - 10 a.m.** -- Open Meeting  
Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board to discuss business and promulgate policy and regulations. The agenda will include a public comment period at the beginning of the meeting and the agenda will be available one week in advance of the meeting.

**Contact:** Jane V. Helfrich, Board Administrator Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-7945 or toll-free 1-800-451-5544.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Division of Mined Land Reclamation

**February 14, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the permit streamlining/standardization work group to advise the agency on development of standardized, streamlined permit applications. This work group meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

**Contact:** Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8178, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

## MOTOR VEHICLE DEALER BOARD

† **January 16, 1996 - 10 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, 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 Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

### Advertising Committee

† **January 16, 1996 - 8 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general committee business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

### Dealer Practices Committee

† **January 15, 1996 - 3 p.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general committee business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the

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## Calendar of Events

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Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

### Franchise Law Committee

† **January 15, 1996 - 7 p.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general committee business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

### Licensing Committee

† **January 15, 1996 - 10 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general committee business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

### Transaction Recovery Fund Committee

† **January 15, 1996 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general committee business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. 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:** Mary Beth Blevins, Administrative Assistant, Department of Motor Vehicles, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## DEPARTMENT OF MOTOR VEHICLES

### Medical Advisory Board

† **January 24, 1996 - 1 p.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia.

A regular business meeting.

**Contact:** Millicent N. Ford, Program Manager, Medical Advisory Board, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2052.

## VIRGINIA MUSEUM OF FINE ARTS

### Finance Committee

† **January 18, 1996 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia.

A budget review and report on enterprise operations. 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, telephone (804) 367-0553.

### Board of Trustees

† **January 18, 1996 - Noon** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia.

A regularly scheduled meeting to consider budgets. Committee and staff reports will be presented. 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, telephone (804) 367-0553.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Board of Trustees

† **January 25, 1996 - 9 a.m.** -- Open Meeting  
Lemaire, The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☎

The development committee will discuss fundraising issues.

**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 ☎

† **January 25, 1996 - 9 a.m.** -- Open Meeting  
Flemish Room, The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☎

A meeting to include reports from the development, executive, finance, legislative, marketing, outreach, personnel, planning and facilities, research and collections, nominating, and director search committees. Public comment will be received following approval of the minutes of the October 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 HOME ADMINISTRATORS

† **February 28, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comment will be received at the beginning of the meeting for 15 minutes.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### BOARD OF PHARMACY

**January 10, 1996 - 9 a.m.** -- Open Meeting  
**January 25, 1996 - 8:30 a.m.** -- CANCELLED  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting to conduct informal conferences. Public comments will not be received.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

**January 11, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct a formal hearing before a panel of the board and informal conferences. Public comments will not be received.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

### BOARD OF PSYCHOLOGY

† **January 30, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at 9:15 a.m.

**Contact:** La Donna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **January 11, 1996 - 10 a.m.** -- Open Meeting  
Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, 1st Floor East, Richmond, Virginia.

A quarterly meeting. Agenda will include the 1996-98 budget bill, a legislative update, 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 BOARD

**January 17, 1996 - 1 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A public hearing on the real estate time share regulations pursuant to Executive Order 15(94).

**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 ☎

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## Calendar of Events

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**January 17, 1996 - 2 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A public hearing on the fair housing regulations pursuant  
to Executive Order 15(94).

**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 ☎

**January 17, 1996 - 2 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A public hearing on the real estate regulations pursuant  
to Executive Order 15(94).

**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 ☎

### VIRGINIA RESOURCES AUTHORITY

**January 9, 1996 - 9:30 a.m.** -- Open Meeting

**February 13, 1996 - 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

**January 25, 1996 - 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.

### DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**January 17, 1996 - 1 p.m.** -- Public Hearing  
Roanoke City Clerk's Office, Municipal Building, 215 Church  
Street, S.W., Room 456, Roanoke, Virginia.

**January 22, 1996 - 1 p.m.** -- Public Hearing  
Williamsburg Regional Library, 515 Scotland Street,  
Williamsburg, Virginia.

**January 31, 1996 - 1 p.m.** -- Public Hearing  
Stafford County Government Center, 1300 Courthouse Road,  
Board of Supervisors Chambers, Stafford, Virginia.

**February 24, 1996** -- 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 State Board of Social  
Services intends to consider adopting regulations  
entitled: **VR 615-01-57 [22 VAC 40-35-10 et seq.] The  
Virginia Independence Program.** The proposed  
regulation revises the Aid to Families with Dependent  
Children (AFDC) Program. It amends existing eligibility  
criteria related to (i) school attendance; (ii) receipt of  
assistance by minor parents; and (iii) cooperation in  
establishing and collecting support. The regulation adds  
(i) a rule placing a cap on additional benefits for children  
born to an AFDC family, and (ii) a work component, the  
Virginia Initiative for Employment Not Welfare (VIEW), in  
which able-bodied recipients must participate. The  
proposed regulation also includes a diversionary  
assistance component which offers otherwise eligible  
families the option to receive a single payment of up to  
four months assistance to meet an emergency, thereby  
avoiding the need for ongoing monthly AFDC benefits.

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

Public comments may be submitted until February 24, 1996,  
to Constance O. Hall, Program Manager, Department of  
Social Services, 730 East Broad Street, Richmond, Virginia  
23219-1849.

**Contact:** Carolyn Ellis, Program Consultant, Department of  
Social Services, 730 E. Broad St., Richmond, VA 23219-  
1849, telephone (804) 692-1730.

### BOARD OF SOCIAL WORK

**January 12, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Room 3, Richmond, Virginia. ☎

An ad hoc committee meeting on regulatory review for  
analysis of current regulations governing social work.  
Public comment will be received at 10:15 a.m.

**Contact:** Janet Delorme, Deputy Director, Board of Social  
Work, 6606 W. Broad St., Richmond, VA 23230-1717,  
telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-  
7197/TDD ☎

**January 25, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Richmond, Virginia. ☎

A formal administrative hearing pursuant to § 9-6.14:12 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9967 or (804) 662-7197/TDD ☎

† **January 26, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿

A regular meeting to consider committee reports, training curriculum, adopt the regulatory review report as presented to the Secretary of Health and Human Resources, and adopt a fee proposal. Public comment will be received at 9:15 a.m.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9967 or (804) 662-7197/TDD ☎

## STATEWIDE HUMAN SERVICES INFORMATION AND REFERRAL ADVISORY COUNCIL

**January 31, 1996 - 10 a.m.** -- Open Meeting  
United Way Services, 224 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to receive public comment concerning the policies, directions and recommendations for services provided by the Statewide Human Services Information and Referral System. The council advises the Department of Social Services in the administration of free and confidential information provided to citizens of the Commonwealth. The department contracts with five regional centers to provide the free and confidential information on the vast range of private and public agencies and programs that provide services to Virginians throughout the Commonwealth.

**Contact:** Zandra Thompson, Human Services Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-2202, FAX (804) 692-2209 or toll-free 1-800-552-7096/TDD ☎

## DEPARTMENT OF TAXATION

**March 22, 1996 - 10 a.m.** -- Public Hearing  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.

**March 31, 1996** -- 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 Taxation intends to adopt regulations entitled: **VR 630-3-439 [23 VAC 10-120-291 through 23 VAC 10-120-299]. Major Business Facility Job Tax Credit.** The regulation provides guidance for qualification, computation and recapture of the major business facility job tax credit.

Statutory Authority: § 58.1-439 of the Code of Virginia.

**Contact:** David M. Vistica, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167 or FAX (804) 367-6020.

## COMMONWEALTH TRANSPORTATION BOARD

**January 17, 1996 - 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.

**January 18, 1996 - 10 a.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street, 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 Department of Transportation 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.

## BOARD FOR THE VISUALLY HANDICAPPED

**January 17, 1996 - 1 p.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board is 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.,

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## Calendar of Events

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Richmond, VA 23227, telephone (804) 371-3140/TDD or toll-free 1-800-622-2155.

### DEPARTMENT FOR THE VISUALLY HANDICAPPED

#### Advisory Committee on Services

**February 3, 1996 - 11 a.m.--** Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped 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 or toll-free 1-800-622-2155.

### VIRGINIA VOLUNTARY FORMULARY BOARD

**February 1, 1996 - 10 a.m. --** Public Hearing  
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 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, Monroe Building, 101 North 14th Street, Richmond, Virginia. Written comments sent to the above address and received prior to 5 p.m. on February 1, 1996, will be made a part of the hearing record.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

**March 14, 1996 - 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 pertaining to the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

### VIRGINIA WAR MEMORIAL FOUNDATION

#### Board of Trustees

**January 9, 1996 - Noon --** Open Meeting  
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting to vote on proposed changes to bylaws.

**Contact:** Jon C. Hatfield, Assistant Director, Department of General Services, Division of Engineering and Buildings, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-3263.

### STATE WATER CONTROL BOARD

**January 8, 1996 - 7 p.m. --** Open Meeting  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

**January 10, 1996 - 7 p.m. --** Open Meeting  
Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

A meeting to receive comments from the public on the Notices of Intended Regulatory Action on the regulations governing aboveground storage tanks and tank vessels.

**Contact:** David Ormes, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

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**January 18, 1996 - 7 p.m. --** Public Hearing  
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

**January 29, 1996 --** 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 State Water Control Board intends to adopt regulations entitled: **VR 680-14-10 [ 9 VAC 25-115-10 et seq. ] General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.** The purpose of the proposed regulation is to establish limits for the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities.

Question and answer period: A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

Accessibility to persons with disabilities: The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the address below. Persons needing interpreter services for the deaf should notify Mr.

Gregory no later than Monday, January 8, 1996, TDD (804) 762-4021.

Request for comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Also, comments regarding the benefits of the stated alternative or any other alternatives are welcome. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received by January 29, 1996, will be considered by the board.

Other information: The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Gregory at the address below.

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

**Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4065 or (804) 762-4021/TDD.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**February 6, 1996 - 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)

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 interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board 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

## INDEPENDENT

### LOTTERY BOARD

† **January 24, 1996 - 9:30 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, 8th Floor  
Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

**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.

## LEGISLATIVE

### JOINT LEGISLATIVE AND AUDIT REVIEW COMMISSION

**January 9, 1996 - 2 p.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, 10th Floor  
Conference Room, Richmond, Virginia.

A staff briefing on minority-owned business participation in state contracts.

**Contact:** Phillip A. Leone, Director, Joint Legislative and Audit Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### January 8

Alcoholic Beverage Control Board  
Competition Council, Commonwealth  
Hearing Aid Specialists, Board for  
Higher Education Tuition Trust Fund, Virginia  
Library Board  
- Automation and Networking Committee  
- Executive Committee  
- Legislative and Finance Committee  
- Library Board  
- Records Management Committee  
- Research and Information Services Committee  
Local Government, Commission on  
Water Control Board, State

#### January 9

Emergency Planning Committee - Local, Arlington  
County/City of Falls Church/Washington National Airport  
Environmental Quality, Department of  
Game and Inland Fisheries, Board of  
Intergovernmental Relations, Advisory Commission on  
Joint Legislative Audit and Review Commission  
Local Government, Commission on  
Resources Authority, Virginia  
War Memorial Foundation, Virginia  
- Board of Trustees

#### January 10

Agriculture and Consumer Services, Department of  
- Board of Agriculture and Consumer Services  
- Virginia Winegrowers Advisory Board  
† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee

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# Calendar of Events

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Community Colleges, State Board of  
† Conservation and Recreation, Department of  
- Virginia State Parks Foundation  
Contractors, Board for  
Forestry, Board of  
Funeral Directors and Embalmers, Board of  
† Health, Department of  
- Sewerage Regulations Advisory Committee  
Higher Education for Virginia, State Council of  
Medicine, Board of  
Pharmacy, Board of  
Water Control Board, State

## January 11

Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
† Chesapeake Bay Local Assistance Board  
- Grants Committee  
- Southern Area Review Committee  
† Child Day-Care Council  
Community Colleges, State Board for  
Funeral Directors and Embalmers, Board of  
Health, State Board of  
† HIV Prevention Community Planning Committee,  
Virginia  
Medicine, Board of  
- Advisory Board on Occupational Therapy  
- Advisory Board on Respiratory Therapy  
Pharmacy, Board of  
† Public Telecommunications Board, Virginia

## January 12

† Auctioneers Board  
Environmental Quality, Department of  
- Litter Control and Recycling Fund Advisory Board  
- Technical Advisory Committee for Solid Waste  
Management Regulations  
Health, State Board of  
Medicine, Board of  
- Advisory Board on Physical Therapy  
- Advisory Committee on Physician's Assistants  
Social Work, Board of

## January 15

Cosmetology, Board for  
† Motor Vehicle Dealer Board  
- Dealer Practices Committee  
- Franchise Law Committee  
- Licensing Committee  
- Transaction Recovery Fund Committee

## January 16

† Chesapeake Bay Local Assistance Board  
Corrections, Board of  
- Correctional Services Committee  
Health Professions, Board of  
- Ad Hoc Levels of Regulations Committee  
- Practitioner Self-Referral Committee  
- Regulatory Research Committee  
† Motor Vehicle Dealer Board  
- Advertising Committee

## January 17

Corrections, Board of  
- Administration Committee  
Dentistry, Board of  
Mental Health, Mental Retardation and Substance Abuse  
Services Board, State  
Transportation Board, Commonwealth  
Visually Handicapped, Board for the

## January 18

† Agriculture and Consumer Services, Department of  
- Virginia Pork Industry Board  
† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
- Board for Land Surveyors  
† Conservation and Recreation, Department of  
- Caledon Natural Area Ad Hoc Committee  
Dentistry, Board of  
- Endorsement Committee  
Education, Board of  
† Museum of Fine Arts, Virginia  
- Finance Committee  
- Board of Trustees  
Transportation Board, Commonwealth

## January 19

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
- Board for Land Surveyors  
Dentistry, Board of  
- Endorsement Committee  
† Medicine, Board of

## January 22

Accountancy, Board for  
Alcoholic Beverage Control Board  
† Housing and Community Development, Board of

## January 23

Accountancy, Board for  
Health Services Cost Review Council, Virginia  
† Housing Development Authority, Virginia  
† Marine Resources Commission, Virginia  
Medicine, Board of

## January 24

† Agriculture and Consumer Services, Department of  
- Virginia Irish Potato Board  
Emergency Planning Committee - Local, Gloucester  
County  
† George Mason University  
- Board of Visitors  
† Independent Living Council, Statewide  
† Lottery Board, State  
† Manufactured Housing Board  
† Motor Vehicles, Department of  
- Medical Advisory Board

## January 25

† Agriculture and Consumer Services, Department of  
- Virginia Farmers' Market Board  
† Conservation and Recreation, Department of

# Calendar of Events

- Caledon Natural Area Ad Hoc Committee
- † Museum of Natural History, Virginia
  - Board of Trustees
- Richmond Hospital Authority
  - Board of Commissioners
- Social Work, Board of
- January 26**
  - † Medicine, Board of
    - Legislative Committee
  - Mental Health, Mental Retardation and Substance Abuse Services, Department of
    - State Human Rights Committee
  - † Social Work, Board of
- January 30**
  - † Psychology, Board of
- January 31**
  - Statewide Human Services Information and Referral Advisory Council
- February 1**
  - Conservation and Recreation, Department of
    - Falls of the James Scenic River Advisory Board
  - † Management Team for Comprehensive Services for At Risk Youth and Their Families, State
- February 2**
  - Environmental Quality, Department of
    - Technical Advisory Committee for Solid Waste Management Regulations
- February 3**
  - Visually Handicapped, Department for the
    - Advisory Committee on Services
- February 5**
  - Alcoholic Beverage Control Board
- February 6**
  - Hopewell Industrial Safety Council
  - Waterworks and Wastewater Works Operators, Board for
- February 8**
  - † Medicine, Board of
- February 9**
  - † Agriculture and Consumer Services, Department of
    - Virginia Plant Pollination Advisory Board
  - † Medicine, Board of
- February 10**
  - † Medicine, Board of
    - Credentials Committee
- February 13**
  - Resources Authority, Virginia
- February 14**
  - † Agriculture and Consumer Services, Department of
    - Virginia Corn Board
  - † Audiology and Speech-Language Pathology, Board of
  - † Environmental Quality, Department of
    - Work Group on Detection/Quantitation Levels
  - Mines, Minerals and Energy, Department of

- Division of Mined Land Reclamation
- February 15**
  - † Audiology and Speech-Language Pathology, Board of
- February 21**
  - Alcoholic Beverage Control Board
- February 22**
  - Education, Board of
- February 23**
  - Environmental Quality, Department of
    - Technical Advisory Committee for Solid Waste Management Regulations
- February 28**
  - † Nursing Home Administrators, Board of
- March 5**
  - Hopewell Industrial Safety Council
- March 13**
  - Community Colleges, State Board for
- March 14**
  - Community Colleges, State Board for Voluntary Formulary Board, Virginia

## PUBLIC HEARINGS

- January 8, 1996**
  - Local Government, Commission on
- January 17**
  - Real Estate Board
- January 18**
  - † Health, Department of
    - Bureau of STD/AIDS
  - Water Control Board, State
- February 1**
  - Voluntary Formulary Board, Virginia
- March 22**
  - Taxation, Department of

