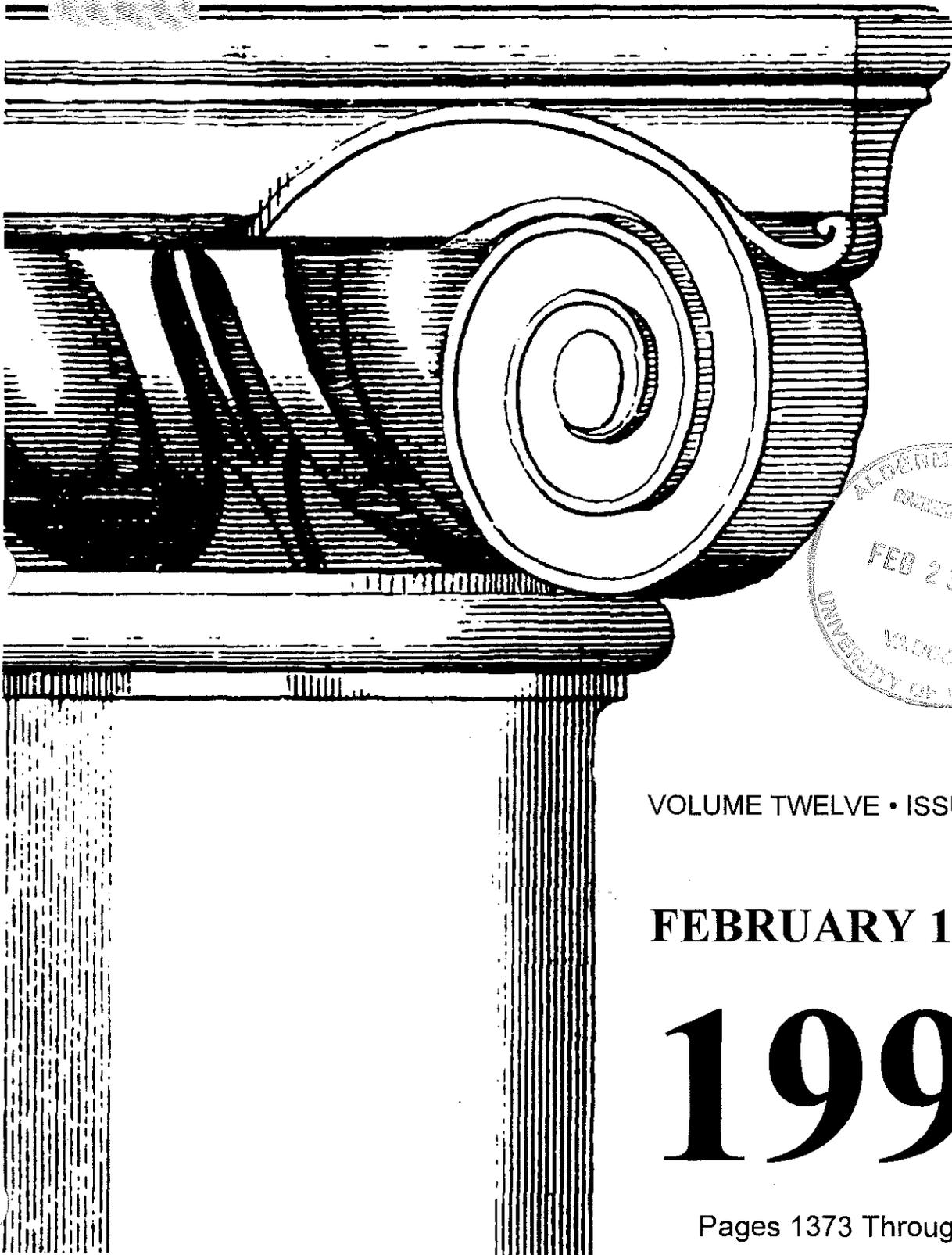


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THE VIRGINIA REGISTER

OF REGULATIONS

VA
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VOLUME TWELVE • ISSUE ELEVEN

FEBRUARY 19, 1996

1996

Pages 1373 Through 1536

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 new and-amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in *The Virginia Register of Regulations*. In addition, the *Virginia Register* is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

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 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for 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 provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not 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. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

DEPARTMENT OF EDUCATION (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 Board of Education intends to consider promulgating regulations entitled: **8 VAC 20-610-10 et seq. Regulations Governing Alternative Education Pilot Projects.** The purpose of the proposed regulation is to satisfy the need to provide direction for the establishment and operation of certain alternative education programs in accordance with the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-253.13:1 and 22.1-279.3 of the Code of Virginia.

Public comments may be submitted until March 22, 1996, to Diane L. Jay, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120.

Contact: James E. Laws, Jr., Administrative Assistant to the Superintendent for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or FAX (804) 225-2524.

VA.R. Doc. No. R96-202; Filed January 30, 1996, 1:50 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-120-360 et seq., Part VI, MEDALLION II, and amending regulations entitled 12 VAC 30-10-60 et seq., Coverage and Eligibility; and 12 VAC 30-10-530, Utilization and Control.** The purpose of the proposed action is to promulgate permanent regulations to replace the emergency regulations implementing the MEDALLION II mandatory HMO enrollment program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 20, 1996, to Susan Prince, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance

Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-204; Filed January 30, 1996, 4:10 p.m.

VIRGINIA WASTE MANAGEMENT BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation.** The purpose of this proposal is to promulgate voluntary remediation regulations to remain consistent with Chapters 609 and 622 of the 1995 Acts of Assembly, which established a voluntary remediation program in Virginia. The adopted legislation added §§ 10.1-1429.1 through 10.1-1429.3 to the Code of Virginia.

Basis and Statutory Authority: The basis for this proposed regulatory action is § 10.1-1429.1 of the Code of Virginia. Specifically, § 10.1-1429.1 A requires the Virginia Waste Management Board (Board) to promulgate regulations to allow persons who own, operate, have a security interest in or enter into a contract for the purchase of contaminated property to voluntarily remediate releases of hazardous substances, hazardous waste, solid waste or petroleum.

Need: The promulgation of these regulations is required § 10.1-2439.1 A of the Code of Virginia.

Subject Matter and Intent: The board proposes to create Voluntary Remediation Regulations. The regulations will establish standards and procedures for persons conducting voluntary remediation at sites where remediation has not been clearly mandated by the Environmental Protection Agency, the department, or a court pursuant to the Comprehensive Environmental Response and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where the jurisdiction of those statutes has been waived. The regulations shall provide for:

1. The establishment of methodologies to determine site specific risk-based remediation standards.
2. The establishment of procedures that minimize delay and expense of the remediation, to be followed by a person volunteering to remediate a release and by the department in the processing of submissions and overseeing remediation.
3. The issuance of certifications of satisfactory completion of remediation, based on then-present conditions and available information, where voluntary cleanup achieves applicable cleanup standards or where

Notices of Intended Regulatory Action

the department determines that no further action is required.

4. Procedures to waive or expedite issuance of any permits required to initiate and complete a voluntary cleanup consistent with applicable federal law.

5. Registration fees to be collected from persons conducting voluntary remediation to defray the actual reasonable costs of the voluntary remediation program expended at the site not to exceed the lesser of \$5,000 or one percent of the cost of the remediation.

Estimated Impacts: The intent of the proposed regulations is to provide a program that allows persons to voluntarily clean up property and to obtain a certification from DEQ that no further action is required once the property has attained applicable cleanup standards. These applicable standards would be developed through the regulations based on concern about human health and the environment and the available technology for cleanup. The department will solicit comments from the public regarding the economic impact of the regulations.

Alternatives: The board is required to promulgate Voluntary Remediation Regulations pursuant to § 10.1-1429.1 of the Code of Virginia. The regulations can be developed using presumptive standards, performance standards, risk based standards, and/or other alternative approaches. Comments made during the NOIRA process will be considered during the drafting of the regulations.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action. Written comments should be submitted to Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-1009, (804) 762-4218, TDD (804) 762-4021, Fax (804) 762-4224.

Intent to Hold a Public Hearing: The board intends to hold at least one public hearing on this proposed action after it is published in the Virginia Register of Regulations.

Statutory Authority: § 10.1-1429 of the Code of Virginia.

Public comments may be submitted until April 20, 1996.

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) 762-4224, or (804) 762-4021/TDD ☎

VA.R. Doc. No. R96-208; Filed January 31, 1996, 11:47 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25 260-10 et seq. (amending 9 VAC 25-260-310). Water Quality Standards.** The purpose of the proposed action is to amend 9 VAC 25-260-310 to establish a site-specific water quality

standard for ammonia for Sandy Bottom Branch in Accomack County.

Need: Tyson Foods in Accomack County has petitioned the board to amend the water quality standards. This amendment would establish a site-specific standard for ammonia that would apply to the small stream, Sandy Bottom Branch, into which Tyson discharges. The site-specific standard to be proposed would be based on a study funded by Tyson and would be less stringent than the current statewide water quality standard. A site-specific standard would allow Tyson to treat the discharge to a lesser degree than currently required. The adoption of a site-specific standard based on the study designed to protect the less sensitive aquatic community at this site would allow for the protection of the environment in a less burdensome and more cost effective manner.

Subject Matter and Intent: The board intends to propose a site-specific standard for ammonia which will be based on the study by Tyson Foods. This study demonstrated that the aquatic life indigenous to Sandy Bottom Branch in Accomack County is more tolerant of ammonia than the most sensitive species protected by the Virginia water quality standard. Based on this study, the Department of Environmental Quality staff believe that a site-specific water quality standard for ammonia could be less restrictive than the Virginia ammonia standard, while protecting the aquatic community in Sandy Bottom Branch. The intent of the proposed regulation is to provide adequate protection to the aquatic life at the site, while requiring no more wastewater treatment than is necessary. This would ensure environmental protection at a reasonable cost.

Estimated Impacts: Tyson Foods is the only regulated industry that would be affected by a site-specific standard for this stream. The company may experience a cost savings due to reduced treatment requirements. The chronic standard that the department intends to propose increases the standard by approximately 29% in the summer and 267% in the winter. This site-specific standard would allow higher permit limits. However, at the present time, insufficient information is available to estimate what cost savings could be realized by any reduction in the treatment requirements.

Alternatives: One alternative considered was not to propose a site-specific standard for this site and use the existing Virginia water quality standard for ammonia to establish permit limits for this discharger. However, enough information is available to indicate that the resident aquatic life does not need this level of protection and any site-specific standard that will be proposed by the department will be designed to provide adequate protection for the aquatic community in this stream.

Another alternative considered was to propose a single site-specific chronic standard, applicable equally to both winter and summer rather than separate chronic standards applicable to cold and warm water temperatures. Use of a single, year-round chronic standard for this site is not being proposed because the available data support the view that for the resident species, chronic toxicity of ammonia is more pronounced at warmer temperatures than it is under colder conditions. Therefore, a lower criterion is necessary during warm temperatures to protect against adverse effects such

Notices of Intended Regulatory Action

as reduced reproduction, while higher concentrations of ammonia can be allowed in the winter and still protect against chronic effects.

Comments: The board requests written comments from interested persons on the department's intent to propose a site-specific standard amendment as described above. Comments are requested on the costs and benefits of the intended proposal as well as the stated alternatives or other alternatives. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until 4 p.m. on March 8, 1996.

Contact: Alex Barron, Office of Environmental Research and Standards, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4119.

VA.R. Doc. No. R96-187; Filed January 17, 1996, 11:59 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

VIRGINIA WORKERS' COMPENSATION COMMISSION

March 29, 1996 -- Public comments may be submitted until this date.

Notice is hereby given that the Virginia Workers' Compensation Commission intends to adopt regulations entitled: **16 VAC 30-90-10 et seq. Procedural Regulations for Filing First Reports under the Virginia Workers' Compensation Act.** The purpose of the proposed regulations is to establish standard procedures for the filing of first reports.

Statutory Authority: § 65.2-900 of the Code of Virginia.

Public comments may be submitted until March 29, 1996, to David W. Haines, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220.

Contact: Aljuana C. Brown, Administrative Assistant, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-2067.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

REGISTRAR'S NOTICE: The Department of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4 VAC 15-20-10 et seq. **Definitions and Miscellaneous:** In General (amending 4 VAC 15-20-200).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Summary:

The proposed amendments (i) set forth in regulation the amount to be charged for the operation of a foxhound training preserve in Virginia, and (ii) delete reference to fees to be charged for a wolf-hybrid permit.

4 VAC 15-20-200. Fees for miscellaneous permits.

A. Pursuant to §§ 29.1-417, 29.1-418, 29.1-422, 29.1-743 and other applicable provisions of the Code of Virginia, except as provided by this chapter the following fees shall be paid by applicants for the specified permits before any such permit may be issued.

Boat Ramp Special Use	
Nonprofit Public Use	\$10
Private/Commercial Use	\$50
Boat Regattas/Tournaments	\$50/day
Collect and Sell	\$50
Commercial Nuisance Animals	\$25
Deer Farming	\$350
Exhibitors	
Commercial Use	\$50
Educational/Scientific Use	\$20
Exotic Importation and Holding	\$10
Field Trial	\$25
Foxhound Training Preserves	\$50
Hold for Commercial Use	\$10
Propagation	
Commercial Use	\$50
Private Use	\$20
Licensed Shooting Preserves	\$20

Rehabilitation	\$10
Scientific Collection	\$20
Special Hunting Permit	\$10
Striped Bass Tournament	\$10
Threatened & Endangered Species	\$20
Trout Catch-Out Pond	\$50
Wolf Hybrid—Individual	
Nonneutered	\$20/animal
Neutered	\$10/animal
Wolf Hybrid—Kennel	\$100

B. Veterinarians shall not be required to pay a permit fee or to obtain a permit to hold wildlife temporarily for medical treatment.

VA.R. Doc. No. R96-207; Filed January 31, 1996, 11:03 a.m.

Title of Regulation: 4 VAC 15-110-10 et seq. **Game:** Fox (adding 4 VAC 15-110-75).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Summary:

*The proposed amendment establishes a season that allows the live trapping and transportation of red (*Vulpes vulpes*) and gray (*Urocyon cinereoargenteus*) fox on private land for the purpose of stocking foxhound training preserves as authorized by the board.*

4 VAC 15-110-75. Foxhound training preserves; live-trapping for release.

*It shall be lawful for any foxhound training preserve permittee or those licensed trappers designated in writing by the permittee to live-trap and transport red (*Vulpes vulpes*) and gray (*Urocyon cinereoargenteus*) fox from September 1 through March 31, both dates inclusive, only for the purpose of stocking foxhound training preserves covered by permits authorized by the board and issued by the department. For the purpose of this section, foxes may be live-trapped on private land with landowner permission or on public lands designated by the department. Foxes may be live-trapped only within a 50-mile radius of the foxhound training preserve in which they will be released unless a specific exception is granted by the department for good cause.*

VA.R. Doc. No. R96-206; Filed January 31, 1996, 11:03 a.m.

Proposed Regulations

VIRGINIA WORKERS' COMPENSATION COMMISSION

REGISTRAR'S NOTICE: The Virginia Workers' Compensation Commission is claiming an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 16 VAC 30-90-10 et seq. **Procedural Regulations for Filing First Reports under the Virginia Workers' Compensation Act.**

Statutory Authority: § 65.2-900 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until March 29, 1996.

(See Calendar of Events section for additional information)

Summary:

The Virginia Workers' Compensation Commission is proposing these regulations in order to establish standard procedures for the filing of first reports by insurance carriers, self-insured employers, and their authorized representatives.

16 VAC 30-90-10 et seq. **Procedural Regulations for Filing First Reports under the Virginia Workers' Compensation Act.**

CHAPTER 90.

PROCEDURAL REGULATIONS FOR FILING FIRST REPORTS UNDER THE VIRGINIA WORKERS' COMPENSATION ACT.

16 VAC 30-90-10. Authority for regulations.

Section 65.2-900 of the Virginia Workers' Compensation Act vests authority in the Virginia Workers' Compensation Commission for the development of regulations for the correct filing of first reports.

16 VAC 30-90-20. Definitions.

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

"Commission" or "VWC" means the Virginia Workers' Compensation Commission.

"First report" means a complete injury report provided to the commission when the injury meets any of the following seven criteria:

1. Lost time or partial disability exceeding seven days.
2. Medical expenses exceeding \$1,000.
3. Any denial of compensability.
4. Any disputed issues.
5. An accident that results in death.
6. Any permanent disability or disfigurement.

7. Any specific request made by the commission.

"Insurer" means a company licensed to write workers' compensation coverage in Virginia.

"Minor injury" means an injury that meets none of the seven criteria for filing a first report.

"Self-insurer" means an entity providing workers' compensation coverage directly to its employees based on formal approval by either the Virginia Workers' Compensation Commission or the State Corporation Commission.

"USPS" means the United States Postal Service.

16 VAC 30-90-30. Procedures for filing written reports.

A. Written first reports must be submitted on the commission's form No. 3 within 10 days of the injury.

B. If an injury first reported as minor subsequently meets one of the seven criteria for filing a first report, that report must be filed immediately.

C. The commission will issue notification letters to all parties based on the information provided in the first reports.

D. The filing of first reports is a separate procedure from the reporting of minor injuries and medical costs. Injuries not meeting the criteria for filing of a first report must be provided separately according to the existing guidelines for reporting of minor injuries and medical costs.

E. It is essential that all data requested be provided. The only exceptions are that:

1. A VWC file number will usually not be available.
2. Certain other information that applies only to specific kinds of injuries or situations may not be applicable in all cases (e.g., return to work dates).
3. Certain supporting information may not be necessary if adequate summary information is provided (e.g., miscellaneous information on hours worked may not be needed if there is a certified average weekly wage).

16 VAC 30-90-40. Overview of electronic filing.

A. Electronic first reports must be filed weekly and according to the specified record format. Test transmissions and formal approval by the commission are required before moving into production.

B. If an injury first reported as minor subsequently meets one of the seven criteria for filing a first report, that report must be filed immediately.

C. Transmission of the data may be on a 3½-inch diskette or through deposit in the commission's electronic mail box.

D. The commission will issue notification letters to all parties based on the information provided on the first reports. An electronic "error report" will also be provided to the submitting insurer or self-insurer on request.

E. The electronic reporting of first reports is a separate procedure from the electronic reporting of minor injuries and medical costs. Injuries not meeting the criteria for filing of a first report must be reported separately according to the

Proposed Regulations

existing guidelines for electronic reporting of minor injuries and medical costs.

F. It is essential that all data requested be provided. The only exceptions are that:

1. A VWC file number will usually not be available.
2. Certain other information that applies only to specific kinds of injuries or situations may not be applicable in all cases (e.g., return-to-work dates).
3. Certain supporting information may not be necessary if adequate summary information is provided (e.g., miscellaneous information on hours worked may not be needed if there is a certified average weekly wage).

16 VAC 30-90-50. Record format for electronic filing.

Information should be arranged by record, delimited by commas within the records, and with records separated by the equivalent of hard carriage returns. A normal DOS end-of-file character should appear at the end of the report. All character data (including null values) must be enclosed in double quotation marks, and neither single nor double quotation marks may be used for any other purpose. Note that there are specific record requirements for the following:

1. Dates must be in a MM/DD/YY format, must include the indicated slashes, and may never be null.
2. Times must be in a 24-hour HH:MM format.
3. Social security number must include the hyphens.
4. Federal tax identification number must include the single hyphen after the first two digits.
5. Employee name must be in a LAST, FIRST MIDDLE format.
6. Phone numbers must include the area code and be in the format "(888) 777-6666."
7. Zip codes must have trailing zeros to fill out the full nine digits if only the five-digit form is being provided.
8. Miscellaneous letter codes must be "Y" and "N" for yes and no, "M" and "F" for sex, and "S" for single, "M" for married, "D" for divorced, and "W" for widowed.

To the extent possible, abbreviations in titles, addresses, and other text fields should follow the commission's one-page summary of abbreviations which are, for the most part, a subset of the far more extensive USPS abbreviations.

16 VAC 30-90-60. Alternate formats for electronic filing.

Alternate formats will be considered and may be approved on a case-by-case basis by the commission if they meet the four conditions listed below:

1. The alternate format must include all information required by the standard electronic and manual formats.
2. The information provided by the alternate format must be convertible to the specific data specifications of the standard format.

3. The alternate format must be based on an open, nonproprietary standard of wide use and demonstrated industry support (e.g., ANSI certified).

4. Those proposing the alternate format must be willing to provide all hardware and software necessary for converting the alternate format to one compatible with the commission's data system.

16 VAC 30-90-70. Detailed record format.

On VWC
Form #3

Description	Type
VWC File Number (7 digits)	chr-7
Reason for filing	chr-1
Insurer code	chr-5
Insurer location	chr-3
Insurer claim number	chr-20
Date insurer claim file created	date

Employer

01 Name	chr-35
02 FEIN (include hyphen)	chr-10
03 [reserved]	chr-10
04A Address (Number, Street)	chr-30
04B Address (City and State)	chr-30
04C Zip code	chr-9
05A Alternate address (Number, Street)	chr-30
05B Alternate address (City and State)	chr-30
05C Alternate zip code	chr-9
06 Parent corporation	chr-35
07 Nature of business	chr-30
08 Insurer name	chr-35
09 Policy number	chr-20
10 Effective date (MM/DD/YY)	date

Time and Place of Accident

11 City/county where accident occurred	chr-20
12 On employer's premises?	chr-1
13 On state property?	chr-1
14 Date of injury (MM/DD/YY)	date
15 Hour of injury (HH:MM)	chr-5
16 Date of incapacity (MM/DD/YY)	date
17 Hour of incapacity (HH:MM)	chr-5
18 Employee paid in full for day of injury?	chr-1
19 Employee paid in full for day incapacity began?	chr-1
20 Date injury/illness reported (MM/DD/YY)	date
21 Person to whom reported	chr-18
22 Name of other witness	chr-18
23 If fatal: date of death (MM/DD/YY)	date

Employee

24 Name (LAST, FIRST MIDDLE)	chr-35
25 Phone number	chr-13
26 Sex	chr-1
27A Address (Number, Street, Apt)	chr-30
27B Address (City and State)	chr-30
27C Zip code	chr-9
28 Date of birth (MM/DD/YY)	date
29 Marital status	chr-1
30 SSN (include hyphens)	chr-11

Proposed Regulations

31	Occupation at time of injury/illness	chr-35
32	Department	chr-18
33	Number of dependent children	chr-1
34	Date started current job	date
35	Date of employment	date
36	Piecework or hourly payment basis	chr-1
37	Hours worked per day	#
38	Days worked per week	#
39	Value of perquisites per week	#
40	Wages per hour	#
41	Earnings per week (gross)	#

Nature and Cause of Accident

42	Machine/tool/object causing injury/illness	chr-25
43	Specify part of machine, etc.	chr-20
44	Safeguard/safety equipment provided?	chr-1
45	Safeguard/safety equipment utilized?	chr-1
46	Describe how injury/illness occurred Injury/illness cont.	chr-75 chr-75
47	Describe nature of injury/illness including parts of body affected	chr-75
48	Physician (name and address)	chr-35
49	Hospital (name and address)	chr-35
50	Probable months of disability	#
51	Has employee returned to work?	chr-1
52	At what wage?	#
53	On what date? (MM/DD/YY)	date
54	Employer: prepared by	chr-35
55	Date (MM/DD/YY)	date
56	Phone number	chr-13
57	Insurer: processed by	chr-35
58	Date (MM/DD/YY)	date
59	Phone number	chr-13

Commission Fields

Date received	date
Date processed	date
Processor	chr-5

16 VAC 30-90-80. List of abbreviations.

(Do not use an abbreviation for the first word in a company title.)

A. Business abbreviations

ADJUSTOR	ADJ
ADMINISTRATOR	ADMIN
AMERICAN	AMER
AND	&
ASSISTANT	ASST
ASSOCIATION	ASSOC
BOARD	BD
BROTHERS	BROS
COMPANY	CO
COMPENSATION	COMP
CONSTRUCTION	CONST
COORDINATOR	COORD
CORPORATION	CORP
DEPARTMENT	DEPT
DIRECTOR	DIR
DISTRIBUTOR	DISTR

DIVISION	DIV
ESQUIRE	ESQ
GENERAL	GEN
GUARANTY	GUAR
INCORPORATED	INC
INDEMNITY	INDEMN
INDUSTRIES	IND
INSURANCE	INS
INTERNATIONAL	INTL
LIMITED	LTD
MANAGEMENT	MGMT
MANAGER	MGR
MANUFACTURER	MFR
MERCHANDISE	MDSE
METROPOLITAN	METRO
NATIONAL	NATL
NO.	#
PERSONNEL	PERS
PRESIDENT	PRES
REPRESENTATIVE	REP
SERVICES	SERV
SPECIALIST	SPEC
SUITE NO.	#
SUPERINTENDENT	SUPT
SUPERVISOR	SUPVR
UNIVERSITY	UNIV
VICE PRESIDENT	VP

B. Address abbreviations

APARTMENT	APT
AVENUE	AVE
BUILDING	BLDG
BOULEVARD	BLVD
CENTER	CTR
CIRCLE	CIR
COURT	CT
CREEK	CRK
DRIVE	DR
FLOOR	FL
HIGHWAY	HWY
LANE	LN
PARK	PK
PARKWAY	PKWY
PLACE	PL
POST OFFICE BOX	PO BOX
ROAD	RD
RURAL ROUTE	RR
ROUTE	RT
SQUARE	SQ
STREET	ST
TERRACE	TER
TURNPIKE	TPKE

C. Never use

1. "County of," "city of" (except at end of name);
2. Extra spaces, except use two spaces before state, "FL," and "STE" if these are not on a separate line;
3. Punctuation (single quote, double quote, comma, period, colon, semicolon), except a comma between claimant's last and first name;

4. "The," "a," or "an" at the beginning of a company name;

WISCONSIN
WYOMING

WI
WY

5. Hyphen, except in hyphenated words, between name and title, or in SSNs and FEINs.

D. State and territory abbreviations

ALABAMA	AL
ALASKA	AK
ARKANSAS	AR
ARIZONA	AZ
AMERICAN SAMOA	AS
CALIFORNIA	CA
COLORADO	CO
CONNECTICUT	CT
DELAWARE	DE
DISTRICT OF COLUMBIA	DC
FLORIDA	FL
GEORGIA	GA
GUAM	GU
HAWAII	HI
IDAHO	ID
ILLINOIS	IL
INDIANA	IN
IOWA	IA
KANSAS	KS
KENTUCKY	KY
LOUISIANA	LA
MAINE	ME
MARYLAND	MD
MASSACHUSETTS	MA
MICHIGAN	MI
MINNESOTA	MN
MISSISSIPPI	MS
MISSOURI	MO
MONTANA	MT
NEBRASKA	NE
NEVADA	NV
NEW HAMPSHIRE	NH
NEW JERSEY	NJ
NEW MEXICO	NM
NEW YORK	NY
NORTH CAROLINA	NC
NORTH DAKOTA	ND
NORTHERN MARIANAS	CM
OHIO	OH
OKLAHOMA	OK
OREGON	OR
PENNSYLVANIA	PA
PUERTO RICO	PR
RHODE ISLAND	RI
SOUTH CAROLINA	SC
SOUTH DAKOTA	SD
TENNESSEE	TN
TRUST TERRITORIES	TT
TEXAS	TX
UTAH	UT
VERMONT	VT
VIRGINIA	VA
VIRGIN ISLANDS	VI
WASHINGTON	WA
WEST VIRGINIA	WV

PROCEDURES FOR AUTOMATED REPORTING

Report of Minor Injuries
(VWC Form No. 45A)

Report of Medical Costs
(VWC Form No. 45G)

October 1, 1991

Procedures

1. Electronic reporting for both minor injuries and for medical costs on established claims is to be provided on a monthly basis submitted within 10 days after the end of the month that is the subject of the report. (Note that this is a change from the six-month reporting period for the current paper Form No. 45G.)
2. Transmission of the data to the Commission may be on diskette, on magnetic tape, or through deposit in the insurer's or administrator's electronic mail box. A prior agreement with the Commission is needed before starting any of these procedures to ensure that format is accurate and access is workable.
3. It is essential that all data requested be provided, and be provided in the specified format. The only exceptions are that: (a) a phantom VWC file number (8888888) should be used for 45A reporting; (b) the employee's address is not required except for initial 45A reporting; and (c) only a five-digit zip code is required -- although the full nine digit form is preferable.

Record format

The format on the reverse side of this page is to be used for automated 45A/45G reporting. Even when separate automated reporting of 45A and 45G cases is approved by the Commission, the same format must be used.

This information should be arranged by record, delimited by commas within the records, and with records separated by the equivalent of hard carriage returns. A normal DOS end-of-file character should appear at the end of the report. All character data (including null values) must be enclosed in double quotation marks, and neither single nor double quotation marks can be used for any other purpose. Note that there are specific record requirements for:

- dates (which must be in a MM/DD/YY format, must include the indicated slashes, and may never be null),
- social security number (which must include the hyphens),
- federal tax identification number (which must include the hyphen), and
- employee name (which must be in a LAST, FIRST MIDDLE format).

Inquiries

Direct any questions to: Jim Surton, Data Processing Manager
Virginia Workers' Compensation Commission
1000 DMV Drive, Richmond VA 23220

45A/45G Record Format

October 1, 1991

Item #	Description	Type	Maximum
01	VWC File Number (7 digits, 45G cases only)	char	7
02	Insurer or self-insurer:		
03	insurer claim number	char	20
04	Date insurer claim file created (MM/DD/YY)	date	
05	5-digit identification code (NCCI or equivalent)	char	5
	3-digit location code (FIPS)	char	3
06	Employee:		
07	Name (LAST, FIRST MIDDLE)	char	35
08	Address (Number, Street, and Apartment)	char	30
09	Address (City and State)	char	30
10	Zip code	char	9
11	Social Security Number (includes hyphens)	char	11
	Date of accident (MM/DD/YY)	date	
12	Employer:		
13	Name	char	45
	Federal Tax Identification Number (include hyphen)	char	10
14	Medical cost paid this month:		
15	Outside rehabilitative services	number	
16	Physician services	number	
17	Hospital services	number	
18	Miscellaneous costs	number	
	Total medical costs (the sum of items #14-#17)	number	
19	Report:		
20	Type: (1) new 45A case; (2) old 45A case; (3) 45G case; (4) converted 45G case	char	1
	Date report generated/sent by insurer (MM/DD/YY)	date	
21	Net medical costs paid to date on this claim	number	

Example of a 45A-type record

"8888888", "WC94256", 05/01/90, "12345", "123", "SMITH, JOE", "NUMBER AND STREET",
"CITY AND STATE", "555550000", "11-22-3333", 01/01/90, "EMPLOYERS NAME",
"12-3456789", 243, 0, 0, 0, 243, "1", 09/15/90, 243|RTRN|

Example of a 45G-type record

"1484554", "WC94256", 05/01/90, "12345", "123", "SMITH, JOE", "", "", "", "11-22-3333",
01/01/90, "EMPLOYERS NAME", "12-3456789", 50, 240, 112, 0, 402, "3", 09/15/90, 1173|RTRN|

VAR, Doc. No. R96-198, Filed January 29, 1996, 1:49 p.m.

Employer's First Report of Accident

Virginia Workers' Compensation Commission
1000 DMV Drive Richmond VA 23220
See instructions on the reverse of this form

The boxes to the right are for the use of the insurer

VWC file number	Reason for filing
Insurer code	Insurer location
Insurer claim number	

Employer		
1. Name of employer	2. Federal Tax Identification Number	3. Employer's Case No. (if applicable)
4. Mailing address	5. Location (if different from mailing address)	
6. Parent corporation (if applicable)	7. Nature of business	
8. Insurer (name and location)	9. Policy number	10. Effective date
Time and Place of Accident		
11. City or county where accident occurred	Did accident occur on <input type="checkbox"/> Yes <input type="checkbox"/> No	12. Employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No
14. Date of injury	15. Hour of injury	16. Date of incapacity
18. Was employee paid in full for day of injury? <input type="checkbox"/> Yes <input type="checkbox"/> No	19. Was employee paid in full for day incapacity began? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. Hour of incapacity
20. Date injury or illness reported	21. Person to whom reported	22. Name of other witness
23. If fatal, give date of death		
Employee		
24. Name of employee (Last, First, Middle)	25. Phone number	26. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
27. Address	28. Date of birth	29. Marital status <input type="checkbox"/> Single <input type="checkbox"/> Divorced
	30. Social security number	<input type="checkbox"/> Married <input type="checkbox"/> Widowed
31. Occupation at time of injury or illness	32. Department	33. Number of dependent children
34. How long in current job?	35. How long with current employer?	36. Was employee paid on a piece work or hourly basis? <input type="checkbox"/> Piece work <input type="checkbox"/> Hourly
37. Hours worked per day	38. Days worked per week	39. Value of perquisites per week
40. Wages per hour, \$	41. Earnings per week (inc. overtime) \$	Food/meals \$ Lodging \$ Tips \$ Other \$
Nature and Cause of Accident		
42. Machine, tool, or object causing injury or illness	43. Specify part of machine, etc.	44. Provided? <input type="checkbox"/> Yes <input type="checkbox"/> No
46. Describe fully how injury or illness occurred	Were safeguards or safety equipment <input type="checkbox"/> Yes <input type="checkbox"/> No	45. Utilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
47. Describe nature of injury or illness, including parts of body affected		
48. Physician (name and address)	49. Hospital (name and address)	
50. Probable length of disability	51. Has employee returned to work? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes 52. At what wage? \$
54. EMPLOYER: prepared by (name, signature, title)	55. Date	53. On whose day? \$
57. INSURER: processed by	58. Date	56. Phone number
		59. Phone number

This report is required by the Virginia Workers' Compensation Act

First Report of Accident
VWC Form No. 3 (rev. 10/1/91)

INSTRUCTIONS

Employer's First Report of Accident
VWC Form No. 3

Employer

1. Fill out this form whenever one of your employees is injured. Provide all the information requested, except the information in the top right corner. Please type or print all information in black ink. Your signature is required at the bottom of the form.
2. Send the original beige form to your insurance carrier or claims servicing agency for processing. If you are self-insured, send it to your organization's designated office for handling workers' compensation claims.
3. If you are an employer subject to OSHA record-keeping requirements, you may retain a copy of this completed form as a supplementary record of occupational injury or illness. Use block #3 (Employer's Case No.) to cross-reference your master log of accidents and illnesses.
4. If you need additional copies of this form, please request them from your insurance carrier or claims servicing agency.

Insurance carriers, self-insured employers, and authorized representatives

1. For accidents meeting one of the seven criteria for establishing a Commission Case File, submit the original beige form and one copy to the Virginia Workers' Compensation Commission at 1000 DMV Drive, Richmond VA 23220. The code for the reason for filing should be written at the top right of the form.
2. When processing these forms prior to transmittal to the Commission, please include the information requested at the top right of the form, verify that the carrier name and policy number given by the employer are accurate, and enter your name and phone number, and the date of processing at the bottom of the form.
3. Insurer code at the top right of the form refers to the five-digit code assigned by NCCI. If you are self-insured, it refers to a similar five-digit number assigned by the Virginia Workers' Compensation Commission.
4. Additional copies of this form are available without cost by writing to the Commission. Please note that color coding of the forms greatly increases the Commission's efficiency in processing claims, and that any alternate versions of the form you develop yourself require prior approval by the Commission. Write to "Forms" at the listed Virginia Workers' Compensation Commission address.

The criteria are: (1) lost time exceeds seven days, (2) medical expenses exceed \$1,000, (3) compensability is denied, (4) issues are disputed, (5) accident resulted in death, (6) permanent disability or disfigurement may be involved, and (7) a specific request is made by the Virginia Workers' Compensation Commission.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

STATE AIR POLLUTION CONTROL BOARD

Title of Regulations: [~~VR 120-04. 9 VAC 5-10-10 et seq.~~]
Regulations for the Control and Abatement of Air Pollution (Revision FF).

[~~VR 120-04-4001 through VR 120-04-4005 9 VAC 5-40-5600 through 9 VAC 5-40-5640~~], Part IV, Rule 4-40, Emission Standards for Open Burning.

Appendix D, Forest Management and Agriculture Practices.

Appendix I, Model Local Ordinance on Open Burning.

Appendix O, Forest Fire Law of Virginia.

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

Effective Date: April 1, 1996.

Summary:

The regulation amendments concern provisions covering emission standards for open burning. The regulation amendments provide for the deregulation of certain control measures at the state level while providing an administrative mechanism to assist local governments in developing their own control programs. The amendments also require a summertime ban on open burning in order to reduce emissions of volatile organic compounds in Virginia's ozone nonattainment areas.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Alma Jenkins, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

9 VAC 5-10-10 et seq. Regulations for the Control and Abatement of Air Pollution (Revision FF).

[~~PART IV. Article 40.~~]

Emission Standards for Open Burning.
(Rule 4-40)

[~~§ 120-04-4001. 9 VAC 5-40-5600.~~] Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to any person who permits or engages in open burning or who permits or engages in burning using ~~open pit incinerators, conical burners (teepee burners) and other devices or methods which the board determines are specifically designed to provide good combustion performance~~ *special incineration devices*.

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

C. The provisions of this rule do not apply to such an extent as to prohibit the burning of leaves by persons on

property where they reside if the local governing body of the county, city or town in which such persons reside has enacted an otherwise valid ordinance (under the provisions of § ~~40-17.18(b)~~ 10.1-1308 of the Virginia Air Pollution Control Law) regulating such burning in all or any part of the locality.

[~~§ 120-04-4002. 9 VAC 5-40-5610.~~] Definitions.

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

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

C. Terms defined:

"*Automobile graveyard*" means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

"*Built-up area*" means any area with a substantial portion covered by industrial, commercial or residential buildings.

"*Clean burning waste*" means waste which does not produce [~~dense smoke~~ emissions of greater than 40% opacity] when burned and which is not prohibited to be burned under this rule.

"*Commercial waste*" means all waste generated by establishments engaged in business operations. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"*Construction waste*" means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials shall be in accordance with the regulations of the Department of Virginia Waste Management Board.

"*Debris waste*" means stumps, wood, brush, and leaves from land clearing operations.

"*Demolition waste*" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction waste.

"Garbage" means rotting animal and vegetable matter accumulated by a household in the course of ordinary day-to-day living.

"Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

"Household refuse" means waste material and trash normally accumulated by a household in the course of ordinary day-to-day living.

"Industrial waste" means all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

"Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

["Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) for further definitions of these terms.

"Local landfill" means any landfill located within the jurisdiction of a local government.]

"Opening burning" means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

"Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

"Refuse" means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resultant from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.

"Salvage operation" means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to,

reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

["Sanitary landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, and nonhazardous industrial solid waste. See Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) for further definitions of these terms.]

"Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

"Special incineration device" means a pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.

[~~§ 120-04-4003~~, 9 VAC 5-40-5620.] Open burning prohibitions.

A. No owner or other person shall cause or permit open burning of refuse except as provided in ~~§ 120-04-4004~~ or use of special incineration devices except as provided in [~~§ 120-04-4005~~ [~~120-04-4004~~ 9 VAC 5-40-5630] .

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. Open burning or the use of special incineration devices permitted under the provisions of this rule does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this rule. In this regard special attention should be directed to ~~§§ 10-62 and 10-63~~ § 10.1-1142 of the Forest Fire Law of Virginia (See Appendix O). ~~Excerpts from the Forest Fire Law of Virginia are presented for information purposes only; the board has no authority to enforce the provisions thereof, which is enforced by the Department of Forestry.~~

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F. With regard to the provisions of subsection E of this section, special attention should also be directed to the regulations of the ~~Department of Virginia~~ Waste Management Board. No disposal of waste by open burning or transportation of waste to be disposed of by open burning shall take place in violation of the regulations of the ~~Department of Virginia~~ Waste Management Board.

G. Upon declaration of an Alert, Warning or Emergency Stage of an Air Pollution Episode as described in Part VII or when deemed advisable by the board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in-process burning or use of special incineration devices shall be immediately terminated in the designated Air Quality Control Region.

[~~§ 120-04-4004. 9 VAC 5-40-5630.~~] Permissible open burning.

Open burning or the use of special incineration devices is permitted in the following instances provided the provisions of subsections B through G of [~~§ 120-04-4003 9 VAC 5-40-5620~~] are met:

~~A. 1.~~ Upon the request of an owner or a responsible civil or military public official, the board may approve open burning or the use of special incineration devices under controlled conditions for the elimination of a hazard which constitutes a threat to the public health, safety or welfare and which cannot be remedied by other means consonant with the circumstances presented by the hazard. Such uses of open burning or the use of special incineration devices may include, but are not limited to, the following:

- ~~1. a.~~ Destruction of deteriorated or unused explosives and munitions on government or private property when other means of disposal are not available.
- ~~2. b.~~ Disposal of debris caused by floods, tornadoes, hurricanes or other natural disasters where alternate means of disposal are not economical or practical and when it is in the best interest of the citizens of the Commonwealth.

~~B. 2.~~ Open burning is permitted for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel with clearance from the local fire fighting authority. The designated official in charge of the training shall notify and obtain the approval of the regional director prior to conducting the training exercise. Training schools where permanent facilities are installed for fire fighting instruction are exempt from this notification requirement.

~~3.~~ Open burning or the use of special incineration devices is permitted for the destruction of classified military documents under the supervision of the designated official.

~~C. 4.~~ Open burning is permitted for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial

preparation of food, and for warming of outdoor workers provided the materials specified in subsections B and C of [~~§ 120-04-4003 9 VAC 5-40-5620~~] are not burned.

~~D. Open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private residences, provided the following conditions are met:~~

- ~~1. The burning takes place on the premises of the private residence.~~
- ~~2. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.~~
- ~~3. There must be no collection service available at the adjacent street or public road. This condition applies only to urban areas.~~

~~E. Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided the following conditions are met:~~

- ~~1. The burning takes place on the premises of the dwelling.~~
- ~~2. Animal carcasses or animal wastes are not burned.~~
- ~~3. Garbage is not burned.~~
- ~~4. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.~~
- ~~5. There must be no collection service available at the adjacent street or public road on a schedule of at least once per week and no collection boxes or stations are provided by the locality.~~

~~5. In urban areas, open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property, provided that no regularly scheduled public or private collection service for such trimmings is available at the adjacent street or public road. In nonurban areas, open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property regardless of the availability of collection service for such trimmings.~~

~~6. Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided that no regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road.~~

~~F. 7.~~ Open burning is permitted for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack. Use of a flare or flare stack for the destruction of hazardous waste or commercial/industrial waste is allowed provided written approval is obtained from the board and the facility is in compliance with Rule 4-3 and Rule 5-3. Permits issued under Part VIII may be used to satisfy the requirement for written approval.

~~G. 8. Except in Air Quality Control Region 7, Open burning or the use of special incineration devices is permitted for disposal of land-clearing refuse on the site of clearing operations clean burning construction waste, debris waste, and demolition waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations which may be approved by the executive director, provided the following conditions are met:~~

~~1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.~~

~~2. The material to be burned shall consist of brush, stumps and similar land-clearing refuse generated at the site and shall not include demolition material or any refuse brought in from other sites.~~

~~3. The burning shall be at least 500 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the regional director determines that it is necessary to protect public health and welfare, he may direct that any of the above-cited distances be increased.~~

~~4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.~~

~~5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.~~

~~H. When any burning contemplated by subsection G of this section is to occur within cities or urban areas, persons responsible for the burning shall, prior thereto, obtain a permit from the regional director. Such permits may be granted only after confirmation by the regional director that the burning can and will comply with the conditions in subsection G of this section and any other conditions which are deemed necessary by the regional director to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations. Buildings which have not been demolished may be burned only as provided in subdivision 2 of this section. Open burning for the purpose of such disposal is prohibited in [volatile organic compound emissions control areas the Northern Virginia Volatile Organic Compounds Emissions Control Area] (see Appendix P) during June, July, and August. [As of January 1, 2000, open burning for the purpose of such disposal is prohibited in the Richmond and Hampton Roads Volatile Organic Compounds Emissions~~

~~Control Areas (see Appendix P) during June, July, and August.]~~

~~I. 9. Open burning is permitted for forest management and agriculture practices approved by the board (see Appendix D), provided the following conditions are met:~~

~~1. a. The burning shall be at least 1000 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.~~

~~2. b. The burning shall be attended at all times.~~

~~J. 10. Except in Air Quality Control Region 7, Open burning or the use of special incineration devices is permitted for disposal of refuse clean burning construction waste, debris waste, and demolition waste on the site of local landfills provided that the locally elected officials (or their designated representative) obtain a permit beforehand from the executive director. Such permits may be granted only after confirmation by the regional director that the burning can and will comply with the conditions in subsection J, paragraphs 1 through 7 of this section and any other conditions which are deemed necessary by the executive director to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations. The permit may be issued for each occasion of burning or for a period of time, not to exceed two years, as deemed appropriate by the executive director provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas. Open burning for the purpose of such disposal is prohibited in [volatile organic compound emissions control areas the Northern Virginia Volatile Organic Compounds Emissions Control Area] (see Appendix P) during June, July, and August. [As of January 1, 2000, open burning for the purpose of such disposal is prohibited in the Richmond and Hampton Roads Volatile Organic Compounds Emissions Control Areas (see Appendix P) during June, July, and August.]~~

~~1. The burning shall take place on the premises of a local sanitary landfill (the establishment and operation of which meets the provisions of the Regulations of the Department of Waste Management) or other area operated under the authority of the locality and approved by the executive director.~~

~~2. The burning shall be attended at all times.~~

~~3. The material to be burned shall consist only of the following:~~

~~a. Brush, tree trimmings, yard and garden trimmings, and similar land-clearing refuse.~~

~~b. Clean burning construction waste and demolition waste and similar materials.~~

~~4. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs, firewood and other marketable material.~~

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~~5. No materials may be burned in violation of the regulations of the Department of Waste Management. Special attention should be directed to § 10-62 and § 10-63 of the Forest Fire Law of Virginia (See Appendix O). Excerpts from the Forest Fire Law of Virginia are presented for information purposes only; the board has no authority to enforce the provisions thereof.~~

~~6. The regional director shall be notified of the days during which the burning will occur.~~

~~7. The burning shall not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas. The exact site of the burning shall be established in coordination with the regional consultant of the Bureau of Solid Waste Management, State Department of Waste Management and the local fire official; and no other site shall be used without the approval of these officials.~~

~~8. By mutual consent through a memorandum of agreement, the board and Department of Waste Management may provide that permits issued by the respective agencies be administered by a single procedure addressing the needs of both agencies or that the department may incorporate the board's provisions into its permits and be the sole grantor of permits for waste disposal in landfills.~~

§ 120-04-4005. Special incineration devices.

~~Use of special incineration devices is permitted as specified below provided the provisions of subsections B through G of § 120-04-4003 are met:~~

~~A. The provisions of this section shall apply to open pit incinerators, conical burners (teepee burners) and other devices or methods which the board determines are specifically designed to provide good combustion performance.~~

~~B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of devices or methods subject to the provisions of this section, persons responsible for the burning shall obtain a permit from the regional director. Such permits may be granted only after confirmation by the regional director that the burning can and will comply with the emission standards in Rule 4-1 and any conditions which are deemed necessary by the regional director to ensure that the operation of the devices will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations.~~

~~C. Permits granted under this section in AQCR 7 shall at a minimum contain the following conditions:~~

~~1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.~~

~~2. The material to be burned shall consist of brush, stumps and similar land clearing refuse generated at the site and shall not include demolition material or any refuse brought in from other sites.~~

~~3. The burning shall be at least 500 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the regional director determines that it is necessary to protect public health and welfare, he may direct that any of the above-cited distances be increased.~~

~~4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.~~

~~5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.~~

~~D. Use of open pit incinerators shall only be allowed for the disposal of debris waste and clean burning construction waste and demolition waste.~~

~~E. Permits issued under this section shall be limited in duration to one year.~~

~~F. Permits issued under this section prior to (effective date of revision) may at the executive director's discretion remain in effect until (two years after effective date of revisions).~~

~~[§ 120-04-4005. 9 VAC 5-40-5640.] Waivers.~~

~~A. A waiver from any provision of this rule may be granted by the board for any person or geographic area provided that satisfactory demonstration is made that another state or local government entity has in effect statutory provisions or other enforceable mechanisms that will achieve the objective of the provision from which the waiver is granted.~~

~~B. Demonstrations made pursuant to subsection A of this section should, at a minimum, meet the following criteria:~~

~~1. The demonstration should show that the statutory provisions or other enforceable mechanisms essentially provide the same effect as the provision from which the waiver is granted.~~

~~2. The demonstration should show that the governmental entity has the legal authority to enforce the statutory provisions or enforceable mechanisms.~~

~~C. Waivers under subsection A of this section shall be executed through a memorandum of understanding between the board and affected governmental entity and may include such terms and conditions as may be necessary to ensure that the objectives of this rule are met by the waiver.~~

~~D. A waiver from any applicable provision of this rule may be granted by the board for any locality which has lawfully adopted an ordinance in [the language of the model ordinance in Appendix I or in other language that will achieve the objective of the provision from which the waiver is granted accordance with Appendix I] .~~

APPENDIX D.

FOREST MANAGEMENT AND AGRICULTURE PRACTICES.

I. Open burning is permitted in accordance with Sections II and III of this appendix provided the provisions of subsections B through G of § 120-04-4003 are met.

II. Open burning may be used for the following forest management practices *provided the burning is conducted in accordance with the Department of Forestry's smoke management plan:*

- A. To reduce forest fuels and minimize the effect of wild fires.
- B. To control undesirable growth of hardwoods.
- C. To control disease in pine seedlings.
- D. To prepare forest land for planting or seeding.
- E. To create a favorable habitat for certain species of wildlife.
- F. To remove dead vegetation for the maintenance of railroad, highway and public utility right-of-way.

III. In the absence of other means of disposal, open burning may be used for the following agricultural practices:

- A. To destroy undesirable vegetation.
- B. To clear orchards and orchard prunings.
- C. To destroy fertilizer and chemical containers.
- D. To denature seed and grain which may no longer be suitable for agricultural purposes.
- E. To prevent loss from frost or freeze damage.
- F. To create a favorable habitat for certain species of wildlife.
- G. To destroy strings and plastic ground cover remaining in the field after being used in growing staked tomatoes.

APPENDIX I.

[MODEL] LOCAL [ORDINANCE ORDINANCES] ON OPEN BURNING.

I. General.

A. *If the governing body of any locality wishes to adopt an ordinance governing open burning within its jurisdiction, the ordinance must first be approved by the board (see § 10.1-1321 B of the Code of Virginia).*

B. *In order to assist local governments in the development of ordinances acceptable to the board, the [following] ordinance [in section III of this appendix] is offered as a model. [The language of the model ordinance generally reflects the language of Rule 4-40 of the board's Regulations for the Control and Abatement of Air Pollution.]*

C. *If a local government wishes to adopt the language of the model ordinance without changing any wording except that enclosed by parentheses, that government's ordinance*

shall be deemed to be approved by the board on the date of local adoption provided that a copy of the ordinance is filed with the department upon its adoption by the local government.

D. *If a local government wishes to change any wording of the model ordinance aside from that enclosed by parentheses in order to construct a local ordinance, that government shall request the approval of the board prior to adoption of the ordinance by the local jurisdiction. A copy of the ordinance shall be filed with the department upon its adoption by the local government.*

[E. *Local ordinances which have been approved by the board prior to April 1, 1996, remain in full force and effect as specified by their promulgating authorities.*

II. *Establishment and approval of local ordinances varying from the model.*

A. *Any local governing body proposing to adopt or amend an ordinance relating to open burning which differs from the model local ordinance in section III of this appendix shall first obtain the approval of the board for the ordinance or amendment as specified in section I D of this appendix. The board in approving local ordinances will consider, but will not be limited to, the following criteria:*

1. *The local ordinance shall provide for intergovernmental cooperation and exchange of information.*
2. *Adequate local resources will be committed to enforcing the proposed local ordinance.*
3. *The provisions of the local ordinance shall be as strict as state regulations, except as provided for leaf burning in § 10.1-1308 of the Virginia Air Pollution Control Law.*
4. *If a waiver from any provision of Rule 4-40 has been requested under 9 VAC 5-40-5640, the language of the ordinance shall achieve the objective of the provision from which the waiver is requested.*

B. *Approval of any local ordinance may be withdrawn if the board determines that the local ordinance is less strict than state regulations or if the locality fails to enforce the ordinance.*

C. *If a local ordinance must be amended to conform to an amendment to state regulations, such local amendment will be made within six months of the effective date of the amended state regulations.*

D. *Local ordinances are a supplement to state regulations. Any provisions of local ordinances which have been approved by the board and are more strict than state regulations shall take precedence over state regulations within the respective locality. If a locality fails to enforce its own ordinance, the board reserves the right to enforce state regulations.*

E. *A local governing body may grant a variance to any provision of its air pollution control ordinance(s) provided that:*

1. *A public hearing is held prior to granting the variance;*

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2. The public is notified of the application for a variance by notice in at least one major newspaper of general circulation in the affected locality at least 30 days prior to the date of the hearing; and

3. The variance does not permit any owner or other person to take action that would result in a violation of any provision of state regulations unless a variance is granted by the board. The public hearings required for the variances to the local ordinance and state regulations may be conducted jointly as one proceeding.

F. 9 VAC 5-20-60 shall not apply to local ordinances concerned solely with open burning.

#. III.] Model Ordinance.

ORDINANCE NO. (000)

Section (000-1). Title. This article shall be known as the (local jurisdiction) Ordinance for the Regulation of Open Burning.

Section (000-2). Purpose. The purpose of this article is to protect public health, safety, and welfare by regulating open burning within (local jurisdiction) to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This article is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and laws.

Section (000-3). Definitions. For the purpose of this article and subsequent amendments or any orders issued by (local jurisdiction), the words or phrases shall have the meaning given them in this section.

A. "Automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

B. "Clean burning waste" means waste which does not produce dense smoke when burned and is not prohibited to be burned under this ordinance.

C. "Construction waste" means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.

D. "Debris waste" means stumps, wood, brush, and leaves from land clearing operations.

E. "Demolition waste" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction waste.

F. "Garbage" means rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living.

G. "Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

H. "Household refuse" means waste material and trash normally accumulated by a household in the course of ordinary day to day living.

I. "Industrial waste" means all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills.

J. "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

[K. "Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) for further definitions of these terms.

L. "Local landfill" means any landfill located within the jurisdiction of a local government.]

[M.] "Open burning" means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

[N.] "Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

[O.] "Refuse" means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.

[P.] "Salvage operation" means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

[Q. "Sanitary landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, and nonhazardous industrial solid waste. See Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) for further definitions of these terms.]

[Q. R.] "Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

[P. S.] "Special incineration device" means a pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.

Section (000-4). Prohibitions on open burning.

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

F. Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in Part VII of the Regulations for the Control and Abatement of Air Pollution or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable

burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

Section (000-5). Exemptions. The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

A. Open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel;

B. Open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;

C. Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;

D. Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and

E. Open burning for the destruction of classified military documents.

Section (000-6). Permissible open burning.

A. Open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the conditions are met:

1. The burning takes place on the premises of the private property; (and)
2. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; (and
3. No regularly scheduled public or private collection service for such trimmings is available at the adjacent street or public road¹).

B. Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided that the following conditions are met:

1. The burning takes place on the premises of the dwelling;
2. Animal carcasses or animal wastes are not burned;
3. Garbage is not burned; (and)
4. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; (and

¹This provision shall be included in ordinances for urban areas. It may be included in ordinances for nonurban areas.

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5. No regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road².

C. Open burning is permitted for disposal of [~~land-clearing~~] debris [waste] resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations which may be approved by ([~~local-fire-official designated local official~~]), provided the following conditions are met:

1. All reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by ([~~local-fire-official designated local official~~]);
2. The material to be burned shall consist of brush, stumps and similar [~~land-clearing~~] debris [waste] and shall not include demolition material;
3. The burning shall be at least 500 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. The burning shall be conducted at the greatest distance practicable from highways and air fields,
5. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and
7. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

D. Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas provided that the following conditions are met:

1. The burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board,
2. The burning shall be attended at all times;
3. The material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;
4. All reasonable effort shall be made to minimize the amount of material that is burned;

5. No materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill shall be established in coordination with the regional director and ([~~local-fire-official designated local official~~]); no other site shall be used without the approval of these officials. ([~~Local-fire official Designated local official~~]) shall be notified of the days during which the burning will occur.

E. (Sections 000-6 A through D notwithstanding, no owner or other person shall cause or permit open burning or the use of a special incineration device during June, July, or August.³)

Section (000-7). Permits.

A. When open burning of [~~land-clearing~~] debris [waste] (Section 000-6 C) or open burning of debris on the site of a local landfill (Section 000-6 D) is to occur within (local jurisdiction), the person responsible for the burning shall obtain a permit from ([~~local-fire-official designated local official~~]) prior to the burning. Such a permit may be granted only after confirmation by ([~~local-fire-official designated local official~~]) that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by ([~~local-fire-official designated local official~~]).

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from ([~~local-fire-official designated local official~~]), such permits to be granted only after confirmation by ([~~local-fire-official designated local official~~]) that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by ([~~local-fire-official designated local official~~]) to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.
2. The material to be burned shall consist of brush, stumps and similar [~~land-clearing~~] debris [waste] and shall not include demolition material.

²This provision shall be included in ordinances for urban areas. It may be included in ordinances for nonurban areas.

³This provision shall be included in ordinances for jurisdictions within volatile organic compound emissions control areas. It may be included in ordinances for jurisdictions outside these areas.

3. The burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If ([local fire official designated local official]) determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.

4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

6. The use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste.

7. Permits issued under this subsection shall be limited to a specific period of time deemed appropriate by ([local fire official designated local official]).

(C. An application for a permit under Section 000-7 A or 000-7 B shall be accompanied by a processing fee of \$----.4)

Section (000-8). Penalties for violation.

A. Any violation of this ordinance is punishable as a Class I misdemeanor. (See § 15.1-901 of the Code of Virginia.)

B. Each separate incident may be considered a new violation.

APPENDIX O.

FOREST FIRE LAW OF VIRGINIA.

~~§ 10-62. Regulating the burning of woods, brush, etc.; penalties.~~

(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

(b) During the period beginning March 1 and ending May 15 of each year, even though the precautions required by the foregoing paragraph have been taken, it shall be unlawful, in any county or city or portion thereof organized for forest fire control under the direction of the State Forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, except between the hours of 4:00 p.m. and 12:00 midnight.

(c) The provisions of subsection (b) of this section shall not apply to any fires which may be set on rights-of-way of railroad companies by their duly authorized employees.

(d) Any person violating any provisions of this section shall, upon conviction, be fined not less than 10 or more than \$100, for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth and to each county or city which enters into a contract as provided in § 10-46.1 for the full amount of all expenses incurred by the Commonwealth and the county or city respectively in suppressing such fire, such amounts to be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and by the board of supervisors on behalf of the county or by the council on behalf of the city.

Subsection (b) of this section shall not become effective in any county or city of the Commonwealth until it has been approved by a majority vote of the governing body of such county or city.

~~§ 10-63. Failure to extinguish fires built in open.~~

Whoever builds a fire in the open air, or uses a fire built by another in the open air within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material, shall, before leaving such fire untended, totally extinguish it. Any person failing to do so shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$100. Whenever it shall be established that a forest fire originated from such fire, the person building or using such fire shall, in addition to the above penalty, be liable for the full amount of all costs incurred in suppressing the fire.

VA.R. Doc. No. R96-210; Filed January 31, 1996, 11:48 a.m.

Title of Regulations: Regulations for the Control and Abatement of Air Pollution (Revision RR).

[VR 120-01-01 and VR 120-01-02, 9 VAC 5-10-10 and 9 VAC 5-10-20], [Part I] General Definitions.

[VR 120-04-0401 through VR 120-04-0419 9 VAC 5-40-240 through 9 VAC 5-40-420], [Part IV Article 4], Rule 4-4, Emissions Standards for General Process Operations.

[VR 120-04-2401 through VR 120-04-2415 9 VAC 5-40-3260 through 9 VAC 5-40-3400], [Part IV Article 24], Rule 4-24, Emission Standards for Solvent Metal Cleaning Operations Using Nonhalogenated Solvents.

⁴The fee stipulation in this section is optional at the discretion of the jurisdiction.

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[~~VR 120-04-3601 through VR 120-04-3615 9 VAC 5-40-5060 through 9 VAC 5-40-5190~~], [~~Part IV Article 36~~], Rule 4-36, Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines.

[~~VR 120-04-4301 through VR 120-04-4313 9 VAC 5-40-5800 through 9 VAC 5-40-5920~~], [~~Part IV Article 43~~], Rule 43, Emission Standards for Sanitary Landfills.

[~~VR 120-04-4501 through VR 120-04-4514 9 VAC 5-40-7800 through 9 VAC 5-40-7940~~], [~~Part IV Article 45~~], Rule 45, Emission Standards for Lithographic Printing Processes.

Appendix S, Air Quality Program Policies and Procedures.

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

Effective Date: April 1, 1996.

Summary:

The regulation amendments concern provisions covering emission standards for sources of volatile organic compounds. The standards require owners to reduce emissions of volatile organic compounds from specific sources, and to limit those emissions to a level resulting from the use of reasonably available control technology. The following types of sources are affected: general process operations, nonhalogenated surface cleaning, rotogravure and flexographic printing, sanitary landfill operations, and lithographic printing.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Alma Jenkins, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

9 VAC 5-10-10 et seq. Regulations for the Control and Abatement of Air Pollution.

[~~§ 120-01-01, 9 VAC 5-10-10.~~] General.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in [~~§ 120-01-02 9 VAC 5-10-20.~~].

B. Unless specifically defined in the Virginia Air Pollution Control Law or in these regulations, terms used shall have the meanings commonly ascribed to them by recognized authorities.

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

[~~§ 120-01-02, 9 VAC 5-10-20.~~] Terms defined.

"*Actual emissions rate*" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at

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

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

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

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

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

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

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

"*Air quality maintenance area*" means any area which, due to current air quality or projected growth rate or both, may have the potential for exceeding any ambient air quality standard set forth in [~~Part III 9 VAC 5-30-10 et seq.~~] within a subsequent 10-year period and designated as such in Appendix H.

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

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

"*Ambient air quality standard*" means any primary or secondary standard designated as such in [~~Part III, 9 VAC 5-30-10 et seq.~~]

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

"*Class I area*" means any prevention of significant deterioration area (i) in which virtually any deterioration of existing air quality is considered significant and (ii) designated as such in Appendix L.

"*Class II area*" means any prevention of significant deterioration area (i) in which any deterioration of existing air quality beyond that normally accompanying well-controlled

growth is considered significant and (ii) designated as such in Appendix L.

"*Class III area*" means any prevention of significant deterioration area (i) in which deterioration of existing air quality to the levels of the ambient air quality standards is permitted and (ii) designated as such in Appendix L.

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

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

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

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

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

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.
2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.
3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.
4. The date by which final compliance is to be achieved.

"*Criteria pollutant*" means any pollutant for which an ambient air quality standard is established under [Part III, 9 VAC 5-30-10 et seq.]

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

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

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

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

"*Dispersion technique*"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
2. The preceding sentence does not include:
 - a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;
 - b. The merging of exhaust gas streams where:
 - (1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;
 - (2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or
 - (3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted

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prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

- c. Smoke management in agricultural or silvicultural prescribed burning programs;
- d. Episodic restrictions on residential woodburning and open burning; or
- e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

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

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

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

"Emission standard" means any provision of [~~Parts IV, V or VI~~ 9 VAC 5-40-10 *et seq.*, 9 VAC 5-50-10 *et seq.* or 9 VAC 5-60-10 *et seq.*] which prescribes an emission limitation, or other requirements that control air pollution emissions.

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

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

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

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

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to

emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of [~~§ 120-08-02~~ 9 VAC 5-80-20], an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

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

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

"Existing source" means any stationary source other than a new source or modified source.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating

and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC 7401 et seq., 91 Stat 685.

["Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including the following:

1. Any requirement approved by the administrator pursuant to the provisions of § 111 or § 112 of the federal Clean Air Act;
2. Any applicable source-specific or source-category emission limit or requirement in an implementation plan;
3. Any permit requirements established pursuant to 9 VAC 5-80-10 et seq., with the exception of terms and conditions established to address applicable state requirements; and
4. Any other applicable federal requirement.]

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

"Good engineering practice" (GEP) stack height means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;
2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under [Part VIII 9 VAC 5-80-10 et seq.],

$$H_g = 2.5H,$$

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

- b. For all other stacks,

$$H_g = H + 1.5L,$$

where:

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

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

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

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

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

["Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved under § 110 of the federal Clean Air Act, or promulgated under § 110(c) of the federal Clean Air Act, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.]

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

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

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

"Metropolitan statistical area" means any area designated as such in Appendix G.

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

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

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

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H_t) of the feature, not to exceed 2 miles if such feature achieves a height (H_t) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

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

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

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

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

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

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

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

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

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

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

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

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

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

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

["Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable.]

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

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

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

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

1. For ambient air quality standards in [~~Part III~~ 9 VAC 5-30-10 et seq.]: the applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.
2. For emission standards in [~~Parts IV and V~~ 9 VAC 5-40-10 et seq. and 9 VAC 5-50-10 et seq.]: Appendix A of 40 CFR Part 60.
3. For emission standards in [~~Part VI~~ 9 VAC 5-60-10 et seq.]: Appendix B of 40 CFR Part 61.

"Regional director" means the regional director of an administrative region of the Department of Environmental Quality or a designated representative.

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

"Run" means the net period of time during which an emission sampling is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

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

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

"Special order" means any order of the board issued:

1. Under the provisions of § 10.1-1309 of the Code of Virginia:

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

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

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

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

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

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

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

"Stack in existence" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or

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

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

"Standard of performance" means any provision of [Part V 9 VAC 5-50-10 et seq.] which prescribes an emission

limitation or other requirements that control air pollution emissions.

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

["State enforceable" means all limitations and conditions which are enforceable by the board or department, including, but not limited to, those requirements developed pursuant to 9 VAC 5-20-110; requirements within any applicable regulation, order, consent agreement or variance; and any permit requirements established pursuant to Part VIII 9 VAC 5-80-10 et seq.]

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

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

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

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

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

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in API Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M).

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

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

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

"Volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

1. This includes any such organic compounds which have been determined to have negligible photochemical reactivity other than the following:

- a. Methane;
- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (CFC-22);
- i. Trifluoromethane (FC-23);
- j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. *Parachlorobenzotrifluoride (PCBTF)*;
- v. *Cyclic, branched, or linear completely methylated siloxanes*; [~~and~~]

[*w. acetone*; and]

u. [*w. x.*] Perfluorocarbon compounds which fall into these classes:

- (1) Cyclic, branched, or linear, completely fluorinated alkanes;
- (2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For purposes of determining compliance with emissions standards, volatile organic compounds shall be measured by the appropriate reference method in accordance with the provisions of [§ 120-04-03 or § 120-05-03 9 VAC 5-40-30 or 9 VAC 5-50-30], as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as a volatile organic compound if the amount of such compounds is accurately quantified, and such exclusion is approved by the board.

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

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

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

[PART IV—Article 4.]

Emission Standards for General Process Operations.
(Rule 4-4)

[~~§ 120-04-0401.~~ 9 VAC 5-40-240.] Applicability and designation of affected facility.

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each process operation, each process gas stream and each combustion installation.

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

C. Exempted from the provisions of this rule are the following:

1. Process operations with a process weight rate capacity less than 100 pounds per hour.
2. Any combustion unit using solid fuel with a maximum heat input of less than 350,000 Btu per hour.
3. Any combustion unit using liquid fuel with a maximum heat input of less than 1,000,000 Btu per hour.

4. Any combustion unit equipment unit using gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

D. The provisions of this rule do not apply to affected facilities subject to other emission standards in this [part article].

[§ 120-04-0402. 9 VAC 5-40-250.] Definitions.

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

B. As used in this rule, all terms not defined herein shall have the meaning given them in [Part 1 Chapter 10 (9 VAC 5-10-10 et seq.)], unless otherwise required by context.

C. Terms defined.

"Combustion installation" means all combustion units within a stationary source in operation prior to October 5, 1979.

"Combustion unit" means any type of stationary equipment in which solid, liquid or gaseous fuels and refuse are burned, including, but not limited to, furnaces, ovens, and kilns.

"Heat input" means the total gross calorific value of all fuels burned.

"Manufacturing operation" means any process operation or combination of physically connected dissimilar process operations which is operated to effect physical or chemical changes or both in an article.

"Materials handling equipment" means any equipment used as a part of a process operation or combination of process operations which does not effect a physical or chemical change in the material or in an article, such as, but not limited to, conveyors, elevators, feeders or weighers.

"Physically connected" means any combination of process operations connected by materials handling equipment and designed for simultaneous complementary operation.

"Process operation" means any method, form, action, operation or treatment of manufacturing or processing, including any storage or handling of materials or products before, during or after manufacturing or processing.

"Process unit" means any step in a manufacturing or process operation which results in the emission of pollutants to the atmosphere.

"Process weight" means total weight of all materials introduced into any process unit which may cause any emission of pollutants. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air for all fuels.

"Process weight rate" means a rate established as follows:

a. For continuous or long-run steady-state process operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

b. For cyclical or batch process operations, the total weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

"Reasonably available control technology" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

"Rated capacity" means, the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

"Total capacity" means with reference to a combustion installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions or 100% use load.

[§ 120-04-0403. 9 VAC 5-40-260.] Standard for particulate matter (AQCR 1-6).

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any process unit any particulate emissions in excess of the limits in Table 4-4A.

TABLE 4-4A

Process Weight Rate	Maximum Allowable Emission Rate	
	Lb/Hr	Tons/Hr
100	0.05	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1000	0.50	2.58
1500	0.75	3.38
2000	1.00	4.10
2500	1.25	4.76
3000	1.50	5.38
3500	1.75	5.96
4000	2.00	6.52
5000	2.50	7.58
6000	3.00	8.56
7000	3.50	9.49
8000	4.00	10.4
9000	4.50	11.2
10000	5.00	12.0
12000	6.00	13.6
16000	8.00	16.5
18000	9.00	17.9
20000	10.00	19.2
30000	15.00	25.2
40000	20.00	30.5
50000	25.00	35.4
60000	30.00	40.0
70000	35.00	41.3
80000	40.00	42.5
90000	45.00	43.6
100000	50.00	44.6
120000	60.00	46.3

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140000	70.00	47.8	1200	0.60	3.12
160000	80.00	49.1	1300	0.65	3.26
200000	100.00	51.3	1400	0.70	3.40
1000000	500.00	69.0	1500	0.75	3.54
2000000	1000.00	77.6	1600	0.80	3.66
6000000	3000.00	92.7	1700	0.85	3.79

B. Except as provided in subsections C and D of this section, interpretation of the emission standard in subsection A of this section shall be in accordance with Appendix Q.

C. Interpolation of the data in Table 4-4A for process weight rates up to 60,000 lb/hr shall be accomplished by use of the following equation:

$$E = 4.10 P^{0.67}$$

where:

E = emission rate in lb/hr.

P = process weight rate in tons/hr.

D. Interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the following equation:

$$E = 55.0 P^{0.11} - 40$$

where:

E = emission rate in lb/hr.

P = process weight rate in tons/hr.

[§ 120-04-0404, 9 VAC 5-40-270.] Standard for particulate matter (AQCR 7).

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any process unit any particulate emissions in excess of the limits in Table 4-4B.

TABLE 4-4B

Process Weight Rate		Maximum Allowable Emission Rate Lb/Hr			
Lb/Hr	Tons/Hr				
100	0.050	0.46	5000	2.50	6.67
150	0.075	0.66	5500	2.75	7.03
200	0.100	0.85	6000	3.00	7.37
250	0.125	1.03	6500	3.25	7.71
300	0.150	1.20	7000	3.50	8.05
350	0.175	1.35	7500	3.75	8.39
400	0.200	1.50	8000	4.00	8.71
450	0.225	1.63	8500	4.25	9.03
500	0.250	1.77	9000	4.50	9.36
550	0.275	1.85	9500	4.75	9.67
600	0.300	2.01	10000	5.00	10.00
650	0.325	2.12	11000	5.50	10.63
700	0.350	2.24	12000	6.00	11.28
750	0.375	2.34	13000	6.50	11.89
800	0.400	2.43	14000	7.00	12.50
850	0.425	2.53	15000	7.50	13.13
900	0.450	2.62	16000	8.00	13.74
950	0.475	2.72	17000	8.50	14.36
1000	0.500	2.80	18000	9.00	14.97
1100	0.55	2.97	19000	9.50	15.58
			20000	10.00	16.19
			30000	15.00	22.22
			40000	20.00	28.30
			50000	25.00	34.30
			60000 or more	30.00 or more	40.00

B. Interpretation of the emission standard in subsection A of this section shall be in accordance with Appendix Q.

[~~§ 120-04-0405. 9 VAC 5-40-280.~~] Standard for sulfur dioxide.

A. Noncombustion process operations. No owner or other person shall cause or permit to be discharged into the atmosphere from any process operation any sulfur dioxide emissions in excess of an in-stack concentration of 2000 ppm by volume.

B. Combustion installations.

1. No owner or other person shall cause or permit to be discharged into the atmosphere from any combustion installation any sulfur dioxide emissions in excess of the following limits:

- a. $S = 2.64K$ (AQCR 1 through 6)
- b. $S = 1.06K$ (for liquid or gaseous fuels - AQCR 7)
- c. $S = 1.52K$ (for solid fuels - AQCR 7)

where:

S = allowable emission of sulfur dioxide expressed in lbs/hr.

K = actual heat input at total capacity expressed in Btu $\times 10^6$ per hour.

2. Where there is more than one unit in a combustion installation and where the installation can be shown, to the satisfaction of the board, to be in compliance when the installation is operating at total capacity, the installation will be deemed to still be in compliance when the installation is operated at reduced load or one or more units are shut down for maintenance or repair, provided that the same type of fuel with the same sulfur content, or an equivalent, is continued in use.

3. For installations in AQCR 7 at which different fossil fuels are burned simultaneously, whether in the same or different units, the allowable emissions shall be determined by proration using the following formula:

$$PS = K \left[\frac{X(1.06) + Y(1.52)}{X + Y} \right]$$

where:

PS = prorated allowable emissions of sulfur dioxide expressed in lb/hr.

X = percentage of actual heat input at total capacity derived from liquid or gaseous fuel.

Y = percentage of actual heat input at total capacity derived from solid fuels.

K = actual heat input at total capacity expressed in Btu $\times 10^6$ per hour.

[~~§ 120-04-0406. 9 VAC 5-40-290.~~] Standard for hydrogen sulfide.

No owner or other person shall cause or permit to be discharged into the atmosphere from any process gas stream any hydrogen sulfide emissions in excess of a concentration greater than 15 grains per 100 cubic feet of gas without burning or removing H_2S in excess of this concentration, provided that SO_2 emissions in the burning operation meet the requirements of [~~§ 120-04-0405 9 VAC 5-40-280~~] A.

[~~§ 120-04-0407. 9 VAC 5-40-300.~~] Standard for volatile organic compounds.

A. No owner or other person shall cause or permit to be discharged from any affected facility any volatile organic compound emissions in excess of that resultant from using reasonably available control technology.

B. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia or Richmond Emissions Control Area (see Appendix P) and (ii) are within a stationary source that has a theoretical potential to emit 50 25 tons per year or greater in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area. Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for volatile organic compounds in [~~Part IV 9 VAC 5-40-10 et seq.~~], shall be added together to determine theoretical potential to emit.

C. For facilities subject to the provisions of this section, the owners shall within three months of the effective date of this emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but not later than ~~May 31, 1995.~~ the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.

2. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, May 31, 1996.

3. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1995.

[~~§ 120-04-0408. 9 VAC 5-40-310.~~] Standard for nitrogen oxides.

A. No owner or other person shall cause or permit to be discharged from any affected facility any nitrogen oxides emissions in excess of that resultant from using reasonably available control technology.

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B. Unless the owner demonstrates otherwise to the satisfaction of the board, compliance with the provisions of subsection A of this section shall be achieved for the applicable source types by the use of reasonably available control technology as defined in Appendix T.

C. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia [~~or Richmond~~] Emissions Control Area (see Appendix P) and (ii) are within a stationary source that has a theoretical potential to emit 50 tons per year or greater [~~in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area~~]. Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for nitrogen oxides in [Part IV 9 VAC 5-40-10 et seq.], shall be added together to determine theoretical potential to emit.

D. For facilities subject to the provisions of subsection A of this section, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but no later than [May 31, 1995 the following dates:]

[~~1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.~~

~~2. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1996.]~~

E. For facilities to which the provisions of subsection B of this section are applicable, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to accepting the emission standard as reasonably available control technology for the applicable facilities or to submitting a demonstration as provided in subsection B of this section and (iii) provide a schedule acceptable to the board for submitting the demonstration no later than January 1, 1994, [~~for facilities in the Northern Virginia Emissions Control Area, and July 1, 1995, for facilities in the Richmond Nonattainment Area,] and for achieving compliance with the emission standard as expeditiously as possible but no later than [May 31, 1995. the following dates:~~

~~1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.~~

~~2. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1996.~~

F. No owner or other person shall cause or permit to be discharged from any facility any nitrogen oxides emissions in excess of those necessary to achieve emissions reductions identified in any attainment or maintenance plan or any other legally enforceable document submitted to the U. S. Environmental Protection Agency as a revision to the state implementation plan.

1. The facilities to which the provisions of this subsection apply are facilities within the Richmond Emissions Control Area (see Appendix P) identified in any attainment or maintenance plan submitted to the U. S. Environmental Protection Agency as a revision to the state implementation plan.

2. The board may establish case-by-case emission limits and other requirements as may be necessary to achieve the required emission reductions via permits, consent orders, or other legally enforceable means.

3. Facilities subject to this subsection shall be in compliance with any limits and other requirements established pursuant to subdivision F 2 of this subsection within the timeframes established in any state plan revision, permit, or other legally enforceable document.

4. The provisions of subsections A through E of this section shall not apply to facilities within the Richmond Emissions Control Area (see Appendix P).

G. Requirements for the control of nitrogen oxides under this section shall apply only from May 1 through September 30.]

[~~§ 120-04-0409. 9 VAC 5-40-320.] Standard for visible emissions.~~

The provisions of Rule 4-1 (Emission standards for visible emissions and fugitive dust/emissions) apply.

[~~§ 120-04-0410. 9 VAC 5-40-330.] Standard for fugitive dust/emissions.~~

The provisions of Rule 4-1 (Emission standards for visible emissions and fugitive dust/emissions) apply.

[~~§ 120-04-0411. 9 VAC 5-40-340.] Standard for odor.~~

The provisions of Rule 4-2 (Emission standards for odor) apply.

[~~§ 120-04-0412. 9 VAC 5-40-350.] Standard for noncriteria pollutants.~~

The provisions of Rule 4-3 (Emission Standards for Non-Criteria Toxic Pollutants) apply.

[~~§ 120-04-0413. 9 VAC 5-40-360.] Compliance.~~

The provisions of [~~§ 120-04-02 9 VAC 5-40-20] (Compliance) apply.~~

[~~§ 120-04-0414. 9 VAC 5-40-370.] Test methods and procedures.~~

The provisions of [~~§ 120-04-03 9 VAC 5-40-30] (Emission testing) apply.~~

[~~§ 120-04-0415. 9 VAC 5-40-380.~~] Monitoring.

The provisions of [~~§ 120-04-04 9 VAC 5-40-40~~] (Monitoring) apply.

[~~§ 120-04-0416. 9 VAC 5-40-390.~~] Notification, records and reporting.

The provisions of [~~§ 120-04-05 9 VAC 5-40-50~~] (Notification, Records and Reporting) apply.

[~~§ 120-04-0417. 9 VAC 5-40-400.~~] Registration.

The provisions of [~~§ 120-02-31 9 VAC 5-20-160~~] (Registration) apply.

[~~§ 120-04-0418. 9 VAC 5-40-410.~~] Facility and control equipment maintenance or malfunction.

The provisions of [~~§ 120-02-34 9 VAC 5-20-180~~] (Facility and Control Equipment Maintenance or Malfunction) apply.

[~~§ 120-04-0419. 9 VAC 5-40-420.~~] Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of [~~Part V 9 VAC 5-50-10 et seq.~~] (New and Modified Sources) and [~~Part VIII 9 VAC 5-80-10 et seq.~~] (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

- A. 1. Construction of a facility.
- B. 2. Reconstruction (replacement of more than half) of a facility.
- C. 3. Modification (any physical change to equipment) of a facility.
- D. 4. Relocation of a facility.
- E. 5. Reactivation (restart-up) of a facility.
- 6. Operation of a facility.

[~~PART IV. Article 24.~~]

Emission Standards for Solvent Metal Cleaning Operations
Using Nonhalogenated Solvents.
(Rule 4-24)

[~~§ 120-04-2401. 9 VAC 5-40-3260.~~] Applicability and designation of affected facility.

A. The affected facility to which the provisions of this rule apply is each solvent metal cleaning operation, including, but not limited to, cold or vapor degreasing at service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility.

B. The provisions of this rule apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in Appendix P.

[~~§ 120-04-2402. 9 VAC 5-40-3270.~~] Definitions.

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

B. As used in this rule, all terms not defined herein shall have the meaning given them in [~~Part I 9 VAC 5-10-10 et seq.~~], unless otherwise required by context.

C. Terms defined.

"Cold cleaning" means the batch process of cleaning and removing foreign matter from metal surfaces by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

"Conveyorized degreasing" means the continuous process of cleaning and removing foreign matter from metal surfaces by operating with either cold or vaporized solvents.

"Freeboard height"

- a. For cold cleaners, the distance from the liquid solvent level in the degreaser tank to the lip of the tank.
- b. For open top vapor degreasers, the distance from the solvent-vapor level solvent-to-air interface in the tank to the lip of the tank.
- c. For conveyorized degreasers, the distance from the solvent-to-air interface to the bottom of the entrance or exit opening, whichever is lower.

"Freeboard ratio" means the freeboard height divided by the width of the degreaser.

"Lower explosive limit" means the lower limit of flammability of a gas or vapor at ordinary ambient temperatures expressed in percent of the gas or vapor in air by volume.

"Nonhalogenated solvent" means any solvent other than methylene chloride, perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, or chloroform. Nonhalogenated solvents may include trace quantities of halogenated solvents which are:

- a. Unintended residues in recycled solvents, or
- b. Unintended impurities resulting from chemical reaction in the manufacturing process.

"Open top vapor degreasing" means the batch process of cleaning and removing foreign matter from metal surfaces by condensing hot solvent vapor on the colder metal parts.

"Solvent" means organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents.

"Solvent metal cleaning" means the process of cleaning foreign matter from metal surfaces by cold cleaning or open top vapor degreasing or conveyorized degreasing.

[~~§ 120-04-2403. 9 VAC 5-40-3280.~~] Standard for volatile organic compounds.

A. Conveyorized degreasing.

- 1. No owner or other person shall use or permit the use of any conveyorized degreaser unless such degreaser is equipped with a control method that will remove, destroy

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or prevent the discharge into the atmosphere of at least 70% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in ~~subsection~~ *subdivision A 1* of this section by use of the methods in [§ 120-04-2404 9 VAC 5-40-3290] A and D will be acceptable to the board.

B. Open top vapor degreasing.

1. No owner or other person shall use or permit the use of any open top vapor degreaser unless such degreaser is equipped with a control method that will remove, destroy or prevent the discharge into the atmosphere of at least 75% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in ~~subsection~~ *subdivision B 1* of this section by use of the methods in [§ 120-04-2404 9 VAC 5-40-3290] B and D will be acceptable to the board.

C. Cold cleaning.

1. No owner or other person shall use or permit the use of any cold cleaner unless such cleaner is equipped with a control method that will remove, destroy or prevent the discharge into the atmosphere of at least 85% by weight of volatile organic compound emissions.

2. Achievement of the emission standard in ~~subsection~~ *subdivision C 1* of this section by use of the methods in [§ 120-04-2404 9 VAC 5-40-3290] C and D will be acceptable to the board.

[§ 120-04-2404. 9 VAC 5-40-3290.] Control technology guidelines.

A. Conveyorized degreasing.

1. Control requirements.

a. The degreaser (if the air/vapor interface is larger than 20 ft²) should be equipped with one of the following vapor control methods:

(1) Refrigerated chiller (a secondary set of condensing coils operating with a coolant of less than 40°F).

(2) Carbon adsorption system, with ventilation of 50 cfm/ft² or greater of conveyor opening area (when down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle.

(3) Any method of equal or greater control efficiency to the methods in ~~subsections~~ *subdivisions A 1 a (1) and (2)* of this section, provided such method is approved by the board.

b. The degreaser should be equipped with either a drying tunnel, or other means such as rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

c. The degreaser should be equipped with all of the following control devices:

(1) A device to prevent heat input unless there is adequate coolant.

(2) The spray shall be equipped with a device that will prevent spraying unless the degreaser is operating normally.

(3) A device to shut off the heat if the vapor level rises above a predetermined level.

d. Entrances and exits should silhouette work loads so that the average clearance (between the largest parts and the edge of the degreaser opening) is either four inches or 10% of the width of the opening, whichever is less.

e. Covers should be provided for closing off the entrance and exit during shutdown, heat-up and cool-down.

2. Operating requirements.

a. Exhausting ventilation should not exceed 65 cfm/ft² of degreaser open area, unless necessary to meet the requirements of any regulations promulgated by the U.S. Occupational Safety and Health Administration. Fans shall not be used near the degreaser opening.

b. Carry-out vapor losses should be minimized by racking parts to allow full drainage and maintaining vertical conveyor speed at less than 11 ft/min.

c. Waste solvent should not be disposed of or transferred to another party such that greater than 20% of the waste (by weight) can evaporate into the atmosphere. Waste solvent should only be stored in closed containers.

d. Solvent leaks should be repaired immediately or the degreaser should be shutdown.

e. Water should not be visibly detectable in the solvent exiting the water separator.

f. Down-time cover should be placed over entrances and exits of conveyorized degreaser immediately after the conveyor and exhaust are shutdown and removed just before they are started up.

B. Open top vapor degreasing.

1. Control requirements.

a. Covers should be provided that can be opened and closed easily without disturbing the vapor zone.

b. The degreaser should be equipped with all of the following control devices:

(1) A device to prevent heat input unless there is adequate coolant.

(2) The spray should be equipped with a method that will prevent spraying unless the degreaser is operating normally.

c. Degreaser [~~(if the open area is larger than 10-13 ft²)~~] should be equipped with one of the following vapor control methods:

(1) Freeboard ratio equal to or greater than 0.75 [~~and the cover should be powered~~]. [~~If the open area is larger than 10 ft², the cover should be powered.~~]

(2) Refrigerated chiller (a secondary set of condensing coils operating with a coolant of less than 40°F).

(3) Enclosed design (cover or door opens only when the dry part is actually entering or exiting the degreaser).

(4) Carbon adsorption system, with ventilation of 50 cfm/ft² or greater of air/vapor area (when cover is open), and exhausting less than 25 ppm solvent by volume averaged over one complete adsorption cycle.

(5) Any method of equal or greater control efficiency to the methods in ~~subsections subdivisions~~ B 1 c.(1) through (4) of this section, provided such method is approved by the board.

d. A permanent label, summarizing operating procedures in ~~subsections subdivisions~~ B 2 a through f of this section, should be placed in a conspicuous location on or near the degreaser.

2. Operating requirements.

a. The cover should be kept closed at all times except when processing work loads through the degreaser.

b. Carry-out vapor losses should be minimized by:

(1) Racking parts to allow full drainage;

(2) Moving parts in and out of the degreaser at less than 11 ft/min;

(3) Degreasing the work load in the vapor zone at least 30 seconds or until condensation ceases, whichever is longer;

(4) Tipping out any pools of solvent on the cleaned parts before removal; and

(5) Allowing parts to dry within the degreaser for at least 15 seconds or until visually dry, whichever is longer.

c. Porous or absorbent materials, such as cloth, leather, wood or rope should not be degreased.

d. Work loads should not occupy more than half of the degreaser's open top area.

e. The vapor level should not drop more than four inches when the work load enters the vapor zone. However, for certain specific solvent vapor degreasing operations where of necessity very large masses are required to be degreased at one time, such as large castings and fabricated assemblies, the manufacturers design should accommodate a drop of the vapor-air interface of more than four inches. This introduction of such large masses of necessity causes significant vapor-air interface drop and so the problem must be resolved by engineering of the degreaser in these

cases rather than by limiting the amount of air-vapor interface drop.

f. Spraying above the vapor level should not be done.

g. Solvent leaks should be repaired immediately or the degreaser shutdown.

~~h. Waste solvent should not be disposed of or transferred to another party such that greater than 20% of the waste (by weight) can evaporate into the atmosphere. Waste solvent should be stored only in closed containers. Waste solvent, still, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that would allow pressure relief, but would not allow liquid solvent to drain from the container.~~

i. Exhaust ventilation should not exceed 65 cfm/ft² of degreaser open area, unless necessary to meet OSHA requirements. Fans should not be used near the degreaser opening.

j. Water should not be visually detectable in solvent exiting the water separator.

C. Cold cleaning.

1. Control requirements.

a. ~~Covers or enclosed remote reservoirs should be provided and if solvent volatility is greater than 0.3 psi measured at 100°F, solvent is agitated or solvent is heated, then the covers should be designed so that they can be easily operated with one hand. (Covers for larger degreasers may require mechanical assistance, by spring loading, counterweighting or powered systems). [Enclosed remote reservoirs should be designed such that they provide reduction effectiveness equivalent to that of a cover.]~~

~~b. External or internal drainage facilities should be provided and if solvent volatility is greater than about 0.6 psi measured at 100°F, then the drainage facilities should be internal, so that parts are enclosed under the cover while draining. The drainage facilities may be external for applications where an internal type cannot fit into the cleaning system. to collect and return the solvent to a closed container or a solvent cleaning machine. [If a solvent volatility is greater than 0.6 psi measured at 100°F, then the drainage facilities should be internal so that parts are enclosed under the cover while draining. Drainage facilities may be external for applications where an internal type cannot fit into the cleaning system.]~~

c. A permanent label, summarizing the operating procedures in ~~subsections subdivisions~~ C 2 a through c of this section, should be placed in a conspicuous location on or near the degreaser.

d. If used, the solvent spray should be a solid, fluid stream (not a fine, atomized or shower type spray) and at a pressure which does not cause excessive splashing.

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e. If a solvent volatility is greater than 0.6 psi measured at 100°F, or if solvent is heated above 120°F, then the degreaser (if the open area is greater than 20 ft²) should be equipped with one of the following vapor control methods:

- (1) Freeboard ratio that is equal to or greater than 0.7.
- (2) Water cover (solvent should be insoluble in and heavier than water).
- (3) Refrigerated chiller (a secondary set of condensing coils operating with a coolant of less than 40°F).
- (4) Carbon adsorption system, with ventilation of 50 cfm/ft² or greater of air/vapor area (when down-time covers are open), and exhausting less than 25 ppm of solvent by volume averaged over a complete adsorption cycle.
- (5) Any method of equal or greater control efficiency to the methods in subsections subdivisions C 1 e (1) through (4) of this section, provided such method is approved by the board.

2. Operating requirements.

- a. Waste solvent should not be disposed of or transferred to another party, such that greater than 20% of the waste (by weight) can evaporate into the atmosphere. Store waste solvent only in closed containers.
- b. The degreaser cover should be closed whenever not handling parts in the cleaner.
- c. Cleaned parts should drain for at least 15 seconds or until dripping ceases.

D. Disposal of waste solvent from solvent metal cleaning operations should be by one of the following methods:

1. Reclamation (either by outside services or in-house).
2. Incineration.
3. ~~Chemical landfills approved by the board.~~

[~~§ 120-04-2405.~~ 9 VAC 5-40-3300.] Standard for visible emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

[~~§ 120-04-2406.~~ 9 VAC 5-40-3310.] Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

[~~§ 120-04-2407.~~ 9 VAC 5-40-3320.] Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply.

[~~§ 120-04-2408.~~ 9 VAC 5-40-3330.] Standard for noncriteria pollutants.

The provisions of Rule 4-3 (Emission Standards for ~~Noncriteria Toxic~~ Pollutants) apply.

[~~§ 120-04-2409.~~ 9 VAC 5-40-3340.] Compliance.

The provisions of [~~120-04-02~~ 9 VAC 5-40-20] (Compliance) apply.

[~~§ 120-04-2410.~~ 9 VAC 5-40-3350.] Test methods and procedures.

The provisions of [~~120-04-03~~ 9 VAC 5-40-30] (Emission Testing) apply.

[~~§ 120-04-2411.~~ 9 VAC 5-40-3360.] Monitoring.

The provisions of [~~120-04-04~~ 9 VAC 5-40-40] (Monitoring) apply.

[~~§ 120-04-2412.~~ 9 VAC 5-40-3370.] Notification, records and reporting.

The provisions of [~~120-04-05~~ 9 VAC 5-40-50] (Notification, Records and Reporting) apply.

[~~§ 120-04-2413.~~ 9 VAC 5-40-3380.] Registration.

The provisions of [~~120-04-31~~ 9 VAC 5-20-160] (Registration) apply.

[~~§ 120-04-2414.~~ 9 VAC 5-40-3390.] Facility and control equipment maintenance or malfunction.

The provisions of [~~§ 120-02-34~~ 9 VAC 5-20-180] (Facility and Control Equipment Maintenance or Malfunction) apply.

[~~§ 120-04-2415.~~ 9 VAC 5-40-3400.] Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of [~~Part V~~ 9 VAC 5-50-10 *et seq.*] (New and Modified Sources) and [~~Part VIII~~ 9 VAC 5-80-10 *et seq.*] (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

A. 1. Construction of a facility.

B. 2. Reconstruction (replacement of more than half) of a facility.

C. 3. Modification (any physical change to equipment) of a facility.

D. 4. Relocation of a facility.

E. 5. Reactivation (restart-up) of a facility.

6. *Operation of a facility.*

[PART IV. Article 36.]

Emission Standards for ~~Graphic Arts Printing Processes~~
Flexographic, Packaging Rotogravure, and Publication
Rotogravure Printing Lines.
(Rule 4-36)

[~~§ 120-04-3604.~~ 9 VAC 5-40-5060.] Applicability and designation of affected facility.

A. Except as provided in subsections ~~C and D~~ C, D, and E of this section, the affected facility to which the provisions of this rule apply is each ~~graphic arts printing process flexographic, packaging rotogravure, or publication rotogravure printing line which uses a substrate other than a textile.~~

B. The provisions of this rule apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in Appendix P.

C. Exempted from the provisions of this rule are ~~graphic arts plants which emit, or have the potential to emit, flexographic, packaging rotogravure, and publication rotogravure facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 400 25 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from clean-up or washing solvents printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.~~

D. Exempted from the provisions of this rule are ~~flexographic, packaging rotogravure, and publication rotogravure facilities in the Richmond and Hampton Roads Volatile Organic Compound Emissions Control Areas whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.~~

~~D.~~ E. The provisions of this rule do not apply to the following:

1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:
 - a. The operation is not an integral part of the production process;
 - b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and
 - c. The exemption is approved by the board.
2. Lithography or letterpress printing.
3. Electrostatic duplication.

[~~§ 120-04-2602.~~ 9 VAC 5-40-5070.] Definitions.

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

B. As used in this rule, all terms not defined herein shall have the meaning given them in [Part 4 9 VAC 5-10-10 et seq.], unless otherwise required by context.

C. Terms defined.

"Carbon adsorption system" means a device containing activated carbon as the adsorbent material, an inlet and outlet for exhaust gases, and a system to regenerate the saturated adsorbent. The carbon adsorption system must provide for the proper disposal or reuse of all volatile organic compounds in the adsorbate.

"Compliant ink or surface coating" means an ink or surface coating conforming to the definition of a high-solids, low-volatile organic compound or a waterborne ink or surface coating.

"Cleaning solutions" means any liquid used to remove ink and debris from the operating surface of a printing press and its parts.

"Electrostatic duplication" means a process using a plate or takeoff sheet that is electrically charged to attract developer to the image area only.

"Flexographic printing" means the application of words, designs and or pictures to a substrate by means of a roll printing technique in which both the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials by a rubber or elastomeric image carrier in which the image area is raised above the nonimage area.

"High-solids ink or surface coating" means an ink or surface coating which contains 60% or more nonvolatile compounds by volume.

"Letterpress printing" means a printing process which uses raised image transfer elements fixed upon a metal backing.

"Lithographic printing" means a planographic printing process in which the image and nonimage areas are chemically differentiated with the image area being oil receptive and the nonimage area being water receptive.

"Low-solvent ink or surface coating" means an ink or surface coating which contains not more than 0.5 pounds of volatile organic compounds per pound of nonvolatile compounds and is used on a packaging rotogravure printing or flexographic printing press.

"Noncompliant ink or surface coating" means an ink or surface coating which does not conform to the definition of a high-solids, low-volatile organic compound or waterborne ink or surface coating.

"Packaging rotogravure printing" means printing upon an intaglio printing process in which the ink is transferred from minute etched wells on an image carrier, typically a cylinder, to paper, paper board, metal foil, plastic film and other substrates, which are, in subsequent operations, formed into containers and labels for articles to be sold.

"Printing" means ~~the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage a photomechanical process in which a~~

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transfer of text, designs, and images occurs through contact of an image carrier with a substrate.

"Printing line" means all of the equipment between a web feed input and the finished rolled or cut and stacked product wherein printing ink or a combination of printing inks and surface coatings are applied, dried, or cured and which is subject to the same emission standard. Such equipment may include decks, stations, press units, devices, ink stations, and any other equipment which applies, conveys, dries, or cures surface inks or surface coatings. Such equipment may include but is not limited to flow coaters, flashoff areas, air dryers, drying areas, and ovens. It is not necessary for a printing line to have an oven, flashoff area, or drying area to be included in this definition.

"Printing process" means any operation or system wherein printing ink or a combination of printing ink and surface coating is applied, dried or cured and which is subject to the same emission standard. May include any equipment which applies, conveys, dries or cures inks or surface coatings, including, but not limited to, flow coaters, flashoff areas, air dryers, drying areas and ovens. It is not necessary for a printing process to have an oven, flashoff area or drying area to be included in this definition.

"Publication rotogravure printing" means printing upon an intaglio printing process in which the ink is transferred from minute etched wells on an image carrier, typically a cylinder, to paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements or any other types of printed materials not included under the definition of packaging rotogravure printing.

~~"Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.~~

"Surface coating" means all nonink liquids and liquid-solid mixtures containing volatile organic compounds which are applied to the substrate by printing units.

"Waterborne inks ink or surface coating" means an ink or surface coating whose volatile portion consists of 75% or more by volume of water and 25% or less by volume of volatile organic compounds.

"Web" means a continuous roll of printing substrate.

[~~§ 120-04-3603. 9 VAC 5-40-5080.~~] Standard for volatile organic compounds.

A. No owner or other person shall use or permit the use of any packaging rotogravure, publication rotogravure or flexographic printing process line employing solvent containing ink or surface coating containing volatile organic compounds unless:

1. The ink or surface coating, as it is applied to the substrate, is a waterborne ink or surface coating;
2. The ink or surface coating, as it is applied to the substrate, is a high-solids ink or surface coating;
3. The ink or surface coating, as it is applied to the substrate, is a low-solvent ink or surface coating; or
4. The owner installs and operates an emission control system which achieves the emission reductions specified

below in subsection subdivision A 4 a through c of this section. The reduction in volatile organic compound emissions from each printing process line shall be at least:

- a. 75% by weight of volatile organic compounds of all noncompliant inks and surface coatings where a publication rotogravure printing process is employed;
- b. 65% by weight of volatile organic compounds of all noncompliant inks and surface coatings where a packaging rotogravure printing process is employed; or
- c. 60% by weight of volatile organic compounds of all noncompliant inks and surface coatings where a flexographic printing process is employed.

~~B. The provisions of this section shall be applicable to the production of packaging materials and to printing (graphic arts) operations to the extent provided in subsection C of this section.~~

~~C. The production of packaging materials involves two principal operations which emit volatile organic compounds: the coating and laminating of paper, film and foil, and the printing of words, designs and pictures upon webs of paper, film and foil. For the purposes of applicability of the above emission standard, coating is the application of a layer of material across any portion of the web and printing is the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. The emission standard in Rule 4-31 applies to coating and laminating operations in the production of packaging materials, and the above emission standards apply to printing operations in the production of packaging materials and to publication rotogravure printing operations. However, all units in a machine which has both coating and printing units will be considered as performing a printing operation. A typical operation is as follows: the first unit applies a uniform background color, subsequent units print additional colors, the final unit applies a varnish overcoat. Such a machine would be subject to the above emission standards, but not to the emission standard in Rule 4-31.~~

~~B. All units in a machine which has printing units and coating or laminating units shall be subject to this rule and exempt from Rule 4-31.~~

[~~§ 120-04-3604. Reserved.~~]

[~~§ 120-04-3605. 9 VAC 5-40-5090.~~] Standard for visible emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

[~~§ 120-04-3606. 9 VAC 5-40-5100.~~] Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

[~~§ 120-04-3607. 9 VAC 5-40-5110.~~] Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply.

[~~§ 120-04-3608, 9 VAC 5-40-5120.~~] Standard for ~~non~~criteria toxic pollutants.

The provisions of Rule 4-3 (Emission Standards for ~~Non~~criteria Toxic Pollutants) apply.

[~~§ 120-04-3609, 9 VAC 5-40-5130.~~] Compliance.

A. The provisions of [~~§ 120-04-02 9 VAC 5-40-20~~] (Compliance) apply.

B. The emission standards in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A apply ink by ink and coating by coating or to the volume weighted average of inks or surface coatings where the inks and surface coatings are used on a single printing process line and the inks and surface coatings are of the same type or perform the same function. Such averaging shall not exceed 24 hours. Compliance with the emission standards in ~~§ 120-04-3603 A 4~~ shall be determined using the applicable methods and procedures specified in Appendix S. Inks meeting the criteria in ~~§ 120-04-3603 A 1 through A 3~~ (i.e., compliant inks) may be used, on the same printing process, with inks subject to the control requirements in ~~§ 120-04-3603 A 4~~ (i.e., noncompliant inks) to meet these control requirements. In this case, compliance is determined by credits generated by the weight of volatile organic compounds by which the compliant inks are less than the applicable criteria in ~~§ 120-04-3603 A 1 through A 3~~. Compliance is demonstrated if the total credits in pounds of volatile organic compounds is equal to or greater than the total weight of volatile organic compound reduction required of the noncompliant inks, over a time period not exceeding 24 hours.

C. Inks and surface coatings meeting the criteria in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A 1 through 3 (compliant inks and coatings) may be used on the same printing line with inks and surface coatings subject to the control requirements in [~~§ 120-04-3603 9 VAC 5-40-5080~~] (noncompliant inks and coatings) to meet the control requirements of [~~§ 120-04-3603 9 VAC 5-40-5080~~] without the installation of an add-on control system. When this is the case, compliance is determined by credits generated by the weight of volatile organic compounds by which the compliant inks or coatings are less than the applicable criteria in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A 1 through 3. Compliance is demonstrated if the total credits in pounds of volatile organic compounds is equal to or greater than the total weight of volatile organic compound reduction required of the noncompliant inks over a time period not exceeding 24 hours.

D. Compliance with the requirements of [~~§ 120-04-3609 9 VAC 5-40-5130~~] B and C and the emission standards in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A shall apply as follows:

1. To each printing line, and to parts of a printing line individually designated by the owner; or
2. To multiple printing lines controlled by a single solvent recovery system. For this option, the most stringent standard applicable to any of the printing lines is applied to all the lines controlled by the same solvent recovery system.

E. The emission standards in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A shall apply to each successive compliance averaging period. This compliance averaging period shall not exceed:

1. 24 hours; or
2. The minimum compliance averaging period acceptable to the board, provided that:
 - a. The owner demonstrates to the satisfaction of the board that an averaging period of 24 hours or less does not adequately represent the reduction of volatile organic compound emissions over the same time period because of the physical or operational characteristics of an add-on control system;
 - b. The owner demonstrates to the satisfaction of the board the minimum compliance averaging period which adequately represents the reduction of volatile organic compound emissions; and
 - c. The owner determines compliance for each day or partial day of operation using the minimum compliance averaging period acceptable to the board.

[~~§ 120-04-3610, 9 VAC 5-40-5140.~~] Test methods and procedures.

A. The provisions of [~~§ 120-04-03 9 VAC 5-40-30~~] (Emission Testing) apply.

B. Testing for compliance with the emission standards in [~~§ 120-04-3603 9 VAC 5-40-5080~~] A 4 shall be performed using the applicable methods and procedures specified in Appendix S.

[~~§ 120-04-3611, 9 VAC 5-40-5150.~~] Monitoring.

The provisions of [~~§ 120-04-04 9 VAC 5-40-40~~] (Monitoring) apply.

[~~§ 120-04-3612, 9 VAC 5-40-5160.~~] Notification, records and reporting.

The provisions of [~~§ 120-04-05 9 VAC 5-40-50~~] (Notification, Records and Reporting) apply.

[~~§ 120-04-3613, 9 VAC 5-40-5170.~~] Registration.

The provisions of [~~§ 120-02-31 9 VAC 5-20-160~~] (Registration) apply.

[~~§ 120-04-3614, 9 VAC 5-40-5180.~~] Facility and control equipment maintenance or malfunction.

The provisions of [~~§ 120-02-34 9 VAC 5-20-180~~] (Facility and Control Equipment Maintenance or Malfunction) apply.

[~~§ 120-04-3615, 9 VAC 5-40-5190.~~] Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of [~~Part V 9 VAC 5-50-10 et seq.~~] (New and Modified Sources) and [~~Part VIII 9 VAC 5-80-10 et seq.~~] (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

- A. 1. Construction of a facility.

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- B. 2. Reconstruction (replacement of more than half) of a facility.
- C. 3. Modification (any physical change to equipment) of a facility.
- D. 4. Relocation of a facility.
- E. 5. Reactivation (restart-up) of a facility.
- 6. Operation of a facility.

[~~PART IV~~, Article 43.]

Emission Standards for Sanitary Landfills.
(Rule 4-43)

[~~§ 120-04-4307~~, 9 VAC 5-40-5800.] Applicability and designation of affected facility.

A. The affected facility to which the provisions of this rule apply is each sanitary landfill which has accepted waste at any time since November 8, 1987, or which has additional capacity for future waste deposition.

B. The provisions of this rule apply only to sources of volatile organic compounds in the Northern Virginia Volatile Organic Compound Emissions Control Area designated in Appendix P.

[~~§ 120-04-4302~~, 9 VAC 5-40-5810.] Definitions.

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

B. As used in this rule, all terms not defined herein shall have the meaning given them in [~~Part I~~ 9 VAC 5-10-10 et seq.], unless otherwise required by context.

C. Terms defined.

"Commercial waste" means all types of solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, and shopping centers.

"Design capacity" means the maximum amount of waste a landfill can accept, including refuse on site, within the permit limits of the entire facility.

"Gas management system" means a method for the collection and destruction or use of landfill gases.

"Household waste" mean any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreational areas. Household wastes do not include sanitary waste (septage) in septic tanks which are regulated by other state agencies.

"Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing

processes: electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing and foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

"Landfill gas" means any gas derived from the decomposition of organic waste deposited in a sanitary landfill or from the evolution of volatile organic species in the waste. Emissions from sanitary landfills is equivalent to landfill gas emissions.

"NMOC" or "NMOCs" means nonmethane organic compounds, as measured according to the provisions of [~~§ 120-04-4307~~ 9 VAC 5-40-5860].

"Offsite gas migration" means underground landfill gases detected at any point on the landfill perimeter.

"Refuse" means trash, rubbish, garbage, and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management, and emergency operations.

"Sanitary landfill" means an engineered land burial facility for the disposal of household waste which is located, designed, constructed, and operated according to Part V of the Solid Waste Management Regulations ([~~VR 672-20-10~~ 9 VAC 20-80-10 et seq.]) and in which waste is contained and isolated so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill may also receive commercial waste, sludges, and industrial solid waste.

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Solid waste" means any of those materials defined as "solid waste" in Part III of the Virginia Solid Waste Landfill Regulations ([~~VR 672-20-10~~ 9 VAC 20-80-10 et seq.]).

[~~§ 120-04-4303~~, 9 VAC 5-40-5820.] Standard for volatile organic compounds.

A. This section shall apply to affected facilities meeting the following conditions:

1. The design capacity is 1.1 million tons (1 million Mg) or greater; and
2. The nonmethane organic compound (NMOC) emission rate is 25 tons of NMOC or greater per year.

B. Affected facilities meeting the provisions of subsection A of this section shall install and operate a well-designed gas management system that employs one of the following control devices:

1. An open flare designed and operated in accordance with the parameters established in 40 CFR 60.18;
2. An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 ppmvd at 3.0% oxygen;
3. A control device that is designed and operated so as to reduce NMOC by 98% or more; or
4. A system having a control efficiency equal to or greater than that of the systems in subdivisions 1, 2 and 3 of this subsection, provided such system is approved by the board.

C. Affected facilities meeting the provisions of subsection A of this section shall install and operate a well-designed gas management system in which the gas collection systems shall:

1. Be designed to handle the maximum expected gas flowrate over the lifetime of the gas control or treatment system equipment from the entire area of the landfill that warrants control over the equipment lifetime;
2. Collect gas from each area, cell, or group of cells in the landfill in which refuse has been placed for one year or more;
3. Collect gas at a sufficient extraction rate, maximizing the amount of gas extracted while preventing fires or damage to the collection system; and
4. Be in compliance with Part V of the Solid Waste Management Regulations ([~~VR 672-20-10~~ 9 VAC 20-80-10 et seq.]).

D. Affected facilities required to meet the provisions of subdivision A 1 of this section shall install and operate a gas management system within 30 months after (insert effective date). For each affected facility meeting the conditions of subdivision A 1 of this section whose NMOC emission rate on (insert effective date) is less than that stated in subdivision A 2 of this section, the installation and operation of a gas management system capable of meeting the requirements of subsection B of this section shall be accomplished within 30 months of the date of the first annual NMOC emission rate which equals or exceeds the rate stated in subdivision A 2 of this section.

[~~§ 120-04-4304.~~ 9 VAC 5-40-5830.] Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

[~~§ 120-04-4305.~~ 9 VAC 5-40-5840.] Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply.

[~~§ 120-04-4306.~~ 9 VAC 5-40-5850.] Compliance.

A. The provisions of [~~§ 120-04-02~~ 9 VAC 5-40-20] (Compliance) apply.

B. Owners subject to [~~§ 120-04-4303~~ 9 VAC 5-40-5820] shall comply with the provisions of Part V of the Solid Waste

Management Regulations ([~~VR 672-20-10~~ 9 VAC 20-80-10 et seq.]) pertaining to the control of landfill gases.

C. Owners required to install a gas collection system and control device shall use the following methods to determine whether the gas collection system is in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] C:

1. For the purposes of calculating the maximum expected gas generation flowrate from the landfill to determine compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] C 1, the following equation shall be used:

$$Q_M = 2L_0R(1 - \exp(-kt))$$

where:

Q_M = maximum expected gas generation flow rate, m^3/Mg refuse.

L_0 = refuse methane generation potential, m^3/Mg refuse.

R = average annual acceptance rate, Mg/yr .

k = methane generation rate, $1/yr$.

t = age of the landfill plus the gas mover equipment life or active life of the landfill, whichever is less, in years.

A value of $170 m^3/Mg$ shall be used for L_0 . If Reference Method 2E has been performed, the value of k determined from the test shall be used; if not, a value of 0.05 years^{-1} shall be used. A value of 15 years shall be used for gas mover equipment life. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

2. For the purposes of calculating the area of influence of the gas collection system to determine compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] C 2, the owner should use Reference Method 2E in Appendix A of 40 CFR Part 60.

3. For the purpose of demonstrating whether the gas collection system flowrate is sufficient to determine compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] C 3, the owner shall measure gauge pressure in the gas collection header. If a positive pressure exists, the gas collection system flowrate shall be increased until a negative pressure is measured.

4. If the gauge pressure at a wellhead is positive, the valve shall be opened to restore negative pressure. If negative pressure cannot be achieved, an additional well shall be added.

D. To determine whether the control device designed and operated according to the parameters established in § 60.18 of 40 CFR Part 60 (for open flares), or for other control devices the parameters in the performance test to reduce NMOCs by 98 weight-percent, is in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B, the parameters shall be monitored as provided in [~~§ 120-04-4308~~ 9 VAC 5-40-5870].

[~~§ 120-04-4307.~~ 9 VAC 5-40-5860.] Test methods and procedures.

A. The owner shall estimate the NMOC emission rate according to the schedule as provided in [~~§ 120-04-4309~~ 9

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VAC 5-40-5890] B using either of the equations provided in subdivision 1 or 2 of this subsection.

- a. The following equation shall be used if the actual year-to-year acceptance rate is known.

$$Q_T = \sum_{i=1}^n 2k L_0 M_i \exp(-k t_i) C_{NMOC} * 3.595 \times 10^{-9}$$

where:

Q_T = Total NMOC emission rate from the landfill, Mg/yr.

k = landfill gas generation constant, 1/yr.

L_0 = methane generation potential, m^3 /Mg.

t_i = age of i^{th} section, yrs.

C_{NMOC} = concentration of NMOC, ppmv.

3.595×10^{-9} = conversion factor.

The NMOC emission rate is the sum of each NMOC emission rate for each yearly submass.

- b. The following equation shall be used if the actual year-by-year refuse acceptance rate is unknown.

$$M_{NMOC} = 2 L_0 R (1 - \exp(-kt)) C_{NMOC} * 3.595 \times 10^{-9}$$

where:

M_{NMOC} = Mass emission rate of NMOC, Mg/yr.

L_0 = refuse methane generation potential, m^3 /Mg.

R = average annual acceptance rate, Mg/yr.

k = methane generation rate constant, 1/yr.

t = age of landfill, yrs.

C_{NMOC} = concentration of NMOC, ppmv as hexane.

3.595×10^{-9} = conversion factor.

In the absence of site-specific data, the values to be used for k , L_0 , and NMOC concentration are 0.05/yr, 170 m^3 /Mg, and 4,000 ppmv as hexane, respectively.

2. The owner shall compare the calculated NMOC mass emission rate to the standard of 25 tpy.

- a. If the calculated NMOC emission rate is less than 25 tpy, then the owner shall submit an emission rate report as provided in [~~§ 120-04-4309~~ 9 VAC 5-40-5890] 1 and shall recalculate the NMOC mass emission rate annually.

- b. If the calculated NMOC emission rate is equal to or greater than 25 tpy, then the owner shall either install controls in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B or determine a site-specific NMOC concentration using the procedures provided below in subdivision 3 of this subsection.

3. The owner shall estimate the NMOC mass emission rate using the following sampling procedure. The owner shall install a minimum of five sample probes. The

owner shall collect and analyze at least one sample of landfill gas from each probe for NMOC concentration using Reference Method 25C in Appendix A of 40 CFR Part 60. The owner shall recalculate the NMOC mass emission rate using the average NMOC concentration from the collected samples instead of the default value in the equation provided in subsection A of this section.

- a. If the resulting mass emission rate is equal to or greater than 25 tpy, then the owner shall install controls in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820], or determine the site-specific gas generation rate constant using the procedure provided below in subdivision 4 of this subsection.

- b. If the resulting NMOC mass emission rate is less than 25 tpy, then the owner shall demonstrate that the NMOC mass emission rate is below the level of the standard with 80% confidence.

(1) The owner shall use the following equation to determine the number of samples required to show 80% confidence:

$$n = \frac{(t_{.20})^2 s^2}{D^2}$$

where:

n = number of samples required to demonstrate 80% confidence.

$t_{.20}$ = Student's t value for a two-tailed confidence interval and a probability of .20.

s = standard deviation of the initial set of samples, ppmv.

D = difference between resulting NMOC mass emission rate as determined in [~~§ 120-04-4307~~ 9 VAC 5-40-5860] A 3 b and the regulatory emissions limit of 25 tons per year.

The owner shall install the required number of probes or 50 probes, whichever is less. At least one sample of landfill gas from each probe must be collected and analyzed using Reference Method 25 C in Appendix A of 40 CFR Part 60.

- (2) The owner shall recalculate the NMOC mass emission rate using the new average NMOC concentration in the formula provided in subsection A of this section.

- c. The owner shall compare the NMOC mass emission rate obtained above in subdivision 3 b (2) of this subsection to the standard of 25 tpy.

- (1) If the NMOC mass emission rate is equal to or greater than 25 tpy, then the owner shall install controls in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B, or proceed to subdivision 4 of this subsection.

- (2) If the NMOC emission rate is less than 25 tpy, the owner shall submit an annual or a five-year estimate of the emission rate report as provided in [

§ 120-04-4309 9 VAC 5-40-5880] B 1 b and shall update the site-specific NMOC concentration using the procedures provided in [§ 120-04-4307 9 VAC 5-40-5870] A 3 every five or 10 years. If the average NMOC mass emission rate plus two standard deviations is less than 25 tpy, the owner shall update the site-specific NMOC concentration every 10 years. If the average NMOC mass emission rate plus two standard deviations is greater than 25 tpy, then the owner shall update the site-specific NMOC concentration every five years.

4. The owner shall estimate the NMOC mass emission rate using a site-specific landfill gas generation rate constant, k . The site-specific landfill gas generation rate constant and the resulting NMOC mass emission rate shall be determined using the procedures provided in Reference Method 2E in Appendix A of 40 CFR Part 60. The owner shall compare the resulting NMOC mass emission rate to the standard of 25 tpy.

a. If the NMOC mass emission rate is equal to or greater than 25 tpy, then the owner shall install controls in compliance with [§ 120-04-4303 9 VAC 5-40-5820] B.

b. If the NMOC mass emission rate is less than 25 tpy, then the owner shall submit an annual emission rate report as provided in [§ 120-04-4309 9 VAC 5-40-5880] B and shall recalculate the NMOC mass emission rate annually, using the site-specific landfill gas generation rate constant and NMOC concentration obtained in subdivision 2 of this subsection. The calculation of the landfill gas generation rate constant is performed only once, and the value obtained is used in all subsequent annual NMOC emission rate calculations.

B. After the installation of a collection and control system in compliance with [§ 120-04-4303 9 VAC 5-40-5820], the owner shall estimate the NMOC emission rate using the equation below.

$$M_{\text{NMOC}} = 1.89 \times 10^3 Q_{\text{LFG}} C_{\text{NMOC}}$$

where:

M_{NMOC} = mass emission rate of NMOC, Mg/yr.

Q_{LFG} = flowrate of landfill gas, m^3/min .

C_{NMOC} = NMOC concentration, ppmv.

1. The flowrate of landfill gas, Q_{LFG} , shall be obtained by measuring the total landfill gas flowrate at the common header pipe that leads to the control device using an orifice meter as described in Reference Method 2E in Appendix A of 40 CFR Part 60.

2. The average NMOC concentration, C_{NMOC} , shall be determined by collecting and analyzing landfill gas sampled from the common header pipe using Reference Method 25C in Appendix A of 40 CFR Part 60.

[§ 120-04-4308 9 VAC 5-40-5870] Monitoring.

A. The provisions of [§ 120-04-04 9 VAC 5-40-40] (Monitoring) apply.

B. Each owner seeking to comply with [§ 120-04-4303 9 VAC 5-40-5820] C for the gas collection system shall install a sampling port at each well and measure the gauge pressure in the gas collection header on a monthly basis.

C. Each owner seeking to comply with [§ 120-04-4303 9 VAC 5-40-5820] B using an enclosed combustion device shall monitor the residence time and temperature established during the initial performance test to reduce NMOCs by 98%. Each owner shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

1. A temperature monitoring device equipped with a continuous recorder and having an accuracy of $\pm 1.0\%$ of the temperature being measured, expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater.

2. A flow indicator that provides a record of gas flow to the control device at intervals of every 15 minutes.

D. Each owner seeking to comply with [§ 120-04-4303 9 VAC 5-40-5820] B using an open flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

1. A heat sensing device, such as an ultraviolet beam sensor or thermocouple, to indicate the continuous presence of a flame.

2. A flow indicator that provides a record of gas flow to the flare at intervals of every 15 minutes.

E. Each owner seeking to demonstrate compliance with [§ 120-04-4303 9 VAC 5-40-5820] B using a device other than an open flare or a closed combustion device shall provide to the board information describing the operation of the control device and the operating parameters that would indicate proper performance. The board will specify appropriate monitoring procedures.

[§ 120-04-4309 9 VAC 5-40-5880.] Reporting.

A. The provisions of [§ 120-04-05 9 VAC 5-40-5840] (Notification, records and reporting) apply.

B. Each owner shall submit an initial design capacity report to the board within 90 days of [(insert-effective-date) April 1, 1996].

1. The initial design capacity report shall contain the following information:

a. A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where refuse may be landfilled according to the provisions of the permit issued in accordance with Part VII of the Solid Waste Management Regulations ([VR 672-20-10 9 VAC 20-80-10 et seq.]);

b. The maximum design capacity of the landfill, where the maximum design capacity is specified in the permit issued pursuant to Part VII of the Solid Waste Regulations ([VR 672-20-10 9 VAC 20-80-10 et seq.])

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); A copy of the permit specifying the maximum design capacity may be submitted. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity must be calculated using good engineering principles. The calculations must be provided, along with such parameters as depth of refuse, refuse acceptance rate, and compaction practices. The board may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

2. An amended design capacity report must be submitted to the board, providing notification of any increase in the size of the landfill, whether the increase results from an increase in the permitted area or depth of the landfill, a change in the operating procedures, or any other means which results in an increase in the maximum design capacity of the landfill. The amended design capacity report must be submitted within 90 days of the issuance of an amended construction or operating permit, or the actual use of additional land, or the change in operating procedures which will result in an increase in maximum design capacity, whichever comes first.

C. Each owner shall submit an annual NMOC emission rate report to the board, except as provided for below in subdivision C 1 b of this section. The board may request such additional information as may be reasonably necessary to verify the reported NMOC emission rate.

1. The annual, or five-year estimate of the NMOC emission rate shall be calculated using the formula and procedures provided in [~~§ 120-04-4307~~ 9 VAC 5-40-5860].

a. The initial NMOC emission rate report shall be submitted within 90 days of the date waste acceptance commences and may be combined with the initial design capacity report required in subsection B of this section. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for below in subdivisions 1 b and 1 c of this subsection.

b. The owner may elect to submit an estimate of the NMOC emission rate for the next five years in lieu of the annual report, provided that the estimated NMOC emission rate in each of the five years is less than 25 tpy. This estimate must include the current amount of refuse in place and the estimated waste acceptance rate for each of the five years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based must be provided. This estimate must be revised at least every five years.

c. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the five-year estimate, a revised five-year estimate must be submitted. The revised estimate shall cover the five years beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

2. The annual, or five-year estimate of the NMOC emission rate report shall include all the data, calculations, sample reports, and measurements used.

3. Each owner is exempted from the requirements of subsection C of this section after the installation of collection and control systems in compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] during such time as the collection and control system is in continuous operation and in compliance with [~~§ 120-04-4306~~ 9 VAC 5-40-5850].

D. Each owner shall submit a closure report to the board. For the purposes of this rule, closure means that refuse is no longer being placed in the landfill and that no additional wastes will be placed into the landfill without filing a notification or modification as prescribed under 40 CFR § 60.14. The board may request such additional information as may be reasonably necessary to verify that permanent closure has taken place.

E. Each owner shall submit an equipment removal report to the board prior to removal or cessation of operation of the control equipment.

1. The equipment removal report shall contain the following items:

- a. A copy of the closure report submitted in accordance with subsection D of this section;
- b. A copy of the initial performance test report demonstrating the 15 year minimum control period has expired;
- c. Dated copies of the three successive NMOC emission rate reports demonstrating that the landfill is no longer emitting above the level of the standard.

2. The board may request such additional information as may be reasonably necessary to verify that all of the following conditions for removal have been met:

- a. The landfill must no longer be accepting waste and must be permanently closed. A closure report must be submitted to the board as provided for in [~~§ 120-04-4309~~ 9 VAC 5-40-5880] D;
- b. The collection and control system must have been in continuous operation a minimum of 15 years; and
- c. Following the procedures in [~~§ 120-04-4307~~ 9 VAC 5-40-5860] B, the calculated NMOC emission rate must be less than 25 tpy on three successive test dates. The test dates must be no closer than three months apart, and no longer than six months apart.

F. Each owner shall submit to the board semiannual reports of the following recorded information. The initial report shall be submitted within 90 days of installation and startup of the collection and control system and shall include the initial performance test report required under [~~§ 60.8 of~~] 40 CFR [~~Part 60~~ 60.8].

1. Exceedance of parameters monitored under [~~§ 120-04-4308~~ 9 VAC 5-40-5870] B and C 1.

2. All periods when the gas stream is diverted from the control device or has no flowrate.

3. All periods when the control device was not operating.

4. For control devices using open or enclosed flares, all periods when the pilot flame of the flare was absent.

[~~§ 120-04-4310~~, 9 VAC 5-40-5890.] Recordkeeping.

A. The provisions of [~~§ 120-04-05~~ 9 VAC 5-40-50] Notification, records and reporting) apply.

B. Each owner subject to the provisions of [~~§ 120-04-4303~~ 9 VAC 5-40-5820] A 2 shall keep up-to-date, readily accessible records of the maximum design capacity, the current amount of refuse in place, and the year-by-year waste acceptance rate.

C. Each owner shall keep up-to-date, readily accessible records of the following data measured during the initial performance test/compliance determination for the life of the control equipment. Records of subsequent tests must be maintained for a minimum of two years.

1. Where an owner seeks to demonstrate compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B:

a. The calculated maximum expected gas generation flow rate using Reference Method 2E in Appendix A of 40 CFR Part 60.

b. The calculated area of influence of the extraction wells.

c. Gauge pressure in the gas collection header at the point where each well is connected to the gas collection header pipe.

2. Where an owner seeks to demonstrate compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B 2 through use of an enclosed combustion device:

a. The average combustion temperature measured every 15 minutes and averaged over the same time period of the performance testing; and

b. The percent reduction of NMOC determined as specified in [~~§ 120-04-4306~~ 9 VAC 5-40-5850] B achieved by the control device.

3. Where an owner seeks to demonstrate compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B 3 through use of a boiler:

a. A description of the location at which the process vent stream is introduced into the boiler or process heater; and

b. The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured at least every 15 minutes and averaged over the same time period of the performance testing.

4. Where an owner seeks to demonstrate compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B 1 through use of an open flare, the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings,

heat content determination, flowrate measurements, and exit velocity determinations made during the performance test continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

D. Each owner shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under [~~§ 120-04-4308~~ 9 VAC 5-40-5870], as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

1. For enclosed combustion devices except for boilers and process heaters with design heat input capacity of 150 million Btu/hour (44 MW) or greater and nonenclosed flares, all three-hour periods of operation during which the average combustion temperature was more than 50°F (28°C) below the average combustion temperature during the most recent performance test at which compliance with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B was determined.

2. For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under subsection C 3 a of this section.

3. Each owner shall keep up-to-date, readily accessible continuous records of the indication of flow specified under [~~§ 120-04-4308~~ 9 VAC 5-40-5870], as well as up-to-date, readily accessible records of all periods when the gas stream is diverted from the control device or has no flowrate.

4. Each owner who uses a boiler or process heater with a design heat input capacity of 150 million Btu/hour (44 MW) or greater to comply with [~~§ 120-04-4303~~ 9 VAC 5-40-5820] B shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. Such records shall include but not be limited to records of steam use, fuel use, or monitoring data collected pursuant to other state or federal regulatory requirements.

5. Each owner shall keep up-to-date, readily accessible continuous records of the flare pilot flame monitoring specified under [~~§ 120-04-4308~~ 9 VAC 5-40-5870] D 1, as well as up-to-date, readily accessible records of all periods of operation in which the pilot flame is absent.

[~~§ 120-04-4311~~, 9 VAC 5-40-5900.] Registration.

The provisions of [~~§ 120-02-31~~ 9 VAC 5-20-160] (Registration) apply.

[~~§ 120-04-4312~~, 9 VAC 5-40-5910.] Facility and control equipment maintenance or malfunction.

The provisions of [~~§ 120-02-34~~ 9 VAC 5-20-180] (Facility and control equipment maintenance or malfunction) apply.

[~~§ 120-04-4313~~, 9 VAC 5-40-5920.] Permits.

A. A permit may be required prior to beginning any of the activities specified below and the provisions of [Part V 9 VAC

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5-50-10 et seq.] (New and Modified Sources) and [~~Part VIII~~ 9 VAC 5-80-10 et seq.] (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

B. Sanitary landfills required to install a gas management system according to the provisions of [~~§ 120-04-4303~~ 9 VAC 5-40-5820] shall apply for a permit amendment in accordance with Part VII of the Solid Waste Management Regulations ([~~VR-672-20-10~~ 9 VAC 20-80-10 et seq.]).

[PART IV, Article 45.]

Emission Standards for Lithographic Printing Processes.
(Rule 4-45)

[~~§ 120-04-4501~~, 9 VAC 5-40-7800.] Applicability and designation of affected facility.

A. Except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this rule apply is each lithographic printing process which uses a substrate other than a textile.

B. The provisions of this rule apply only to sources of volatile organic compounds in the Northern Virginia or Richmond Volatile Organic Compound Emissions Control Area designated in Appendix P.

C. Exempted from the provisions of this rule are facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 10 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

D. Exempted from the provisions of this rule are facilities in the Richmond Volatile Organic Compound Emissions Control Area whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

E. The provisions of this rule do not apply to the following:

1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:
 - a. The operation is not an integral part of the production process;

b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and

c. The exemption is approved by the board.

2. Photoprocessing, typesetting, or imagesetting equipment using water-based chemistry to develop silver halide images.
3. Platemaking equipment using water-based chemistry to remove unhardened image-producing material from an exposed plate.
4. Equipment used to make blueprints.
5. Any sheet-fed offset lithographic press with a cylinder width of 26 inches or less.

[~~§ 120-04-4502~~, 9 VAC 5-40-7810.] Definitions.

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

B. As used in this rule, all terms not defined herein shall have the meaning given them in [~~Part I~~ 9 VAC 5-10-10 et seq.], unless otherwise required by context.

C. Terms defined.

"Alcohol" means any of the following compounds when used as a fountain solution additive: ethanol, n-propanol, and isopropanol.

"Alcohol substitute" means any nonalcohol additive that contains volatile organic compounds and is used in the fountain solution.

"Batch" means a supply of fountain solution that is prepared and used without alteration until completely used or removed from the printing process.

"Cleaning solution" means any blanket or roller wash used to remove ink and debris from the operating surface of a printing press.

"Composite partial vapor pressure" means the sum of the partial pressures of the compounds defined as volatile organic compounds. Composite partial vapor pressure is calculated as follows:

$$PP_c = \sum_{i=1}^n \frac{(W_i)(VP_i) / MW_i}{\frac{W_w}{MW_w} + \frac{W_e}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

where:

W_i = Weight of the "i"th VOC compound, in grams.

W_w = Weight of water, in grams.

W_e = Weight of exempt compound, in grams.

MW_i = Molecular weight of the "i"th VOC compound, in g/g-mole

MW_w = Molecular weight of water, in g/g-mole

MW_e = Molecular weight of exempt compound, in g/g-mole

PP_c = VOC composite partial pressure at 20°C, in mm Hg.

VP_i = Vapor pressure of the "i"th VOC compound at 20°C, in mm Hg.

"Fountain solution" means any mixture of water, volatile and nonvolatile chemicals, and additives applied to a lithographic plate to repel ink from the non-image area on the plate.

"Heatset" means a lithographic printing process in which heat from a dryer is used to evaporate ink oils from the substrate.

"Lithographic printing" means a planographic printing process in which the image and nonimage areas are chemically differentiated with the image area being oil-receptive and the nonimage area being water-receptive.

"Non-heatset" means a lithographic printing process in which the printing inks are set and dried by absorption or oxidation rather than heat. For the purposes of this rule, UV-cured and electron beam-cured inks are considered non-heatset.

"Press" means a printing production assembly composed of one or more units to produce a printed substrate (sheet or web).

"Printing" means a photomechanical process in which a transfer of text, designs, and images occurs through contact of an image carrier with a substrate.

"Printing process" means any operation or system wherein printing ink or a combination of printing ink and surface coating is applied, dried or cured and which is subject to the same emission standard. May include any equipment which applies, conveys, dries or cures inks or surface coatings, including, but not limited to, flow coaters, flashoff areas, air dryers, drying areas and ovens. It is not necessary for a printing process to have an oven, flashoff area or drying area to be included in this definition.

"Sheet-fed" means a lithographic printing process in which individual sheets of substrate are fed into the press sequentially.

"Unit" means the smallest complete printing component, composed of an inking and dampening system, of a printing press.

"Web" means a continuous roll of printing substrate.

[§ 120-04-4503, 9 VAC 5-40-7820.] Standard for volatile organic compounds.

~~[A. No owner or other person shall use or permit the use of any lithographic printing process employing a fountain solution containing alcohol or an alcohol substitute unless:~~

~~1. The monthly average of the weight of the alcohol or alcohol substitute in the fountain solution as applied is no more than:~~

~~a. 1.6% alcohol when a lithographic web printing process is employed;~~

~~b. 5.0% alcohol when a lithographic sheet-fed printing process is employed;~~

~~c. 5.0% alcohol substitute when any lithographic printing process is employed; or~~

~~2. The owner installs and operates a refrigeration system which maintains the fountain solution at a temperature of less than 60°; or~~

~~3. The owner installs and operates a system which achieves a reduction of volatile organic compound emissions from the fountain solution of at least:~~

~~a. 70% where a lithographic heatset web printing process is employed;~~

~~b. 90% where a lithographic non-heatset web printing process is employed;~~

~~c. 50% where a lithographic non-heatset sheet-fed printing process is employed; or~~

~~d. 10% where a lithographic non-heatset news printing process is employed.~~

~~4. When it can be demonstrated to the satisfaction of the board that it is technologically or economically infeasible for a lithographic printing operation subject to this rule to comply with subdivision 1, 2, or 3 of this subsection, the board may establish site-specific standards upon being presented with the necessary demonstration.~~

A. No owner or other person shall use or permit the use of any lithographic printing process employing a fountain solution containing volatile organic compounds unless the fountain solution as applied to each lithographic press meets the following requirements:

1. For each heatset web press:

a. When the fountain solution contains alcohol:

(1) The fountain solution shall contain no more than a daily average of 1.6% volatile organic compounds by weight; or

(2) The temperature of the fountain solution shall be maintained at or below 60°F and the fountain solution shall contain no more than a daily average of 3.0% volatile organic compounds by weight; or

b. When the fountain solution contains no alcohol, the fountain solution shall contain no more than a daily average of 5.0% volatile organic compounds by weight.

2. For each non-heatset web press and each newspaper press, the fountain solution shall contain no alcohol and shall contain no more than a daily average 5.0% volatile organic compounds by weight.

3. For each sheet-fed press:

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a. The fountain solution shall contain no more than a daily average of 5.0% volatile organic compounds by weight; or

b. The temperature of the fountain solution shall be maintained at or below 60°F and the fountain solution shall contain no more than a daily average of 8.5% volatile organic compounds by weight.]

B. No owner or other person shall use or permit the use of any heatset web offset lithographic printing process unless:

1. A system is installed which achieves an emission reduction from the press dryer exhaust vent of 90% by weight of volatile organic compounds (minus methane and ethane); [or]

2. The maximum dryer exhaust outlet concentration is maintained at 50 ppmv as carbon (minus methane and ethane) [; or .]

[~~3. Inks with an average hourly volatile organic compound content of 2.5 pounds per gallon or less are used.]~~

C. No owner or other person shall use or permit the use of any lithographic printing process employing a cleaning solution containing volatile organic compounds unless:

1. The [~~monthly~~ daily] average of the cleaning solution as applied contains no more than 30% volatile organic compounds by weight; [or]

2. The [~~monthly~~ daily] average of the volatile organic compound portion of the cleaning solution as applied has a composite partial vapor pressure of 10 millimeters of mercury or less at 68°F (20°C) [; or .]

~~3. The cleaning solution and applicators are stored in covered containers or machines with remote reservoirs when not in use.]~~

D. All printing inks, fountain solutions, cleaning solutions, and other products containing 25% or more volatile organic compounds by weight shall be disposed of by one of the following methods:

1. Reclamation, either in-house or by outside services; or
2. Incineration.

[E. All cleaning solution and applicators shall be stored in covered containers or machines with remote reservoirs when not in use.]

[§ 120-04-4504. 9 VAC 5-40-7830.] Reserved.

[§ 120-04-4505. 9 VAC 5-40-7840.] Standard for visible emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) shall not apply.

[§ 120-04-4506. 9 VAC 5-40-7850.] Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) shall not apply.

[§ 120-04-4507. 9 VAC 5-40-7860.] Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply.

[§ 120-04-4508. 9 VAC 5-40-7870.] Standard for toxic pollutants.

The provisions of Rule 4-3 (Emission Standards for Toxic Pollutants) apply.

[§ 120-04-4509. 9 VAC 5-40-7880.] Compliance.

A. The provisions of [§ 120-04-02 9 VAC 5-40-20] (Compliance) apply.

B. [~~For the purpose of demonstrating compliance with § 120-04-4503 B, the affected facility shall reduce its emissions of volatile organic compounds at least 15% from its permitted limit within one year following (insert effective date). The affected facility shall be in full compliance with § 120-04-4503 B no later than April 30, 1997. All affected facilities shall be in compliance with the provisions of this rule within two years following April 1, 1996.]~~

[§ 120-04-4510. 9 VAC 5-40-7890.] Test methods and procedures.

A. The provisions of [§ 120-04-03 9 VAC 5-40-30] (Emission testing) apply.

B. For the purpose of demonstrating compliance with the emission control requirements of this rule, the affected facility shall be run under typical operating conditions and flow rates compatible with scheduled production during any emission testing.

C. Emissions tests shall include an initial test within 90 days of start-up when the control device is installed and operating that demonstrates compliance with the emission standard in [§ 120-04-4503 9 VAC 5-40-7820].

D. The following reference methods (cited in 40 CFR part 60, Appendix A) shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement in [§ 120-04-4503 9 VAC 5-40-7820]. Alternate methods may be used with the approval of the board.

1. Reference Method 1 or 1A, as appropriate, shall be used to select the sampling sites. The control device sampling sites for determining efficiency in reducing volatile organic compounds (excluding methane and ethane) from the dryer exhaust shall be placed before the control device inlet (after the dryer) and at the outlet of the control device.

2. Reference Method 2, 2A, 2C, or 2D, as appropriate, shall be used to determine the velocity and volumetric flow rate of the exhaust stream.

3. Reference Method 18, 25, or 25A shall be used to determine the volatile organic compound concentration of the exhaust stream entering and exiting the control device. Good judgment is required in determining the best applicable volatile organic compound test method for each situation. The method selected shall be based on consideration of the diversity of organic species

present and their total concentration and on consideration of the potential presence of interfering gases. Because of the different response factors for the many organic compounds formed during the combustion process, only Reference Method 25, which measures volatile organic compounds as a carbon, shall be used; except in cases where the expected outlet volatile organic compound concentration of the control device is less than 100 ppmv as carbon, in which case Reference Method 25A shall be used.

a. If average, nonmethane volatile organic compound concentrations in the outlet of a thermal or catalytic oxidizer measured by Reference Method 25A are found to be greater than 100 ppmv as carbon, the board may request a repeat test to be conducted using Reference Method 18 or 25.

b. A test shall consist of three separate runs, each lasting a minimum of 60 minutes, unless the board determines that process variables dictates shorter sampling times.

c. Reference Method 25 specifies a minimum probe and temperature of 265°F. To prevent condensation, the probe should be heated to at least the gas stream temperature, typically close to 350°F.

E. The volatile organic compound content of each batch of fountain solution shall be determined by one of the following procedures:

1. Analysis by Reference Method 24 of a sample of the batch of fountain solution; or

2. Calculation which combines Reference Method 24 analytical volatile organic compound content data for the concentrated materials used to prepare the press-ready batch based on records of the proportions in which they are mixed to make the batch. The analysis of the concentrated materials may be performed by the supplier of the materials. [Mix proportions may be used to determine the volatile organic compound content of the fountain solution as a substitute for Method 24 if the supplier has provided Method 24 information for the volatile organic compound content of the concentrates.]

F. A thermometer or other temperature detection device capable of reading to 0.5°F shall be used to ensure that any refrigerated fountain solution recirculating reservoirs are maintained at or below 60°F at all times.

G. The volatile organic compound or volatile organic compound partial vapor pressure of each cleaning solution shall be determined by one of the following procedures:

1. Analysis by Reference Method 24 for volatile organic compound content or by an appropriate method for composite partial vapor pressure of a sample of the cleaning solution; or

2. Calculation for volatile organic compound content which combines Reference Method 24 analytical volatile organic compound content data for the concentrated materials used to prepare the press-ready batch based on records of the proportions in which they are mixed to

make the batch. The analysis of the concentrated materials may be performed by the supplier of the material. [Mix proportions may be used to determine the volatile organic compound content of the cleaning solution as a substitute for Method 24 if the supplier has provided Method 24 information for the volatile organic compound content of the concentrates.]

[~~§ 120-04-4511~~, 9 VAC 5-40-7900.] Monitoring.

A. The provisions of [~~§ 120-04-04~~ 9 VAC 5-40-40] (Monitoring) apply.

B. Add-on dryer exhaust control device.

1. The owner of a subject heatset web offset lithographic printing press shall install, calibrate, maintain, and operate a temperature monitoring device according to the manufacturer's instructions at the outlet of the control device. The monitoring temperature shall be set during the testing required to demonstrate compliance with the emission standard in [~~§ 120-04-4503~~ 9 VAC 5-40-7820] B. Monitoring shall be performed only when the unit is operational.

2. The temperature monitoring device shall be equipped with a continuous recorder [and . Both the temperature monitoring device and the continuous recorder] shall have an accuracy of 0.5°F.

3. The dryer pressure shall be maintained lower than the pressroom air pressure so that air flows into the dryer at all times when the press is operating. A 100% emissions capture efficiency for the dryer shall be established using an air flow direction indicator, such as a smoke stick or aluminum ribbons.

C. Fountain solution volatile organic compound concentration.

1. The purpose of monitoring the volatile organic compound concentration in the fountain is to provide data that can be correlated to the amount of material used when the fountain solution contains alcohol and complies with the limits listed in [~~§ 120-04-4503~~ 9 VAC 5-40-7820]. The following methods may be used to determine the concentration of alcohol in the fountain solution in lieu of calculating the alcohol concentration using the protocol of [~~§ 120-04-4510~~ 9 VAC 5-40-7890]

E. The monitoring requirements of subdivisions 1 a through c of this subsection shall be required only if noncompliance with [~~§ 120-04-4503~~ 9 VAC 5-40-7820] A is established.

a. The owner of any offset lithographic printing press shall monitor the alcohol concentration of the fountain solution with a refractometer that is corrected for temperature at least once for each eight-hour shift or once per batch, whichever is longer. The refractometer shall have a visual, analog, or digital readout with an accuracy of 0.5%. A standard solution shall be used to calibrate the refractometer for the type of alcohol used in the fountain. Alternatively, the refractometer shall be standardized against measurements performed to determine compliance

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according to the procedures described in [~~§ 120-04-4510~~ 9 VAC 5-40-7890] D.

b. Alternatively, the owner of any offset lithographic printing press shall monitor fountain solution alcohol concentration with a hydrometer equipped with a temperature correction at least once for each eight-hour shift or once per batch, whichever is longer. The hydrometer shall have a visual, analog, or digital readout with an accuracy of 0.5%. A standard solution shall be used to calibrate the hydrometer for the type of alcohol used in the fountain. Alternatively, the hydrometer shall be standardized against measurements performed to determine compliance according to the procedures described in [~~§ 120-04-4510~~ 9 VAC 5-40-7890] D.

c. The volatile organic compound content of the fountain solution may be monitored with a conductivity meter if it is determined that a refractometer or hydrometer cannot be used for monitoring the type of volatile organic compounds in the fountain solution. The conductivity meter reading for the fountain solution shall be referenced to the conductivity of the incoming water.

2. If, through recordkeeping for a period of six months or more, the printing process is shown to consistently meet the requirements in [~~§ 120-04-4510~~ 9 VAC 5-40-7890] D, the monitoring requirement may be waived or extended to a longer period of time.

D. Fountain solution temperature.

1. The owner of any offset lithographic printing press using refrigeration equipment on the fountain shall install, maintain, and continuously operate a temperature monitor of the fountain solution reservoir.

2. The temperature on the temperature monitor shall be read and recorded at least once per operating day to verify that the refrigeration system is operating properly.

~~[E.—Cleaning solution.—For any offset lithographic printing press with continuous cleaning equipment, flow meters are required to monitor water and cleaning solution flow rates. The flow meters should be calibrated so that the volatile organic compound content of the mixed solution complies with the requirements of § 120-04-4510 G.]~~

[~~§ 120-04-4512~~ 9 VAC 5-40-7910.] Notification, records and reporting.

A. The provisions of [~~§ 120-04-05~~ 9 VAC 5-40-50] (Notification, records and reporting) apply.

B. The owner of any offset lithographic printing press shall record and report the following key parameters on a monthly basis:

1. The type of control device operating on the heatset offset lithographic printing press and the operating parameters specified in [~~§ 120-04-4511~~ 9 VAC 5-40-7900] B;

2. The equipment standard selected to comply with the requirements listed in [~~§ 120-04-4503~~ 9 VAC 5-40-7820] B;

3. The volatile organic compound content of the fountain and cleaning solutions, to comply with [~~§ 120-04-4503~~ 9 VAC 5-40-7820];

4. The temperature of the fountain solution, to comply with the requirements listed in [~~§ 120-04-4503~~ 9 VAC 5-40-7820] A, if applicable;

5. For manual cleaning, the amount of cleaning solution concentrate and water per batch of cleaning solution mixed;

6. For automatic cleaning, the flow rates of cleaning solution concentrate and water, as specified in [~~§ 120-04-4503~~ 9 VAC 5-40-7820] C; and

7. Corrective actions taken when exceedances of any parameters monitored according to the requirements of [~~§§ 120-04-4510 through 120-04-4511~~ 9 VAC 5-40-7890 and 9 VAC 5-40-7900] occur.

[~~§ 120-04-4513~~ 9 VAC 5-40-7920.] Registration.

The provisions of [~~§ 120-02-31~~ 9 VAC 5-20-160] (Registration) apply.

[~~§ 120-04-4514~~ 9 VAC 5-40-7930.] Facility and control equipment maintenance of malfunction.

The provisions of [~~§ 120-02-34~~ 9 VAC 5-20-180] (Facility and control equipment maintenance or malfunction) apply.

[~~§ 120-04-4515~~ 9 VAC 5-40-7940.] Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of [~~Part V~~ 9 VAC 5-50-10 et seq.] (New and Modified Sources) and [~~Part VIII~~ 9 VAC 5-80-10 et seq.] (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

1. Construction of a facility.

2. Reconstruction (replacement of more than half) of a facility.

3. Modification (any physical change to equipment) of a facility.

4. Relocation of a facility.

5. Reactivation (restart-up) of a facility.

6. Operation of a facility.

APPENDIX S.

AIR QUALITY PROGRAM POLICIES AND PROCEDURES.

I. General.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency as part of the State

Implementation Plan, and when approved, those provisions become federally enforceable.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may also be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) approved by the U.S. Environmental Protection Agency as part of the State Implementation Plan in order to make them federally enforceable. In accordance with U.S. Environmental Protection Agency regulations and policy, it has been determined that it is necessary for the procedures listed in Section II of this appendix to be approved as part of the State Implementation Plan.

C. Failure to include in this appendix any procedure mentioned in the regulations shall not invalidate the applicability of the procedure.

D. Copies of materials listed in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Environmental Quality, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Procedures for Testing Facilities Subject to Emission Standards for Volatile Organic Compounds, AQP-1, July 1, 1991.

B. Procedures for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations, AQP-2, July 1, 1991.

C. Procedures for the Measurement of Capture Efficiency for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations, AQP-3, July 1, 1991 [*effective date of this revision* April 1, 1996].

D. Procedures for Maintaining Records for Surface Coating Operations and Graphic Arts Printing Processes, AQP-4, July 1, 1991.

E. Procedures for Preparing and Submitting Emission Statements for Stationary Sources, AQP-8, January 1, 1993.

F. Procedures for Implementation of Regulations Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities, AQP-9, January 1, 1993.

VA.R. Doc. No. R96-209; Filed January 31, 1996, 11:47 a.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: [**VR 270-01-0064, 8 VAC 20-620-10.**]
Regulations [Governing Regarding School] Guidance and Counseling Programs in the Public Schools of Virginia.

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

Effective Date: March 20, 1996.

Summary:

The regulation sets forth the requirement that each local school board, by July 1, 1996, adopt a policy concerning school guidance and counseling programs under its jurisdiction. The policy shall address the following:

1. *A provision for written annual notification to parents about the school guidance and counseling program;*
2. *A provision prohibiting the use of counseling techniques that are beyond the scope of certification or training of school counselors and the use of psychotherapeutic techniques;*
3. *A provision that counseling records be kept confidential and separate from students' educational records and not disclosed to third parties without parental consent;*
4. *A provision with respect to whether or not affirmative parental consent will be required for students to participate in personal/social counseling; and*
5. *A provision setting forth procedures under which personal/social counseling may be provided to a student whose parents fail to respond to requests for consent in the event that the local policy adopted by the school board requires affirmative consent for a student to participate.*

Public participation and comment is required before adoption of a policy at the local level.

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 James E. Laws, Jr., Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120, telephone (804) 225-2924.

8 VAC 20-620-10. Regulations Regarding School Guidance and Counseling Programs in the Public Schools of Virginia.

[~~§ 1. Parental notification and involvement.~~]

~~A. Each local school division shall ensure that notification is provided annually to parents about the guidance and counseling program. Notification shall include the following:~~

- ~~1. Purpose and general description of the school guidance and counseling program, including a description of the classroom guidance program and of individual and group counseling services as well as academic/educational or career counseling;~~
- ~~2. Qualifications of school counselors and, if applicable, school psychologists, social workers and visiting teachers involved in the delivery of counseling services;~~
- ~~3. A general description of the guidance lessons for each grade level and a description of the instructional materials and supplemental media to be used;~~

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~~4. A general description of the group counseling opportunities planned for the year and a description of the materials to be used;~~

~~5. A general description of the academic/educational or career counseling program and activities planned for the year and a description of the materials to be used;~~

~~6. A full description of the counseling techniques used in each of the various guidance and counseling programs;~~

~~7. Information regarding ways parents or guardians can review materials to be used in each of the various programs at individual schools;~~

~~8. Information about the procedure for opting a child out of the classroom guidance program and information about the procedure for giving informed parental consent for individual or group counseling; and~~

~~9. Information explaining that academic/educational or career guidance is not optional, but an integral part of the curriculum.~~

~~B. Each local school division shall include parents in determining the specific guidance and counseling needs of each school.~~

~~C. Each local school division shall include parents in the review and selection of guidance and counseling materials.~~

~~§ 2. Classroom guidance.~~

~~A. No counseling techniques shall be used in the classroom guidance program that are not described in the annual notification provided to parents.~~

~~B. No counseling techniques shall be used in the classroom guidance program that require children to disclose sensitive or personal information.~~

~~§ 3. Individual counseling.~~

~~A. Each local school division shall require informed written parental consent before a structured course of individual counseling involving personal, emotional, and sensitive issues is initiated. Notification shall include the following:~~

- ~~1. Purpose and goals of the individual counseling;~~
- ~~2. Expected frequency of sessions and duration; and~~
- ~~3. A description of the counseling techniques to be used.~~

~~B. Without written parental consent, counselors are able to meet with students to discuss incidental or normal developmental concerns, for follow up, and to assess a situation for possible referral to counseling. If however, a counselor determines that a structured course of individual counseling is indicated, the counselor will obtain informed written parental consent before proceeding with personal, social, or sensitive issue counseling.~~

~~C. It is understood that counselors should respond to crisis situations by immediately dealing with the student and by providing a follow-up contact if necessary. Parental consent must be obtained for any additional counseling.~~

~~D. Once informed written parental consent for individual counseling is received, an expectation of privacy will apply wherein information obtained during counseling sessions shall be kept confidential between the student and the counselor except in cases of child abuse or neglect, in cases where the health or safety, or both, of the child or others is involved; and as otherwise prescribed by law.~~

~~E. A parent may withdraw consent for individual counseling at any time in writing.~~

~~§ 4. Group counseling.~~

~~Each local school division shall require informed written parental consent prior to a student participating in group counseling activities. Notification shall include the following:~~

- ~~1. Purpose and goals of the group counseling;~~
- ~~2. Expected frequency of sessions and duration;~~
- ~~3. A statement that all materials and supplemental media used in whole or in part shall be available for review by parents; and~~
- ~~4. A description of the counseling techniques to be used.~~

~~§ 5. Confidentiality of counseling notes; counselor training.~~

~~A. Counseling notes, if maintained by a counselor or other school professional rendering counseling services, shall not be part of the student's education record and should be kept separate and confidential by the counselor. Such records are not to be shared with others unless prior written parental consent is obtained, or as otherwise prescribed by law.~~

~~B. No counseling technique shall be used for which the counselor is not trained.~~

~~§ 6. Definitions and interpretation of terms; availability of regulations.~~

~~A. As used in these regulations, "parents" mean the person or persons having legal custody of the student, such as either one of the parents if both have such custody, or the legal guardian of the student, if not a parent.~~

~~B. Terms used in these regulations such as "school guidance and counseling program," "academic/educational or career guidance," and "normal developmental concerns" shall be interpreted based on common professional education usage. Where appropriate, local school divisions can offer further clarification in their notification to parents.~~

~~C. A copy of these regulations shall be available for review during regular school hours in each school office.~~

~~§ 7. Exception to informed written parental consent.~~

~~Each local school division may authorize, as a local school division option, that a child may be included in individual or group counseling without parental consent where the guidance counselor and the principal of the school each certify in writing:~~

- ~~1. That a good faith effort has been made to contact the child's parents and that no response has been received; and~~

~~2. That, in the judgment of the principal and guidance counselor, the best interest of the child would be served by including that child in an individual or group counseling program.~~

CHAPTER 620.

REGULATIONS REGARDING SCHOOL GUIDANCE AND COUNSELING PROGRAMS IN THE PUBLIC SCHOOLS OF VIRGINIA.

8 VAC 20-620-10. School guidance and counseling services.

A. Pursuant to the Standards of Quality, each school shall make reasonably available, with available resources, to all students the following guidance and counseling services:

1. Academic guidance which assists students and their parents to acquire knowledge of the curricula choices available to students, to plan a program of studies, to arrange and interpret academic testing, and to seek post-secondary academic opportunities;
2. Career guidance which helps students to acquire information and plan action about work, jobs, apprenticeships, and post-secondary educational and career opportunities;
3. Personal/social counseling which assists a student to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities and aptitudes. Such counseling may be provided either (i) in groups (e.g., all fifth graders) in which generic issues of social development are addressed or (ii) through structured individual or small group multi-session counseling which focuses on the specific concerns of the participant (e.g., divorce, abuse or aggressive behavior).

B. No student shall be required to participate in any counseling program to which the student's parents object.

C. On or before July 1, 1996, each local school board in Virginia shall adopt a policy, consistent with subdivisions A and B of this section, concerning school guidance and counseling programs in the schools under its jurisdiction. At a minimum, each local school board policy shall contain the following:

1. A provision for written notification, at least annually, to parents about the academic and career guidance and personal/social counseling programs which are available to their children. The notification shall include the purpose and general description of the programs, information regarding ways parents may review materials to be used in guidance and counseling programs at their child's school and information about the procedures by which parents may limit their child's participation in such programs.
2. A provision prohibiting the use of counseling techniques which are beyond the scope of the professional certification or training of counselors, including hypnosis, or other psychotherapeutic techniques that are normally employed in medical or clinical settings and focus on mental illness or psychopathology.

3. A provision requiring that information and records of personal/social counseling be kept confidential and separate from a student's educational records and not disclosed to third parties without prior parental consent or as otherwise provided by law.

4. A provision with respect to personal/social counseling setting forth either (i) the procedures by which parents can elect in writing to have their child not participate ("opt-out") or (ii) at the option of the local school board, if the local board determines that affirmative parental consent is required to participate in such counseling ("opt-in"), the procedures by which such affirmative consent may be given and withdrawn. In issuing such policy, the local board may distinguish between group and individual or small group counseling as defined in subdivision A 3 of this section. In no event shall a local board require affirmative parental consent for short duration personal/social counseling, which is needed to maintain order, discipline or a productive learning environment.

5. In the event that the local board elects to require affirmative parental consent ("opt-in") under subdivision 4 of this subsection, a provision setting forth the procedures, if any, under which school officials may permit personal/social counseling for children whom they believe would benefit from such counseling, but whose parents fail to respond either affirmatively or negatively to reasonable requests for consent.

6. Such other provisions as the local school board may deem appropriate.

D. Before adopting any such policy, or any amendment thereto, each local school board shall provide for public participation and comment.]

VA.R. Doc. No. R96-201; Filed January 30, 1996, 1:50 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: The following regulation filed by the Department of Health is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 5-210-10 et seq. Charges and Payment Requirements by Income Levels.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Effective Date: March 25, 1996.

Summary:

As outlined in Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals (12 VAC 5-200-10 et seq.), the Department of Health's (VDH) schedule of charges will be based on the Department of Medical Assistance Services' (DMAS)

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payment levels. On January 1, 1996, DMAS modified its payment levels for certain home health services. Accordingly, the charges included in VDH's regulation Charges and Payment Requirements by Income Levels (12 VAC 5-210-10 et seq.) are being modified to reflect the recently revised DMAS payment levels. Also included is one charge increase for pharmacological management which was not previously published.

Agency Contact: Copies of the regulation may be obtained from Dave Burkett, Department of Health, P. O. Box 2448, Richmond, VA 23218, telephone (804) 371-4089.

12 VAC 5-210-10 et seq. Charges and Payment Requirements by Income Levels.

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STATE HEALTH DEPARTMENT
 CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 MARCH 25, 1996
 EFFECTIVE OCTOBER 6, 1995

EXCEPT FOR NORTHERN VIRGINIA/CHART 1

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Health Care Services" promulgated by the authority of the Board of Health in accordance with Sections 32.1-1 and 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
		CHARGE PER VISIT/ SERVICE						
Z9900	MATERNITY	\$33.30	\$0.00	\$3.30	\$8.33	\$16.65	\$24.98	\$33.30
59430	POST-PARTUM VISIT	\$50.00	\$0.00	\$5.00	\$12.50	\$25.00	\$37.50	\$50.00
Z9001	MATERNITY CARE COORDINATION RISK SCREENING	\$10.00	\$0.00	\$1.00	\$2.50	\$5.00	\$7.50	\$10.00
Z9104	MATERNITY ASSESSMENT	\$25.00	\$0.00	\$2.50	\$6.25	\$12.50	\$18.75	\$25.00
Z9105	MATERNITY FOLLOW-UP X 11 MONTHS	\$1.35/DAY	\$0.00	\$0.14	\$0.34	\$0.68	\$1.02	\$1.35
Z9310	NUTRITIONAL SERVICES ORIGINAL ASSESSMENT	\$20.00	\$0.00	\$0.00	\$0.00	\$0.00	\$15.00	\$20.00
Z9311	FOLLOW-UP	\$10/ENCNTE	\$0.00	\$0.00	\$0.00	\$0.00	\$7.50	\$10.00
Z9300, Z9301 OR Z9302	GROUP EDUCATION	\$6.00/CLASS SESSION OR \$36.00 MAXIMUM	\$0.00	\$0.60	\$1.50	\$3.00	\$4.50	\$6.00
Z9312	HOMEMAKER SERVICES	\$33.00 OR \$8.25/HOUR NOT TO EXCEED 4 HOURS	\$0.00	\$3.30	\$8.25	\$16.50	\$24.75	\$33.00
	CLINICAL VISITS INCLUDES BOTH PEDIATRIC AND ADULT SERVICES							
	NEW PATIENTS: TO QUALIFY AS A NEW PATIENT, PATIENT MUST NOT HAVE BEEN SEEN BY ANY PROVIDER IN THAT HEALTH DEPARTMENT FOR AT LEAST THREE (3) YEARS							
99201	VISIT INCLUDED ALL THREE COMPONENTS: *PROBLEM FOCUSED HISTORY *PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$2.40	\$6.00	\$12.00	\$18.00	\$24.00
99202	VISIT INCLUDED ALL THREE COMPONENTS: *EXPANDED PROBLEM FOCUSED HISTORY *EXPANDED PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$3.10	\$7.75	\$15.50	\$23.25	\$31.00

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/ SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
99203	VISIT INCLUDED ALL THREE COMPONENTS: *DETAILED HISTORY *DETAILED EXAMINATION *MEDICAL DECISION MAKING OF LOW INTENSITY		\$0.00	\$3.90	\$9.75	\$19.50	\$29.25	\$39.00
99204	VISIT INCLUDED ALL THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF MODERATE COMPLEXITY		\$0.00	\$5.80	\$14.00	\$28.00	\$42.00	\$56.00
99205	VISIT INCLUDED ALL THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF HIGH COMPLEXITY		\$0.00	\$6.50	\$16.25	\$32.50	\$48.75	\$65.00
ESTABLISHED PATIENT VISITS: ANY PATIENT THAT HAS BEEN SEEN BY A PROVIDER IN THAT HEALTH DEPARTMENT WITHIN THE LAST THREE (3) YEARS.								
99211	VISIT MAY OR MAY NOT REQUIRE PHYSICIAN PRESENTING PROBLEMS ARE MINIMAL		\$0.00	\$1.10	\$2.75	\$5.50	\$8.25	\$11.00
99212	VISIT INCLUDED TWO OF THREE COMPONENTS: *PROBLEM FOCUSED HISTORY *PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$2.00	\$5.00	\$10.00	\$15.00	\$20.00
99213	VISIT INCLUDED TWO OF THREE COMPONENTS: *EXPANDED PROBLEM FOCUSED HISTORY *EXPANDED PROBLEM FOCUSED EXAMINATION *MEDICAL DECISION MAKING OF LOW COMPLEXITY		\$0.00	\$2.70	\$6.75	\$13.50	\$20.25	\$27.00
99214	VISIT INCLUDED TWO OF THREE COMPONENTS: *DETAILED HISTORY *DETAILED EXAMINATION *MEDICAL DECISION MAKING OF MODERATE COMPLEXITY		\$0.00	\$3.80	\$9.50	\$19.00	\$28.50	\$38.00
99215	VISIT INCLUDED TWO OF THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF HIGH COMPLEXITY		\$0.00	\$5.30	\$13.25	\$26.50	\$39.75	\$53.00
PREVENTIVE MEDICINE SERVICES THESE CODES ARE TO BE USED PRIMARILY FOR WELL BABY VISITS. THESE ARE THE CODES TO BE USED FOR EPSDT BILLING.								
99381	NEW PATIENT AGE UNDER ONE YEAR		\$0.00	\$4.80	\$12.00	\$24.00	\$36.00	\$48.00
99382	AGE ONE THROUGH FOUR YEARS		\$0.00	\$5.40	\$13.50	\$27.00	\$40.50	\$54.00

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
		CHARGE PER VISIT/ SERVICE	LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
99383	AGE FIVE THROUGH ELEVEN YEARS		\$0.00	\$5.40	\$13.50	\$27.00	\$40.50	\$54.00
99384	AGE TWELVE THROUGH SEVENTEEN YEARS		\$0.00	\$5.50	\$13.75	\$27.50	\$41.25	\$55.00
99385	AGE EIGHTEEN THROUGH TWENTY-ONE YEARS		\$0.00	\$5.50	\$13.75	\$27.50	\$41.25	\$55.00
99391	ESTABLISHED PATIENT AGE UNDER ONE YEAR		\$0.00	\$4.40	\$11.00	\$22.00	\$33.00	\$44.00
99392	AGE ONE THROUGH FOUR YEARS		\$0.00	\$4.80	\$12.00	\$24.00	\$36.00	\$48.00
99393	AGE FIVE THROUGH ELEVEN YEARS		\$0.00	\$4.80	\$12.00	\$24.00	\$36.00	\$48.00
99394	AGE TWELVE THROUGH SEVENTEEN YEARS		\$0.00	\$4.90	\$12.25	\$24.50	\$36.75	\$49.00
99395	AGE EIGHTEEN THROUGH TWENTY-ONE YEARS		\$0.00	\$5.20	\$13.00	\$26.00	\$39.00	\$52.00
Z9010	INFANT CARE COORDINATION RISK SCREENING	\$10.00	\$0.00	\$1.00	\$2.50	\$5.00	\$7.50	\$10.00
Z9104	INFANT ASSESSMENT	\$25.00	\$0.00	\$2.50	\$6.25	\$12.50	\$18.75	\$25.00
Z9106	FOLLOW-UP	\$1.35/DAY	\$0.00	\$0.14	\$0.34	\$0.68	\$1.02	\$1.35
	FOR UP TO 24 MONTHS							
	CASE MANAGEMENT-SEE CPT BOOK FOR DEFINITIONS							
99361	MEDICAL CONFERENCE, 30 MIN	\$20.20	\$0.00	\$2.02	\$5.05	\$10.10	\$15.15	\$20.20
99362	MEDICAL CONFERENCE, 60 MIN	\$40.45	\$0.00	\$4.05	\$10.11	\$20.23	\$30.34	\$40.45
99371	PHONE CALL, BRIEF	\$10.00	\$0.00	\$1.00	\$2.50	\$5.00	\$7.50	\$10.00
99372	PHONE CALL, INTERMEDIATE	\$45.50	\$0.00	\$4.55	\$11.38	\$22.75	\$34.13	\$45.50
99373	PHONE CALL, COMPLEX	\$70.80	\$0.00	\$7.08	\$17.70	\$35.40	\$53.10	\$70.80
	FAMILY PLANNING							
09007	INITIAL/YEARLY	\$50.00	\$0.00	\$5.00	\$12.50	\$25.00	\$37.50	\$50.00
09009	FOLLOW-UP/PROBLEM	\$20.00	\$0.00	\$2.00	\$5.00	\$10.00	\$15.00	\$20.00
	COLPOSCOPY SERVICES							
57452	COLPOSCOPY	\$92.00	\$0.00	\$9.20	\$23.00	\$46.00	\$69.00	\$92.00
57454	COLPOSCOPY WITH BIOPSY	\$146.00	\$0.00	\$14.60	\$36.50	\$73.00	\$109.50	\$146.00
57511	CRYOSURGERY, INITIAL OR REPEAT	\$114.00	\$0.00	\$13.00	\$28.50	\$57.00	\$85.50	\$114.00
	DENTAL SERVICES							
	ADULT DENTAL	BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES \$10.00 FLAT FEE PLUS SLIDING FEE AMOUNT						

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
90782	THERAPEUTIC INJECTION	\$6.00	\$0.00	\$0.60	\$1.50	\$3.00	\$4.50	\$6.00
90788	INTRA MUSCULAR INJECTION OF ANTIBIOTIC	\$8.00	\$0.00	\$0.80	\$2.00	\$4.00	\$6.00	\$8.00
36415	VENIPUNCTURE	\$7.00 FLAT RATE WHEN PROVIDED TO WALK-INS & NON-ROUTINE PATIENTS						
	BLOOD PRESSURE CHECK	NO CHARGE -----SERVICES PROVIDED FREE STATEWID -----						
86580	PPD/TUBERCULIN TESTING	\$8.00 ---- FLAT RATE ONLY WHEN PROVIDED ALONE AS A SCREENING -----						
71010	RADIOLOGICAL EXAM: CHEST	\$21.00 ----- FLAT RATE CHARGE-----						
	ACTIVITIES OF DAILY LIVING	\$9.50 ----- FLAT RATE CHARGE-----						
	CHOLESTEROL SCREENING AND COUNSELING	\$7.00 ---- FLAT RATE ONLY WHEN PROVIDED AS A SCREENING TEST-----						
	MEDICAL RECORD COPYING	\$0.50/PAGE----- FLAT RATE CHARGE-----						
	PHARMACY PROFESSIONAL FEE (ONLY FOR DISTRICTS WITH PHARMACIES) DRUGS AND MEDICATIONS	\$4.25	\$0.00	\$0.43	\$1.06	\$2.12	\$3.18	\$4.25
		BASED ON COST: DISTRICT CHOICE ON USING SLIDING FEE -----						
	OTHER X-RAY SERVICES	-----BASED ON DMAS MAXIMUM PAYMENT LEVELS-----						
	OTHER LABORATORY SERVICES	-----BASED ON DMAS MAXIMUM PAYMENT LEVELS-----						
	OTHER SERVICES							
	CHILD SPECIALTY SERVICES ANNUAL FEE	\$120.00	\$0.00	\$12.00	\$30.00	\$60.00	\$90.00	\$120.00
	HOME HEALTH SERVICES	\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	SKILLED NURSING	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
		\$180.00	\$0.00	\$18.00	\$45.00	\$90.00	\$135.00	\$180.00
	COMPREHENSIVE	\$170.00	\$0.00	\$17.00	\$42.50	\$85.00	\$132.50	\$170.00
	PHYSICAL THERAPY	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
		\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	OCCUPATIONAL THERAPY	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	SPEECH THERAPY	\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	HOME HEALTH AIDE	\$50.00	\$0.00	\$5.00	\$12.50	\$25.00	\$37.50	\$50.00
	MEDICAL SOCIAL WORKER	\$130.00	\$0.00	\$13.00	\$32.50	\$65.00	\$97.50	\$130.00

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
CHILD DEVELOPMENT SERVICES PROGRAM								
MEDICAL SERVICES								
	PROBLEM FOCUSED CONSULTATION	\$43.00	\$0.00	\$4.30	\$10.75	\$21.50	\$32.25	\$43.00
	EXPANDED CONSULTATION	\$58.00	\$0.00	\$5.80	\$14.50	\$29.00	\$43.50	\$58.00
	DETAILED CONSULTATION	\$74.00	\$0.00	\$7.40	\$18.50	\$27.00	\$55.50	\$74.00
	COMPREHENSIVE CONSULTATION	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	PHARMACOLOGICAL MANAGEMENT	\$33.00	\$0.00	\$3.30	\$8.25	\$16.50	\$24.75	\$33.00
	TRAINING IN ACTIVITIES OF DAILY LIV	\$30.00	\$0.00	\$3.00	\$7.50	\$15.00	\$22.50	\$30.00
		\$25.00	\$0.00	\$2.50	\$6.25	\$12.50	\$18.75	\$25.00
MENTAL HEALTH SERVICES								
	PSYCHOLOGICAL EVALUATION	\$88.00/HR	\$0.00	\$8.80	\$22.00	\$44.00	\$66.00	\$88.00
	INTERACTIVE PSYCH EXAM	\$88.00	\$0.00	\$8.80	\$22.00	\$44.00	\$66.00	\$88.00
	INDIVIDUAL PSYCHOTHERAPY 20-30 MINUTE SESSION	\$41.00	\$0.00	\$4.10	\$10.25	\$20.50	\$30.75	\$41.00
	45-60 MINUTE SESSION	\$69.00	\$0.00	\$6.90	\$17.25	\$34.50	\$51.75	\$69.00
	FAMILY PSYCHOTHERAPY	\$70.00	\$0.00	\$7.00	\$17.50	\$35.00	\$52.50	\$70.00
	GROUP PSYCHOTHERAPY	\$29.00	\$0.00	\$2.90	\$7.25	\$14.50	\$21.75	\$29.00
	MULTIFAMILY PSYCHOTHERAPY	\$17.00	\$0.00	\$1.70	\$4.25	\$8.50	\$12.75	\$17.00
EDUCATIONAL SERVICES								
	EDUCATIONAL DIAGNOSTIC EVALUAT	NO COST	-----	-----	-----	-----	-----	-----
	SCHOOL VISIT/CONSULTATION	NO COST	-----	-----	-----	-----	-----	-----
	CLASSROOM OBSERVATION	NO COST	-----	-----	-----	-----	-----	-----
CASE MANAGEMENT SERVICES								
	INTERDISCIPLINARY MEDICAL CONFERENCE	\$40.45	\$0.00	\$4.05	\$10.11	\$20.23	\$30.34	\$40.45
	OTHER CASE MANAGEMENT ACTIVIT	NO COST	-----	-----	-----	-----	-----	-----
	PROGRESS REVIEW	NO COST	-----	-----	-----	-----	-----	-----

Final Regulations

STATE HEALTH DEPARTMENT
 CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 MARCH 25, 1995
 EFFECTIVE -OCTOBER 5, 1995

NORTHERN VIRGINIA/CHART 2

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Health Care Services" promulgated by the authority of the Board of Health in accordance with Sections 32.1-11 and 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/ SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
Z9900	MATERNITY	\$37.00	\$0.00	\$3.70	\$9.25	\$18.50	\$27.75	\$37.00
59430	POST-PARTUM VISIT	\$55.00	\$0.00	\$5.50	\$13.75	\$27.50	\$41.25	\$55.00
Z9001	MATERNITY CARE COORDINATION RISK SCREENING	\$11.50	\$0.00	\$1.15	\$3.00	\$5.75	\$8.75	\$11.50
Z9104	MATERNITY ASSESSMENT	\$28.50	\$0.00	\$2.85	\$7.25	\$14.25	\$21.25	\$28.50
Z9105	MATERNITY FOLLOW-UP	\$1.52/DAY X 11 MONTHS	\$0.00	\$0.15	\$0.38	\$0.76	\$1.14	\$1.52
Z9310	NUTRITIONAL SERVICES ORIGINAL ASSESSMENT	\$22.75	\$0.00	\$0.00	\$0.00	\$11.50	\$17.50	\$22.75
Z9311	FOLLOW-UP	\$11.50/ENCN	\$0.00	\$0.00	\$0.00	\$5.75	\$8.75	\$11.50
Z9300, Z9301 OR Z9302	GROUP EDUCATION	\$7.00/CLASS SESSION OR \$41.00 MAXIMUM	\$0.00	\$0.70	\$1.75	\$3.50	\$5.25	\$7.00
Z9312	HOMEMAKER SERVICES	\$37.50 OR \$9.00/HO NOT TO EXCEED 4 HOURS	\$0.00	\$3.75	\$9.40	\$18.75	\$28.00	\$37.50
<p>CLINICAL VISITS INCLUDES BOTH PEDIATRIC AND ADULT SERVICES</p> <p>NEW PATIENTS: TO QUALIFY AS A NEW PATIENT, PATIENT MUST NOT HAVE BEEN SEEN BY ANY PROVIDER IN THAT HEALTH DEPARTMENT FOR AT LEAST THREE (3) YEARS</p>								
99201	VISIT INCLUDED ALL THREE COMPONENTS: *PROBLEM FOCUSED HISTORY *PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$2.80	\$7.00	\$14.00	\$21.00	\$28.00
99202	VISIT INCLUDED ALL THREE COMPONENTS: *EXPANDED PROBLEM FOCUSED HISTORY *EXPANDED PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$3.50	\$8.75	\$17.50	\$26.25	\$35.00

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/ SERVICE	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
			LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
99203	VISIT INCLUDED ALL THREE COMPONENTS: *DETAILED HISTORY *DETAILED EXAMINATION *MEDICAL DECISION MAKING OF LOW INTENSITY		\$0.00	\$4.40	\$11.00	\$22.00	\$33.00	\$44.00
99204	VISIT INCLUDED ALL THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF MODERATE COMPLEXITY		\$0.00	\$6.40	\$16.00	\$32.00	\$48.00	\$64.00
99205	VISIT INCLUDED ALL THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF HIGH COMPLEXITY		\$0.00	\$7.40	\$18.50	\$37.00	\$55.50	\$74.00
99211	ESTABLISHED PATIENT VISITS: ANY PATIENT THAT HAS BEEN SEEN BY A PROVIDER IN THAT HEALTH DEPARTMENT WITHIN THE LAST THREE (3) YEARS. VISIT MAY OR MAY NOT REQUIRE PHYSICIAN PRESENTING PROBLEMS ARE MINIMAL		\$0.00	\$1.30	\$3.25	\$6.50	\$9.75	\$13.00
99212	VISIT INCLUDED TWO OF THREE COMPONENTS: *PROBLEM FOCUSED HISTORY *PROBLEM FOCUSED EXAMINATION *STRAIGHTFORWARD MEDICAL DECISION MAKING		\$0.00	\$2.20	\$5.50	\$11.00	\$16.50	\$22.00
99213	VISIT INCLUDED TWO OF THREE COMPONENTS: *EXPANDED PROBLEM FOCUSED HISTORY *EXPANDED PROBLEM FOCUSED EXAMINATION *MEDICAL DECISION MAKING OF LOW COMPLEXITY		\$0.00	\$3.10	\$7.75	\$15.50	\$23.25	\$31.00
99214	VISIT INCLUDED TWO OF THREE COMPONENTS: *DETAILED HISTORY *DETAILED EXAMINATION *MEDICAL DECISION MAKING OF MODERATE COMPLEXITY		\$0.00	\$4.30	\$10.75	\$21.50	\$32.25	\$43.00
99215	VISIT INCLUDED TWO OF THREE COMPONENTS: *COMPREHENSIVE HISTORY *COMPREHENSIVE EXAMINATION *MEDICAL DECISION MAKING OF HIGH COMPLEXITY		\$0.00	\$6.10	\$15.25	\$30.50	\$45.75	\$61.00
	PREVENTIVE MEDICINE SERVICES THESE CODES ARE TO BE USED PRIMARILY FOR WELL BABY VISITS. THERE ARE THE CODES TO BE USED FOR EPSDT BILLING.							
99381	NEW PATIENT AGE UNDER ONE YEAR		\$0.00	\$5.30	\$13.25	\$26.50	\$39.75	\$53.00
99382	AGE ONE THROUGH FOUR YEARS		\$0.00	\$6.00	\$15.00	\$30.00	\$45.00	\$60.00

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/ SERVICE	INCOME	INCOME	INCOME	INCOME	INCOME	INCOME
			LEVEL A (0%)	LEVEL B (10%)	LEVEL C (25%)	LEVEL D (50%)	LEVEL E (75%)	LEVEL F (100%)
99383	AGE FIVE THROUGH ELEVEN YEARS		\$0.00	\$6.00	\$15.00	\$30.00	\$45.00	\$60.00
99384	AGE TWELVE THROUGH SEVENTEEN YEARS		\$0.00	\$6.10	\$15.25	\$30.50	\$45.75	\$61.00
99385	AGE EIGHTEEN THROUGH TWENTY-ONE YEARS		\$0.00	\$6.10	\$10.50	\$30.50	\$45.75	\$61.00
99391	ESTABLISHED PATIENT AGE UNDER ONE YEAR		\$0.00	\$4.90	\$12.25	\$24.50	\$36.75	\$49.00
99392	AGE ONE THROUGH FOUR YEARS		\$0.00	\$5.30	\$13.25	\$26.50	\$39.75	\$53.00
99393	AGE FIVE THROUGH ELEVEN YEARS		\$0.00	\$5.30	\$13.25	\$27.50	\$39.75	\$53.00
99394	AGE TWELVE THROUGH SEVENTEEN YEARS		\$0.00	\$5.50	\$13.75	\$27.50	\$41.25	\$55.00
99395	AGE EIGHTEEN THROUGH TWENTY-ONE YEARS		\$0.00	\$5.80	\$14.50	\$29.00	\$43.50	\$58.00
Z9010	INFANT CARE COORDINATION RISK SCREENING	\$11.50	\$0.00	\$1.15	\$2.88	\$5.75	\$8.83	\$11.50
Z9104	INFANT ASSESSMENT	\$28.50	\$0.00	\$2.85	\$7.25	\$14.25	\$21.50	\$28.50
Z9106	FOLLOW UP FOR UP TO 24 MONTHS	\$1.52/DAY	\$0.00	\$0.15	\$0.38	\$0.76	\$1.14	\$1.52
	CASE MANAGEMENT-SEE CPT BOOK FOR DEFINITIONS							
99361	MEDICAL CONFERENCE, 30 MIN	\$22.50	\$0.00	\$2.25	\$5.63	\$11.25	\$16.88	\$22.50
99362	MEDICAL CONFERENCE, 60 MIN	\$45.00	\$0.00	\$4.50	\$11.25	\$22.50	\$33.75	\$45.00
99371	PHONE CALL, BRIEF	\$11.00	\$0.00	\$1.10	\$2.75	\$5.50	\$8.25	\$11.00
99372	PHONE CALL, INTERMEDIATE	\$50.00	\$0.00	\$5.00	\$12.50	\$25.00	\$37.50	\$50.00
99373	PHONE CALL, COMPLEX	\$77.00	\$0.00	\$7.70	\$19.25	\$38.50	\$57.75	\$77.00
	FAMILY PLANNING							
09007	INITIAL/YEARLY	\$56.00	\$0.00	\$5.60	\$14.00	\$28.00	\$42.00	\$56.00
09009	FOLLOW-UP/PROBLEM	\$22.75	\$0.00	\$2.28	\$5.75	\$11.25	\$17.00	\$22.75
	COLPOSCOPY SERVICES							
57452	COLPOSCOPY	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
57454	COLPOSCOPY WITH BIOPSY	\$162.00	\$0.00	\$16.20	\$40.50	\$81.00	\$121.50	\$162.00
57511	CRYOSURGERY, INITIAL OR REPEAT	\$127.00	\$0.00	\$12.70	\$31.75	\$63.50	\$95.25	\$127.00
	DENTAL SERVICES							
	ADULT DENTAL							

BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES
\$10.00 FLAT FEE PLUS SLIDING FEE AMOUNT

Final Regulations

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
90782	THERAPEUTIC INJECTION	\$7.00	\$0.00	\$0.70	\$1.75	\$3.50	\$5.25	\$7.00
90788	INTRA MUSCULAR INJECTION OF ANTIBIOTIC	\$9.00	\$0.00	\$0.90	\$2.25	\$4.50	\$6.75	\$9.00
36415	VENIPUNCTURE	\$8.00 FLAT RATE ONLY WHEN PROVIDED TO WALK-INS & NON-ROUTINE PATIENTS						
	BLOOD PRESSURE CHECK	NO CHARGE -----SERVICE PROVIDED FREE STATEWIDE-----						
86580	PPD/TUBERCULIN TESTING	\$6.00 ---- FLAT RATE ONLY WHEN PROVIDED ALONE AS A SCREENING -----						
71010	RADIOLOGICAL EXAM: CHEST	\$25.00 ----- FLAT RATE CHARGE-----						
	ACTIVITIES OF DAILY LIVING	\$12.00 ----- FLAT RATE CHARGE-----						
	CHOLESTEROL SCREENING AND COUNSELING	\$7.00 ----- FLAT RATE ONLY WHEN PROVIDED AS A SCREENING TEST-----						
	MEDICAL RECORD COPYING	\$0.50/PAGE----- FLAT RATE CHARGE-----						
	PHARMACY PROFESSIONAL FEE (ONLY FOR DISTRICTS WITH PHARMACIES) DRUGS AND MEDICATIONS	\$4.25	\$0.00	\$0.43	\$1.06	\$2.12	\$3.18	\$4.25
		----- BASED ON COST: DISTRICT CHOICE ON USING SLIDING FE -----						
	OTHER X-RAY SERVICES	BASED ON THE DMAS MAXIMUM PAYMENT LEVELS						
	OTHER LABORATORY SERVICES	BASED ON THE DMAS MAXIMUM PAYMENT LEVELS						
	OTHER SERVICES							
	CHILD SPECIALTY SERVICES ANNUAL FEE	\$136.00	\$0.00	\$13.50	\$34.00	\$68.00	\$102.00	\$136.00
	HOME HEALTH SERVICES	\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	SKILLED NURSING	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
		\$180.00	\$0.00	\$18.00	\$45.00	\$90.00	\$135.00	\$180.00
	COMPREHENSIVE	\$170.00	\$0.00	\$17.00	\$42.50	\$85.00	\$127.50	\$170.00
	PHYSICAL THERAPY	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
		\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	OCCUPATIONAL THERAPY	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	SPEECH THERAPY	\$110.00	\$0.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	HOME HEALTH AIDE	\$50.00	\$0.00	\$5.00	\$12.50	\$25.00	\$37.50	\$50.00
	MEDICAL SOCIAL WORKER	\$130.00	\$0.00	\$13.00	\$32.50	\$65.00	\$97.50	\$130.00

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CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT/SERVICE	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
CHILD DEVELOPMENT SERVICES PROGRAM								
MEDICAL SERVICES								
	PROBLEM FOCUSED CONSULTATION	\$49.00	\$0.00	\$4.90	\$12.25	\$24.50	\$36.75	\$49.00
	EXPANDED CONSULTATION	\$64.00	\$0.00	\$6.40	\$16.00	\$32.00	\$48.00	\$64.00
	DETAILED CONSULTATION	\$82.00	\$0.00	\$8.20	\$20.50	\$41.00	\$61.50	\$82.00
	COMPREHENSIVE CONSULTATION	\$114.30	\$0.00	\$11.43	\$28.58	\$57.15	\$85.73	\$114.30
	PHARMACOLOGICAL MANAGEMENT	\$37.00	\$0.00	\$3.70	\$9.25	\$18.50	\$27.75	\$37.00
	TRAINING IN ACTIVITIES OF DAILY LIV	\$28.58	\$0.00	\$2.86	\$7.15	\$14.29	\$21.44	\$28.58
MENTAL HEALTH SERVICES								
	PSYCHOLOGICAL EVALUATION	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	INTERACTIVE PSYCH EXAM	\$100.00	\$0.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	INDIVIDUAL PSYCHOTHERAPY							
	20-30 MINUTE SESSION	\$46.00	\$0.00	\$4.60	\$11.50	\$23.00	\$34.50	\$46.00
	45-60 MINUTE SESSION	\$79.00	\$0.00	\$7.90	\$19.75	\$39.50	\$58.25	\$79.00
	FAMILY PSYCHOTHERAPY	\$78.00	\$0.00	\$7.80	\$19.50	\$39.00	\$58.50	\$78.00
	GROUP PSYCHOTHERAPY	\$34.00	\$0.00	\$3.40	\$8.50	\$17.00	\$25.50	\$34.00
	MULTIFAMILY PSYCHOTHERAPY	\$20.00	\$0.00	\$2.00	\$5.00	\$10.00	\$15.00	\$20.00
EDUCATIONAL SERVICES								
	EDUCATIONAL DIAGNOSTIC EVALUAT	NO COST	-----	-----	-----	-----	-----	-----
	SCHOOL VISIT/CONSULTATION	NO COST	-----	-----	-----	-----	-----	-----
	CLASSROOM OBSERVATION	NO COST	-----	-----	-----	-----	-----	-----
CASE MANAGEMENT SERVICES								
	INTERDISCIPLINARY MEDICAL CONFERENCE	\$46.23	\$0.00	\$4.62	\$11.56	\$23.12	\$34.67	\$46.23
	OTHER CASE MANAGEMENT ACTIVIT	NO COST	-----	-----	-----	-----	-----	-----
	PROGRESS REVIEW	NO COST	-----	-----	-----	-----	-----	-----

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: **VR 394-01-21, 13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.**

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

Effective Date: April 1, 1996.

Summary:

These amendments to the Uniform Statewide Building Code (i) exempt tents and air-supported structures smaller than 900 square feet and occupied by less than 50 persons from permit requirements; (ii) clarify, pursuant to § 36-106 of the Code of Virginia, that it is unlawful to violate the building code and clarify that when violations are discovered beyond the statute of limitations provided by § 19.2-8 of the Code of Virginia a notice of violation will only be served following the local government's legal counsel determining that action may be taken to compel abatement of the violation; (iii) better describe the requirements, processes and options when desiring to change the use of or renovate an existing building; (iv) change the areas of Virginia included in federal wind zones for manufactured homes to only Chesapeake, Norfolk, Portsmouth and Virginia Beach; and (v) reduce the space between supports for guardrails from six inches to four inches.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Norman R. Crumpton, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7170.

13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

CHAPTER 60.

VIRGINIA UNIFORM STATEWIDE BUILDING CODE, VOLUME I - NEW CONSTRUCTION CODE/1993.

[CHAPTER PART] 1.

ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.

13 VAC 5-60-10. General.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code ["Chapter" means a Chapter in the Uniform Statewide Building Code, Volume I.]

Note: See Volume II - Building Maintenance Code (13 VAC 5-70-10 et seq.) for maintenance regulations applying to existing buildings.

100.2. Authority. The USBC is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia.

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The 1993 edition of the USBC was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.5. Effective date. The 1993 edition of the USBC shall become effective on April 1, 1994.

100.6. Application. The USBC shall apply to all buildings, structures and associated equipment which are constructed, altered, repaired or converted in use after April 1, 1994. Buildings and structures that were designed within one year prior to April 1, 1994, shall be subject to the previous edition of the code provided that the permit application is submitted by April 1, 1995. This provision shall also apply to subsequent amendments to this edition of the code based on the effective date of the amendments.

100.6.1. Industrialized buildings and manufactured homes. Industrialized buildings registered under the Virginia Industrialized Building Safety Law and manufactured homes labeled under the Federal Manufactured Housing Construction and Safety Standards shall be exempt from the USBC; however, the building official shall be responsible for issuing permits, inspecting the site work and installation of industrialized buildings and manufactured homes, and issuing certificates of occupancy for such buildings when all work is completed satisfactorily.

100.7. Exemptions. The following buildings, structures and equipment are exempted from the requirements of the USBC:

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying

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within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.

2. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.

3. Manufacturing and processing machines and the following service equipment:

- a. All electrical equipment connected after the last disconnecting means.
- b. All plumbing appurtenance connected after the last shutoff valve or backflow protection device.
- c. All plumbing appurtenance connected before the equipment drain trap.
- d. All gas piping and equipment connected after the outlet shutoff valve.

4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by the Americans With Disabilities Act Accessibility Guidelines shall comply with the requirements of Chapter 11.

5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations (*13 VAC 5-30-10 et seq.*).

SECTION 101.0.

13 VAC 5-60-20. Reference standards and amendments.

101.1. Adoption of model codes and standards. The following model building codes and all portions of other model codes and standards that are referenced in this Code are hereby adopted and incorporated in the USBC. Where differences occur between provisions of the USBC and the referenced model codes or standards, the provisions of the USBC shall apply. Where differences occur between the technical provisions of the model codes and their referenced standards, the provisions of the model code shall apply.

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1993 EDITION
(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators International,
Inc.
4051 West Flossmoor Road
Country Club Hills, Illinois 60478-5795
Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/1993 Edition:

BOCA National Plumbing Code/1993 Edition

BOCA National Mechanical Code/1993 Edition

NFIPA National Electrical Code/1993 Edition

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION and 1993 Amendments (also referred to herein as One and Two Family Dwelling Code) Jointly published by:

Building Officials and Code Administrators International, Inc.

Southern Building Code Congress International, Inc. and International Conference of Building Officials.

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the USBC.

Note: The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the USBC.

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified chapters and sections of the BOCA National Building Code/1993 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

SECTION 102.0.

13 VAC 5-60-30. Local building departments.

102.1. Responsibility of local governments. Enforcement of the USBC Volume I shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Whenever a local government does not have such a building department, it shall enter into an agreement with another local government or with some other agency, or a state agency approved by the Virginia Department of Housing and Community Development for such enforcement. The local building department and its employees may be designated by such names or titles as the local government considers appropriate.

102.2. Building official. Each local building department shall have an executive official in charge, hereinafter referred to as the building official.

102.2.1. Appointment. The building official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, he shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. The local government shall notify the Training and Certification Office within 30 days of the appointment or release of the building official. A Virginia certified building official shall complete an orientation course approved by the Department of Housing and Community Development within 90 days after appointment. A building official not certified by Virginia shall attend the core program of the Virginia Building Code Academy, or an approved regional academy, within 90 days after appointment.

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards (~~VR 394-01-2~~ 13 VAC 5-20-10 et seq.) within three years after the date of employment.

Exception: An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in his trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards (~~VR 394-01-2~~ 13 VAC 5-20-10 et seq.).

Exception: An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1,

1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

102.4. Relief from personal responsibility. The local building department personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The building official or subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

102.5. Control of conflict of interests. The minimum standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION 103.0.

13 VAC 5-60-40. Duties and powers of the building official.

103.1. General. The building official shall enforce the provisions of the USBC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

103.2. Modifications. The building official may grant modifications to any of the provisions of the USBC upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the Uniform Statewide Building Code. Future amendments do not automatically become part of the USBC; however, the building official should give consideration to such amendments in deciding whether a requested modification should be granted. See State Building Code Technical Review Board Interpretation Number 64/81 issued November 16, 1984.

103.2.1. Supporting data. The building official may require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The building official may also require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

103.2.2. Records. The application for modification and the final decision of the building official shall be in writing and

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shall be officially recorded with the copy of the certificate of use and occupancy in the permanent records of the local building department.

103.3. Delegation of duties and powers. The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the USBC.

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia), (i) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, or (ii) after three years in the case of all other buildings.

SECTION 104.0.

13 VAC 5-60-50. Fees.

104.1. Fees. Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

104.2. When payable. A permit shall not be issued until the fees prescribed by the local government have been paid to the authorized agency of the jurisdiction, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local government may authorize delayed payment of fees.

104.3. Fee schedule. The local government shall establish a fee schedule. The schedule shall incorporate unit rates which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

104.4. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local government shall provide fee refunds for the portion of the work which was not completed.

104.5. Fee levy. Local governing bodies shall charge each permit applicant an additional 1.0% of the total fee for each building permit. This additional 1.0% levy shall be transmitted quarterly to the Department of Housing and Community Development and shall be used to support the training programs of the Virginia Building Code Academy.

Exception: Localities which maintain training academies that are accredited by the Department of Housing and Community Development may retain such levy.

104.5.1. Levy adjustment. The Board of Housing and Community Development shall annually review the percentage of this levy and may adjust the percentage not to exceed 1.0%. The annual review shall include a study of the operating costs for the previous year's Building Code Academy, the current balance of the levy collected, and the

operational budget projected for the next year of the Building Code Academy.

104.5.2. Levy cap. Annual collections of this levy which exceed \$500,000, or any unobligated fund balance greater than one-third of that fiscal year's collections shall be credited against the levy to be collected in the next fiscal year.

SECTION 105.0.

13 VAC 5-60-60. Application for construction permit.

105.1. When permit is required. Written application shall be made to the building official when a construction permit is required. A permit shall be issued by the building official before any of the following actions subject to the USBC may be commenced:

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.
2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.
3. Installing or altering any equipment which is regulated by this code.
4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

- a. Painting.
- b. Roofing when not exceeding 100 square feet of roof area.
- c. Glass when not located within specific hazardous locations as defined in Section 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
- d. Doors, except those in fire-rated wall assemblies or exitways.
- e. Floor coverings and porch flooring.
- f. Repairs to plaster, interior tile work, and other wall coverings.

- g. Cabinets installed in residential occupancies.
- h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fire-resistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group building except Use Groups H and F.

4. *Tents and air-support structures covering an area 900 square feet (84 m²), or less, including all connecting areas and spaces with a common means of egress, or entrance, and having an occupant load of 50 or less.*

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

105.2. Who may apply for a permit. Application for a permit shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a professional engineer, architect, contractor or subcontractor (or any of their respective agents), the building official shall verify that the applicant is either licensed to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The building official shall accept and process permit applications through the mail. The building official shall not require the permit applicant to appear in person.

105.3. Form of application. The application for a permit shall be submitted on forms supplied by the building official.

105.4. Description of work. The application shall contain a general description of the proposed work, its location, the use of all parts of the building, and of all portions of the site not covered by the building, and such additional information as may be required by the building official.

105.5. Plans and specifications. The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and dimensional detail to show the nature and character of the work to be performed. Such plans and specifications shall include the seal and signature of the architect or engineer under whose supervision they were prepared, or if exempt under the provisions of state law, shall include the name, address, and occupation of the individual who prepared them. When quality of materials is essential for conformity to the USBC, specific information shall be given to establish such quality. In cases where such plans and specifications are exempt under state law, the building official may require that they include the signature and seal of a professional engineer or architect.

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.

2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in *Addendum 9 Appendix B*.

105.5.1. Site plan. The application shall also contain a site plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations, repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection. Any plan review comments requiring additional information, engineering details, or stating reasons for rejection of plans and specifications, shall be made in writing either by letter or a plans review form from the building official's office, in addition to notations or markings on the plans.

105.7. Approved plans. The building official shall stamp "Approved" or provide an endorsement in writing on both sets of approved plans and specifications. One set of such approved plans shall be retained by the building official. The other set shall be kept at the building site, open to inspection by the building official at all reasonable times.

105.8. Approval of partial plans. The building official may issue a permit for the construction of foundations or any other part of a building before the plans and specifications for the entire building have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a building shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire building will be granted.

105.9. Engineering details. The building official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design.

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For buildings more than two stories in height, the building official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems. The plans shall show the material and methods for protecting such openings so as to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

~~105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives a certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.~~

~~Exceptions: The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off-facility components where the length or area could not be measured previously.~~

~~105.10.1. Replacement of roofing, floorcovering, or siding materials. To meet the inspection requirements of Section 105.10 except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:~~

- ~~1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or~~
- ~~2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.~~

~~105.10.2. Reoccupancy. An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed~~

~~and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).~~

~~105.11. 105.10. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.~~

~~105.12. 105.11. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.~~

SECTION 106.0.

~~13 VAC 5-60-70. Professional engineering and architectural services.~~

~~106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section 1705.0.~~

~~106.2. Attendant fees and costs. All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.~~

SECTION 107.0.

~~13 VAC 5-60-80. Approval of materials and equipment.~~

~~107.1. Approval of materials; basis of approval. The building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the building official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the building official shall approve items listed by nationally recognized independent testing laboratories or may consider the recommendations of engineers and architects licensed in this state.~~

~~107.2. Used materials and equipment. Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the building official.~~

~~107.3. Approved materials and equipment. All materials, equipment, devices and assemblies approved for use by the building official shall be constructed and installed in accordance with the conditions of such approval.~~

SECTION 108.0.

13 VAC 5-60-90. Interagency coordination - functional design.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. State agencies with functional design approval are listed in *Addendum 4 Appendix C*. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0.

13 VAC 5-60-100. Construction permits.

109.1. Issuance of permits. If the building official is satisfied that the proposed work conforms to the requirements of the USBC and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The building official may authorize work to commence prior to the issuance of the permit.

109.2. Signature on permit. The signature of the building official or authorized representative shall be attached to every permit.

109.3. Separate or combined permits. Permits for two or more buildings on the same lot may be combined. Permits for the installation of equipment such as plumbing, electrical or mechanical systems may be combined with the structural permit or separate permits may be required for the installation of each system. Separate permits may also be required for special construction considered appropriate by the local government.

109.4. Annual permit. The building official may issue an annual permit for alterations to an already approved equipment installation.

109.4.1. Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of all alterations to an approved equipment installation made under such annual permit. Such records shall be accessible to the building official at all times or shall be filed with the building official when so requested.

109.5. Posting of permit. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

109.6. Previous permits. No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended in accordance with Section 109.7 or 109.8.

109.7. Revocation of permits. The building official may revoke a permit or approval issued under the provisions of

the USBC in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

109.8. Suspension of permit. Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that work has not been suspended or abandoned. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

109.9. Compliance with code. The permit shall be a license to proceed with the work in accordance with the application and plans for which the permit has been issued and any approved amendments thereto and shall not be construed as authority to omit or amend any of the provisions of the USBC, except by modification pursuant to Section 103.2.

SECTION 110.0.

13 VAC 5-60-110. Inspections.

110.1. Right of entry. The building official may inspect buildings for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The building official and assistants shall carry proper credentials of office when inspecting buildings and premises in the performance of duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, pursuant to enforcement of the USBC, that any building may be inspected at any time before completion. It also permits local governments to provide for the reinspection of buildings.

110.2. Preliminary inspection. Before issuing a permit, the building official may examine all buildings and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof.

110.3. Minimum inspections. Inspections shall include but are not limited to the following:

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.
2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.
3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.
4. Structural framing and fastenings prior to covering with concealing materials.

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5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.
6. Required insulating materials before covering with any materials.
7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section 1705.0.

[110.3.2. *Waived inspections. When the construction cost is less than \$2,500, the inspection may, in the discretion of the inspecting authority, be waived.*]

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and to confirm continuation of work per Section 109.8 or for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

110.5. Inspections to be prompt. The building official shall respond to inspection requests without unreasonable delay. The building official shall approve the work in writing or give written notice of defective work to the permit holder or the agent in charge of the work. Such defects shall be corrected and reinspected before any work proceeds that would conceal them.

Note: A reasonable response time should normally not exceed two working days.

110.6. Approved inspection agencies. The building official may accept reports from individuals or inspection agencies which satisfy qualifications and reliability requirements, and shall accept such reports under circumstances where the building official is unable to make the inspection by the end of the following working day. Inspection reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. An identifying label or stamp permanently affixed to the product indicating that factory inspection has been made shall be accepted instead of the written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

110.7. In-plant inspections. When required by the provisions of this code, materials or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of each prefabricated assembly, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the building official to determine conformance with this code.

110.8. Coordination with other agencies. The building official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or

functional design responsibilities, and shall coordinate required inspections for new construction with the local fire official whenever the inspection involves provisions of the BOCA National Fire Prevention Code.

SECTION 111.0.

13 VAC 5-60-120. Workmanship.

111.1. General. All construction work shall be performed and completed so as to secure the results intended by the USBC.

SECTION 112.0.

13 VAC 5-60-130. Violations.

112.1. Code violations prohibited. ~~No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC. Pursuant to § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions.~~

112.2. Notice of violation. The building official shall serve a notice of violation ~~on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC.~~ *to the responsible party as determined under Section 112.1 if the violation has not been remedied within a reasonable time.* Such [*order notice*] shall reference the code section that serves as the basis for the violation and [*direct the discontinuance and abatement of the violation.*] Such notice of violation shall be in writing and [*be served by either delivering a copy of the notice to such person by mail to the last known address, delivering the notice in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.*

[~~*Exception: If the violation is discovered after the certificate of occupancy is issued, the notice of violation shall only be issued upon determination by the legal counsel of the jurisdiction that action may be taken to compel correction of the violation.*~~]

[112.2.1. *Violations discovered after occupancy. The notice described by Section 112.2 shall be issued for violations discovered after occupancy of the building or structure if it has not been remedied within a reasonable time.*

Exception: A notice of violation shall not be issued for violations which are discovered beyond the statute of limitations provided by § 19.2-8 of the Code of Virginia for prosecuting building code violations unless it is determined by the legal counsel of the jurisdiction that action may be taken to compel correction of the violation.

]

112.3. Prosecution of violation. If the notice of violation is not complied with, the building official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of the building in violation of the provisions of the USBC. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

112.4. Violation penalties. Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than \$2,500.

112.5. Abatement of violation. Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the USBC relating to construction and use of the building or premises.

SECTION 113.0.

13 VAC 5-60-140. Stop work order.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

113.2. Application of order limited. The stop work order shall apply only to the work that was being executed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

SECTION 114.0.

13 VAC 5-60-150. Posting buildings.

114.1. Use group and form of sign. Prior to its use, every building designed for Use Groups B, F, H, M or S shall be posted by the owner with a sign approved by the building official. It shall be securely fastened to the building in a readily visible place. It shall state the use group, the live load, the occupancy load, and the date of posting.

114.2. Occupant load in places of assembly. Every room constituting a place of assembly or education shall have the approved occupant load of the room posted on an approved sign in a conspicuous place, near the main exit from the room. Signs shall be durable, legible, and maintained by the owner or the owner's agent. Rooms or spaces which have multiple-use capabilities shall be posted for all such uses.

114.3. Street numbers. Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public right of way.

SECTION 115.0.

13 VAC 5-60-160. Certificate of use and occupancy.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official. Final inspection approval(s) shall serve as the certificate of use or occupancy for any addition or alteration to a building or structure which already has a valid certificate of use or occupancy.

115.2. Temporary use and occupancy. The holder of a permit may request the building official to issue a temporary certificate of use and occupancy for a building, or part thereof, before the entire work covered by the permit has been completed. The temporary certificate of use and occupancy may be issued provided the building official determines that such portion or portions may be occupied safely prior to full completion of the building.

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

~~115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has heretofore been issued, shall not be used until a certificate for the changed use group has been issued.~~

~~115.5. Existing buildings. A building constructed prior to the USBC shall not be prevented from continued use. The building official shall issue a certificate of use and occupancy upon written request from the owner or the owner's agent, provided there are no violations of Volume II of the USBC and the use of the building has not been changed.~~

115.6. 115.4. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0.

13 VAC 5-60-170. Appeals.

116.1. Local Board of Building Code Appeals (BBCA). Each jurisdiction shall have a BBCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency approved by the Department of Housing and Community Development, to act on appeals. The BBCA shall also hear appeals under Volume II of the

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USBC, the Building Maintenance Code [(13 VAC 5-70-10 et seq.)], if the jurisdiction has elected to enforce that code. The jurisdiction may have separate BBCAs provided that each BBCA complies with this section. An appeal case decided by a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

116.2. Membership of BBCA. The BBCA shall consist of at least five members appointed by the jurisdiction and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and, as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary, shall be maintained in the office of the jurisdiction. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

116.2.1. Chairman. The BBCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

116.2.2. Secretary. The jurisdiction shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

116.3. Qualifications of BBCA members. BBCA members shall be selected by the jurisdiction on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall, to the extent possible, represent different occupational or professional fields relating to the construction industry. Employees or officials of the jurisdiction shall not serve as members of the BBCA. At least one member should be an experienced builder and one member a licensed professional engineer or architect.

116.4. Disqualification of member. A member shall not hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639 et seq.) of Title 2.1 of the Code of Virginia.

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official concerning the application of the USBC or his refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall submit a written request for appeal to the BBCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the building official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit

established by this section shall constitute acceptance of the building official's decision.

116.6. Notice of meeting. The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

116.7. Hearing procedures. All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

116.7.1. Postponement. When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

116.8. Decision. The BBCA shall have the power to reverse or modify the decision of the building official by a concurring vote of a majority of those present.

116.8.1. Resolution. The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to the State Building Code Technical Review Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

Copies of the resolution shall be furnished to all parties.

116.9. Appeal to the TRB. After final determination by the BBCA, any person who was a party to the local appeal may appeal to the TRB. Appeals by an involved state agency from the decision of the building official for state-owned buildings shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or building official's decision.

116.9.1. Information to be submitted. Copies of the decision of the building official and the resolution of the BBCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the jurisdiction shall submit a copy of all pertinent information from the record of the BBCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the building official's decision and other relevant information.

116.9.2. Decision of TRB. Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of

Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the building official shall take action accordingly.

SECTION 117.0.

13 VAC 5-60-180. Existing buildings and structures.

~~117.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fire-resistance rating shall be made with materials required for a new structure.~~

~~Exception: Existing materials and equipment may be replaced with materials and equipment of a similar kind or replaced with greater capacity equipment in the same location when not considered a hazard.~~

~~Note 1: Alterations after construction may not be used by the building official as justification for requiring any part of the old building to be brought into compliance with the current edition of the USBC. For example, replacement of worn exit stair treads that are somewhat deficient in length under current standards does not, of itself, mean that the stair must be widened. It is the intent of the USBC that alterations be made in such a way as not to lower existing levels of health and safety.~~

~~Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.~~

~~117.1. Continued use. Provided there are no violations of the USBC Volume II (13 VAC 5-70-10 et seq.) or the Virginia Statewide Fire Prevention Code (13 VAC 5-50-10 et seq.) and the building use has not changed, an existing building shall not be prevented from continued use and the building official shall issue a certificate of occupancy (CO) upon written request from the owner or his agent.~~

~~117.2. Change in use. The owner or his agent shall, in writing, apply to and obtain from the building official a new CO prior to changing the use of a building. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new use, the owner or his agent shall, in writing, apply and obtain a permit. When it is impractical to achieve compliance with the USBC, the building official shall, upon application, issue modifications as provided in Section 103.2.~~

~~117.3. Reconstruction, alteration or repair. Reconstruction, alteration or repair shall not adversely affect the performance~~

~~of, or cause the building to become unsafe and shall not be used as justification for requiring any other part of the building to be brought into compliance with the current USBC. Work shall be done in such a way so as not to lower existing levels of health and safety. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. Used material and equipment may be used as approved by the building official.~~

~~117.1.1. 117.3.1. Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.~~

~~Exceptions:~~

~~1. Improvements required under Volume II of the USBC necessary to assure safe living conditions (13 VAC 5-70-10 et seq.).~~

~~2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.~~

~~117.1.2. Requirements for accessibility. 117.3.2. Accessibility requirements. Buildings and structures which are altered or to which additions are added undergo alterations shall comply with applicable requirements of Chapter 11.~~

~~117.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.~~

~~117.3. 117.3.3 Alternative method of compliance. Compliance with the provisions of Chapter 34 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of alternative to complying with this code 13 VAC 5-60-180.~~

~~117.3.4. Asbestos certifications. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirement of the Clean Air National Emission Standard for the Hazardous Air Pollutant~~

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(NESHAPS) (40 CFR 61, Subpart M) and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto. An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

Exceptions: The provisions of this section shall not apply:

1. To single-family dwellings, or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purpose.

2. If the combined amount of regulated asbestos-containing material involved in the renovation or demolition is:

- a. Less than 260 linear feet on pipes,
- b. Less than 160 square feet on other facility components, or
- c. Less than 35 cubic feet when removed from facility components when the length or area could not be measured prior to approval.

117.3.4.1. Replacement of roofing, floorcovering, or siding materials. To meet the certification requirements of Section 117.3.4 renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replace are assumed to contain asbestos and that asbestos installation, removal or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor, or
2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

117.4. Permits. The owner or his agent shall, in writing, apply to and obtain from the building official a permit as provided in 13 VAC 5-60-60.

117.5. Approval of materials. The building official shall approve materials and equipment used in existing buildings in accordance with this section and as provided in 13 VAC 5-60-80.

117.6. Appeals. The owner, his agent, or any other person involved in the design or construction of the building may appeal a decision of the building official as provided in 13 VAC 5-60-170.

SECTION 118.0.

13 VAC 5-60-190. Moved buildings.

118.1. General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.
2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The building has not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

118.2. Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION 119.0.

13 VAC 5-60-200. Unsafe buildings.

119.1. Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe building. Any such unsafe building shall be made safe through compliance with the USBC or shall be taken down and removed, as the building official may deem necessary.

119.1.1. Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

119.1.2. Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

119.1.3. Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

119.1.4. Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

119.1.5. Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections authorized by the building official.

119.1.6. Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

119.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

119.3. Abatement or removal. Whenever the owner of a building that has been deemed to be a public nuisance or unsafe, pursuant to Section 119.1 or Section 119.2, fails to comply with the requirements of the notice to abate, the building official may cause the building to be razed or removed.

Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public

emergency services reasonably required to abate any such public nuisance.

[119.4. Residential rental unit. Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that there may be a violation of USBC Volume II, 13 VAC 5-70-60, the local building department shall enforce 13 VAC 5-70-60.]

SECTION 120.0.

13 VAC 5-60-210. Demolition of buildings.

120.1. General. Demolition permits shall not be issued until the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. Any certificate required by Section 105.10 has been received by the building official.
3. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

120.2. Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of the BOCA Code.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1993 EDITION.

As provided in Section 101.3 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building Code/1993 Edition for use as part of the USBC.

CHAPTER 1.

ADMINISTRATION AND ENFORCEMENT.

Entire chapter is deleted and replaced by Chapter 1, Adoption, Administration and Enforcement, of the Virginia Uniform Statewide Building Code.

CHAPTER 2.

DEFINITIONS.

(A) Change the following definitions in Section 202.0, General Definitions, to read:

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the USBC, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable. The word building shall be construed as though followed by the words

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"or part or parts and fixed equipment thereof" unless the context clearly requires a different meaning. The word "building" includes the word "structure."

Dwellings:

"*Boarding house*" means a building arranged or used for lodging, with or without meals, for compensation and not occupied as a single family unit.

"*Dormitory*" means a space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

"*Hotel*" means any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

"*Multi-family apartment house*" means a building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

"*One-family dwelling*" means a building containing one dwelling unit.

"*Two-family dwelling*" means a building containing two dwelling units.

"*Jurisdiction*" means the local governmental unit which is responsible for enforcing the USBC under state law.

"*Mobile unit*" means a structure of vehicular, portable design, built on a chassis and designed to be moved from one site to another, subject to the Industrialized Building and Manufactured Home Safety Regulations, and designed to be used without a permanent foundation.

"*Owner*" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building.

"*Structure*" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

(B) Add these new definitions to Section 202.0, General Definitions:

"*Family*" means an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than eight unrelated persons, living together as a single housekeeping unit in a dwelling unit.

"*Farm building*" means a structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for

the maintenance, storage or use of animals or equipment related thereto.

"*Historic building*" means any building that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Virginia Department of Historic Resources' inventory of historic places; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Virginia Department of Historic Resources.

"*Local government*" means any city, county or town in this state, or the governing body thereof.

"*Manufactured home*" means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

"*Night club*" means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food or alcoholic beverages or both; and provides music and space for dancing.

"*Plans*" means all drawings that together with the specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

"*Public nuisance*" means, for the purposes of this code, any public or private building, wall or structure deemed to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy or use, or the condition of which constitutes a menace to the health and safety of the occupants thereof or to the public.

"*Skirting*" means a weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

"*Specifications*" means all written descriptions, computations, exhibits, test data and other documents that together with the plans, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

CHAPTER 3. USE OR OCCUPANCY.

(A) Add an exception to Section 308.2 to read as follows:
Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors, shall be classified as Use Group R-3.

(B) Reserved.

CHAPTER 4. SPECIAL USE AND OCCUPANCY.

(A) Add an exception to Section 417.6 to read as follows:

Exception: The storage, dispensing and utilization of flammable and combustible liquids, in excess of the exempt amounts, at automotive service stations shall be in accordance with the fire prevention code listed in Chapter 35.

(B) Change Section 420.0 to read as follows:

SECTION 420.0. MOBILE UNITS AND MANUFACTURED HOMES.

420.1. General. Mobile units, as defined in Section 202.0, shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

420.2. Support and anchorage of mobile units. The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Chapter 16 for buildings and structures, based upon the size and weight of the mobile unit.

420.3. Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tiedowns, piers, blocking, footings, etc.) based upon the design of the manufactured home. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

420.3.1. Hurricane Wind zone. Manufactured homes installed or relocated in the hurricane wind zone shall be of

~~Hurricane and Windstorm Resistive design designed in accordance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) and shall be anchored according to the manufacturer's specifications for the hurricane wind zone. The hurricane Wind zone II includes the following counties and all cities located therein, contiguous thereto, or to the east thereof. Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greenville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George. : Chesapeake, Norfolk, Portsmouth and Virginia Beach.~~

420.3.2. Flood hazard zones. Manufactured homes and mobile units which are located in a flood hazard zone shall comply with the requirements of Section 3107.1.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

420.4. Used mobile/manufactured homes. When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Chapter 35 shall be accepted as meeting the USBC.

420.5. Skirting. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

(C) Add new Section 422.0 to read as follows:

SECTION 422.0. MAGAZINES.

422.1. Magazines. Magazines for the storage of explosives, ammunition and blasting agents shall be constructed in accordance with the Statewide Fire Prevention Code as adopted by the Board of Housing and Community Development.

(D) Add new Section 423.0 to read as follows:

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SECTION 423.0. STORAGE TANKS.

423.1. General. The installation, upgrade, or closure of any storage tanks containing an accumulation of regulated substances, shall be in accordance with the Storage Tank Regulations adopted by the State Water Control Board. Storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Sections 417.0 and 418.0.

CHAPTER 9. FIRE PROTECTION SYSTEMS.

(A) Change Section 904.9 Exceptions to read as follows:

The following exceptions may be applied only when adequate water supply is not available at the proposed building site.

For the purposes of this section "adequate" means the necessary water pressure and volume provided by a water purveyor.

Exceptions.

1. Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 12 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.

2. Buildings where all dwelling units or bedrooms are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedrooms of a dormitory or boarding house and every two dwelling units or bedrooms of a dormitory or boarding house are separated from other dwelling units or bedrooms of a dormitory or boarding house in the building by fire separation assemblies (see Sections 709.0 and 713.0) having a fire-resistance rating of not less than two hours.

(B) Add new Section 904.12 to read as follows:

904.12. Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 503.3, 504.2, 506.3, 705.2.3, 705.3.1, 720.7.1, 720.7.2, 803.4.3, and any others not specifically listed shall be granted.

4. The requirements of Section 403.0 for high-rise buildings, such as, but not limited to voice alarm

systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(C) Change Section 917.4.6 to read as follows:

917.4.6. Use Group R-2. A fire protective signaling system shall be installed and maintained in all buildings of Use Group R-2 where any dwelling unit or bedroom is located three or more stories above the lowest level of exit discharge or more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedroom.

(D) Add new Section 917.8.3 to read as follows:

917.8.3. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

CHAPTER 10. MEANS OF EGRESS.

(A) Reserved.

(B) Change Section 1017.4.1 Exception 6 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

a. The building is occupied by employees only and all employees have ready access to the unlocking device.

b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.

c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(C) Add new Section 1017.4.4.1.

1017.4.4.1. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

(D) Add new Section 1017.4.4.2.

1017.4.4.2. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

CHAPTER 11. ACCESSIBILITY.

Entire Chapter 11 is deleted and replaced with the following new Chapter 11.

1101.1. General. This chapter establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

1101.2. Where required. The provisions of this chapter shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.
2. Buildings and structures classified as Use Group U.
3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.
4. Those buildings or structures or portions thereof which are used exclusively for either private club or religious worship activities.

1101.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

1101.3. Referenced standards. The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).
2. Title 28 Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35593-35594 and 35599-35602 (July 26, 1991).

CHAPTER 12. INTERIOR ENVIRONMENT.

(A) Add the following definitions to Section 1202.1:

"Day-night average sound level (Ldn)" means a 24-hour energy average sound level expressed in dBA, with a [ten 10] decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

"Sound transmission class (STC) rating" means a single number rating characterizing the sound reduction performance of a material tested in accordance with ASTM E 90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

(B) Add new Section 1208.5 as follows:

1208.5. Insect screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(C) Add new Section 1214.4 as follows:

1214.4. Aircraft noise attenuation. Pursuant to the provisions of § 15.1-491.03 of the Code of Virginia a local governing body may implement Section 1214.4.1.

1214.4.1. Acoustical isolation requirement. All residential use group buildings or portions thereof constructed or placed within an airport noise zone shall be constructed in accordance with the requirements of Section 1214.4.1.1 or Section 1214.4.1.2.

1214.4.1.1. Minimum sound transmission. Buildings located within airport noise zones shall be provided with minimum sound transmission class (STC) rated assemblies as follows:

1. 65-69 Day-Night average sound level (Ldn) zone; roof/ceiling and exterior walls 39 STC, doors and windows 25 STC.
2. 70-74 Ldn zone; roof/ceiling and exterior walls 44 STC, doors and windows 33 STC.
3. 75 or greater Ldn zone; roof/ceiling and exterior walls 49 STC, doors and windows 38 STC.

Note: For the purpose of this section STC ratings for doors and windows shall be determined by addition of the STC value of components used.

1214.4.1.2. Sound isolation design. Buildings located within airport noise zones shall be designed and constructed to limit the interior noise level to 45 Ldn maximum. Sound isolation design shall be permitted to include exterior structures, terrain and permanent plantings. The sound isolation design shall be certified by a licensed architect or engineer.

(D) Add new Section 1216.0 as follows:

SECTION 1216.0. HEATING FACILITIES.

1216.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

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1216.2. Other structures. Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 13. ENERGY CONSERVATION.

Entire Chapter 13 is deleted and replaced with the following new Chapter 13.

1301.1. General. This chapter establishes the requirements for energy conservation to be applied during the design, construction and alteration of buildings and structures.

1301.2. Scope. The provisions of this chapter shall apply to all buildings and structures.

1301.3. Referenced standard. The following standard is hereby incorporated by reference for use in determining compliance with this section:

CABO Model Energy Code (MEC) 1993 Edition

[CHAPTER 15. ROOFS AND ROOF STRUCTURES.

Change Section 1507.2 to read as follows:

~~1507.2. Steep-slope roof coverings. Steep-slope roof covering materials and installations shall comply with Sections 1507.2.1 through 1507.2.9. In areas where the average daily temperature in January is 25°F (4°C) or less, an ice shield that consists of at least two layers of underlayment cemented together or of a waterproofing membrane shall extend from the eave's edge to a point at least 24 inches (610 mm) inside the exterior wall line of the building.]~~

CHAPTER 16. STRUCTURAL LOADS.

(A) Revise Section 1612.1 by adding Exception 5 to read:

5. Buildings assigned to seismic performance Category B, according to Section 1612.1.7 and seismic hazard exposure group I according to Section 1612.1.5, which comply with all of the following, need only comply with Section 1612.3.6.1.

- a. The height of the building does not exceed four stories.

b. The height of the building does not exceed 40 feet.

c. A_vS is less than 0.10 and the soil profile type has been verified.

d. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(B) Revise Section 1612.3.5.2 by adding an exception to read:

Exception: Regular or irregular buildings assigned to Category B which are seismic hazard exposure group I are not required to be analyzed for seismic forces for the building as a whole, providing all of the following apply:

1. The height of the building does not exceed four stories.
2. The height of the building does not exceed 40 feet.
3. A_vS is less than 0.10 and the soil profile type has been verified.
4. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(C) Revise Section 1612.3.6.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for the building as a whole by Section 1612.3.5.2 need only comply with Section 1612.3.6.1.

CHAPTER 17. STRUCTURAL TESTS AND INSPECTIONS.

(A) Add new Section 1701.4 to read as follows:

1701.4. Lead based paint. Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1705.1 to read as follows:

1705.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section 1705.12, Special cases.

CHAPTER 21. MASONRY.

Revise Section 2104.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a

seismic analysis for a building as a whole by Section 1612.3.5.2 are permitted to be designed in accordance with the requirements of either Section 2101.1.1 or 2101.1.2.

CHAPTER 23. WOOD.

Add new Section 2310.2.3 to read as follows:

2310.2.3. Acceptance. Fire retardant-treated plywood shall not be used as roof sheathing without providing the building official with nationally recognized test results, satisfactory past product performance, or equivalent indicators of future product performance that address longevity of service under typical conditions of proposed installation as well as the degree to which it retards fire, structural strength, and other characteristics.

CHAPTER 27. ELECTRIC WIRING, EQUIPMENT AND SYSTEMS.

(A) Change Section 2701.1 to read as follows:

2701.1. Scope. The provisions of this chapter shall control the design and construction of all new installations of electrical conductors, equipment and systems in buildings or structures, and all alterations to existing wiring systems therein to ensure safety. All such installations shall conform to the provisions of NFIPA 70 listed in Chapter 35 as amended below:

Change Section 550-23(a) Exception 2 by deleting item (a).

(B) Add Section 2701.5 to read as follows:

2701.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 28. MECHANICAL SYSTEMS.

(A) Change Section 2801.2 to read as follows:

2801.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Chapter 35, as amended below:

1. Delete Chapter 17, Air Quality.

2. Add note to M-601.1 to read as follows:

Note: Boilers and pressure vessels constructed under this chapter shall also be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

3. Change Section M-813.3 to read as follows:

M-813.3. Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel dispensing systems for CNG vehicles shall be designed and installed in accordance with NFIPA 52 listed in Chapter 21. The referenced standard within NFIPA 52 Section 2-11.5 and 6-1.2.6., shall be

AGA/CGA NGV 1, Compressed Natural Gas Vehicles (NGV) Fueling Connection Devices.

CHAPTER 29. PLUMBING SYSTEMS.

(A) Change Section 2901.1 to read as follows:

2901.1. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35 (BOCA National Plumbing Code/1993) as amended below:

1. Change Section P-304.1 to read as follows:

P-304.1. General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section P-304.3 to read as follows:

P-304.3. Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section P-309.4 to read as follows:

P-309.4. Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section P-312.0, Toilet Facilities for Workers.

5. Add new Section P-606.2.3 to read as follows:

P-606.2.3. Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Delete Section P-1205.0, Accessible Plumbing Facilities.

7. Add new Section P-1503.3:

P-1503.3. Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is

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installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

8. Add Note to P-1508.4 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

9. Delete Chapter 16, Individual Water Supply.

(B) Change Section 2905.3 to read as follows:

2905.3. Private water supply. When public water mains are not used or available, a private source of water supply may be used. The State Department of Health shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2906.1 to read as follows:

2906.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

CHAPTER 31. SPECIAL CONSTRUCTION.

(A) Delete Section 3102.4.1, New signs.

(B) Delete Section 3102.4.4, Construction Documents and Owner's Consent.

(C) Delete Section 3107.10, Alterations and Repairs.

CHAPTER 33. SITEWORK, DEMOLITION AND CONSTRUCTION.

(B) Change Section 3301.1 to read as follows:

3301.1. Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and

structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

CHAPTER 35. REFERENCED STANDARDS.

Add the following standard:

NCSBCS/ANSI A225.1-87. Manufactured Home Installations (referenced in Section 420.4).

ADDENDUM 2.

AMENDMENTS TO THE CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION AND 1993 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

CHAPTER 1. ADMINISTRATIVE.

Any requirements of Sections R-101 through R-117 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Chapter 1, Adoption, Administration and Enforcement of the USBC.

CHAPTER 2. BUILDING PLANNING.

(A) Change Section R-203.5 to read as follows:

R-203.5. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

(B) Add Section R-203.6, Insect Screens:

R-203.6. Insect Screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(C) Change Section R-206 to read as follows:

SECTION R-206. SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of the building.

(D) Add to Section R-211:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

(E) Change Section R-214.2 to read as follows:

~~R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.~~

~~Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.~~

(F) (E) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(G) (F) Add new Section R-218.4 as follows:

Section R-218.4. Aircraft Noise Attenuation. All use group R-4 buildings shall comply with USBC Volume I - 1993, Section 1214.4, where applicable.

(H) (G) Add new Section R-223:

SECTION R-223. TELEPHONE OUTLETS

Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

(I) (H) Add new Section R-224:

SECTION R-224. LEAD BASED PAINT

Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

CHAPTER 3. FOUNDATIONS.

Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 3107.0 of the 1993 BOCA National Building Code.

[CHAPTER 8. ROOF COVERINGS.

Change Section R-803.3 to read as follows:

~~R-803.3. Slopes less than four inches in 12 inches but not less than two inches in 12 inches. Nominally double-coverage asphalt shingles may be installed on slopes as low as two inches in 12 inches, provided the shingles are approved self-sealing shingles or are hand-sealed and are installed with an underlayment consisting of two layers of No. 15 felt, applied as required in Section R-802 and Table No. R-803.4. In areas where the January average daily temperature is 25°F or less, the two layers of felt shall be cemented together, in addition to the required nailing, from the eaves up the roof to overlie a point 24 inches inside the interior wall line of the building. Asphalt shingles shall not be used on roofs with slopes less than two inches in 12 inches.]~~

PART VII. ENERGY CONSERVATION.

Revise Part VII as follows:

The energy conservation requirements shall conform to Chapter 13 of the USBC, Volume I.

VA.R. Doc. No. R96-203; Filed January 30, 1996; 4:25 p.m.

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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 400-01-0001. 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.

Effective Date: February 5, 1996.

Summary:

The 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.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

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.

§-1. 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 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

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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. R96-194; Filed January 25, 1996, 4:08 p.m.

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.

Effective Date: February 5, 1996.

Summary:

The 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.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

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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 ~~§ 2.2.1~~ 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 ~~§ 2.2.1~~ 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 ~~§ 2.2.1~~ 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 § 2.10 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 this §-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.

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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 § 2.2.1 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 § 2.2.1 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 ~~§ 2.13~~ 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) ~~§ 2.2.1~~ 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) ~~§ 2.2.1~~ 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) ~~§ 2-2-1~~ 13 VAC 10-40-50 C (Principal residence requirement)

(3) ~~§ 2-2-1~~ 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.

~~§ 2-11.~~ 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 § 2-2-4 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 §-2-42 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. R96-195; Filed January 25, 1996, 4:07 p.m.

Title of Regulation: **VR 400-02-0011. 13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.**

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

Effective Date: February 19, 1996.

Summary:

The amendments to the authority's rules and regulations for allocation of low-income housing tax credits (i) require a previous participation form similar to HUD's 2530 form to be included with each application, (ii) clarify site control requirements, (iii) add requirements for admission into the nonprofit pool, (iv) revise and clarify scoring categories, (v) make adjustments as to how credits are moved to other pools, (vi) limit a single developer (or related entity) to \$1,200,000 in annual tax credits in a single calendar year, (vii) prohibit certain transfers of partnership interests, and (viii) make other technical and clarification changes.

13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

CHAPTER 180.

RULES AND REGULATIONS FOR ALLOCATION OF LOW-INCOME HOUSING TAX CREDITS.

§-1. 13 VAC 10-180-10. Definitions.

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

"Applicant" means an applicant for credits under this chapter and also means the owner of the development to whom the credits are allocated.

"Credits" means the low-income housing tax credits as described in § 42 of the IRC.

"Estimated highest gross square footage per bedroom" means in subdivision 3 a of §-6 13 VAC 10-180-60, the highest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), divided by the total number of bedrooms in any development in the state (or, if the executive director shall so determine, in each pool or ~~subpool~~ pool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60.

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"*Estimated lowest gross square footage per bedroom*" means in subdivision 3 a of §-6 13 VAC 10-180-60, the lowest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), divided by the total number of bedrooms in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60.

"*Estimated highest per bedroom cost for new construction units*" means, in subdivision 6 d of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"*Estimated highest per bedroom cost for rehabilitation units*" means, in subdivision 6 d of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"*Estimated highest per bedroom credit amount for new construction units*" means, in subdivision 6 b of §-6 13 VAC 10-180-60, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"*Estimated highest per bedroom credit amount for rehabilitation units*" means, in subdivision 6 b of §-6 13 VAC 10-180-60, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"*Estimated highest per unit cost for new construction units*" means, in subdivision 6 c of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"*Estimated highest per unit cost for rehabilitation units*" means, in subdivision 6 c of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in

each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"*Estimated highest per unit credit amount for new construction units*" means, in subdivision 6 a of §-6 13 VAC 10-180-60, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"*Estimated highest per unit credit amount for rehabilitation units*" means, in subdivision 6 a of §-6 13 VAC 10-180-60, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"*IRC*" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"*IRS*" means the Internal Revenue Service.

"*Low-income housing units*" means those units which are defined as "low income units" under § 42 of the IRC.

"*Qualified application*" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"*Qualified low-income buildings*" or "*qualified low-income development*" means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of credits thereunder.

§-2. 13 VAC 10-180-20. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of credits pursuant to § 42 of the IRC.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause to promote the goals and interests of the Commonwealth in the federal low-income housing tax credit program, to the extent not inconsistent with the IRC.

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 processing and administration of the credits. This chapter is 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.

Any determination made by the authority pursuant to this chapter as to the financial feasibility of any development or its

viability as a qualified low-income development shall not be construed to be a representation or warranty by the authority as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC must be complied with and satisfied.

§-3. 13 VAC 10-180-30. General description.

The IRC provides for credits to the owners of residential rental developments comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount not less than 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations hold an ownership interest and materially participate in the development and operation thereof. Credit allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for credits for the calendar year in which the credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for credits to the housing credit agency of the Commonwealth. The authority has been designated by executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year credits to qualified low-income buildings or developments in accordance herewith.

Credits may be allocated to each qualified low-income building in a development separately or to the development as a whole in accordance with the IRC.

Credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42(h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of credits as described hereinbelow and shall make such reservations of credits to eligible applications in accordance herewith and subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42(h)(1)(E) of the IRC with respect to such buildings or the development, the credits shall be allocated to such buildings or the development as a whole in the calendar year for which such credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, this chapter shall not apply to credits with respect to any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of credits hereunder. (See § 49 hereinbelow 13 VAC 10-180-100.)

The authority shall charge to each applicant fees in such amounts as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the executive director shall require.

§-4. 13 VAC 10-180-40. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of this chapter in the qualified allocation plan. However, the authority may amend the qualified allocation plan without public approval if required to do so by changes to the IRC.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for credits. 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 and the selection thereof as he shall consider necessary or appropriate.

§-5. 13 VAC 10-180-50. Application.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. *The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide the proper documentation or information on the forms prescribed by the executive director.*

The application shall *should* include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information *must, if applicable, needs* to be included in the application: site acquisition costs, site preparation costs, construction

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costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other cost and fees.

~~[Each applicant shall agree in the application to restrict, for occupancy to households at or below 50% of the area median income, 1.0% of the proposed number of units (rounded to the nearest 5.0%, rounding up if there are two choices) for every 2.0% the area median income of the development's locality exceeds the statewide average area median income.]~~

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site for a period extending at least three months beyond any application deadline established by the executive director, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. A contract that permits the owner to continue to market the property, even if the applicant has a right of first refusal [,] does not constitute the requisite site control required in clause (iii) above. No application shall be considered for a reservation or allocation of credits unless such evidence is submitted with the application and the authority determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence.

Each application shall include, in a form [or forms] required by the executive director, a [certification of previous participation] listing [of] all residential real estate developments in which the general partner(s) [or their affiliates] has or had an ownership [or participation] interest, the location of such developments [and ,] the number of residential units and low-income housing units in such developments [and such other information as more fully specified by the executive director] . Furthermore, the applicant must indicate, for developments receiving an allocation of tax credits under § 42 of the IRC, whether any such development has ever been determined to be out of compliance with the requirements of the IRC by the appropriate state housing credit agency, and if so, an explanation of such noncompliance and whether it has been corrected. ~~No~~ The executive director may reject any application ~~shall be considered from consideration for a reservation or allocation of credits unless the above information is submitted with the application.~~ If [, after reviewing the above information, the executive director determines that the general partner(s) do not have the experience, financial capacity and predisposition to regulatory compliance necessary to carry out the responsibilities for the acquisition, construction, ownership, operation, marketing,

~~maintenance and management of the proposed development or the ability to fully perform all the duties and obligations relating to the proposed development under law, regulation and the reservation and allocation documents of the authority or if]~~ an applicant is in substantial noncompliance with the requirements of the IRC, the executive director, in his sole discretion, may reject applications by the applicant.

The application ~~shall~~ *should* include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions ~~shall~~ *may* be indicated on the application form ~~or, instructions or other communication available to the public.~~

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations.

After receipt of the applications, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such officers a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of credits to

buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

§-6. 13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools and may further subdivide these pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, or occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A [~~community-based (as defined by the executive director)~~] "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) [~~chartered which is authorized to do business~~] in Virginia [~~and is determined by the executive director, on the basis of such relevant factors as he shall consider appropriate, to be substantially based or active in the community of the development~~] is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the allocation reservation of credits to the buildings or development, own a general partnership interest in the development which shall constitute not less than 51% of all of the general partnership interests of the ownership entity thereof (such that the qualified nonprofit organizations have at least a 51% interest in both the income and profit allocated to all of the general partners and in all items of cash flow distributed to the general partners) and which will result in such qualified nonprofit organization receiving not less than 51% of all fees, except builder's overhead and builder's profit, paid or to be paid to all of the general partners (and any other entities determined by the authority to be related to or affiliated with one or more of such general partners) in connection with the development; (iii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iv) the executive director of the authority shall have determined that the qualified nonprofit organization was not or will not be formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or subpools (as defined below) established by the executive director, and (v) the executive director of the authority shall have determined that no staff member, officer or member of the board of directors of such qualified nonprofit organization will materially participate,

directly or indirectly, in the proposed development as a for-profit entity. In making the determination determinations required by clause clauses (iii), (iv) and (v) of this subdivision, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of paid staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving credits in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools or subpools to make such reservations) shall be assigned to such other pool or subpool as shall be appropriate hereunder; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or subpools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the executive director may, in such

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situations, designate all or any portion of such additional credits for the nonprofit pools ~~or subpools~~ (or for any other pools ~~or subpools~~ as he shall determine) and may, if additional credits have been so designated for the nonprofit pools ~~or subpools~~, reassign such applications to such nonprofit pools ~~or subpools~~, rank the applications therein and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools ~~or subpools~~ is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such nonprofit pools ~~or subpools~~ for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other *pool or pools* ~~or subpools~~ as the executive director shall designate ~~and in which there are or remain qualified applications for credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications")~~ or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. ~~Any redistribution made pursuant to clause (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess qualified applications divided by the total amount originally distributed to all such pools or subpools with excess qualified applications.~~ Notwithstanding anything to the contrary herein, no allocation *reservation* of credits shall be made from any nonprofit pools ~~or subpools~~ to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools ~~or subpools~~ or any combination of pools ~~or subpools~~ may request a reservation or allocation of annual credits in an amount greater than \$500,000. For the purposes of implementing this limitation, the executive director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

a. ~~Approval by local authorities of:~~

~~(1) a. Written evidence satisfactory to the authority [(i)] of approval by local authorities of [(i)] the plan of development or special use permit, or site plan for the proposed development or written evidence satisfactory to the authority (ii) that such approval is not required or will be obtained prior to the end of the calendar year. (20 points)~~

~~(2) b. Written evidence satisfactory to the authority [(i)] of approval by local authorities of [(i)] proper zoning for such site or written evidence satisfactory to the authority (ii) that no zoning requirements are applicable. (30 points)~~

~~(3) c. [Valid] building permit(s) or letter dated within three months [of prior to] the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. ([20 35] points)~~

~~b. d. Evidence satisfactory to the authority documenting [: availability of all requisite public utilities for such site. (15 points)]~~

~~[(1) Availability of all requisite public utilities for such site. (15 points)~~

~~(2) Dedicated public right of way to a state publicly maintained road or that property is contiguous on a state publicly maintained road. (15 points)]~~

~~(3) Completion e. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)~~

2. Housing needs characteristics.

a. (1) A letter dated within three months [of prior to] the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision a (1) above) nor opposition (as described in subdivision a (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development (i) is not consistent with current zoning or other applicable land use regulations, or (ii) is not consistent with the local Comprehensive Housing Affordability Strategy. (0 points)

b. Documentation from the local authorities that the proposed development is located in a Qualified Census Tract (QCT) or *Difficult Development Area* as defined by the U.S. Department of Housing and Urban Development or in an Enterprise Zone designated by the state. (20 points)

c. Commitment by the applicant to give leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant. (10 points)

d. Commitment by the applicant to give leasing preference to individuals and families on section 8 (as defined in ~~§ 9 herein~~ *below 13 VAC 10-180-90*) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points)

e. Firm financing commitment(s) from the local government or, housing authority or the Rural [*Housing Economic*] and Community Development [*Service*] of the [U.S.] Department of Agriculture or a resolution passed by the locality in which the proposed development is to be located committing a grant or below-market rate loan to the development. (The amount of such financing will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

3. Development characteristics.

a. The average unit size per bedroom (100 points multiplied by the quotient calculated by (i) the actual gross square footage per bedroom minus the estimated lowest gross square footage per bedroom divided (ii) the estimated highest gross square footage per bedroom minus the estimated lowest gross square footage per bedroom.)

b. Increase in the housing stock attributable to new construction or adaptive reuse of units or to the rehabilitation of units determined by the applicable local governmental unit to be uninhabitable and so documented in the application. (80 points multiplied by the percentage of such units in the proposed development)

c. Lower amount of credit request. (30 points multiplied by the percentage by which the total amount of the annual tax credits requested is less than \$1,000,000.)

d. [*Evidence satisfactory to the authority documenting*] the quality of the proposed development's amenities as determined by the following:

(1) [*The following points are available for any application:*]

[(a)] If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points)

[~~(2)~~ (b)] If all units have a washer and dryer. (7 points)

[~~(3)~~ (c)] If all units have a balcony or patio. (5 points)

[(4) (d)] If all units have a washer and dryer hook-up only. (3 points)

[~~(5)~~ (e)] If all units have a dishwasher. (2 points)

[~~(6)~~ (f)] If all units have a garbage disposal. (1 point)

[~~(7)~~ (g)] If the development has a laundry room. (1 point)

[(h)] If a community/meeting room with a minimum of 800 square feet is provided. (5 points)

(i) If all units have a range hood above the stove. (1 point)

(j) If all metal windows have thermal breaks, and if insulating glass for windows and sliding glass doors have a 10-year warranty against breakage of the seal from date of delivery. (1 point)

(k) If all insulation complies with Virginia Power Energy Efficient Home Requirements, with a minimum R=30 insulation for roofs. (2 points)

(l) If all refrigerators are frost free, a minimum size of 14 cubic feet, and provide separate doors for freezer and refrigerator compartments. (1 point)

(m) If all exterior doors exposed to weather are metal. (1 point)

(2) The following points are available to applications electing to serve elderly and/or handicapped tenants as elected in subdivision 4 (a) of this section:

(a) If all cooking ranges have front controls. (1 point)

(b) If all units are adaptable for the handicapped in buildings with elevators. (2 points)

(c) If all units have an emergency call system. (3 points)

(d) If all bathrooms have grab bars and slip resistant bottoms for bathtubs. (1 point)

(e) If all bathrooms have an independent or supplemental heat source. (1 point)

(f) If all corridors have a handrail on one side. (1 point)

(3) The following points are available to projects which rehabilitate or adaptively reuse an existing structure:

(a) If all bathrooms, including ones with windows, have exhaust fans ducted out. (1 point)

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(b) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (2 points)

(c) If all apartments have a minimum of one electric smoke detector with battery backup. (1 point)

(d) If all bathrooms have ground fault interrupter electrical receptacles. (1 point)

(e) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)

(f) All buildings have a minimum insulation of R=30 for attics and R=19 for crawl spaces. (2 points)

(g) All public areas, such as community rooms, laundry rooms, and rental office are accessible to persons in wheelchairs. (1 point)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 d of this section is 30 points.]

4. Tenant population characteristics.

a. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: (i) persons 62 years or older [or upon evidence satisfactory to the authority of compliance with fair housing laws, 55 years or older], (ii) homeless persons or families, or (iii) physically or mentally disabled persons. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 points)

b. Commitment by the applicant to creating a development in which 20% or more of the low-income units have three or more bedrooms. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 points)

c. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points)

5. Sponsor characteristics.

a. Evidence that the development team for the proposed development has the demonstrated experience, qualifications and ability to perform. In comparison with the proposed development, the controlling general partner or partners, acting in the

capacity of controlling general partner or partners [or principals of the controlling general partner or partners] , has placed in service one or more developments which, in the aggregate, would result in the highest number of points under one of the following: (i) at least an equal number of residential rental units (10 points); or (ii) two or more times as many residential rental units (20 points); or (iii) three or more times as many residential rental units (30 points); or (iv) at least an equal number of low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (40 points); or (v) two or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (50 points); or (vi) three or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (60 points); or (vii) at least an equal number of low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (70 60 points); or (viii) i) two or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (80 90 points); or (ix) three or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (90 points). For purposes of this subdivision 5 a of this section, each low-income housing tax credit unit developed in Virginia, as evidenced by the issuance of IRS forms 8609, shall count as a full low-income housing unit; each low-income housing tax credit unit developed out of Virginia shall count as 75% of a low-income housing unit; any other developed residential units (either for sale or rental) shall count as 50% of a low-income unit.

b. Participation in the ownership of the proposed development (either directly or through a wholly-owned subsidiary) by any organization which has its principal place of business in Virginia and which is exempt from federal taxation. (10 points) Participation by a [community-based] qualified nonprofit organization [chartered authorized to do business] in Virginia [substantially based or active in the community of the development] that (i) acts as a managing general partner [according to under] the partnership agreement ([60 20] points); [and or] (ii) has the option to purchase the proposed development at the end of the compliance period for a price not to exceed the outstanding debt and exit taxes of the for-profit entity ([30 40] points); or (iii) materially participates in the development and the operation of the development and owns at least a 10% ownership interest in the general partnership interest of the partnership (10 points). No staff member, officer or member of the board of directors of such qualified nonprofit organization may materially participate, directly or indirectly, in the proposed development as a for-profit entity. Points awarded under clause (iii) of this subdivision b may not be combined with any points awarded under [clauses clause] (i) [or (ii)] .

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less

than the weighted average of the estimated highest per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 120 points.)

b. The percentage by which the total of the amount of credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 120 points.)

c. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per unit cost for new construction units and the estimated highest per unit cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit cost of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 55 points.)

d. The percentage by which the total of the cost per bedroom in such low-income housing units (the "per bedroom cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per bedroom cost for new construction units and the estimated highest per bedroom cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom cost of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 55 points.)

With respect to this subdivision 6 only, the term "new construction units" shall be deemed to include adaptive reuse units and units determined by the applicable local governmental unit to be uninhabitable which are intended to be rehabilitated. Also, for the purpose of calculating the points to be assigned pursuant to such subdivision 6 above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of [~~350~~ 500] points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

7. Bonus points. For each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points, bonus points shall be assigned as follows:

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. (The product of (i) 50 points multiplied by (ii) the percentage *exceeding the minimum required percentage* of low-income housing units restricted for occupancy to households at or below 50% of the area median gross income, provided, however, the maximum number of points that may be awarded under both this subdivision a and subdivision 7 b of this section is 50 points, *unless the applicant commits to serve [elderly] persons [~~62 years or older~~] under subdivision 4 a (i) of this section, then no limitation applies.*)

b. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as

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a qualified low-income building. Applicants receiving points under this subdivision b may not receive bonus points under subdivision c below. (40 points for a 15-year commitment beyond the 15-year compliance period or 50 points for a 25-year commitment beyond the 15-year compliance period), provided, however, the maximum number of points that may be awarded under both this subdivision b and subdivision 7 a of this section is 50 points, *unless the applicant commits to serve [elderly] persons [62-years-or-older] under subdivision 4 a (i) of this section, then no limitation applies.*

c. Commitment by the applicant to convert the low-income housing units to homeownership by qualified low income tenants at the end of the 15-year compliance period, as defined by IRC, according to a homeownership plan approved by the authority. Such plan must include, but not be limited to, (i) a provision that a portion of the rental revenue will be set aside in an escrow account for each tenant for the purpose of accumulating funds for a down payment, (ii) a provision for determining a sale price, affordable to the tenant, at the end of the 15-year compliance period, (iii) a provision for maintaining a replacement reserve for the property which would be transferable to the tenant at the time of sale to the tenant, (iv) an agreement by the applicant to record such plan as an exhibit to the low-income housing commitment described in ~~§ 7 hereinbelow~~ 13 VAC 10-180-70. The authority reserves the right to waive any of the above conditions, if in the sole discretion of the authority, the applicant proposes a satisfactory alternative condition. Applicants receiving points under this subdivision c may not receive bonus points under subdivision b above. *Applicants cannot receive any points under this subdivision c if the applicant commits to serve [elderly] persons [62-years-or-older] under subdivision 4 a (i) above.* (50 points)

d. Applications for developments located in communities which have removed local regulatory barriers to affordable housing, as evidenced by a certification and appropriate documentation from the chief executive officer, *the chief elected officer, or city or county attorney* of the locality for each of the following actions: (i) waived utility tap fees for low-income housing units, (ii) adopted a local affordable dwelling unit (ADU or density bonus) ordinance under the provisions of § 15.1-491.8 or § 15.1-491.9 of the Code of Virginia, (iii) adopted a local ordinance in accordance with § 15.1-37.3:9 of the Code of Virginia to provide a source of local funding for the repair or production of low- or moderate-income housing units, (iv) adopted an ordinance in accordance with § 58.1-3220 of the Code of Virginia to provide for the partial exemption of qualifying rehabilitated residential real estate from real property taxes, (v) adopted local land use regulations permitting the permanent placement of all manufactured housing units conforming in appearance to site-built housing in one or more residential zoning districts in addition to those currently required under the terms of § 15.1-486.4 of the Code

of Virginia, (vi) adopted local zoning, site plan, and subdivision regulations permitting the use of the full range of attached single-family dwelling units by right in designated districts and zoning land for such purposes, (vii) adopted local subdivision street standards no more stringent than those adopted by the Virginia Department of Transportation, (viii) adopted a linked deposits ordinance under the provisions of § 11-47.33 of the Code of Virginia, (ix) adopted a coordinated program to facilitate the local development review process, including self-imposed deadlines, preapplication conferences on request, review expeditors or similar methods, and (x) adopted other innovative local actions removing or mitigating regulatory barriers to affordable housing which may be submitted for review and approval by the authority. (10 points for each of the above actions taken, up to a maximum of 30 points)

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools ~~or subpools~~ shall have been established, each application shall be assigned to a pool ~~or subpool~~ and shall be ranked within such pool ~~or subpool~~. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

In the event of a tie in the number of points assigned to two or more applications within the same pool ~~or subpool~~, or, if none, within the state, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool ~~or subpool~~ or, if none, within the Commonwealth, select one or more of the applications with the most bonus points as described above, and each application so selected shall receive (in order based upon the number of such bonus points, beginning with the application with the most bonus points) a reservation of credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool ~~or subpool~~ or, if none, in the Commonwealth. If two or more of the tied applications receive the same number of bonus points and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool ~~or subpool~~ or, if none, in the Commonwealth.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial

feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool or subpool, if applicable, until either substantially all credits therein are reserved or all qualified applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool or subpool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve credits, based on such rankings, one or more times with respect to each pool or subpool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool or subpool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available credits, *if the credits available equal to or exceed 75% of the credits needed for the financial feasibility of the proposed development*, (ii) *move the proposed development and the credits available to another pool*, or (iii), for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. Any modifications shall be subject to the approval of the executive director; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to ~~§ 6 hereof~~ 13 VAC 10-180-60. The reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be made only to proposed developments that rank high enough to receive some credits from the state housing credit ceiling for the current year. However, any such reservation shall be in the sole discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools or subpools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools or subpools as the executive director may designate and in which there remain excess qualified applications or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. ~~Any redistribution made pursuant to subparagraph (ii) above shall be made pro rata based on the amount originally distributed to each of such pools or subpools so designated by the executive director with excess qualified applications divided by the total amount originally distributed to all such designated pools or subpools with excess qualified applications. Such redistributions may continue to be made until either all of the credits are reserved or all qualified applications have received reservations.~~

[Notwithstanding anything contained herein, the executive director shall not reserve credits to more than one application in any credit year submitted by any general partner(s) or principal(s) of such general partner(s), directly or indirectly, unless the additional applications of such general partner(s) are in a pool or pools containing unreserved credits after the review and ranking of all applications in such pool or pools. If after the review and ranking of applications, the general partner(s) or principal(s) of such general partner(s), directly

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~~or indirectly, has more than one application ranked high enough to receive a reservation of credits in a pool or pools in which the request for credits from qualified applications exceed the amounts of credits available for reservation, the executive director shall reserve credits to the application designated by the general partner.~~

Notwithstanding anything contained herein, the executive director shall not reserve more than \$1,200,000 of credits to any general partner(s) or principal(s) of such general partner(s), directly or indirectly, in any credit year.]

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. *The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development [unless the transfer is consented to by the executive director in his sole discretion] .*

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to ~~§ 6 hereof~~ 13 VAC 10-180-60). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any

binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

§-7. 13 VAC 10-180-70. Allocation of credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of credits is (i) placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC and (ii) meets all of the preallocation requirements of this chapter, the binding commitment and any other applicable contractual agreements between the applicant and the authority, the applicant shall so advise the authority, shall request the allocation of all of the credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, this chapter, the binding commitment and the aforementioned contractual agreements, if any, and shall submit such application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings or development is entitled to such credits as described above. The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to §-6 13 VAC 10-180-60) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be

reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined in §-6 hereinabove 13 VAC 10-180-60) at fixed interest rates, debt service on the proposed mortgage loan. The amount of credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director by more than a de minimis amount of not more than \$100.

Prior to allocating the credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units. Such commitment shall also contain such other terms and conditions as the executive director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and this chapter. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of

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competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC.

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or prior to the end of the second calendar year after the calendar year in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that the buildings or development is so entitled to the credits, he shall allocate the credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low-income buildings or to the applicant's development in accordance with the requirements of the IRC. If the executive director shall determine that the applicant's buildings or development is not so entitled to the credits, he shall not allocate the credits and shall so notify the applicant within a reasonable time after such determination is made. In the event that any such applicant shall not request an allocation of all of its reserved credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved credits, the executive director may reserve or allocate, as applicable, such unallocated credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of credits for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC the binding commitment, any contractual agreements between the authority and the applicant and this chapter as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any credits for which the applicants fail to satisfy such requirements.

The executive director may make the allocation of credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The executive director may also (to the extent not already required under ~~§ 6 hereof~~ 13 VAC 10-180-60) require that all applicants make such good faith deposits or execute such contractual agreements with the authority as the executive director may require with respect to the credits, (i) to ensure that the buildings or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to ~~§ 6 hereof~~ 13 VAC 10-180-60 and (ii) only in the case of any buildings or development which are to receive an allocation of credits hereunder and which are to be

placed in service in any future year, to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

In the event that the executive director determines that a development for which an allocation of credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the authority, the executive director may terminate the allocation and rescind the credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement. An allocation of credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any credits, the executive director may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

~~§ 8.~~ 13 VAC 10-180-80. Reservation and allocation of additional credits.

Prior to the initial determination of the qualified basis (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings' credits have been reserved may submit an application for a reservation of additional credits. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of credits by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of credits shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional credits under the IRC and this chapter. The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of ~~§ 6 hereof~~ 13 VAC 10-180-60, and any allocation of credits shall be made in accordance with ~~§ 7 hereof~~ 13 VAC 10-180-70. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of credits previously reserved to the application or allocated to the buildings or development (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of credits hereunder, the amount of credit which may be claimed by the applicant) shall be included with the amount of such credits so requested.

~~§ 9.~~ 13 VAC 10-180-90. Monitoring for IRS compliance.

A. Federal law requires the authority to monitor developments receiving credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any

noncompliance of which it becomes aware. Compliance with the requirements of § 42 of the IRC is the responsibility of the owner of the building for which the credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the authority's allocation plan of credits. The authority's obligation to monitor for compliance with the requirements of § 42 of the IRC does not make the authority liable for an owner's noncompliance, nor does the authority's failure to discover any noncompliance by an owner excuse such noncompliance.

B. The owner of a low-income housing development must keep records for each qualified low-income building in the development that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).
2. The percentage of residential rental units in the building that are low-income units.
3. The rent charged on each residential rental unit in the building (including any utility allowances).
4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) of IRC (as in effect before the amendments made by the Revenue Reconciliation Act of 1989).
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented.
6. The annual income certification of each low-income tenant per unit.
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937, 42 USC § 1401 *et seq.* ("section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under section 8, the documentation requirement of this subdivision 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under § 42(g) of the IRC.
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.
9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) of the IRC (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development).

The owner of a low-income housing development must retain the records described in this subsection B for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

C. The owner of a low-income housing development must certify annually to the authority, on the form prescribed by the authority, that, for the preceding 12-month period:

1. The development met the requirements of the 20-50 test under § 42(g)(1)(A) of the IRC or the 40-60 test under § 42(g)(2)(B) of the IRC, whichever minimum set-aside test was applicable to the development.
2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B) of the IRC) of any building in the development, or that there was a change, and a description of the change.
3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving section 8 housing assistance payments, the statement from a public housing authority described in subdivision 7 of subsection B.
4. Each low-income unit in the development was rent-restricted under § 42(g)(2) of the IRC.
5. All units in the development were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(iii) of the IRC).
6. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes.
7. There was no change in the eligible basis (as defined in § 42(d) of the IRC) of any building in the development, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge).
8. All tenant facilities included in the eligible basis under § 42(d) of the IRC of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.
9. If a low-income unit in the development became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.
10. If the income of tenants of a low-income unit in the development increased above the limit allowed in § 42(g)(2)(D)(ii) of the IRC, the next available unit of

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comparable or smaller size in the development was or will be rented to tenants having a qualifying income.

11. An extended low-income housing commitment as described in § 42(h)(6) of the IRC was in effect (for buildings subject to § 7108(c)(1) of the Revenue Reconciliation Act of 1989).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing development must provide to the authority, on a form prescribed by the authority, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the development's compliance period.

D. The authority will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the authority will inspect at least 20% of low-income housing developments each year and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20% of the low-income units in those developments. The authority will determine which low-income housing developments will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the authority, at its option, may request an owner of a low-income housing development not selected for the review procedure set forth above in a particular year to submit to the authority for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their development.

All low-income housing developments may be subject to review at any time during the compliance period.

E. The authority has the right to perform, and each owner of a development receiving credits shall permit the performance of, an on-site inspection of any low-income housing development through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

The owner of a low-income housing development should notify the authority when the development is placed in service. The authority, at its sole discretion, reserves the right to inspect the property prior to issuing IRS Form 8609 to verify that the development conforms to the representations made in the Application for Reservation and Application for Allocation.

F. The authority will provide written notice to the owner of a low-income housing development if the authority does not receive the certification described in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or

discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of § 42 of the IRC.

Such written notice will set forth a correction period which shall be that period specified by the authority during which an owner must supply any missing certifications and bring the development into compliance with the provisions of § 42 of the IRC. The authority will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The authority may extend the correction period for up to 6 months, but only if the authority determines there is good cause for granting the extension.

The authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including any permitted extensions) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subdivisions 2 and 7 of subsection C of this section, respectively, that results in a decrease in the qualified basis of the development under § 42(c)(1)(A) of the IRC is noncompliance that must be reported to the IRS under this subsection F. If the authority reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the authority need not file Form 8823 in subsequent years to report that building's noncompliance.

The authority will retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective Form 8823. In all other cases, the authority must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the authority receives the certifications and records.

G. If the authority decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the authority is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by the Rural Economic Community Development (RECD) under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the authority must enter into an agreement with the RECD or tax-exempt bond issuer. Under the agreement, the RECD or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the authority. The authority may assume the accuracy of the information provided by RECD or the tax-exempt bond issuer without verification. The authority will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) of the IRC are met. However, if the information provided by the RECD or tax-exempt bond issuer is not sufficient for the authority to make this determination,

the authority will request the necessary additional income or rent information from the owner of the buildings. For example, because RECD determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under section 8, the authority may have to calculate the tenant's income for purposes of § 42 of the IRC and may need to request additional income information from the owner.

H. The owners of low-income housing developments must pay to the authority such fees in such amounts and at such times as the authority shall, in its sole discretion, reasonably require the owners to pay in order to reimburse the authority for the costs of monitoring compliance with § 42 of the IRC.

~~§ 10.~~ *13 VAC 10-180-100.* Tax-exempt bonds.

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority, or an issuer other than the authority, in such amount so as not to require under the IRC an allocation of credits hereunder, the owner of the buildings or development shall submit to the authority, in a timely fashion, an application for allocation of credits and supporting information and documents as described in ~~§ 7~~ hereof *13 VAC 10-180-70*, and such other information and documents as the executive director may require. The executive director shall determine, in accordance with the IRC, whether such buildings or development satisfies the requirements for allocation of credits hereunder. For the purposes of such determination, buildings or a development shall be deemed to satisfy the requirements for allocation of credits hereunder if (i) the application submitted to the authority in connection therewith is assigned not fewer than the threshold number of points (exclusive of bonus points) under the ranking system described in ~~§ 6~~ hereof *13 VAC 10-180-60*, and (ii) the executive director shall determine that the buildings or development shall receive an amount of credits necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC, and more fully described in ~~§ 7~~ hereof *13 VAC 10-180-70*. The owner of the buildings or development shall, as required by the executive director, pay such fees as described in ~~§ 5~~ hereof *13 VAC 10-180-50*, and such good faith deposits as described in ~~§ 7~~ hereof *13 VAC 10-180-70*. Furthermore, the owner of the buildings or development shall satisfy all other requirements for an allocation as required by the executive director, including execution, delivery and recordation of an extended low-income housing commitment as more fully described in ~~§ 7~~ hereof *13 VAC 10-180-70* and all requirements for compliance monitoring as described in ~~§ 9~~ hereof *13 VAC 10-180-90*.

Ex. A

COMMONWEALTH OF VIRGINIA
LOW-INCOME HOUSING TAX CREDIT PROGRAM

1995 ANNUAL OWNER'S CERTIFICATION
(please do not retype form)

Date Due: _____, 1996
Fees Submitted with Report (\$15 per low-income unit allocation): _____
Project Name: _____
Project Address: _____
Owner: _____
Bldg. Identification #(s): (from IRS Form 8609) _____

(if more space is needed, attach extra sheets)

Initial each certification, indicating your acceptance and verification of each statement: for the 12-month period of January 1, 1995 to December 31, 1995. I/we hereby certify that:

- _____ a. The project met the requirements of the 20-50 test under section 42(g)(1)(A) or the 40-60 test under section 42(g)(2)(B), whichever minimum set-aside test was applicable to the project;
- _____ b. There was no change in the applicable fraction (as defined in section 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change _____;
- _____ c. The owner or his representative has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, an acceptable alternative, is a statement from a public housing authority declaring that the tenant's income does not exceed the applicable income limit under section 42(g);
- _____ d. Each low-income unit in the project was rent-restricted under section 42(g)(2);
- _____ e. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under section 42(i)(3)(B)(iii));
- _____ f. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;
- _____ g. There was no change in the eligible basis (as defined in section 43(d)) of any building in the project, or that there was a change, and the nature of the change _____;
- _____ h. All tenant facilities included in the eligible basis under section 42(d) of any building in the project were provided on a comparable basis without charge to all tenants in the building;
- _____ i. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;

- _____ j. If the income of tenants of a low-income unit in the project increased above the limit allowed in section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and
- _____ k. An extended low-income housing commitment as described in section 42(h)(6) was in effect (for buildings receiving low-income housing tax credits after January 1, 1990).

The undersigned certifies under penalty of perjury that the information on this form and the certifications herein have been verified as required. The undersigned certifies that the documentation to support the information herein has been received and such documentation shall be kept for the minimum amount of time required under law by the Internal Revenue Service. The undersigned understands that any non-compliance with Section 42 of the Internal Revenue Code will be reported to the Internal Revenue Service in accordance with their published regulations on compliance monitoring.

Report submitted by:

Owner - print name
(Management Agents should not sign)

Signature

Title

Date

Owner Address

Telephone/Fax

_____ of _____
City/County of _____ To-Wit:

The foregoing Certification was acknowledged before me this _____ day of _____, 19____, by _____ of _____

My commission expires: _____

[S E A L]

Notary Public

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Schedule A: List of Previous Rental Housing Projects By my name below is the complete list of my previous rental housing projects. Abbreviate where possible. Make full disclosure. Add extra spare sheets if you need more space. Double check for accuracy. If you have no previous projects write, by your name, "No previous participation, First Experience."

1. List each Principal's Name (list in alphabetical order, last name first)	2. List Previous Projects (give the project name, city, location, & any government agency involved)	3. List Principal's Role(s) (indicate dates participated)	4. Status of Loan (current, defaulted, assigned or foreclosed)	5. Within last 10 years, was Project in Default during your participation?		
				Yes	No	If "Yes", Explain

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Schedule B: List of Low Income Housing Tax Credit Projects

Of the projects listed in Schedule A, complete the following for any project receiving an allocation of tax credits under Section 42 of the IRC. All tax credit projects for any principal of the proposed project must be shown. Points will only be awarded for the experience of the controlling general partner(s) of the proposed development when acting as controlling general partner of previous projects. Use separate page for each principal. Attach extra pages as needed.

Principal's Name: _____

Development Name/Location	Name of Ownership Entity and Phone Number	Controlling General Partner Y/N	Total Units and Low Income Units	Placed in Service Date	8609 Date	Noncompliance Found? Y/N (Explain Yes)

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DEPARTMENT OF STATE POLICE

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

Title of Regulation: 19 VAC 30-20-10 et seq. Motor Carrier Safety Regulations (amending 19 VAC 30-20-10, 19 VAC 30-20-40, 19 VAC 30-20-50, 19 VAC 30-20-70, 19 VAC 30-20-80, 19 VAC 30-20-90, 19 VAC 30-20-140, 19 VAC 30-20-150, 19 VAC 30-20-160, 19 VAC 39-20-170, 19 VAC 30-20-180, and 19 VAC 30-20-240).

Statutory Authority: § 52-8.4 of the Code of Virginia.

Effective Date: March 20, 1996.

Summary:

Amendment 6 adopts and incorporates by reference changes made by the U.S. Department of Transportation, Federal Highway Administration, to Title 49, Code of Federal Regulations (CFR), Parts 390 through 397 promulgated and in effect as of January 2, 1996. These changes include (i) amending 49 CFR 390, 391, 392, 395, 396, and 397 with technical corrections; changing erroneous references and changing references to the masculine "he, his him," and "himself" to "he/she, his/her, him/her," and "himself/herself"; changing the word vehicle to "motor vehicle" or "commercial motor vehicle" which would be more precise; changing the former name of the Bureau of Motor Carrier Safety to the current Office of Motor Carriers; removing obsolete provisions in certain sections of Part 391 because expiration dates have passed; changing reference to the old terminology of "Class" to the new "Division" designation of hazardous materials; (ii) amending 49 CFR 390 by adding Subpart C implementing the requirements of the Intermodal Safe Container Transportation Act of 1992. This final rule is intended to reduce the number of overweight vehicles operating illegally on the highways by requiring persons tending a loaded container or trailer to provide motor carriers accurate information about the weight and nature of the cargo. It also adds Appendix H to Subchapter B - State Enforcement and Liens; (iii) amending 49 CFR 390.5 by technically amending the definition of "accident" to include accidents occurring both in intrastate and interstate commerce; (iv) amending 49 CFR 393.53 requiring the use of automatic brake adjusters on hydraulically-braked and air-braked commercial motor vehicles manufactured on or after October 20, 1993, and October 20, 1994, respectively; (v) amending 19 VAC 30-20-10 by adding the definition of "commissioner" and adding the word "passenger" to the definition of motor

carrier; (vi) amending 19 VAC 30-20-40 by deleting reference to Part 40; (vii) amending 19 VAC 30-20-50 and 19 VAC 30-20-70 to incorporate amendments to § 52-8.4 of the Code of Virginia enacted by the 1995 General Assembly; (viii) amending 19 VAC 30-20-80 by repealing subsection B as it relates to 49 CFR Part 40; (ix) repealing 19 VAC 30-20-90. Part 40 has been incorporated by reference in the new 49 CFR 382, Drug and Alcohol Testing enacted by the U.S. Congress; (x) amending 19 VAC 30-20-140 and having the commissioner resolve medical conflicts effective May 1, 1996. This follows a proposal by the Federal Highway Administration (FHWA) to integrate medical qualifications with the Commercial Driver's License, therefore, drivers will only deal with one entity; (xi) amending 19 VAC 30-20-150 by adding the commissioner as the person to grant a waiver after May 1, 1996; (xii) amending 19 VAC 30-20-160 by adding the commissioner as the person to grant a waiver after May 1, 1996; (xiii) repealing 19 VAC 30-20-180 since Subpart H, Controlled Substance Testing has been terminated January 1, 1996, by the FHWA. The Omnibus Transportation Employee Testing Act of 1991, enacted by the U. S. Congress, establishes drug and alcohol testing regulations effective January 1, 1996, for all persons required to possess a Commercial Driver's License both interstate and intrastate. The new requirements will be found in 49 CFR Part 382.

Agency Contact: Copies of the regulation can be obtained for \$5.00 from Lieutenant Herbert B. Bridges, Department of State Police, Motor Carrier Safety Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 378-3489.

19 VAC 30-20-10. Definitions.

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

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in interstate or intrastate commerce to transport passengers or property if (i) such vehicle has a gross vehicle weight rating or gross combination weight rating of more than 26,000 pounds, (ii) is designed to transport more than 15 passengers, including the driver, regardless of weight or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia; Transportation of Hazardous Materials.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle or a private carrier of property or passengers by motor vehicle. This term also encompasses any agent, officer, representative or employee who is responsible for hiring, supervision, training, assignment or dispatching of drivers.

"Safety inspections" means the detailed examination of a vehicle for compliance with safety regulations promulgated under § 52-8.4 of the Code of Virginia and includes a

determination of the qualifications of the driver and his hours of service.

"*Superintendent*" means the Superintendent of the Department of State Police of the Commonwealth of Virginia.

"*Transport vehicle*" means any vehicle owned or leased by a motor carrier used in the transportation of goods or persons.

19 VAC 30-20-40. Application of regulations.

A. These regulations and those contained in 49 CFR Parts 40 and 390 through 397, unless excepted, shall be applicable to all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate and intrastate commerce.

B. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, major loss of utility services or other calamity or disaster. The suspension of the regulation provided for in § 52-8.4 A of the Code of Virginia shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety Regulations.

19 VAC 30-20-50. Enforcement.

The Department of State Police, together with all other law-enforcement officers certified to perform vehicle safety inspections as defined by § 46.2-1001 of the Code of Virginia and these agents of the Motor Carrier Enforcement Section of the State Corporation Commission who have satisfactorily completed 40 hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria shall enforce the regulations and other requirements promulgated pursuant to § 52-8.4 of the Code of Virginia. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to § 52-8.4 shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

19 VAC 30-20-70. Penalties.

Any violation of the provisions of the regulations adopted pursuant to § 52-8.4 of the Code of Virginia, shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense; however, any violation of any out-of-service order issued under authority of such regulations or under authority of the Federal Motor Carrier Safety Regulations shall be punished as provided in § 46.2-341.21 and the disqualification provisions of § 46.2-341.21 of the Code of Virginia also shall apply to any driver as convicted.

19 VAC 30-20-80. Compliance.

A. Every person and commercial motor vehicle subject to the Motor Carrier Safety Regulations operating in interstate or

intrastate commerce within or through the Commonwealth of Virginia shall comply with the Federal Motor Carrier Safety Regulations promulgated by the United States Department of Transportation, Federal Highway Administration, with amendments promulgated and in effect as of January 2, 1995 1996, pursuant to the United States Motor Carrier Safety Act found in 49 CFR 390 through 397, which are incorporated in these regulations by reference, with certain exceptions, as set forth below.

~~B. Those persons required to comply with subsection A shall also comply with Procedures for Transportation Workplace Drug Testing Program promulgated by the United States Department of Transportation, with amendments and in effect as of the date in subsection A and found in 49 CFR 40, which is incorporated in these regulations by reference as set forth below.~~

19 VAC 30-20-90. Drug testing procedures Repealed.

~~Incorporated with no exceptions as it relates to 49 CFR 391, Subpart H - Controlled Substance Testing (§ 391.81 et seq.).~~

19 VAC 30-20-140. Resolution of conflicts of medical evaluation - § 391.47.

The superintendent *commissioner* reserves the right to resolve medical conflicts involving those drivers used wholly in intrastate commerce effective May 1, 1996.

19 VAC 30-20-150. Waiver of certain physical defects - § 391.49.

A person who is not physically qualified to drive under § 391.41 (b) (1) or (b) (2) or (b) (3) or (b) (10), and is not subject to Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Regulations Governing the Transportation of Hazardous *Materials* (9 VAC 20-110-10 et seq.), and who is otherwise qualified to drive a property-carrying motor vehicle, may drive a property-carrying motor vehicle in intrastate commerce if granted a waiver by the superintendent, or after May 1, 1996, the commissioner.

19 VAC 30-20-160. Driver qualification files - § 391.51.

The applicable date referred to in § 391.51 (b) and (c) shall be July 9, 1986, for drivers used wholly in intrastate commerce. The superintendent's, or after May 1, 1996, the commissioner's letter granting a waiver of a physical disqualification to an intrastate driver, if a waiver was issued under § 391.49, shall be in the driver qualification files.

19 VAC 30-20-170. Subpart G - Limited exemptions - § 391.61.

The applicable date referred to in § 391.61 shall be July 9, 1986, for drivers used wholly in intrastate commerce.

19 VAC 30-20-180. ~~Subpart H - Controlled substance testing - § 391.81 et seq. Repealed.~~

~~Intrastate motor carriers shall implement Subpart H effective November 15, 1991. Ninety days will be allowed for affected intrastate motor carriers to comply.~~

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19 VAC 30-20-240. Motor vehicles declared "out of service" - § 396.9 (c).

Authorized personnel defined in 19 VAC 30-20-230 above shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

VA.R. Doc. No. R96-197; Filed January 29, 1996, 2:08 p.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

February 1, 1996

Colonel M. Wayne Huggins, Superintendent
Department of State Police
P.O. Box 27472
Richmond, VA 23261-7472

Dear Colonel Huggins:

This letter acknowledges receipt of 19 VAC 30-20-10 et seq. (VR 545-01-1), Motor Carrier Safety Regulations, from the Department of State Police.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a small flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

DEPARTMENT OF TRANSPORTATION

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes regulations which establish or prescribe agency organization, internal practice or procedures or delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 24 VAC 30-17-10. Solicitation and Use of VDOT Buildings and Grounds for Nonwork Purposes.

Statutory Authority:

Effective Date: March 20, 1996.

Summary:

This regulation establishes the general requirements to be followed in granting permission for the use of VDOT facilities for activities not related to the assigned work of employees. It is consistent with current Department of General Services (DGS) policy and other guidelines set forth in the following documents: §§ 18.2-119 and 18.2-120 of the Code of Virginia; a letter dated September 18, 1991, from William E. Porter, Deputy Chief of Staff, to cabinet secretaries and agency heads titled Restrictions on State Employees' Time and Use of State Facilities and Equipment; Executive Memorandum 2-93, dated August 5, 1993; and Department of General Services Directive 13-93: Guidelines for the Use of State Agencies' and Institutions' Meeting Rooms.

Agency Contact: Copies of the regulation may be obtained from David Roberts, Virginia Department of Transportation, Management Services Division, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-3620.

CHAPTER 17.

SOLICITATION AND USE OF VDOT BUILDINGS AND GROUNDS FOR NONWORK PURPOSES.

24 VAC 30-17-10. Definitions.

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

"Commercial solicitation" means any recurring appeal sponsored by a profit-making enterprise for delivery of goods or services in exchange for money. Solicitations to raise funds for nonprofit groups, such as the Girl Scouts or schools, have a community service purpose, and are not considered a commercial solicitation.

"Informational solicitation" means an appeal whose aim is to provide entertainment, facilitate community service, or promote civic responsibilities. Examples include blood drives and voter registration.

"Official state business" means activities held to accomplish, or facilitate the accomplishment of, assigned

duties or responsibilities established by law, regulation, or the management of a governmental entity.

"State employee association" means any nonprofit organization with voluntary membership that provides programs and services of general benefit to employees within the context of their employment. An example is the Employees Benefit Association.

"Trespassing" means an act of unwanted or unlawful entry upon the property of another.

"VDOT buildings and grounds" means any physical property or real estate under the control of the Virginia Department of Transportation.

24 VAC 30-17-20. Policy.

VDOT is committed to providing reasonable access to nonwork activities which may improve employees' quality of life, productivity, or access to state-sanctioned programs. This policy is not intended to deny access to the public for the purpose of conducting official VDOT business, nor is it intended to deny use of VDOT facilities to agencies at the federal, state or local levels for the conduct of official business. Meetings of federal, local, or municipal governmental groups are considered official state business, and are not subject to the provisions of this policy. Area headquarters and other facilities without formal meeting rooms are not considered suitable for such access as is authorized by this policy. This policy generally applies to the central office, district offices, and residencies which have dedicated space for meetings.

VDOT bulletin boards, buildings, and grounds are intended for the conduct of state business or VDOT-sanctioned activities. The Governor's office permits the following informational solicitations to occur on state property: Combined Virginia Charitable Campaign (CVCC), U. S. Savings Bonds, and Toys for Tots. Other programs may be allowed access to state facilities upon approval from the Governor's office.

Individuals or groups wishing to use VDOT facilities at any time must make written application informing VDOT of this intention. VDOT reserves the right to limit access to its buildings or grounds based on (i) the degree of disruption to, or interference with, work routine; (ii) the conflict of interest between applicant's purpose and VDOT's mission; (iii) the legality of the proposed activity for which the access is requested; (iv) the safety of the individual or group requesting access; (v) the security concerns regarding VDOT employees or property; and (vi) the site or location of the requested area.

Individuals not engaged in official VDOT business are prohibited from posting messages, distributing literature, or occupying buildings or grounds where public access is limited by written documentation or appropriate informational signs. Any action of this type constitutes trespassing. Any person or group using VDOT property for solicitation or other nonwork purposes without prior written approval must leave the premises if requested to do so by the appropriate VDOT official or law-enforcement authority.

Final Regulations

24 VAC 30-17-30. State employee association access.

State employee associations shall be permitted to use state agencies' meeting rooms, subject to the availability of rooms, provided that the time, place and nature of the use (i) do not interfere with the conduct of state business; (ii) do not violate any laws, leases, or other contracts; and (iii) are compatible with employee safety, the security of the particular facility, and the mission of VDOT.

Costs associated with providing additional safety and security shall not be considered reasons for denying an association's access.

24 VAC 30-17-40. User fees.

VDOT may require payment of a reasonable fee for the use of state-owned or state-leased meeting rooms. These fees are established by the Administrative Services Division's General Services Manager on a daily rate basis, and are consistent with the current square foot charges assessed by the Department of General Services for the lease of office space. Fees may also include actual costs incurred by VDOT due to use of the meeting rooms. Charges for security, custodial services, or any other VDOT personnel costs are considered reasonable charges.

24 VAC 30-17-50. Terms and conditions of written authorization.

Use of VDOT meeting rooms is subject to written authorization by VDOT. The authorization includes, but is not limited to, the following:

1. Notification to applicants that the proposed use must comply with existing laws, regulations, and codes pertaining to the use of facilities (examples include maximum occupancy limits and other building code restrictions; the Americans with Disabilities Act; smoking regulations; and safety or security requirements);
2. Notification that failure to comply with the terms and conditions of the authorization will constitute revocation of permission;
3. Notification that users of state facilities shall be responsible for liability of injury to individuals, or damage, loss, or other destruction to state property caused by meeting participants; and
4. Notification that acceptance of the authorization constitutes an agreement to reimburse and indemnify VDOT for any damages.

24 VAC 30-17-60. Cancellations.

Groups should notify VDOT as soon as possible if the meeting for which access is requested must be canceled. Reserved facilities may be canceled by VDOT upon written notification to the applicant signed by the authority granting the original permission stating the reason or reasons for the cancellation. By applying for permission to use VDOT facilities, the applicant agrees that VDOT will not be held responsible for loss or damages due to a cancellation.

24 VAC 30-17-70. Procedure for processing requests.

The steps to be followed in processing an application to use VDOT facilities are as follows:

1. An Application to Use State-Owned -or Leased Facilities should be completed by an individual or group and sent to the person indicated in this policy. Falsification of application information is grounds for denying access. Individuals or groups may be granted a blanket authorization to use VDOT facilities on a recurring basis. A request to use a facility at the Transportation Research Council (TRC) should be submitted to the TRC Director. A request to use a residency or district facility should be submitted to the District Administrator. A request to use a Central Office facility should be submitted to the General Services Manager of the Administrative Services Division.
2. The appropriate authority shall approve or reject the application in writing to the applicant within five business days of receipt. The authority granting permission should retain a record of requests and decisions for three years.
3. If approved, the applicant shall receive written permission allowing access to VDOT buildings and grounds subject to restrictions indicated in the permission.

24 VAC 30-17-80. Appeals.

Applicants may appeal rejections within five business days of receipt of the written notification by making a written notice of appeal to the commissioner. The commissioner shall render a decision within 10 business days from the date the appeal is received. Failure to render a decision within this period shall be considered equivalent to denial of the appeal.

24 VAC 30-17-90. Penalties.

Willful failure to leave VDOT property upon request constitutes a Class I misdemeanor. Employees violating this policy may be charged with a Group II offense under the State Standards of Conduct (failure to follow written policy).

VA.R. Doc. No. R96-200; Filed January 30, 1996, 1:44 p.m.

VIRGINIA DEPARTMENT OF TRANSPORTATION
APPLICATION TO USE STATE-OWNED OR -LEASED FACILITIES

This application must be completed prior to the granting of permission to use State-owned or -leased facilities. You must complete this application fully and accurately in order for it to be processed properly. By applying for use of State-owned or -leased facilities, you agree to be bound by the terms and conditions set forth on the back of this form.

Name of Applicant: _____
Address of Applicant: _____

Phone Number: _____

Name of Group requesting Access: _____

Location of Facility Requested: _____
Date(s) Facility is (are) Requested: _____
Time(s) Access is (are) Requested: _____ A.M. P.M. (circle one) to _____ A.M. P.M. (circle one)
Please provide the reason or purpose for your group's meeting:

If you have any special needs or requirements for your meeting, please list them below:

Are you requesting a blanket authorization to hold meetings? Yes No

If you are:

- requesting use of a Transportation Research Council facility, return this form to the Director of the Transportation Research Council;
- requesting use of a residency or district facility, return this form to the District Administrator in charge of that district;
- requesting use of a Central Office (metro Richmond area) facility, return this form to the General Services Manager of the Administrative Services Division.

Your request will be processed within 5 business days of receipt by the appropriate VDOT official. If your request is denied, you may make a written appeal to the Commonwealth Transportation Commissioner in accordance with Department Policy Memorandum I-19.

I certify that I have read the terms and conditions set forth on the back of this form, and agree to abide by them.

Signature of Applicant

For VDOT use only:

Estimated charge for use of facilities: \$ _____

Limited or Single Use Authorization Blanket Use Authorization Approved Denied

by: _____
Name Title

Final Regulations

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulations: [~~VR-672-30-1.~~ 9 VAC 20-110-10 et seq.] Regulations Governing the Transportation of Hazardous Materials.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Effective Date: March 20, 1996.

Summary:

The Virginia Waste Management Board (board) and the Director of the Department of Environmental Quality adopted Amendment 12 to 9 VAC 20-110-10 et seq., Regulations Governing the Transportation of Hazardous Materials.

The board adopted four amendments to these regulations. The first amendment incorporates recent changes to U.S. Department of Transportation ("USDOT") regulations governing hazardous materials transportation and motor carrier safety. The new provisions promulgated by USDOT from June 2, 1992, through March 18, 1994, necessitate that changes be made to the existing state regulations. The changes maintain consistency with federal regulations.

The second amendment complies with the statutory mandate of § 44-146.30 of the Code of Virginia by promulgating regulations by which the Coordinator of the Department of Emergency Services will maintain a register of shippers and monitor the transportation of hazardous radioactive materials in the Commonwealth.

The third amendment provides additional information to members of the regulated community who may need to obtain a variance or renew a variance from the physical qualifications that pertain to persons who drive commercial motor vehicles transporting hazardous materials.

The final amendment deletes Part IV of the current regulation entitled, "Hauling Explosives in Passenger Type Vehicles."

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 Sheida Shakeri, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4189.

9 VAC 20-110-10 et seq. Regulations Governing the Transportation of Hazardous Materials.

[CHAPTER 110.
REGULATIONS GOVERNING THE TRANSPORTATION OF
HAZARDOUS MATERIALS.]

PART I.
DEFINITIONS.

[§ 1-1. 9 VAC 20-110-10.] Definitions.

The following words and terms, when used in [these regulations this chapter], shall have the following meaning meanings, unless the context clearly indicates otherwise.

"Board" means the Virginia Waste Management Board.

"Carrier" means a person engaged in the transportation of passengers or property by:

1. Land or water, as a common, contract, or private carrier; or
2. Civil aircraft.

"CFR" means the Code of Federal Regulations.

"Coordinator" means the Chief Executive Officer of the Virginia Department of Emergency Services.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality.

~~"Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations (CFR) Parts 170 through 177.~~

~~"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order. has been incorporated under Part III [(9 VAC 20-110-110 et seq.)].~~

~~"Hazardous radioactive materials" mean, for the purposes of this regulation, radioactive materials regulated by [Title 10, Parts 10 CFR Parts] 20, 71, and 73 [of the Code of Federal Regulations].~~

~~"Monitor" means to track the transportation of hazardous radioactive materials within the Commonwealth by:~~

1. Requiring transporters to notify the coordinator of shipments of hazardous radioactive materials within the Commonwealth; and
2. The coordinator's report prepared annually for the Governor and the director summarizing the hazardous radioactive materials transportation for the preceding year.

~~"Person" means an individual, firm, copartnership, corporation, company, association, joint-stock association,~~

including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe, when it offers hazardous materials, or hazardous radioactive materials for transportation, or transports hazardous materials or hazardous radioactive materials, but such term does not include:

1. The United States Postal Service; or
2. For the purposes of §§ 110 and 111 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809-1810), any agency or instrumentality of the federal government.

"Shipper" means a person who transfers possession of hazardous material or hazardous radioactive material to the carrier for transport through the Commonwealth.

"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

"Variance" means authorization, granted by the director, to engage in an activity covered by these regulations without following specific regulatory requirements.

PART II.

GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

[§ 2.1. 9 VAC 20-110-20.] Authority for regulation.

A. These regulations are issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials, and Chapter 3.3 (§ 44-146.30) of Title 44 of the Code of Virginia.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials. Section 44-146.30 of the Code of Virginia also assigns to the board the responsibility for promulgating regulations by which the coordinator will maintain a register of shippers of hazardous radioactive materials and monitor transportation of hazardous radioactive materials within the Commonwealth.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than any applicable federal laws or regulations.

[§ 2.2. 9 VAC 20-110-30.] Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials and to maintain a register of shippers and monitor the transportation of hazardous radioactive materials in Virginia.

[§ 2.3. 9 VAC 20-110-40.] Administration of regulations.

A. The director of the Department of Waste Management designated by the Virginia Waste Management Board with the responsibility to carry out has the responsibility to administer these regulations. When used in this regulation in

any such provisions as may be adopted from 49 CFR Parts 107, 171 through 180, 383, and 390 through 397, except in reference to regulations on international transportation, United States means the "Commonwealth of Virginia"; Environmental Protection Agency means the "Virginia Department of Environmental Quality"; and the Secretary of Transportation, regional director, and administrator mean the "Director," unless the context clearly indicates otherwise.

B. The department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 and Chapter 3.3 (§ 44-146.30) of Title 44 of the Code of Virginia.

C. The coordinator is responsible for registering shippers and monitoring transportation of hazardous radioactive materials in accordance with these regulations.

D. The Radiation Advisory Board, established pursuant to § 32.1-233 of the Code of Virginia, shall make recommendations to the director and the board, furnishing such technical advice as may be required, on matters related to development, utilization, and regulations of sources of ionizing radiation.

[§ 2.4. 9 VAC 20-110-50.] Application of regulations.

Notwithstanding the limitations contained in Title 49, Code of Federal Regulations, § 171.1(a)(3) 49 CFR 1 [§ 171.1(a)(3), and subject to the exceptions set forth in [§ 2.5 9 VAC 20-110-60] below, these regulations apply to any person who transports hazardous materials or hazardous radioactive materials, or offers such materials for shipment.

[§ 2.5. 9 VAC 20-110-60.] Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

The shipment or transportation of hazardous radioactive materials by the U.S. Government, for military or national defense, that is specifically exempt from federal regulations is not subject to the requirements of these regulations. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 (68 Stat 919) or the Energy Reorganization Act of 1974 (42 USCS 5841), as amended.

[§ 2.6. 9 VAC 20-110-70.] Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

Final Regulations

[~~§ 2-7. 9 VAC 20-110-80.~~] Transportation under United States Regulations.

Pursuant to § 10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

[~~§ 2-8. 9 VAC 20-110-90.~~] Enforcement.

~~A. Law-enforcement officers.~~ The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, ~~Research and Special Programs Administration, Office of Hazardous Materials Transportation,~~ in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of ~~this article Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia,~~ and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated ~~hereunder under such article,~~ shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials. Pursuant to ~~§ 10.1-1455 of the Code of Virginia,~~ violation of these regulations is a Class 1 misdemeanor.

B. Civil Judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

[~~§ 2-9. 9 VAC 20-110-100.~~] Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 et seq. of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all *administrative* proceedings hereunder.

PART III.

COMPLIANCE WITH FEDERAL REGULATIONS AND VARIANCE FROM PHYSICAL QUALIFICATION REQUIREMENTS FOR DRIVERS OF COMMERCIAL MOTOR VEHICLES TRANSPORTING HAZARDOUS MATERIALS.

[~~§ 3-1. 9 VAC 20-110-110.~~] Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated and in effect as of ~~June 1, 1992~~ March 18, 1994 (except as otherwise specified below) pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, Part 107, Subpart B.
2. Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.
3. Shipping Container Specifications in 49 CFR, Part 178.
4. Specifications for Tank Cars in 49 CFR, Part 179.
5. Qualifications and Maintenance of Cargo Tanks in 49 CFR, Part 180.
6. Commercial Licensing Requirements in 49 CFR, Part 383.
7. Motor Carrier Safety Regulations in 49 CFR, Parts 390 through 397.
8. ~~49 CFR, Parts 107, 171, 173, 174, 176, 177, 178, 179, and 180, Federal Register, Volume 57, Number 191, Thursday, October 1, 1992, Pages 45446-45466, Docket Numbers HM-181, HM-189, Amendment Numbers 107-23, 171-111, 172-123, 173-224, 174-53, 176-30, 77-78, 178-97, 179-45, and 180-3.~~

[~~§ 3-2. 9 VAC 20-110-115.~~] *Variance from physical qualification requirements for drivers of vehicles transporting hazardous materials.*

[A.] *The driver of a commercial motor vehicle transporting hazardous materials may apply to the director for a variance from the physical qualification requirements as specified in § 10.1-1450 B of the Code of Virginia. The driver or his employer shall submit the following information to the director:*

1. *A letter, showing the company name, address, and telephone number, that describes the driver's duties and years of service;*
2. *A copy of the driver's motor vehicle driving record obtained from the Department of Motor Vehicles;*
3. *A copy of the driver's physical examination on a form that meets the U.S. Department of Transportation requirements;*
4. *A copy of the Commercial Driver's License Physician's Report of Visual Acuity or a letter stating the operator's ability to operate a commercial motor vehicle safely, completed by the driver's ophthalmologist or optometrist, if the driver has either monocular vision or his visual acuity is not 20/40 or better;*
5. *A copy of a road test administered by the Virginia State Police to drivers who have use of only one arm, hand, foot, or leg along with a statement by the administering trooper that the driver is qualified to operate the vehicle;*
6. *For drivers who have diabetes, a copy of the physician's letter stating the driver is capable of operating a vehicle safely; and*
7. *Any other information bearing on the criteria requested in the statute.*

[This variance shall be effective for one year from the date signed by the director.

B. Variance renewal. This variance may be renewed 30 days prior to expiration by submitting the following information:

1. A letter, showing the company's name, address, and telephone number, that describes the driver's duties and years of service;
2. A copy of the driver's history record obtained from the Department of Motor Vehicles;
3. A copy of the driver's physical examination report on a form that meets the U.S. Department of Transportation requirements shall be submitted biennially;
4. A copy of the Commercial Driver's License Physician's Report of Visual Acuity or a letter stating the driver's ability to operate a commercial motor vehicle safely, completed by the driver's ophthalmologist or optometrist, if the driver has either monocular vision or his visual acuity is not 20/40 or better;
5. A copy of a road test administered by the Virginia State Police to drivers who have use of only one arm, hand, foot, or leg along with a statement by the administering trooper that the driver is qualified to operate the vehicle;
6. For drivers who have diabetes, a copy of the physician's letter stating the driver is capable of operating a vehicle safely; and
7. Any other information bearing on the criteria requested in the statute.

This variance shall be effective for one year from the date signed by the director.]

PART IV.

HAULING EXPLOSIVES IN PASSENGER TYPE VEHICLES.

§ 4.1. Hauling explosives in passenger type vehicles.

Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules. [9 VAC 20-110-120. Repealed.]

PART IV.

HAZARDOUS RADIOACTIVE MATERIALS TRANSPORTATION.

§ 4.1. 9 VAC 20-110-121.] Register of shippers.

Every person, shipper or carrier transporting or proposing to transport within the Commonwealth hazardous radioactive

materials shall register with the Department of Emergency Services at least 30 days prior to the initial transportation of such materials. Application for registration or renewal of registration shall be completed on forms furnished by the coordinator and shall contain all the information required by the forms and accompanying instructions. Upon receipt of a complete application form and any other information required by the coordinator, the Department of Emergency Services shall issue a registration certificate. The certificate shall expire two years from the date of issue. Registration information shall be provided by the coordinator to the director upon request.

[§ 4.2. 9 VAC 20-110-122.] Monitoring and transportation.

A. Notification. Prior to each shipment or series of shipments of hazardous radioactive materials by a registrant within the Commonwealth of Virginia, the registrant shall notify the coordinator in writing as required by the applicable federal regulations. The coordinator shall disseminate the notification to local law-enforcement agencies, local emergency services coordinators, local fire departments, or other designated local officials along the transportation route as requested by county or municipal authorities, or as determined by the coordinator to be necessary for effective implementation of these regulations.

B. Reports. At least annually, the coordinator shall submit to the director and the Governor's Office a report summarizing activities carried out under the provisions of these regulations pertaining to the transportation of hazardous radioactive materials.

PART V.
OUT OF SERVICE.

[§ 5.1. 9 VAC 20-110-130.] Out of service.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have met the qualifications set forth in [§ 2.8, above, 9 VAC 20-110-90] shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR [§] 396.9.

VA.R. Doc. No. R96-211; Filed January 31, 1996, 11:48 a.m.

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 10, 1996

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 Va. Code § 56-265.4:4.C.3

ORDER DENYING RULE AMENDMENT

On January 3, 1996, thirteen of Virginia's local exchange telephone companies and cooperatives ("the Companies") filed their Petition for Reconsideration of the Commission's Order Adopting Rules entered December 13, 1995.¹ On January 3, 1996, the Commission entered its Order Granting Petition for Reconsideration "... for the limited purpose of considering the proposed revision to Rule 8(C)."

Having considered the Petition, the Commission finds that the current Rules for Local Exchange Telephone Competition provide adequate latitude to address the anticipated concerns that the Companies have about limited capacity for remote call forwarding and other interim number portability arrangements. No amendment to the rules is necessary to permit the parties to interconnection agreements, or the Commission if necessary, to resolve the interim number portability issues raised in the petition. Accordingly,

IT IS ORDERED THAT reconsideration of Rule 8(C) is denied and the Rules adopted on December 13, 1995, remain unaltered.

AN ATTESTED COPY hereof 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.

¹ Companies sponsoring the Petition are Amelia Telephone Corporation, Buggs Island Telephone Cooperative, Burke's Garden Telephone Company, Citizens Telephone Cooperative, Highland Telephone Cooperative, MGW Telephone Company, New Castle Telephone Company, New Hope Telephone Company, North River Telephone Cooperative, Pembroke Telephone Cooperative, Peoples Mutual Telephone Company, Scott County Telephone Cooperative, and Virginia Telephone Company.

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

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

State Corporation Commission

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

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

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

State Corporation Commission

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

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. R96-191; Filed January 18, 1996, 3:23 p.m.

905

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: 4 VAC 20-620-10 et seq. Pertaining to Summer Flounder (amending 4 VAC 20-620-40).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 30, 1996.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and trip limits, minimum size limits, and a recreational possession and season limit.

This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends VR 450-01-0081 (4 VAC 20-620-10 et seq.), which was promulgated by the Marine Resources Commission and made effective October 1, 1995. The effective date of this regulation is January 30, 1996.

Agency Contact: Copies of this regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P. O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

4 VAC 20-620-40. Commercial trip limitation.

A. During the period of January 1 through March 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 9,000 pounds per vessel per trip after it is projected and announced that 85% of the quarterly quota has been taken, except that when it is projected and announced that 80% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 5,000 pounds per vessel per trip.

B. During the period of April 1 through September 30 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel trip.

C. During the period October 1 through December 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 12,000 5,000 pounds per vessel per trip, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip.

D. For each of the time periods and trip limits set forth in subsections A and C of this section, the Marine Resources Commission will give timely notice of any changes in trip limits.

/s/ Robert D. Craft
Chief
Administration and Finance Division

VA.R. Doc. No. R96-199; Filed January 30, 1996, 2:14 p.m.

EMERGENCY REGULATION

Title of Regulation: VR 450-01-0099. Pertaining to the Setting and Mesh Size of Gill Nets.

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: January 24, 1996, to February 22, 1996.

Preamble:

This emergency regulation prohibits the setting of any gill net with a stretched-mesh size between 3¼ inches and 6 inches within western Chesapeake Bay tributaries of Virginia from January 1 through April 15 of each year. This emergency regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-210 of the Code of Virginia. This regulation amends previous VR 450-01-0099, which was adopted March 28, 1995, and made effective April 14, 1995. The effective dates of this regulation are January 24, 1996, to February 22, 1996.

VR 450-01-0099. Pertaining to the Setting and Mesh Size of Gill Nets.

§ 1. Purpose.

The purpose of this chapter is to reduce the out-of-season by-catch of American shad and striped bass, thereby reducing injuries and mortalities to these two species.

§ 2. Gill net mesh sizes, restricted areas, and season.

From January 1 through April 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size between 3¼ inches and 8 6 inches within the restricted areas set forth below.

1. In James River, those tidal waters upstream of a line connecting Willoughby Spit and Old Point Comfort;
2. In Back River, those tidal waters upstream of a line connecting Factory Point and Plumtree Point;
3. In Poquoson River, those tidal waters upstream of a line connecting Marsh Point and Tue Point;
4. In York River, those tidal waters upstream of a line connecting Tue Point and Guinea Marshes;
5. In Mobjack Bay, those tidal waters upstream of a line connecting Guinea Marshes and New Point Comfort;
6. In Milford Haven, those tidal waters upstream of a line connecting Rigby Island and Sandy Point;

Marine Resources Commission

7. In Piankatank River, those tidal waters upstream of a line connecting Cherry Point and Stingray Point; and

8. In Rappahannock River, those tidal waters upstream of a line connecting Stingray Point to Windmill Point.

§ 3. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ Robert D. Craft
Chief
Administration and Finance Division

VA.R. Doc. No. R96-196; Filed January 24, 1996, 1:11 p.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

DEPARTMENT OF AVIATION

Title of Regulation: VR 165-01-02:1 [24 VAC 5-20-10 et seq.] Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information currently available.

/s/ George Allen
Governor

Date: January 24, 1996

VA.R. Doc. No. R96-193; Filed January 25, 1996, 10:12 a.m.

GENERAL NOTICES/ERRATA

Symbol Key

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

COMMISSION ON LOCAL GOVERNMENT

Schedule of Assessments of Mandates on Local Government

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia, the following schedule, established by the Commission on Local Government and approved by the Secretary of Administration and Governor Allen, represents the precise timetable which the listed executive agencies will follow in conducting their assessments of the new and newly identified state and federal mandates on local governments which they administer. In conducting these assessments, agencies will follow the process established by Executive Memorandum 5-94 which became effective April 22, 1994.

For further information, call Larry McMillan, Policy Analyst, Commission on Local Government at (804) 786-6508.

COMMERCE AND TRADE SECRETARIAT

Department of Agriculture and Consumer Services

Mandate: Pesticide Container Recycling Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Code of Virginia § 3.1-249.29
Assessment Schedule: Start Date: 3-1-96
End Date: 4-30-96
Duration: Two Months

Department of Forestry

Mandate: Demonstration Dry Hydrant Grant Program
Type: Condition of State and Federal Financial Aid
Statutory Authority: Item 143, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 7-1-96
End Date: 9-30-96
Duration: Three months

Department of Professional and Occupational Regulation

Mandate: Asbestos Inspector Licensing
Type: State and Federal Regulation of Optional Activity
Statutory Authority: Code of Virginia § 54.1-503
Assessment Schedule: Start Date: 3-1-96
End Date: 5-31-96
Duration: Three months

Virginia Port Authority

Mandate: Port Assistance Grant
Type: Condition of State and Federal Financial Aid
Regulatory Authority: Virginia Port Authority Policy on Grants to Local Governments for Financial Assistance for Port Facilities
Assessment Schedule: Start Date: 6-1-96
End Date: 8-31-96
Duration: Three months

EDUCATION SECRETARIAT

Department of Education

Mandate: Electronic Classroom
Type: Condition of State and Federal Financial Aid
Statutory Authority: Item 162, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 2-1-96
End Date: 4-30-96
Duration: Three months

Mandate: Limited English Proficient Students
Type: Compulsory Order
Statutory Authority: Title V of the Civil Rights Act of 1964
Assessment Schedule: Start Date: 2-1-96
End Date: 4-30-96
Duration: Three months

Mandate: Educational Technology Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Item 164, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 2-1-96
End Date: 4-30-96
Duration: Three months

Mandate: Family Life Education Materials
Type: Compulsory Order
Statutory Authority: Code of Virginia § 22.1-207.1, 22.1-207.2
Assessment Schedule: Start Date: 2-1-96
End Date: 4-30-96
Duration: Three months

FINANCE SECRETARIAT

Department of the Treasury

Mandate: Treasury Board Regional Jail Financing
Type: State and Federal Regulation of Optional Activities
Statutory Authority: Code of Virginia §§ 53.1-82.2, 53.1-82.3
Assessment Schedule: Start Date: 7-1-96
End Date: 9-30-96
Duration: Three months

HEALTH AND HUMAN RESOURCES SECRETARIAT

Department of Social Services

Mandate: Spouse Abuse Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Code of Virginia § 63.1-248.7(c), 63.1-319; Item 465, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 2-1-96
End Date: 6-30-96
Duration: Five months

Mandate: Child Abuse and Neglect Prevention Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Code of Virginia § 63.1-248.7(c), 63.1-319; Item 465, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 10-1-96
End Date: 3-31-97
Duration: Six months

Mandate: Child Abuse and Neglect Treatment Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Code of Virginia § 63.1-248.7(c), 63.1-319; Item 465, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 10-1-96
End Date: 3-31-97
Duration: Six months

Virginia Board for People with Disabilities

Mandate: Developmental Disabilities Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Code of Virginia § 51.5-33; P.L. 103-230 (Fed.); Developmental Disabilities Assistance and Bill of Rights Act of 1964
Assessment Schedule: Start Date: 10-1-96
End Date: 12-31-96
Duration: Three months

TRANSPORTATION SECRETARIAT

Department of Motor Vehicles

Mandate: Community Traffic Safety Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Highway Safety Act of 1966, as amended (Fed.); 23 USC 401 et seq.
Assessment Schedule: Start Date: 4-1-96
End Date: 6-30-96
Duration: Three months

Department of Rail and Public Transportation

Mandate: Transportation Efficiency Improvement Grant
Type: Condition of State and Federal Financial Aid
Statutory Authority: Item 596, 1994-96 Appropriations Act (Ch. 966, 1994 *Acts of Assembly*)
Assessment Schedule: Start Date: 9-1-96
End Date: 11-30-96
Duration: Three months

STATE WATER CONTROL BOARD

Notice of New Public Meeting Dates and Locations

The State Water Control Board has rescheduled the public meetings to receive comments on the Notices of Intended Regulatory Action on the Aboveground Storage Tank Regulations (VR 680-14-07, VR 680-14-07.1, VR 680-14-08, VR 680-14-08:1, VR 680-14-12, and VR 680-14-13). The new dates are Tuesday, February 13, 1996, at 7 p.m., at the Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia, and on Thursday, February 15, 1996, at 7 p.m., Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, Virginia. In addition, the public comment period has been extended until 4 p.m. on Friday, February 23, 1996.

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

General Notices/Errata

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

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

VIRGINIA AGRICULTURAL COUNCIL

† March 25, 1996 - 9 a.m. -- Open Meeting

† March 26, 1996 - 9 a.m. -- Open Meeting

Boar's Head Inn, Route 250 West, Charlottesville, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to hear and act upon project proposals for financial assistance through the Virginia Agricultural Council. The council will entertain public comments at the conclusion of all other business not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Bright Flue-Cured Tobacco Board

† March 1, 1996 - 10 a.m. -- Open Meeting

Sheldon's Restaurant, Highway 15 North, Route 15 and 360 (Business), Keysville, Virginia. ♿

A meeting to consider funding proposals for research, promotion, and education projects pertaining to Virginia flue-cured tobacco and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

Contact: D. Stanley Duffer, Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

Virginia Marine Products Board

† March 6, 1996 - 6 p.m. -- Open Meeting

Bill's Seafood House, Route 17 and Denbigh Boulevard, Grafton, Virginia. ♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new 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 Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (804) 874-3474.

Virginia Peanut Board

† March 6, 1996 - 10 a.m. -- Open Meeting

Tidewater Agricultural Research and Extension Center, 6231 Holland Road, Suffolk, Virginia. ♿

A meeting to review peanut research projects for possible funding in 1996. 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 Russell C. Schools at least five days before the meeting date so that suitable arrangements can be made.

Contact: Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

Calendar of Events

Virginia Soybean Board

† February 28, 1996 - 8:30 a.m. -- Open Meeting
† February 29, 1996 - 8:30 a.m. -- Open Meeting
Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.☎

A meeting to discuss issues related to the soybean 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 Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Phil Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157.

ALCOHOLIC BEVERAGE CONTROL BOARD

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

† March 20, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to conduct board business. 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: 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 for Interior Designers

† March 14, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to conduct board business. 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: 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 for Landscape Architects

† March 7, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to conduct board business. 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: 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 for Land Surveyors

February 22, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to conduct board business. 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: 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 for Professional Engineers

February 29, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to conduct board business. 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: 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 FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† **March 21, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4, Richmond, Virginia. ☎

A meeting to conduct general board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA AVIATION BOARD

February 20, 1996 - 3 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3635, toll free 1-800-292-1034 or (804) 236-3624/TDD ☎

February 21, 1996 - 10 a.m. -- Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Conference Room, 7th Floor, Richmond, Virginia.

April 1, 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 Virginia Aviation Board intends to amend regulations entitled: **VR 165-01-02:1 [24 VAC 5-20-10 et seq.] Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.** The purpose of the proposed action is to amend the Virginia Aviation Regulations to (i) comply with statutory changes; and (ii) enact provisions identified per the comprehensive review of regulations (Executive Order 15(94)).

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Contact: Michael A. Waters, Policy Analyst Senior, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150-2502, telephone (804) 236-3631, FAX (804) 236-3625, toll-free 1-800-292-1034 or (804) 236-3624/TDD ☎

February 21, 1996 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3635, toll free 1-800-292-1034 or (804) 236-3624/TDD ☎

STATE BOARD FOR COMMUNITY COLLEGES

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 ☎

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 ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

† **March 7, 1996 - Noon** -- Open Meeting
† **April 4, 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 ☎

Calendar of Events

BOARD FOR CONTRACTORS

Recovery Fund Committee

March 18, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson at least 2 weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

CRIMINAL JUSTICE SERVICES BOARD

March 13, 1996 - 11 a.m. -- Open Meeting
Department of Criminal Justice Services, 805 East Broad Street, 5th Floor, Conference Room, Richmond, Virginia. ☎

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Sherri Stader, Assistant to the Director, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8718, FAX (804) 371-8981.

BOARD OF DENTISTRY

February 23, 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)

The Informal Conference Committee will hold conferences. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

BOARD OF EDUCATION

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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

March 1, 1996 - 10 a.m. -- Open Meeting

March 29, 1996 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting to obtain advice from interested parties to the Virginia Waste Management Board on desirable features to be incorporated into the Virginia Voluntary Remediation Program. This announcement is to provide public notice that the dates of meetings for the Voluntary Remediation Program has been changed from that which was previously advertised. The public should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location and time.

Contact: Dr. Wladimir Gulevich, Assistant Division Director, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4236, FAX (804) 698-4327, or (804) 698-4021/TDD ☎

Virginia Ground Water Protection Steering Committee

† March 19, 1996 - 9 a.m. -- Open Meeting
Richmond Area (Call agency for location) ☎

A regularly scheduled meeting. Meetings are open to the public. Anyone interested in ground water protection issues is encouraged to attend. A tour of the Division of Consolidated Laboratories is scheduled for the meeting. To obtain a meeting agenda and location, contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042.

Technical Advisory Committee for Solid Waste Management Regulations

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 ☎

FAMILY AND CHILDREN'S TRUST FUND

† **February 23, 1996 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia. ☎

A meeting to discuss updates on fund raising, upcoming Blue Ribbon Gala, proposed RFPs, and other regular business.

Contact: Phyl Parrish, Special Projects Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895.

BOARD OF FORESTRY

† **February 27, 1996 - 11 a.m.** -- Open Meeting
Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia. ☎

A Landowner Assistance Committee meeting.

Contact: John F. Hosner, Committee Chair, Virginia Tech School of Forestry and Wildlife, Cheatham Hall, Blacksburg, VA 24061, telephone (540) 231-8864.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

March 6, 1996 - 9 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. Formal hearings will follow the meeting.

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 ☎

March 7, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

Formal hearings continued from Wednesday, March 6, 1996.

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 ☎

DEPARTMENT OF GAME AND INLAND FISHERIES

† **March 11, 1996 - 7 p.m.** -- Open Meeting
Cave Spring High School, 3712 Chaparral Drive, Auditorium, Roanoke, Virginia.

† **March 12, 1996 - 7 p.m.** -- Open Meeting
Bowling Green Town Hall, Bowling Green, Virginia.

† **March 14, 1996 - 7 p.m.** -- Open Meeting
South Hill Fire Hall, South Hill, Virginia.

Meetings to receive comments regarding proposed changes to wildlife regulations related to foxhound training preserves, the live-trapping of foxes for the purpose of stocking such preserves, and the amount of the fee to be charged for permitting a foxhound training preserve. The Board of Game and Inland Fisheries adopted such proposed regulations for advertisement at its January 18, 1996, meeting. Comments from the meetings will be summarized and reported to the board for consideration at its next scheduled meeting in April 1996. The proposed regulations to be addressed at the meetings are exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this act the Department of Game and Inland Fisheries when promulgating regulations regarding the management of wildlife. However, the department is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23226, telephone (804) 367-8341 or FAX (804) 367-2427.

Director's Advisory Group

March 1, 1996 - 10 a.m. -- Open Meeting
Holiday Lake 4H, Appomattox, Virginia.

A meeting to conduct regular business. The Director's Advisory Group consists of representatives for the agency's constituent groups.

Contact: Belle Harding, Secretary to the Director, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-9231 or FAX (804) 367-2427.

STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

† **March 12, 1996 - 10 a.m.** -- Open Meeting
Department of Emergency Services, 308 Turner Road, Training Room, Richmond, Virginia. ☎

A meeting to discuss curriculum course development and review existing hazardous materials courses. Individuals with a disability, as defined in the Americans with Disabilities Act of 1990, desiring to attend the meeting should contact the Department of Emergency

Calendar of Events

Services 10 days prior to the meeting so appropriate accommodations can be made.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 308 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 27, 1996 - 9:30 a.m. -- Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

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 OF HISTORIC RESOURCES

State Review Board

† **March 20, 1996 - 10 a.m. -- Open Meeting**
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting to consider the following properties for nomination to the Virginia Landmarks Register and to the National Register of Historic Places.

1. Cahas Mountain Rural Historic District, Franklin County
2. Cannon Branch Fort, Manassas
3. Chandler Court and Pollard Park Historic District, Williamsburg
4. Coffee Pot, City of Roanoke
5. Dewberry, Hanover County
6. Down Salem Historic District, Salem
7. Epworth United Methodist Church, Norfolk
8. The Farm (A. J. Davis House), Charlottesville
9. Fort Belvoir Historic District, Fairfax County
10. Kennedy Lunsford Farm, Rockbridge County
11. Mount Ida (relocation), Buckingham County
12. Rose Hill, Town of Front Royal, Warren County
13. Soldier's Rest, Clarke County
14. Upper Brandon Plantation, Prince George County
15. West Point Historic District, King William County

Contact: Margaret Peters, Preservation Program Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261, or (804) 786-1934/TDD ☎

JIB

HOPEWELL INDUSTRIAL SAFETY COUNCIL

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.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 27, 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 month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Multi-Family Housing Developments; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available 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.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† **February 28, 1996 - 10 a.m. -- Open Meeting**
Department of Social Services, 730 East Broad Street, Lower Level, Training Room 1, Richmond, Virginia. ☎

A general meeting to focus on work force preparedness issues for the Commonwealth.

Contact: Abria M. Singleton, Secretary, Governor's Employment and Training Department, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9816, toll-free 1-800-552-7020, or (804) 367-6283/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

Migrant and Seasonal Farmworkers Board

† **March 6, 1996 - 10 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Monticello Room, Richmond, Virginia. (Interpreter for the
deaf provided upon request)

A regular meeting of the board.

Contact: Patti C. Bell, Staff Coordinator, Department of
Labor and Industry, 13 S. 13th St., Richmond, VA 23219,
telephone (804) 225-3083, FAX (804) 371-6524, or (804)
786-2376/TDD

LITTER CONTROL AND RECYCLING FUND ADVISORY BOARD

† **February 22, 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) 698-
4488.

COMMISSION ON LOCAL GOVERNMENT

† **March 4, 1996 - 10:30 a.m.** -- Open Meeting
Round Hill Town Hall, 23 Main Street, Round Hill, Virginia.

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

† **March 4, 1996 - 7 p.m.** -- Public Hearing
Round Hill Elementary School, 20 High Street, Auditorium,
Round Hill, Virginia.

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

† **March 5, 1996 - 9 a.m.** -- Open Meeting
Loudoun County Board of Supervisors Meeting Room, 18
North King Street, Leesburg, Virginia.

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

MANUFACTURED HOUSING BOARD

† **March 13, 1996 - 11 a.m.** -- Open Meeting
Sheraton Airport, 2727 Ferndale Drive, Roanoke, 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

February 27, 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

Calendar of Events

BOARD OF MEDICAL ASSISTANCE SERVICES

February 20, 1996 - 9 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to discuss medical assistance service and to take action on issues pertinent to the board. The board may also vote on suggested changes to the by-laws. A copy of the proposed changes to the by-laws may be obtained by contacting the agency. The following articles will be amended: Articles I, II, III, V, VIII, and the Mission Statement.

Contact: Nancy Malczewski, Executive Secretary Senior, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099.

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.

Virginia Medicaid Drug Utilization Review Board

† March 28, 1996 - 3 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A quarterly meeting of the board to conduct routine business.

Contact: Marianne R. Rollings, DUR Program Coordinator, Department of Medical Assistance Services, 600 E. Broad

St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8057 or FAX (804) 786-0414.

Virginia Medicaid Prior Authorization and VHOP Advisory Committee

† March 28, 1996 - 4:30 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A quarterly meeting to begin immediately following adjournment of the preceding DUR board meeting to conduct routine business.

Contact: David B. Shepherd, Pharmacy Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773 or FAX (804) 786-0414.

BOARD OF MEDICINE

Informal Conference Committee

February 27, 1996 - 11 a.m. -- Open Meeting
Danville Community College, 1008 South Main Street, Danville, 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., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

February 23, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎

This meeting was to have been held on January 12, 1996, and is rescheduled. The board will meet 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, review credentials of exam candidates, and such other issues which may be presented. 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 ☎

February 23, 1996 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. ☎

This meeting was to have been held on January 12, 1996, and is rescheduled. The committee will meet 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 Physician's Assistants, review physician's assistants' applications, and such other issues which may be presented. The committee 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 ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Management Team

† **March 7, 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 begin 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, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2177 or FAX (804) 371-0091.

STATE MILK COMMISSION

† **February 21, 1996 - 10 a.m. -- Open Meeting**
900 Natural Resources Drive, 2nd Floor Board Room,
Charlottesville, Virginia.

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters, and receive reports from staff of the Milk Commission. In addition, at 10:30 a.m., the Ad-Hoc Committee will hold its next scheduled meeting to review amending the regulations pursuant to Executive Order 15(94). The commission may consider other matters pertaining to its responsibilities. Any persons who require accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr., so that suitable arrangements can be made.

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 (804) 786-2013/TDD ☎

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

February 20, 1996 - 1 p.m. -- Open Meeting
Department of Mines, Minerals and Energy, off U.S. Route
23, Conference Room 116, Big Stone Gap, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to give interested persons an opportunity to be heard in regard to the FY96 Abandoned Mine Land Consolidated Grant Application to be submitted to the federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8208, FAX (540) 523-8247 or toll-free 1-800-828-1120 (VA Relay Center).

† **February 21, 1996 - 10 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 to review federal and state surface mining policies, procedures, regulations, and laws to identify initiatives and incentives, changes in regulations, laws, policies and procedures needed to enhance and promote additional remaining operations in Virginia.

Contact: Norman Enix, Remining Coordinator, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8286, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

Virginia Reclamation Fund Advisory Board

† **February 21, 1996 - 10 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 to review and discuss the current status and administration of the Reclamation Fund.

Contact: Danny R. Brown, Division Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

VIRGINIA MUSEUM OF FINE ARTS

Planning Committee

† **February 28, 1996 - 3:30 p.m. -- Open Meeting**
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

Calendar of Events

A meeting to report on implementation of strategic plan, and future planning relative to strategic plan. Public comment will not be received.

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 NURSING

February 21, 1996 - 9 a.m. -- Open Meeting

February 22, 1996 - 9 a.m. -- Open Meeting

February 26, 1996 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A special conference committee, comprised of two members of the Board of Nursing, will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the board of nursing. Public comment will not be received.

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

BOARD 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 FOR OPTICIANS

† March 22, 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)

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 interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF PHARMACY

† February 21, 1996 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A meeting to conduct informal conferences. Public comment 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.

DEPARTMENT OF STATE POLICE

April 5, 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 State Police intends to amend regulations entitled: **VR 545-01-07 [19 VAC 30-70-10 et seq.] Motor Vehicle Safety Inspection Rules and Regulations**. The purpose of the proposed amendments is to revise the Motor Vehicle Safety Inspection Rules and Regulations to be consistent with recent changes in state laws, federal regulations, and nationally accepted standards and automotive practices. Minor technical and administrative changes are included.

Statutory Authority: § 46.2-1165 of the Code of Virginia.

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

POLYGRAPH EXAMINERS ADVISORY BOARD

† March 26, 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)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

February 22, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

February 22, 1996 - 9 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 Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

February 23, 1996 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

An Executive Committee meeting to review credentials. Public comments will not be heard. Beginning at 9:30 a.m., there will be a regular meeting of the board to (i) conduct board business; (ii) consider committee reports, correspondence, and any other matters under the jurisdiction of the board; and (iii) conduct regulatory review. This is a public meeting and there will be a 30-minute general public comment period beginning at 9:45 a.m.

Contact: Joyce D. Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

Regulatory Committee

February 22, 1996 - 10 a.m. -- Open Meeting
March 28, 1996 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A committee meeting to develop regulations for marriage and family therapists licensure. No public comment will be received.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

BOARD OF PSYCHOLOGY

† **February 27, 1996 - 9 a.m.** -- Open Meeting
† **February 27, 1996 - 11 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

REAL ESTATE APPRAISER BOARD

† **February 27, 1996 - 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 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 ☎

REAL ESTATE BOARD

† **February 22, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting to include review of investigative matters, consideration of applications, various requests to the board for information, legislation, regulations, and other issues.

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 ☎

Continuing Education Committee

† **February 22, 1996 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

The committee will meet to approve continuing education courses.

Calendar of Events

Contact: William H. Ferguson II, Education Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526 or (804) 367-9753/TDD ☎

† **February 23, 1996 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct regulatory review of the Real Estate Board Regulations and the Code of Virginia pertaining to real estate education.

Contact: William H. Ferguson II, Education Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526 or (804) 367-9753/TDD ☎

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† **February 22, 1996 - 4 p.m.** -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor,
Classroom, Richmond, Virginia. ☎

A monthly meeting of the board to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, 700 East Main Street, Suite 904, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

† **March 21, 1996 - 10 a.m.** -- Open Meeting
Main Street Station, 1500 East Main Street, Suite 115,
Richmond, Virginia.

A regular meeting.

Contact: Karen Jackson, Assistant, Department of Health, P.O. Box 2448, Suite 115, Richmond, VA 23219, telephone (804) 786-1750.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

March 6, 1996 - 10 a.m. -- Open Meeting
County of Henrico Government Complex, Parham and
Hungary Springs Road, Administration Building, Board Room,
Richmond, Virginia. ☎

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to § 32.1-166.1 et seq. and § 9-6.14:12 of the Code of Virginia, and VR 355-34-02 (12 VAC 5-610-10 et seq.) Sewage Handling and Disposal Regulations.

Contact: Beth Bailey Dubis, Secretary to the Board, Department of Health, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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.

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.

VIRGINIA VETERANS CARE CENTER

Board of Trustees

† **March 1, 1996 - 1:30 p.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, 3rd Floor
West Conference Room, Richmond, Virginia. ☎

The third quarterly meeting to review the operations of the Virginia Veterans Care Center.

Contact: Andrew J. Vinson, Executive Director, P.O. Box 6334, Roanoke, VA 24017-0334, telephone (540) 857-6974, toll-free 1-800-220-8387, or (540) 342-8810/TDD ☎

VIRGINIA RACING COMMISSION

February 21, 1996 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☎

A meeting to conduct a regular monthly meeting including a report from Colonial Downs.

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

BOARD FOR THE VISUALLY HANDICAPPED

† **April 20, 1996 - 10 a.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., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Advisory Council

† **March 16, 1996 - 10 a.m.** -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Specialists, 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

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 WASTE MANAGEMENT BOARD

† **March 20, 1996 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, First Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

As required by § 10.1-1429.1 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations to allow voluntary remediation of contaminated property. The purpose of this meeting is to obtain comments and advice from interested parties on desirable features to be incorporated into the Voluntary Remediation Regulations. Written comments can be submitted to the Department of Environmental Quality no later than April 20, 1996, to assure consideration. Interested parties should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location, and time.

Contact: Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4236, FAX (804) 698-4327 or (804) 698-4021/TDD ☎

STATE WATER CONTROL BOARD

March 25, 1996 - 7 p.m. -- Public Hearing
Rockingham County Board of Supervisors Room, 20 East Gay Street, Harrisonburg, Virginia.

March 26, 1996 - 1 p.m. -- Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi Purpose Room, Wytheville, Virginia.

Calendar of Events

March 27, 1996 - 7 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101 C
Mounts Bay Road, Building C, Williamsburg, Virginia.

March 28, 1996 - 1:30 p.m. -- Public Hearing
Prince William County Administration Center, One County
Complex, 4850 Davis Ford Road, McCoart Building, Board
Chambers, Prince William, Virginia.

April 22, 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 amend regulations entitled: **9 VAC 25-260-10
et seq. Water Quality Standards.** The purpose of the
proposed amendments is to amend the Water Quality
Standards as part of the state's triennial review of the
regulation and to meet federal requirements.

Question and Answer Period: A question and answer period
will be held one-half hour prior to the beginning of each public
hearing at the same location. Department of Environmental
Quality staff will be present to answer questions regarding the
proposed action.

Accessibility to Persons with Disabilities: The meetings will be
held at public facilities believed to be accessible to persons
with disabilities. Any person with questions on the accessibility
of the facilities should contact Mrs. Eleanore Daub,
Department of Environmental Quality, P.O. Box 10009,
Richmond, VA, 23240, or by telephone at (804) 698-4111 or
TDD (804) 698-4261. Persons needing interpreter services for
the deaf must notify Mrs. Daub no later than 4 p.m. on
Thursday, March 7, 1996.

Other Pertinent Information: The department has conducted
analyses on the proposed action related to basis, purpose,
substance, issues and estimated impacts. These are available
upon request from Ms. Eleanore Daub at the address below.

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

Contact: Eleanore Daub, Office of Environmental Research
and Standards, Department of Environmental Quality, P.O.
Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

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March 28, 1996 - 1:30 p.m. -- Public Hearing
Prince William County Administration Center, One County
Complex, 4850 Davis Ford Road, McCoart Building, Board
Chambers, Prince William, Virginia.

April 22, 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: **9 VAC 25-415-10
et seq. Policy for the Potomac River Embayments.**
The purpose of the proposed regulation is to establish
effluent limits for sewage treatment plants discharging
into the Potomac River in Virginia from the Chain Bridge

in Arlington County to Route 301 Bridge in King George
County.

Question and Answer Period: A question and answer period
will be held one-half hour prior to the beginning of the public
hearing at the same location. Department of Environmental
Quality staff will be present to answer questions regarding the
proposed action.

Accessibility to Persons with Disabilities: The meetings will be
held at public facilities believed to be accessible to persons
with disabilities. Any person with questions on the accessibility
of the facilities should contact Mr. Tom Faha, Department of
Environmental Quality, 1519 Davis Ford Road, Suite 14,
Woodbridge, VA, 22192, or by telephone at (703) 490-8922 or
TDD (804) 698-4261. Persons needing interpreter services for
the deaf must notify Mr. Faha no later than 4 p.m. on Thursday,
March 7, 1996.

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

Contact: Tom Faha, Department of Environmental Quality,
Northern Regional Office, 1519 Davis Ford Road, Suite 14,
Woodbridge, VA 22192, telephone (703) 490-8922.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **April 4, 1996 - 10 a.m.** - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpre-
ter 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

GOVERNOR'S ADVISORY COMMISSION ON WELFARE REFORM

† **February 27, 1996 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

The regular commission meeting will begin at noon.
Subcommittee meetings will be held from 10 a.m. to
noon. Business will be conducted according to items
listed on the agenda which has not been finalized.

Contact: Fay Lohr, Director, Office of Community Services,
Department of Social Services, 730 E. Broad St., 8th Floor,

Richmond, VA 23219, telephone (804) 692-1895, FAX (804) 692-1869 or toll-free 1-800-828-1120/TDD ☎

VIRGINIA WORKERS' COMPENSATION COMMISSION

March 8, 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 Virginia Workers' Compensation Commission intends to amend regulations entitled: **16 VAC 30-50-10 et seq. Rules of the Virginia Workers' Compensation Commission.** A new Rule 14 provides a definition of community for the purpose of determining prevailing charges for medical treatment.

Statutory Authority: § 65.2-201 of the Code of Virginia.

Public comments may be submitted until March 8, 1996, to David W. Haines, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220.

Contact: Aljuana C. Brown, Administrative Assistant, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-2067.

BOARD OF YOUTH AND FAMILY SERVICES

March 13, 1996 - 9 a.m. -- Open Meeting

April 10, 1996 - 9 a.m. -- Open Meeting

Department of Youth and Family Services, 700 East Main Street, Richmond, Virginia. ☎

Beginning at 9 a.m., committees will meet to review secure and nonsecure services; at 10 a.m. the full board will meet to act on certifications, policy matters, and other business that may come before the board.

Contact: Donald R. Carignan, Policy Analyst, Department of Youth and Family Services, 700 Centre, 700 E. Main St., P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

INDEPENDENT

LOTTERY BOARD

† **February 21, 1996 - 10 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

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 20

Aviation Board, Virginia
Medical Assistance Services, Board of

February 21

Alcoholic Beverage Control Board
Aviation Board, Virginia
† Lottery Board, State
† Milk Commission, State
† Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation
- Virginia Reclamation Fund Advisory Board
Nursing, Board of
† Pharmacy, Board of
† Recycling Markets Development Council, Virginia
Virginia Racing Commission

February 22

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
Education, Board of
† Litter Control and Recycling Fund Advisory Board
Nursing, Board of
Professional Counselors and Marriage and Family Therapists, Board of
- Regulatory Committee
† Real Estate Board
- Continuing Education Committee
† Richmond Hospital Authority
- Board of Commissioners

February 23

Dentistry, Board of
Environmental Quality, Department of
- Technical Advisory Committee for Solid Waste Management Regulations
Medicine, Board of
- Board on Physical Therapy
- Advisory Committee on Physician's Assistants

Calendar of Events

Professional Counselors and Marriage and Family
Therapists, Board of
- Regulatory Committee
† Real Estate Board
- Continuing Education Committee

February 26

Nursing, Board of

February 27

† Forestry, Board of
Health Services Cost Review Council, Virginia
† Housing Development Authority, Virginia
Marine Resources Commission
Medicine, Board of
† Psychology, Board of
† Real Estate Appraiser Board
† Welfare Reform, Governor's Advisory Commission on

February 28

† Agriculture and Consumer Services, Department of
- Virginia Soybean Board
† Job Training Coordinating Council, Governor's
† Museum of Fine Arts, Virginia
- Planning Committee of the Board of Trustees
Nursing Home Administrators, Board of

February 29

† Agriculture and Consumer Services, Department of
- Virginia Soybean Board
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Professional Engineers

March 1

† Agriculture and Consumer Services, Department of
- Virginia Bright Flue-Cured Tobacco Board
Environmental Quality, Department of
Game and Inland Fisheries, Department of
† Veterans Care Center, Virginia
- Board of Trustees

March 4

† Local Government, Commission on

March 5

Hopewell Industrial Safety Council
† Local Government, Commission on

March 6

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
- Virginia Peanut Board
Funeral Directors and Embalmers, Board of
† Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
Sewage Handling and Disposal Appeals Review Board

March 7

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Landscape Architects
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Funeral Directors and Embalmers, Board of

† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Management Team

March 11

† Game and Inland Fisheries, Department of

March 12

† Game and Inland Fisheries, Department of
† Hazardous Materials Training Advisory Committee,
State

March 13

Community Colleges, State Board for
Criminal Justice Services Board
- Committee on Training
† Manufactured Housing Board, Virginia
Youth and Family Services, Board of

March 14

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Interior Designers
Community Colleges, State Board for
† Game and Inland Fisheries, Department of
Voluntary Formulary Board, Virginia

March 16

† Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

March 18

Contractors, Board for

March 19

† Environmental Quality, Department of
- Virginia Ground Water Protection Steering
Committee

March 20

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Environmental Quality, Department of
† Historic Resources, Board of
- State Review Board

March 21

† Asbestos Licensing and Lead Certification, Board for
† Sewage Handling and Disposal Advisory Committee

March 22

† Opticians, Board for

March 25

† Agricultural Council, Virginia

March 26

† Agricultural Council, Virginia
† Polygraph Examiners Advisory Board

March 28

† Medical Assistance Services, Department of
- Virginia Medicaid Drug Utilization Review Board
- Virginia Medicaid Prior Authorization and VHOP
Advisory Committee

Professional Counselors and Marriage and Family
Therapists, Board of
- Regulatory Committee

March 29

Environmental Quality, Department of

April 4

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Waterworks and Wastewater Works Operators, Board
for

April 10

Youth and Family Services, Board of

April 20

† Visually Handicapped, Board for the

PUBLIC HEARINGS

February 21

Aviation Board, Virginia

March 22

Taxation, Department of

March 25

Water Control Board, State

March 26

Water Control Board, State

March 27

Water Control Board, State

March 28

Water Control Board, State
