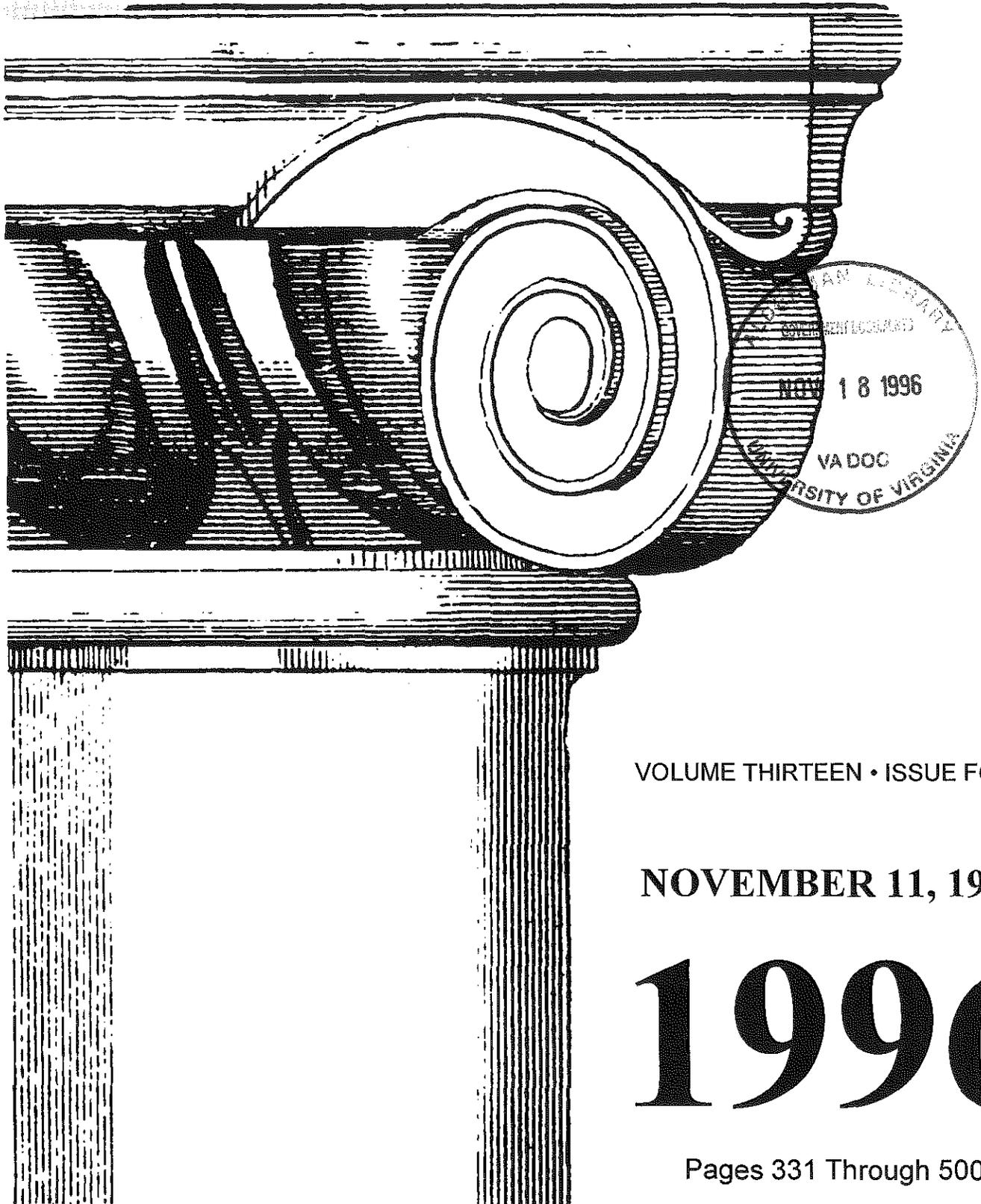


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THE VIRGINIA REGISTER

VA
DOC

OF REGULATIONS



VOLUME THIRTEEN • ISSUE FOUR

NOVEMBER 11, 1996

1996

Pages 331 Through 500

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

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

CHARITABLE GAMING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Charitable Gaming Commission intends to consider promulgating regulations entitled: **11 VAC 15-11-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations that provide procedures to be used for soliciting input of interested persons in the formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. These regulations will replace interim regulations which expire June 30, 1997. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7, 18.2-340.18, and 18.2-340.38 of the Code of Virginia.

Public comments may be submitted until November 15, 1996.

Contact: James H. Ingraham, Regulatory Coordinator, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238.

VA.R. Doc. No. R97-36; Filed September 25, 1996, 12:05 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Charitable Gaming Commission intends to consider promulgating regulations entitled: **11 VAC 15-21-10 et seq. Rules and Regulations of the Charitable Gaming Commission.** The purpose of the proposed action is to prescribe the conditions under which charitable gaming shall be conducted in the Commonwealth. These regulations will replace interim regulations which expire June 30, 1997. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 18.2-340.18 and 18.2-340.38 of the Code of Virginia.

Public comments may be submitted until November 15, 1996.

Contact: James H. Ingraham, Regulatory Coordinator, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238.

VA.R. Doc. No. R97-37; Filed September 25, 1996, 12:06 p.m.

DEPARTMENT OF CRIMINAL JUSTICE 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 Criminal Justice

Services intends to consider amending regulations entitled: **6 VAC 20-160-10 et seq. Rules Relating to the Court-Appointed Special Advocate Program (CASA).** The purpose of the proposed action is to amend the current regulations related to CASA Programs to ensure that they are in support of and consistent with the mission and growth of the program. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-173.6, 9-173.7, and 9-173.8 of the Code of Virginia.

Public comments may be submitted until November 28, 1996.

Contact: Dawn Colapietro, CASA Program Coordinator, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-6428, or FAX (804) 371-8981.

VA.R. Doc. No. R97-62; Filed October 9, 1996, 10:25 a.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed action is to implement changes to the COPN law, effective July 1, 1996, which (i) eliminated the requirement for a COPN to replace major medical equipment, (ii) raised the capital expenditure threshold triggering COPN requirements, and (iii) established a minimal COPN application fee of \$1,000 and raised the maximum application fee from \$10,000 to \$20,000. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until November 29, 1996 at 5 p.m. to Nancy R. Hofheimer, Director, Office of Health Facilities Regulation, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230.

Contact: Paul E. Parker, Director, Division of Resources Development, Office of Health Facilities Regulation, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2127, or FAX (804) 367-2149.

VA.R. Doc. No. R97-56; Filed October 9, 1996, 9:51 a.m.

Notices of Intended Regulatory Action

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services (Supplement 1 to Attachment 3.1 A and B); 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (Attachment 3.1 C); and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care (Attachment 4.19 B).** The purpose of the proposed action is to establish Medicaid coverage policies for licensed clinical psychologists, licensed clinical social workers, and licensed professional counselors and to make technical corrections. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 13, 1996, to Sally Rice, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R97-33; Filed September 25, 1996, 10:07 a.m.

BOARD OF NURSING

† 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 Nursing intends to consider promulgating regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The purpose of the proposed action is to establish qualifications for licensure, sufficient fees, and standards of professional conduct for massage therapists. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-3005 and 54.1-3029 of the Code of Virginia.

Public comments may be submitted until December 11, 1996.

Contact: Nancy 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 ☎

VA.R. Doc. No. R97-84; Filed October 17, 1996, 1 p.m.

BOARD OF PSYCHOLOGY

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 Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to replace emergency regulations which became effective on September 13, 1996, and which amended regulations in conformity with Chapters 937 and 980 of the 1996 Acts of the Assembly amending Chapter 36 of Title 54.1 of the Code of Virginia. Changes to the Code of Virginia consolidated the licensure of clinical psychologists under the Board of Psychology and added a category of applied psychologists. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3600 et seq. of the Code of Virginia.

Public comments may be submitted until November 27, 1996.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R97-63; Filed October 9, 1996, 10:37 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled: **22 VAC 40-705-10 et seq. Child Protective Services.** The purpose of the proposed action is to satisfy the need to provide direction for how best to protect children from child abuse and neglect balanced with the right of parents and family integrity. These regulations will clarify and effect certain fundamental changes in how children are protected in the Commonwealth of Virginia with regard to the categories of reporting, investigations, appeals, training, and accountability. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-248.2 of the Code of Virginia.

Public comments may be submitted until November 27, 1996.

Contact: Jesslyn Cobb, Human Services Program Consultant, Child Protective Services Unit, Department of Social Services, 730 E. Broad St., Theater Row Building, Richmond, VA 23219-1849, telephone (804) 692-1255, FAX (804) 692-2215, or (800) 828-1120/TDD ☎

VA.R. Doc. No. R97-48; Filed October 3 1996, 2:11 p.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 promulgating regulations entitled: **9 VAC 25-120-10 et seq. General VPDES Permit Regulation for Cleanup of Underground Storage Tanks.** This rulemaking is proposed in order to reissue the existing general permit which expires on February 24, 1998. The general permit will establish limitations and monitoring requirements for discharges of treated ground water at sites contaminated by petroleum products. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharges. A technical advisory committee will be formed to assist in the development of the regulation. The primary function of the committee will be to develop recommendations to the board for the content of the reissued general permit through a process of negotiation and consensus. Persons who desire to be on the committee should notify the agency contact person in writing by 4:30 p.m. on November 15, 1996, and provide name, address, telephone number and the organization represented (if any). Notification of the composition of the technical advisory committee will be sent to all applicants. Following publication of the proposed general permit regulation in the Virginia Register, the board will hold at least one public hearing to provide opportunity for public comment.

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

Public comments may be submitted until 4:30 p.m. on November 15, 1996.

Contact: Richard Ayers, Technical Services Administrator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4075 or FAX (804) 698-4032.

VA.R. Doc. No. R97-35; Filed September 25, 1996, 11:32 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **repeal** regulations entitled: **13 VAC 5-20-10 et seq., Virginia Certification Standards/1993** and **adopt** regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards**. The purpose of this proposal is (i) to delete the tradesmen certification requirements since regulatory authority for tradesmen certification was transferred to the Department of Professional and Occupational Regulation, and (ii) to transfer the blaster certification requirements from this regulation to the Virginia Statewide Fire Prevention Code.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **repeal** regulations

entitled: **13 VAC 5-30-10 et seq., Virginia Amusement Device Regulations/1993** and **adopt** regulations entitled: **13 VAC 5-31-10 et seq. Virginia Amusement Device Regulations**. The Virginia Amusement Device Regulations provide statewide standards for the construction, maintenance, inspection and operation of amusement devices. The proposed changes update this regulation to reflect current nationally approved standards.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **repeal** regulations entitled: **13 VAC 5-50-10 et seq., Virginia Statewide Fire Prevention Code/1993** and **adopt** regulations entitled: **13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code**. The proposed regulation sets forth performance requirements for the use of explosives, and the maintenance and use of structures with regard to fire safety. The proposed regulation has been updated to reflect current nationally approved safety standards, blaster certification requirements have been deleted from the Virginia Certification Standards and incorporated into this regulation, and the format of the regulation has been changed to make it more understandable to the regulated community

Statutory Authority: § 27-97 of the Code of Virginia.

Public Comment Periods - Proposed Regulations

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **repeal** regulations entitled: **13 VAC 5-60-10 et seq., Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993, and 13 VAC 5-70-10 et seq., Virginia Uniform Statewide Building Code, Volume II - New Construction Code/1993, and adopt** regulations entitled: **13 VAC 5-61-10 et seq., Virginia Uniform Statewide Building Code.** The Building Code prescribes standards for construction, maintenance and use of buildings and structures and their equipment. This proposal consolidates Volumes I and II of the USBC into a single regulation and updates the latest construction and maintenance model codes and standards.

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

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **repeal** regulations entitled: **13 VAC 5-90-10 et seq., Virginia Industrialized Building and Manufactured Home and Safety Regulations/1993, and adopt** regulations entitled: **13 VAC 5-91-10 et seq., Virginia Industrialized Building Safety Regulations.** The proposed amendments update documents incorporated by reference to reflect current nationally approved safety standards and transfer requirements regarding manufactured home safety standards from this regulation to the Virginia Manufactured Home Safety Regulations (13 VAC 5-95-10 et seq.).

Statutory Authority: § 36-73 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

January 10, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to **adopt** regulations entitled: **13 VAC 5-95-10 et seq., Virginia Manufactured Home Safety Regulations.** The Virginia Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, and safety standards for manufactured homes, wherever produced.

Statutory Authority: §§ 36-85.7 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

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 HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: 13 VAC 5-20-10 et seq. Virginia Certification Standards (REPEALING).

VA.R. Doc. No. R97-96; Filed October 23, 1996, 11:47 a.m.

Title of Regulation: 13 VAC 5-21-10 et seq. Virginia Certification Standards.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Public Hearing Date: December 9, 1996 - 9 a.m.

Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Sections 36-98.3 and 36-137 of the Code of Virginia empower and direct the Board of Housing and Community Development to issue certificates of competence to persons seeking to become qualified to perform inspections under the board's regulations.

Purpose: The purpose of the proposed amendments is to make the regulation better comport with state law, be more easily understood and better mesh with other regulations adopted by the board, all of which impact in a positive way on the public's health, safety and welfare.

Substance: These proposed amendments to the Virginia Certification Standards will bring them in line with current state law and make the regulation better comply with the Virginia Code Commission's requirements.

Issues: The advantages of this regulatory action will be to (i) keep the enforcement of Virginia's building, fire and amusement device regulations up to par, and (ii) bring the text of this regulation more in line with the Virginia Administrative Code. There are no anticipated disadvantages for the public, the agency, or related entities associated with this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis

presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth requirements for certification by the Board of Housing and Community Development of persons performing inspections pursuant to building, fire, and amusement device regulations. The primary amendments contained in the proposed regulation are as follows:

- tradesman certification requirements have been deleted from this regulation and are now under the regulatory authority of the Department of Professional and Occupational Regulation; and
- blaster certification requirements have been transferred from this regulation to the Statewide Fire Prevention Code.

Estimated Economic Impact. Because the two sets of requirements deleted from the proposed regulation have simply been transferred elsewhere and remain in effect, neither of these amendments is anticipated to have an economic effect.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects individuals seeking certification by the Board of Housing and Community Development to perform inspections pursuant to building, fire, and amusement device regulations.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed regulation will have no economic impact.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The Virginia Certification Standards are a set of mandatory regulations designed to provide statewide standards for persons seeking to become qualified to perform inspections, to follow in order to be issued a certificate of competence by the board in specified subject areas of building, fire and amusement device regulations.

The primary amendments contained in the proposed regulation are as follows:

1. Tradesman certification requirements have been deleted from this regulation and are now under the regulatory authority of the Department of Professional and Occupational Regulation; and

2. Blaster certification requirements have been transferred from this regulation to the Statewide Fire Prevention Code.

CHAPTER 21.
VIRGINIA CERTIFICATION STANDARDS.

13 VAC 5-21-10. Definitions.

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

"Code academy" means the Virginia Building Code Academy established pursuant to §.36-139 of the Code of Virginia.

"DHCD" means the Virginia Department of Housing and Community Development's Training and Certification Office.

"SFPC" means the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.).

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.).

13 VAC 5-21-20. Purpose.

The purpose of this chapter is to establish categories of and requirements for obtaining certificates of competence to be issued by the Virginia Board of Housing and Community Development concerning the content, application and intent of specified subject areas of the building and fire regulations promulgated by the board to present or prospective personnel of local governments and to any other persons seeking to be qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia and any regulations adopted thereunder.

13 VAC 5-21-30. Categories of certificates relating to the USBC and training requirements.

A. Certificate of competence as a building code official. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.

B. Certificate of competence as a building maintenance code official. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to the maintenance of existing buildings and structures. Completion of the core and existing building modules of the code academy is required for obtaining the certificate.

C. Certificate of competence as a combination inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures. Completion of the core, building code, plumbing code, electrical code, and mechanical code modules of the code academy is required for obtaining the certificate.

D. Certificate of competence as a building inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures except for the plumbing, electrical and mechanical systems. Completion of the core and building code modules of the code academy is required for obtaining the certificate.

E. Certificate of competence as a fire protection inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspections of buildings and structures for compliance with fire-resistant materials and construction, fire protection system and means of egress requirements of the USBC. Completion of the core module of the code academy is required for obtaining the certificate.

F. Certificate of competence as a building plans examiner. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with the USBC except for the plumbing, electrical and mechanical systems. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.

G. Certificate of competence as a fire protection plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with fire-resistant materials and construction, fire protection system and means of egress requirements of the USBC. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.

H. Certificate of competence as an electrical inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of electrical systems in buildings and structures. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.

I. Certificate of competence as an electrical plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with electrical system requirements of the USBC. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.

J. Certificate of competence as a plumbing inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of plumbing systems in buildings and structures. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.

K. Certificate of competence as a plumbing plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with plumbing system

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requirements of the USBC. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.

L. Certificate of competence as a mechanical inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of mechanical systems in buildings and structures. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.

M. Certificate of competence as a mechanical plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with mechanical system requirements of the USBC. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.

N. Certificate of competence as a combination inspector for one- and two-family dwellings. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one- and two-family dwelling building, plumbing, electrical, and mechanical modules of the code academy is required for obtaining the certificate.

O. Certificate of competence as a building inspector for one- and two-family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of the construction of buildings as either Use Group R-3 or R-4 under the USBC, except for the plumbing, electrical and mechanical systems. Completion of the core and one- and two-family dwelling building modules of the code academy is required for obtaining the certificate.

P. Certificate of competence as an electrical inspector for one- and two-family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of electrical systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one- and two-family dwelling electrical modules of the code academy is required for obtaining the certificate.

Q. Certificate of competence as a plumbing inspector for one- and two-family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of plumbing systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one- and two-family dwelling plumbing modules of the code academy is required for obtaining the certificate.

R. Certificate of competence as a mechanical inspector for one- and two-family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of mechanical systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core

and one- and two-family dwelling mechanical modules of the code academy is required for obtaining the certificate.

S. Certificate of competence as an elevator inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of elevators. Completion of the core module of the code academy is required for obtaining the certificate.

13 VAC 5-21-40. Categories of certificates relating to the SFPC and training requirements.

A. Certificate of competence as a fire prevention code official. The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.

B. Certificate of competence as a fire prevention inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC relating to on-site inspection buildings, structures and property. Completion of the core module of the code academy and the 1031 school administered by the Virginia Department of Fire Programs is required for obtaining the certificate.

13 VAC 5-21-50. Categories of certificates relating to the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.) and training requirements.

The certificate of competence as an amusement device inspector evidences competence concerning the content, application and intent of all subject areas of the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.). Completion of the core and basic amusement device modules of the code academy is required for obtaining the certificate.

13 VAC 5-21-60. Proof of completion of examination and application for certificate.

In addition to the training requirements established by this chapter, applicants for a certificate of competence shall provide proof of successful completion of examinations determined necessary by DHCD for each type of certificate sought and other information as required. DHCD maintains a list of examinations and approved testing agencies for each type of certificate of competence. Application forms are available from DHCD.

VA.R. Doc. No. R97-97; Filed October 23, 1996, 11:47 a.m.

Title of Regulation: 13 VAC 5-30-10 et seq. Virginia Amusement Device Regulations (REPEALING).

VA.R. Doc. No. R97-89; Filed October 23, 1996, 11:54 a.m.

Title of Regulation: 13 VAC 5-31-10 et seq. Virginia Amusement Device Regulations.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Public Hearing Date: December 9, 1996 - 9 a.m.

Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Section 36-98.3 of the Code of Virginia empowers and directs the Board of Housing and Community Development to adopt and promulgate regulations pertaining to the construction, maintenance, operation and inspection of amusement devices.

Purpose: The purpose of the proposed amendments is to make the regulation better comport with the state law, be more easily understood and better mesh with the Uniform Statewide Building Code and to update to current standards, all of which impact in a positive way on the public's health, safety and welfare.

Substance: These proposed amendments to the Virginia Amusement Device Regulations will (i) eliminate unnecessary text, (ii) reference the latest technical standards, and (iii) conform the regulations with Virginia Code Commission's requirements.

Issues: The advantage of this regulatory action will be (i) to make the text more in line with the Virginia Administrative Code format, (ii) to eliminate conflicts with the building code, and (iii) to update to the latest construction and maintenance standards. There are no anticipated disadvantages for the public, the agency or related entities associated with this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth performance requirements for the construction, maintenance, inspection, and operation of amusement devices. The proposed regulation updates the current regulation governing amusement devices to reflect current nationally approved safety standards.

Estimated Economic Impact. Revising the current regulation to reflect current nationally approved safety standards is likely to have two primary economic effects. First, it will positively benefit Virginia residents by providing increased protection against substandard and improperly maintained amusement devices. Second, in those instances where the new national standards entail an increase in regulatory stringency, there may be a modest increase in regulatory compliance costs. Although it would be cost prohibitive for DPB to quantify the precise magnitude of these economic effects, it seems

reasonable to assume, given the extensive input from affected entities that is embodied in the national standards, that the likely benefits exceed the likely costs.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects all businesses and other entities that own or operate amusement devices in Virginia.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed amendments to the current regulation will have a positive effect on public health and safety, although it may entail some increase in regulatory compliance costs.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The Virginia Amusement Device Regulations provide for the administration and enforcement of uniform, statewide standards for the construction, maintenance, inspection and operation of amusement devices, whether mobile or affixed to a site. These regulations supplement the provisions of the Uniform Statewide Building Code for the purpose of protecting the health, safety and welfare of amusement device users. The technical requirements of the regulations are based on standards developed by the American Society for Testing and Materials. Provisions are included in the regulations for the inspection of amusement devices, reports and investigation of accidents, certification of amusement device inspectors, qualifications and conduct of operators, and an administrative appeals system for the resolution of disagreements between building officials and amusement device owners or operators. The regulations recognize and refer to the building official and the State Building Code Technical Review Board as established under the Uniform Statewide Building Code.

The proposed regulation will replace the existing amusement device standards, which are concurrently being repealed. The proposal eliminates unnecessary text and references the latest technical standards.

CHAPTER 31.

VIRGINIA AMUSEMENT DEVICE REGULATIONS.

PART I.

GENERAL PROVISIONS.

13 VAC 5-31-10. Purpose.

A. The purpose of this chapter is to establish standards for the regulation, design, construction, maintenance, operation and inspection of amusement devices.

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B. The provisions of the USBC apply to amusement devices to the extent they are not superseded by the provisions of this chapter.

13 VAC 5-31-20. Definitions.

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

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways.

"BHCD" means the Virginia Board of Housing and Community Development.

"Bungee cord" means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

"Carabineer" means a shaped metal device with a gate used to connect sections of a bungee cord, jump rigging, equipment or safety gear.

"DHCD" means the Virginia Department of Housing and Community Development.

"Gravity ride" means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

"Ground operator" means a person who assists the jump master to prepare a jumper for jumping.

"Harness" means an assembly to be worn by a bungee jumper to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

"Jump master" means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

"Jump zone" means the space bounded by the maximum designed movements of the bungee jumper.

"Jumper" means the person who departs from a height attached to a bungee system.

"Landing area" means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the bungee jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

"Operating manual" means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

"Passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or ropes, and usually supported by trestles or towers with one or more spans.

"Platform" means the equipment attached to the structure from which the bungee jumper departs.

"Private inspector" means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in an amusement device being inspected.

"Ultimate tensile strength" means the greatest amount of load applied to a bungee cord prior to failure.

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.).

B. Words and terms used in this chapter which are defined in the USBC shall have the meaning ascribed to them in that regulation unless the context clearly indicates otherwise.

C. Words and terms used in this chapter which are defined in the standards incorporated by reference in this chapter shall have the meaning ascribed to them in those standards unless the context clearly indicates otherwise.

13 VAC 5-31-30. Exemptions.

Nonmechanized playground equipment where no admission fee is charged for its use or to areas where the equipment is located and three or less passenger coin-operated rides shall not be amusement devices subject to this chapter.

13 VAC 5-31-40. Incorporated standards.

A. The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. B77.1-90 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. F698-94, F747-95, F770-93, F846-92, F853-93, F893-87, F1159-94, F1193-95, F1305-94 for the regulation of amusement devices other than passenger tramways.

The standards referenced above may be procured from:

ANSI	ASTM
11 W. 42nd Street	100 Barr Harbor Dr.
New York, NY 10036	West Conshohocken, PA 19428-2956

B. The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

C. The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;
2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and

(ii) one operator is permitted to operate two kiddie rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and

3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

13 VAC 5-31-50. Certification of amusement device inspectors.

A. Any person, including local building department personnel, inspecting an amusement device relative to a certificate of inspection shall possess a valid certificate of competence as an amusement device inspector from the BHCD.

B. Local building department personnel enforcing this chapter shall attend periodic training courses as designated and provided by DHCD.

13 VAC 5-31-60. Appeals.

Appeals from the local building department concerning the application of this chapter shall be made to the board of appeals established by the USBC. Application for appeal shall be filed with the local building department within 14 days after the decision of the local building department. The board of appeals shall hear the appeal within seven days after the application for appeal is filed.

NOTE: Because of the short time frames normally associated with amusement device operations, DHCD staff will be available to assist in finding a timely resolution to disagreements between owners or operators and the local building department upon request by either party.

PART II.

OWNER OR OPERATOR RESPONSIBILITIES.

13 VAC 5-31-70. Inspections.

The owner or operator of an amusement device shall be permitted to engage a private inspector to provide the necessary inspections for obtaining a certificate of inspection for an amusement device. If a private inspector is to be used, the owner or operator shall notify the responsible local building department as soon as practical. If a private inspector is not to be used, the owner or operator shall give reasonable notice to the responsible local building department when an inspection for issuing a certificate of inspection is sought. The owner or operator may designate the specific day for the inspection to take place provided it is during the local building department's normal work week.

13 VAC 5-31-80. Owner or operator responsibilities.

In addition to other applicable requirements of this chapter, the owner or operator of an amusement device or devices shall be responsible for the following:

1. Submitting a permit application to the responsible local building department at least five days before a permit to operate, or renewal of a permit to operate, is sought. The permit application shall include (i) the name of the owner, operator or other person assuming responsibility; (ii) a general description of the device or devices to be permitted; (iii) any relevant serial or identification numbers; (iv) the location of the property on which the device or devices will be operated; and (v) the length of time the device or devices will be operating at the site;

2. Submitting an application for modification of any provision of this chapter when a modification is sought due to practical difficulties involved in complying with this chapter. The application for modification shall include documentation outlining the practical difficulties and method proposed to protect the public health, safety and welfare;

3. Submitting to the responsible local building department before or with the application for a permit to operate, or renewal of a permit to operate, proof of liability insurance of an amount not less than \$300,000 or proof of equivalent financial responsibility and notifying the responsible local building department promptly of any change in the liability insurance or financial responsibility status during the period of operation to be, or which is, authorized by the permit;

4. Obtaining a permit to operate from the responsible local building department prior to operation or obtaining the renewal of a permit to operate when necessary prior to continued operation. Notwithstanding the above, a permit for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site. However, in such cases, the responsible local building department shall be notified prior to operation and such notification shall include the information required on a permit application as stipulated in subdivision 1 of this subsection;

5. Making available to the inspector at the time of inspection for a certificate of inspection the information listed in §§ 3.1 through 3.6 of ASTM F698-94 when manufactured prior to 1978;

6. Obtaining a certificate of inspection from the responsible local building department (i) prior to initial operation; (ii) prior to operation following a major modification; (iii) prior to each seasonal operation; (iv) at least once a year if operated more than seasonally; and (v) prior to resuming operation following an order from the local building department to cease operation. Notwithstanding the above, a certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local

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building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site; and

7. Ceasing operation upon receipt of a temporary order to cease operation issued by the responsible local building department.

13 VAC 5-31-90. Accidents.

In the event of an accident involving serious injury or death the owner or operator shall:

1. Contact the responsible local building department as soon as practical;
2. Cease operation until the responsible local building department approves resuming operation, except that approval from the responsible local building department for resuming operation is not required if the investigation required by subdivision 3 of this section provides reasonable evidence that the serious injury or death was not related to malfunction or improper operation;
3. Conduct an investigation to include (i) an examination of the accident scene; (ii) an interview of any witnesses or persons involved in the accident; and (iii) compiling a written report. The report shall contain a summary of the investigation and a description of the device involved, including the name of the manufacturer, the serial number and the date of manufacture, if available; and
4. Submit the investigation report to the responsible local building department within 24 hours after the time of the accident except that if its office is closed during the 24-hour period, the report shall be submitted within four hours after the office reopens.

PART III. ENFORCEMENT.

13 VAC 5-31-100. Local building department.

The local building department's official or representative shall be permitted to do the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Collect fees for a permit to operate, renewal of a permit to operate and inspections conducted by staff to issue a certificate of inspection. The total for fees associated with one permit to operate and any associated inspections or one renewal of a permit to operate and any associated inspections shall not exceed the following:
 - a. \$15 for each kiddie ride under the permit;
 - b. \$25 for each circular ride or flat-ride under the permit which can be inspected from less than 20 feet above ground; and
 - c. \$45 for each other type of amusement device under the permit.

Notwithstanding the above, the fee for each amusement device under the permit shall be reduced by 50% when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector;

2. In addition to the above, require permits and charge fees as appropriate under the USBC for amusement devices which are being initially constructed in whole or in part at a site within the jurisdiction for intended operation at that site. This authorization does not apply to an amusement device which is only being reassembled or undergoing a major modification at a site or being moved to a site for operation;

3. Approve modifications of this chapter upon determination that the public health, safety and welfare are assured;

4. Conduct an inspection at any time when the device would normally be open for operation, or at any other time if permission is granted by the owner or operator, for compliance with this chapter; and

5. Issue an order to temporarily cease the operation of an amusement device upon determination that it may be unsafe or otherwise endanger the public. The temporary order shall remain in effect until a new certificate of inspection is issued.

13 VAC 5-31-110. Enforcement.

The local building department's official or representative shall be responsible for the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Approving or rejecting any application made for a permit to operate, or renewal of a permit to operate, within five days after submittal and issuing or renewing the permit when appropriate. The permit shall be issued or renewed for the length of time the device or devices will be operating at the site, except that if the length of time exceeds one year, the permit or renewal shall expire after one year. The permit to operate or renewed permit to operate shall state (i) the estimated length of time that the device or devices will be operated at the site; (ii) the name of, or otherwise identify, the device or devices covered by the permit; and (iii) the date when the permit expires;
2. When a certificate of inspection is sought by the owner or operator, conducting an inspection to assure compliance with this chapter unless the owner or operator is providing an approved private inspector. If the owner or operator has given reasonable notice that a certificate of inspection is sought and designated a specific day for the inspection, then the inspection shall be conducted on that day;
3. Accepting a written report of inspection from an approved private inspector;
4. When in receipt of a written report of inspection from an approved private inspector or after assuring compliance with this chapter through inspection, completing a certificate of inspection distributed by

DHCD and causing the certificate to be posted or affixed on or in the vicinity of the device in a location visible to the public;

5. Accepting an existing certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the capacity is 12 passengers or less; and (iii) the assembly time is two hours or less, provided the existing certificate of inspection for the ride was issued by a local building department in this Commonwealth less than one year prior to the date for which a certificate of inspection is sought, regardless of whether disassembly has occurred. Notwithstanding the above, if the kiddie ride is determined to be in violation of this chapter, the existing certificate of inspection shall not be valid; and

6. Issuing an order to cease operation upon discovery or notification that an accident involving the device has caused serious injury or death, except where the owner or operator has determined that the serious injury or death was not related to malfunction or improper operation of the device. Whether or not the order to cease operation has been issued, the official or representative shall conduct an inspection, or accept an inspection report from an approved private inspector, to assure the device complies with this chapter and is safe for operation.

PART IV. BUNGEE JUMPING.

13 VAC 5-31-120. General requirements.

A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.

B. Bungee jumping operations which are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.

C. Bungee jumping activities which involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.

13 VAC 5-31-130. Bungee cords.

A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:

1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and

2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.

B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to

specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five-foot lengths.

13 VAC 5-31-140. Jump hardware.

Jump harnesses shall be either full body-designed, which includes a waist harness worn in conjunction with a chest harness, or ankle-designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.

13 VAC 5-30-150. Structure requirements.

Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.

13 VAC 5-31-160. Operational and site requirements.

A. Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.

B. The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.

C. All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.

D. A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.

E. The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.

F. An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times

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and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

G. Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;
2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size which reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;
3. The landing vessel shall be readily available for the duration of the landing procedures;
4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;
5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and
6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

H. Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole;
2. The jump space and landing area shall be fenced to exclude the public; and
3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

I. Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

13 VAC 5-31-170. Management and personnel responsibilities.

A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

B. The site-manager is responsible for the following:

1. Controlling the entire operation;
2. Site equipment and procedures;
3. Determining whether it is safe to jump;

4. Selection of, and any training of personnel;
5. Emergency procedures; and
6. Maintaining records.

C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;
3. Rescue and emergency procedures; and
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.

D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump;
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;
3. Assisting the jumper to the recovery area; and
4. Maintaining a clear view of the landing area.

E. Each site shall have an operating manual which shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and
2. An emergency rescue plan.

F. The daily operating procedures shall be conducted in accordance with ASTM F770-93.

G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

PART V. GRAVITY RIDES.

13 VAC 5-31-180. General requirements.

A. The provisions of this part are specific to gravity rides and are in addition to other applicable provisions of this chapter.

B. A ride using carriers shall be designed and constructed to retain the passengers in or on a carrier during the operation of the ride and retain the carrier on or within the track, slide, or chute system during the operation of the ride.

C. A ride that conveys passengers not in or on a carrier shall be designed and constructed to retain the passengers within the chute or slide during the ride.

D. At each loading or unloading area, a hard surface which is other than earth and which is reasonably level shall be provided. The surface shall be large enough to accommodate the intended quantity of passengers.

E. Where loading or unloading platforms are elevated more than 30 inches from the adjacent areas, guard rails conforming to the USBC shall be provided.

F. Passengers shall not have to step up or down more than 12 inches from the loading or unloading surface to enter or exit the ride.

G. The frequency of departure of carriers or riders from the loading areas shall be controlled by a ride operator. The minimum distance between departures shall be determined by the designer of the specific ride.

H. When a passenger has control of the speed or course of the carrier, the passenger shall have a clear sight distance along the course of the ride long enough to allow the passenger to avoid a collision with another person or carrier.

I. The unloading area of the ride shall be designed and constructed to bring riders and carriers to a safe stop without any action by the rider.

J. There shall be attendants at the loading and unloading area when the ride is in use.

K. If the entire course of the ride is not visible to the operator, additional persons with communications equipment shall be provided or approved visual surveillance equipment shall be installed along the course of the ride which is not visible to the operator.

L. Any moving or hot parts that may be injurious to the ride operator or the public shall be effectively guarded to prevent contact.

M. Fencing or adequate clearance shall be provided that will prevent the riders from contact with persons or nearby objects.

VA.R. Doc. No. R97-90; Filed October 23, 1996, 11:54 a.m.

Title of Regulation: 13 VAC 5-50-10 et seq. Virginia Statewide Fire Prevention Code (REPEALING).

VA.R. Doc. No. R97-91; Filed October 23, 1996, 11:53 a.m.

Title of Regulation: 13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code.

Statutory Authority: § 27-97 of the Code of Virginia.

Public Hearing Date: December 9, 1996 - 9 a.m.
Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Section 27-97 of the Code of Virginia empowers the Board of Housing and Community Development to adopt and promulgate a Statewide Fire Prevention Code.

Purpose: The purpose of the proposed amendments is to make the regulation better comport with state law, be more easily understood and better mesh with the Uniform Statewide Building Code, and to update the current standards, all of which impact in a positive way on the public's health, safety and welfare.

Substance: These proposed amendments to the Statewide Fire Prevention Code will bring it in line with the latest model codes and standards.

Issues: The advantages of this regulatory action will be to keep Virginia's fire safety regulations up to date with national standards. There are no anticipated disadvantages for the public, the agency or related entities associated with this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth performance requirements for the use of explosives and the maintenance and use of structures with regard to fire safety. The primary amendments contained in the proposed regulation are as follows:

- the proposed regulation has been updated to reflect current nationally approved safety standards;
- blaster certification requirements have been deleted from the Virginia Certification Standards (13 VAC 5-20-10, et seq.) and incorporated into this regulation; and
- the format of the regulation has been changed to make it more understandable to the regulated community.

Estimated Economic Impact.

Incorporation of Current National Standards. Revising the current regulation to include the most recent nationally approved standards is likely to have two primary economic effects. First, it will increase public safety by ensuring that statewide standards safeguarding the public from conditions likely to cause or contribute to the spread of fire reflect the current state of knowledge in this area. Second, in those instances where the new national standards entail an increase in regulatory stringency, there may be a modest increase in regulatory compliance costs. Although it would be cost prohibitive for DPB to quantify the precise magnitude

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of these economic effects, it seems reasonable to assume, given the comprehensive process used to develop the national standards, that anticipated benefits exceed anticipated costs.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects businesses that construct or own buildings and other structures in Virginia, and those members of the general public that use those buildings and structures.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed amendments to the current regulation will have a positive effect on public health and safety, although it may entail some increase in regulatory compliance costs.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The proposed regulation sets forth performance requirements for the use of explosives and the maintenance and use of structures with regard to fire safety. The proposed regulation will replace the existing Statewide Fire Prevention Code, which is concurrently being repealed. The primary changes are as follows:

1. The proposed regulation has been updated to reflect current nationally approved safety standards;
2. Blaster certification requirements have been deleted from the Virginia Certification Standards and incorporated into this regulation; and
3. The format of the regulation has been changed to make it more understandable to the regulated community.

CHAPTER 51.

VIRGINIA STATEWIDE FIRE PREVENTION CODE.

13 VAC 5-51-10. Incorporation by reference.

A. The following document is adopted and incorporated by reference to be an enforceable part of this chapter:

The BOCA National Fire Prevention Code/1996, Tenth Edition, hereinafter referred to as "BNFPC," published by Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

B. The following changes shall be made to the BNFPC for its use as an incorporated document in this chapter.

13 VAC 5-51-20. BNFPC Section F-101.0 General.

A. Change subsection F-101.1 to read:

F-101.1 Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code, hereinafter referred to as "this code." This code contains provisions of the BNFPC as published by BOCA International, Inc. and provisions developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development which change provisions of the BNFPC. Where conflicts occur between unchanged and changed provisions of the BNFPC, the changed provisions shall govern.

Note: This code as on file with the Virginia Code Commission sets out the changed sections of the BNFPC using Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNFPC section numbering. Replacement pages for the BNFPC containing the changed sections marked in the margin with a double line may be obtained from DHCD.

B. Change subsection F-101.2 to read:

F-101.2 Scope: These regulations provide for statewide standards to be complied with to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, wherever located. This code also prescribes regulations for the handling, storage and use of explosives or blasting agents. To the extent that any provisions of this code are not within this scope, those provisions are considered to be invalid.

Note: The BNFPC and its referenced standards contain some areas of regulation outside of the scope of this code, as established under state law. Where conflicts have been readily noted, changes have been made to the BNFPC to bring it within the scope of authority, however, in some areas, judgment will have to be made as to whether the provisions of the BNFPC and its referenced standards are fully applicable. Code officials may request the TRB to give guidance in these areas and should consider precedent established through appeal decisions rendered by the TRB.

C. Change subsection F-101.3 to read:

F-101.3 Relationship to USBC: The USBC shall not supersede provisions of this code to be complied with in existing buildings or structures, provided such provisions of this code shall not impose requirements that are more restrictive than those of the USBC under which the buildings or structures were constructed. Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of such buildings and structures shall be subject to the USBC.

Inspections of buildings other than state-owned buildings under construction and the review and approval of building plans for these structures for enforcement of the USBC shall be the sole responsibility of the appropriate local building inspectors. Upon completion of such structures, responsibility for fire safety protection shall pass to the code official in those localities which enforce this code or to the

State Fire Marshal in those localities which do not enforce this code.

D. Add subsection F-101.3.1 to read:

F-101.3.1 *Inspections for USBC requirements:* The code official shall be permitted to inspect any structures identified in Section 3402.0 of the USBC to determine whether requirements of Section 3402.0 relating to fire safety are complied with. The code official shall report any findings of noncompliance to the appropriate building code official.

13 VAC 5-51-30. BNFFPC Section F-102.0 Applicability.

A. Change subsection F-102.1 to read:

F-102.1 *General:* The provisions of this code shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F-101.0.

B. Change subsection F-102.3 to read:

F-102.3 *Application to structures:* Structures which were constructed prior to regulation under the USBC shall comply with the maintenance requirements of this code to the extent that equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, which were provided when constructed, or required or regulated under a code in effect at the time of construction of the structure, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986 (Virginia Public Building Safety Regulations, VR 394-01-05), shall also be maintained in accordance with those regulations.

Structures which were constructed under any edition of the USBC shall comply with the maintenance requirements of this code to the extent that the equipment, systems, devices, and safeguards required or regulated under the code which governed the construction of the structure shall be maintained.

C. Add subsection F-102.3.1 to read:

F-102.3.1 *State structures:* This code shall be applicable to all state-owned buildings and structures. Every agency, commission or institution of this Commonwealth shall permit, at all reasonable hours, the code official reasonable access to existing structures or a structure under construction or renovation, for the purposes of performing an informational and advisory fire safety inspection. The code official may submit, subsequent to performing such inspection, his findings and recommendations including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the code official of the corrective measures taken to eliminate the hazards reported by the code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in Section F-105.0.

The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any code official to enforce this section and to take immediate

enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.

13 VAC 5-51-40. BNFFPC Section F-105.0 Enforcement Authority.

A. Change subsection F-105.1 to read:

F-105.1 *Local and state enforcement:* Any local government may enforce this code. The State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal shall also have the authority to enforce this code in those jurisdictions in which the local governments do not enforce this code. The local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. It shall be the duty and responsibility of the designated code official to enforce the provisions of this code.

B. Change subsection F-105.2 to read:

F-105.2 *Appointment:* The code official shall be appointed by the chief appointing authority of the jurisdiction, and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. Add subsection F-105.2.1 to read:

F-105.2.1 *Certification:* The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.

D. Add subsection F-105.2.2 to read:

F-105.2.2 *Training:* A code official that has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.

E. Add subsection F-105.2.3 to read:

F-105.2.3 *Notification of appointment:* The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.

F. Add subsection F-105.3.1 to read:

F-105.3.1 *Certification:* The inspector or technical assistant having enforcement responsibility under this code shall obtain a certificate of competence in the appropriate subject areas from the DHCD within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.

G. Delete subsection F-105.5.

H. Add subsection F-105.9 to read:

F-105.9 *Continuing education:* Code officials, inspectors and technical assistants enforcing this code shall attend

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periodic training courses as designated and provided by the DHCD.

13 VAC 5-51-50. BNFPC Section F-106.0 Duties and Powers of the Code Official.

A. Change subsection F-106.4 to read:

F-106.4 Inspections: The code official may make all of the required inspections or the code official may accept reports of inspections by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise subject to the approval of the appointing authority.

B. Change subsection F-106.6 to read:

F-106.6 Authority: The code official shall have authority as necessary in the interest of public health, safety and general welfare to implement the provisions of this code to secure the intent thereof, and to designate requirements applicable because of local and climatic or other conditions.

C. Change subsection F-106.7 to read:

F-106.7 Department records: The code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Ten for the Library of Virginia.

13 VAC 5-51-60. BNFPC Section F-107.0 Permits.

A. Change subsection F-107.2 to read:

F-107.2 Permits required: Permits may be required by the code official as permitted under this code except that the code official shall require permits for the manufacturing, storage, handling, use, or sales of explosives. Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, or sales of explosives in localities not enforcing this code. Annual permits for the manufacturing, storage, handling, use, or sales of explosives shall be issued to any state regulated public utility. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the code official.

B. Add subsection F-107.2.4 to read:

F-107.2.4 Fees: Fees may be levied by the local governing body in order to defray the cost of enforcement of this code and appeals under Section F-113.0. Fees for permits issued by the State Fire Marshal's Office shall be as follows:

1. \$50 per year per site to possess, store or dispose of explosives or blasting agents.
2. \$75 per year per county, city or town to use explosives or blasting agents.

C. Change subsection F-107.7 to read:

F-107.7 Revocation of permit: The code official may revoke a permit or approval issued under the provisions of this code if, upon inspection, any violation of the code exists, or if conditions of a permit have been violated, or if there has been any false statement or misrepresentation as to material fact in the application, data or construction documents on which the permit or approval was based.

D. Add exception to subsection F-107.8 to read:

Exception: The code official is permitted to authorize delayed payment of fees.

13 VAC 5-51-70. BNFPC Section F-108.0 Inspection.

Change subsection F-108.1 to read:

F-108.1 Inspection: The code official may inspect all structures and premises, except single-family dwellings and dwelling units in two-family and multiple-family dwellings, for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety.

Note: Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through 27-98.5 of the Code of Virginia and must be taken into consideration.

13 VAC 5-51-80. BNFPC Section F-109.0 Fire Investigations.

Change subsection F-109.1 to read:

F-109.1 Investigation of fires: When authorized by the local government, the code official shall investigate, or cause to be investigated, every fire or explosion occurring within the jurisdiction that is of a suspicious nature or which involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion. If it appears that such an occurrence is of a suspicious nature, the code official shall immediately take charge of the physical evidence and, in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, the code official shall take measures to prevent access by any person to the structure or premises until such evidence has been properly processed. The code official shall notify those persons designated by law to pursue investigations into such matters and shall further cooperate with the authorities in the collection of evidence and prosecution of the case and shall pursue the investigation to its conclusion.

13 VAC 5-51-90. BNFPC Section F-110.0 Unsafe Conditions.

Delete subsection F-110.3.1 Special equipment.

13 VAC 5-51-100. BNFPC Section F-111.0 Emergency Measures.

Change subsection F-111.2 to read:

F-111.2 Unlawful continuance: Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an

evacuation order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

13 VAC 5-51-110. BNFPC Section F-112.0 Violations.

A. Change subsection F-112.1 to read:

F-112.1 Notice of violation: Whenever the code official observes an apparent or actual violation of a provision of this code or other codes or ordinances under the code official's jurisdiction, the code official shall prepare a written notice of violation citing the section violated, describing the condition deemed unsafe and specifying time limitations for the required repairs or improvements to be made to render the structure or premises safe and secure. Such order shall reference the section of this code that serves as the basis of the violation.

B. Change subsection F-112.2 to read:

F-112.2 Failure to correct violations: If the notice of violation is not complied with within the time specified by the code official, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of any order or direction made pursuant thereto.

C. Change subsection F-112.3 to read:

F-112.3 Penalty for violations: Penalties for violations of this code shall be as set out in § 27-100 of the Code of Virginia.

13 VAC 5-51-120. BNFPC Section F-113.0 Means of Appeal.

A. Change subsection F-113.1 to read:

F-113.1 Application for appeal: Appeals concerning the application of this code by the code official shall first lie to the board of appeals established in Section F-113.2 and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in § 36-108 et seq. of the Code of Virginia. The appeal shall be submitted within 14 days of the application of this code.

B. Change subsection F-113.2 to read:

F-113.2 Board of appeals: There shall be established a board of appeals which shall consist of at least five members appointed by the chief appointing authority.

C. Change subsection F-113.2.1 to read:

F-113.2.1 Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines:

1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering or architectural experience.

3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.

4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.

5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.

The code official, technical assistants, inspectors, or other employees of the enforcement agency shall not serve as members of the board of appeals.

D. Change subsection F-113.2.2 to read:

F-113.2.2 Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

E. Delete subsection F-113.2.6.

F. Change subsection F-113.5 to read:

F-113.5 Postponed hearing: When a quorum of the board is 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.

G. Change subsection F-113.6 to read:

F-113.6 Board decision: The board shall rule by a concurring vote of a majority of members present.

H. Change subsection F-113.6.1 to read:

F-113.6.1 Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.

I. Change subsection F-113.7 to read:

F-113.7 Appeal to the TRB: Appeals to the TRB from a decision of the board of appeals shall be made within 21 days of receipt of the resolution of the board of appeals.

13 VAC 5-51-130. BNFPC Section F-202.0 General Definitions.

Add the following definitions:

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

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Local government: The governing body of any county, city, or town in this Commonwealth.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

13 VAC 5-51-140. **BNFPC Section F-707.0 High-Rise Buildings.**

Add subsection F-707.4 to read:

F-707.4 Fire exit drills: Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

13 VAC 5-51-150. **BNFPC Section F-3001.0 General.**

A. Change subsection F-3001.1 to read:

F-3001.1 Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this code, except that the year edition of NFPA 495 referenced shall be 1996.

B. Add exception to subsection F-3001.1 to read:

7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

C. Add exception to subsection F-3001.3 to read:

Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

13 VAC 5-51-160. **BNFPC Section F-3002.0 Definitions.**

Add the following definitions:

Blaster, restricted: Any person engaging in the use of explosives or blasting agents utilizing five pounds (2.25 kg) or less per blasting operation and using instantaneous detonators.

Blaster, unrestricted: Any person engaging in the use of explosives or blasting agents without limit to the amount of explosives or blasting agents or type of detonator.

13 VAC 5-51-170. **BNFPC Section F-3003.0 General Requirements.**

A. Add subsection F-3003.5 to read:

F-3003.5 Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be properly certified as a restricted or unrestricted blaster by the DHCD or shall be

supervised on-site by a person properly certified by DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD. The applicant for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.

2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD.

Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

F-3003.5.1 Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30 and shall be made payable to "Treasurer of Virginia." A certificate will not be issued until payment is received.

C. Add subsection F-3003.5.2 to read:

F-3003.5.2 Renewal of certificate: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years.

D. Add subsection F-3003.6 to read:

F-3003.6 Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

E. Add subsection F-3003.7 to read:

F-3003.7 Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official when there is local enforcement of this code and to the State Fire Marshal.

13 VAC 5-51-180. BNFP Section F-3101.0 General.

Add exception to subsection F-3101.1 to read:

Exception: This chapter shall not apply to the use or the sale of sparklers, fountains, Pharoah's serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies provided that such fireworks are used, ignited or exploded on private property with the consent of the owner of such property.

VA.R. Doc. No. R97-92; Filed October 23, 1996, 11:53 a.m.

DOCUMENT INCORPORATED BY REFERENCE

The BOCA National Fire Prevention Code/1996, 10th Edition, Building Officials and Code Administrators International, Inc.

Title of Regulation: 13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993 (REPEALING).

VA.R. Doc. No. R97-98; Filed October 23, 1996, 11:50 a.m.

Title of Regulation: 13 VAC 5-70-10 et seq. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993 (REPEALING).

VA.R. Doc. No. R97-99; Filed October 23, 1996, 11:50 a.m.

Title of Regulation: 13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code.

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

Public Hearing Date: December 9, 1996 - 9 a.m. Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Section 39-98 of the Code of Virginia directs the Board of Housing and Community Development to adopt and promulgate a Uniform Statewide Building Code.

Purpose: The purpose of the proposed amendments is to make the regulation better comport with state law, be more easily understood, better mesh with the Statewide Fire Prevention Code, and to update to more current standards, all of which impact in a positive way on the public's health, safety and welfare.

Substance: These proposed amendments to the Uniform Statewide Building Code will bring it in line with the latest model codes and construction standards, and eliminate one regulation by incorporation of the provisions in the new building code.

Issues: The advantages of this regulatory action will be to keep Virginia's construction and maintenance regulations up-to-date with national standards thereby providing a more friendly environment for acceptance of new construction materials which meet those standards, and eliminate regulations. There are no anticipated disadvantages for the public, the agency, or related entities associated with this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth performance requirements for construction, maintenance, and use of structures and their equipment. The primary amendments contained in the proposed regulation are as follows:

- the proposed regulation has been updated to reflect current nationally approved safety standards;
- requirements regarding maintenance of structures have been transferred to this regulation from the Virginia Uniform Statewide Building Code, Vol. 2, Building Maintenance Code/1993;
- permit application requirements for some existing materials or equipment replacements have been deleted;
- a policy for residential expansive soil testing has been incorporated;
- new standards for radon gas mitigation in residential structures have been incorporated;
- the notice of violation section has been amended to include certain statutory language; and
- requirements for additional smoke detectors in certain residential structures have been added.

Estimated Economic Impact.

Incorporation of current national standards. Amending the current regulation to reflect the most recent nationally approved standards is likely to have two primary economic effects. First, it will have a positive effect on public safety by insuring that structures in Virginia comport with nationally accepted performance and safety standards. Second, in those instances where the new national standards entail an increase in regulatory stringency, there could be an increase in regulatory compliance costs. Although it would be cost prohibitive for DPB to quantify the precise magnitude of these economic effects, it seems reasonable to conclude, given the comprehensive and inclusive process used to develop these nationally accepted standards, that the anticipated benefits exceed anticipated costs.

Transfer of requirements regarding maintenance of structures. Because this portion of the current regulation is simply being transferred from the Virginia Uniform Statewide Building Code, Vol. 2, Building Maintenance Code/1993 and

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will remain in force, this amendment will have no economic consequences.

Deletion of permit application requirements for some replacements. The primary economic consequence of this revision to the current regulation will be a reduction in regulatory compliance costs. For some minor replacements (e.g., replacing a water heater) permits will no longer be required. This revision will can only serve to make the regulation less intrusive.

Policy for residential expansive soil testing. Although local building departments currently have broad authority to require expansive soil testing, the statewide standardization of this requirement will almost certainly entail an increase in regulatory stringency for some areas of the state. This increased stringency will likely have three economic consequences. First, it will enhance the quality assurance provided to new home buyers. Second, it will reduce the liability exposure incurred by home builders. Third, it will increase the regulatory compliance costs borne by home builders. It would be cost prohibitive for DPB to quantify the precise magnitude of these economic consequences, however.

New standards for radon gas mitigation. The addition of new standards for mitigation of radon gas in residential structures is also likely to have two economic consequences. First, it may have a beneficial effect on public safety by reducing the public's exposure to harmful radon gas. Because of the current controversy regarding the magnitude of the danger posed by radon gas, it is not be possible to quantify the magnitude or even the existence of this benefit, however. Second, inclusion of the new standards will increase regulatory compliance costs. According to anecdotal evidence provided by DHCD, the increase in home construction costs attributable to the new standards could be in the neighborhood of \$300 per dwelling.

Amendment of the notice of violation section. The Notice of Violation (NOV) section has been amended to limit the time allowed for issuance of a NOV to within three years after construction. This time limit comports with the statute of limitations for prosecution of Building Code violations. DPB has not quantified the economic consequences of this change with respect to abatement of Building Code violations. Such quantification would be cost prohibitive.

Additional smoke detectors. The proposed regulation includes provisions that require additional smoke detectors in certain residential structures. These provisions are likely to have two economic consequences. First, they will enhance public safety by providing additional protection to Virginia resident against injury or death resulting from residential fires. Smoke detectors are widely recognized as a proven and successful measure in preventing such catastrophes. Second, these provisions will increase regulatory compliance costs. According to anecdotal evidence provided by DHCD, the increase in home construction costs attributable to the requirements could be in the neighborhood of \$50 to \$100 per dwelling.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects virtually every property owner, contractor, and citizen in Virginia.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed amendments to the Uniform Statewide Building Code will have two primary economic effects: 1) a modest increase in regulatory compliance costs; and 2) an associated increase in health and safety.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The Virginia Uniform Statewide Building Code (Building Code) prescribes performance standards for construction, maintenance and use of buildings and structures and their equipment, at the least possible cost consistent with recognized standards of health, safety, energy and water conservation and barrier-free provisions for the physically handicapped and aged. It also contains procedures for enforcement, administration and appeals from decisions arising under application of the Building Code.

This proposed regulation replaces the two regulations which are being repealed concurrently with this action. Also, included in this regulatory action is updating the latest construction and maintenance model codes and standards.

CHAPTER 61.

VIRGINIA UNIFORM STATEWIDE BUILDING CODE.

13 VAC 5-61-10. Incorporation by reference.

A. *The following document is adopted and incorporated by reference to be an enforceable part of this chapter:*

The BOCA National Building Code/1996, Thirteenth Edition hereinafter referred to as "BNBC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

B. *The following changes shall be made to the BNBC for its use as an incorporated document in this chapter.*

13 VAC 5-61-20. BNBC Section 101.0 Scope.

A. *Change subsection 101.1 to read:*

101.1 Title: These regulations shall be known as the Virginia Uniform Statewide Building Code, hereinafter referred to as "this code." This code contains provisions of the BNBC as published by BOCA International, Inc. and provisions adopted by the Virginia Board of Housing and Community Development which change provisions of the BNBC. Where conflicts occur between unchanged and

changed provisions of the BNBC, the changed provisions shall govern.

Note: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) as on file with the Virginia Code Commission sets out the changed sections of the BNBC using the Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNBC section numbering. Replacement pages for the BNBC containing the changed sections marked in the margin with a double line may be obtained from DHCD.

B. Change subsection 101.2 to read:

101.2 Scope: This code prescribes building regulations to be complied with in the construction and maintenance of structures and the equipment therein including provisions for administration and enforcement. To the extent that any provisions of this code are not within this scope, those provisions are considered to be invalid.

Note: The BNBC and its referenced standards contain some areas of regulation outside of the scope of this code, as established under state law. Examples are certain worker protection requirements, private sewage disposal system criteria and certain functional design considerations. Where conflicts have been readily noted, changes have been made to the BNBC to bring it within the scope of authority, however, in some areas, judgement will have to be made as to whether the provisions of the BNBC and its referenced standards are fully applicable. Code officials may request the TRB to give guidance in these areas and should consider precedent established through appeal decisions rendered by the TRB.

C. Add subsection 101.2.1 to read:

101.2.1 State structures: This code shall be applicable to all state-owned structures, with the exception that §§ 2.1-514 through 2.1-521.1 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of this code, shall remain subject to the provisions of this code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such structures shall be subject to the pertinent provisions of this code.

Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the code official for state-owned buildings as prescribed by § 36-98.1 of the Code of Virginia.

D. Delete subsection 101.4.

13 VAC 5-61-30. BNBC Section 102.0 Applicability.

A. Change subsection 102.2 to read:

102.2 When applicable; existing structures: Construction for which a permit application is submitted to the code official

after April 15, 1997, shall comply with the provisions of this code, except when construction documents for proposed construction were substantially complete prior to the above date and a permit application is submitted to the code official within one year after the above date. In such cases, construction shall comply with either the provisions of this code or the provisions of this code in effect immediately prior to April 15, 1997.

All structures shall comply with the applicable requirements of this code for the maintenance of existing structures.

B. Change subsection 102.3 to read:

102.3 Exemptions: The following are exempt from this code.

1. Equipment controlled by a publicly regulated utility service and located on property by established rights.

2. Manufacturing and processing machines including the following service equipment associated with the manufacturing or processing machines:

a. Electrical equipment connected after the last disconnecting means;

b. Plumbing piping and equipment connected after the last shutoff valve or backflow device or before the equipment drain trap; and

c. Gas piping and equipment connected after the outlet shutoff valve.

3. Parking lots and sidewalks which are not part of an accessible route.

4. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is not regulated by the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).

5. Industrialized buildings under Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia; however, applicable requirements of this code affecting industrialized buildings, including utility connections, preparation of the site and maintenance of the unit remain in full force and effect.

6. Manufactured homes displaying the certification label as prescribed by the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280); however, applicable requirements of this code affecting site preparation, utility connections, skirting installation, and maintenance of the manufactured home remain in full force and effect.

13 VAC 5-61-40. BNBC Section 103.0 Validity.

A. Change section 103.0 title to "Enforcement."

B. Change subsection 103.1 to read:

103.1 Responsibility for enforcement: Enforcement of the provisions of this code governing construction is the responsibility of the department of building inspection. Whenever a county or a municipality does not have such a department, the local governing body shall enter into an

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agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce this code, the county in which the town is situated shall administer and enforce this code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce this code within their respective boundaries.

C. Change subsection 103.2 to read:

103.2 Authority to defray cost; fee levy: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to this code. The department of building inspection shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities which maintain individual or regional training academies accredited by the DHCD shall retain such levy.

D. Change subsection 103.3 to read:

103.3 Existing structures: The local governing body may inspect and enforce the provisions of this code for the maintenance of existing structures, whether occupied or not, including provisions for elevators. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body. However, 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 the structure is unsafe, the local building department shall enforce the provisions of this code relating to unsafe structures.

13 VAC 5-61-50. BNBC Section 104.0 Department of Building Inspection.

A. Add subsection 104.1.1 to read:

104.1.1 Code official for existing structure provisions: A separate department of building inspection may be created for enforcement of the provisions of this code for the maintenance of existing structures and the executive official in charge thereof shall also be known as the code official.

B. Add subsection 104.2.1 to read:

104.2.1 Certification: The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within one year after appointment unless appointed prior to April 1, 1983, with continued appointment or appointed prior to April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.

C. Add subsection 104.2.2 to read:

104.2.2 Training: A code official who has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.

D. Add subsection 104.2.3 to read:

104.2.3 Notification of appointment: The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.

E. Add subsection 104.3.1 to read:

104.3.1 Certification: The inspector or technical assistant shall obtain a certificate of competence in the appropriate subject areas from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to March 1, 1988, with continued appointment or appointed prior to April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.

F. Delete subsection 104.5.

G. Change subsection 104.7 to read:

104.7 Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.

13 VAC 5-61-60. BNBC Section 105.0 Duties and Powers of the Code Official.

A. Change subsection 105.6 to read:

105.6 Delegation of duties and powers: The code official is permitted to delegate duties and powers subject to any limitations imposed by the appointing authority and shall be responsible for assuring that delegated duties and powers are carried out in accordance with this code.

B. Change subsection 105.7 to read:

105.7 Department records: The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Six from the Library of Virginia.

13 VAC 5-61-70. Change BNBC subsection 106.2 to read:

106.2 Modifications: When there are practical difficulties involved in carrying out provisions of this code, the code official shall have the right to modify such provisions upon application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

13 VAC 5-61-80. BNBC Section 107.0 Application for Permit.

A. Add exceptions to subsection 107.1 to read:

Exceptions:

1. Installation of wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum or penetrating an assembly required to have a fire-resistance rating.

2. Construction of detached utility sheds not exceeding 150 square feet (14 m²) of building area or 102 inches

(2591 mm) in wall height and not classified as Use Group F or H.

3. Tent and membrane structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance or which are used or intended to be used for the gathering together of 50 or less persons.

4. Maintenance and repair of structures involving repair or replacement of existing materials or equipment with equivalent materials or equipment, not to include the equipment's service systems.

5. Work which the code official has authorized pending receipts of an application.

B. Delete subsection 107.1.1.

C. Change subsection 107.3 to read:

107.3 By whom application is made: Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the registered design professional employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant, and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

D. Add subsection 107.3.1 to read:

107.3.1 Application by contractors: The code official shall require the applicant for a permit to furnish prior to the issuance of the permit that person's license or certification number issued pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or evidence of being exempt from the provisions of that chapter.

E. Add exception to subsection 107.6 to read:

Exception: The code official is permitted to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

F. Delete subsection 107.6.1.

G. Change subsection 107.7 to read:

107.7 Engineering details: The code official shall require to be filed adequate details of structural, mechanical, plumbing, and electrical work, which may include computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1.

13 VAC 5-61-90. BNBC Section 108.0 Permits.

A. Change subsection 108.2 to read:

108.2 Suspension of permit: Any permit issued shall become invalid if the authorized work on the site 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. The burden of proof that the authorized work on the site has not been suspended or abandoned shall be on the permit holder, owner of the property or other person affected

by such determination of the code official. The code official may grant one or more extensions to the six-month time period, not to exceed six months per extension.

B. Change subsection 108.3 to read:

108.3 Separate, combined and annual permits: The code official is permitted to require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. The code official is permitted to issue an annual permit for alterations to an existing structure. The holder of the annual permit or the owner of the structure for which the annual permit is issued shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the department of building inspection if requested by the code official.

C. Change subsection 108.9 to read:

108.9 Mechanics' lien agent designation: A building permit issued for any one- or two-family residential dwelling unit shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the permit shall at the time of issuance state that none has been designated with the words "None Designated."

D. Add subsection 108.10 to read:

108.10 Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a permit allowing a building for which an initial permit was issued before January 1, 1985, to be renovated or demolished until the code official 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 requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 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 Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.

To meet the inspection requirements above 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 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. The provisions of Section 108.10 shall not apply to single-family dwellings or residential housing with four or fewer units, unless the renovation or demolition of

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such buildings is for commercial or public development purposes. The provisions of Section 108.10 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.

An abatement area shall not be reoccupied until the code 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).

13 VAC 5-61-100. BNBC Section 109.0 Temporary Structures.

A. Change subsection 109.1 to read:

109.1 General: The code official may issue a permit for temporary construction. Such permit shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

B. Change subsection 109.3 to read:

109.3 Termination of approval: The code official is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion.

13 VAC 5-61-110. BNBC Section 112.0 Fees.

A. Add exception to subsection 112.1 to read:

Exception: The code official is permitted to authorize delayed payment of fees.

B. Change subsection 112.3 to read:

112.3 Fee schedule: The code official shall establish a fee schedule for fees to be charged for enforcement activities under this code. The fee schedule shall be subject to approval of the local governing body and shall be based on square footage, cubic footage, cost of construction or other appropriate criteria.

C. Delete subsection 112.3.1.

D. Delete subsection 112.4.

13 VAC 5-61-120. BNBC Section 113.0 Inspections.

A. Change subsection 113.2 to read:

113.2 Inspections: The permit holder shall assure that the following inspections have been conducted and approved by the code official when applicable to the construction:

1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.

2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.

3. Inspection of preparatory work prior to the placement of concrete.

4. Inspection of structural members and fasteners prior to concealment.

5. Inspection of electrical, mechanical and plumbing materials and systems prior to concealment.

6. Inspection of energy conservation material prior to concealment.

The code official is permitted to designate additional inspections to be conducted during the construction of a structure and shall so notify the permit holder, person in charge of the work or other appropriate person. The code official shall be notified when the construction reaches the stage of completion for an inspection. The person requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct the requested inspection. A record of all such examinations and inspections and of all violations of this code shall be maintained by the code official and shall be communicated promptly in writing to the permit holder, person in charge of the work or other appropriate person. The owner shall provide for special inspections in accordance with Section 1705.0.

Exception: Where the construction cost is less than \$2,500, the inspection shall be permitted, at the discretion of the code official, to be waived.

B. Change subsection 113.2.2 to read:

113.2.2 Plant inspection: Where required by the provisions of this code or where determined necessary by the code official, materials or assemblies shall be inspected at the point of manufacture or fabrication in accordance with Section 1703.3.

C. Change subsection 113.3 to read:

113.3 Final inspection: Upon completion of the building or structure, and before issuance of the certificate of occupancy required by Section 118.0, a final inspection shall be made and approved. All violations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.

13 VAC 5-61-130. BNBC Section 114.0.

Change subsection 114.1 to read:

114.1 General: Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth where required by law. In the case where construction documents are not required under law or by the code official to be prepared by a registered design

professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.

13 VAC 5-61-140. BNBC Section 116.0 Violations.

A. Change subsection 116.2 to read:

116.2 Notice of violation: The code official shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code if such violation has not been remedied within a reasonable time. Such order shall reference the section of this code that serves as the basis of the violation and direct the discontinuance of the illegal action or condition and the abatement of the violation. The notice of violation shall indicate the right of appeal by reference to Section 121.1.

Exception: The code official shall not serve a notice of violation or order relating to construction later than three years after initial occupancy or the issuance of a certificate of use and occupancy, whichever is later.

B. Change subsection 116.4 to read:

116.4 Violation penalties: Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia.

13 VAC 5-61-150. BNBC Section 117.0 Stop Work Order.

Delete subsection 117.2.

13 VAC 5-61-160. BNBC Section 118.0 Certificate of Occupancy.

A. Change subsection 118.1 to read:

118.1 General: A certificate of occupancy, indicating completion of the work for which a permit was issued, shall be obtained prior to any occupancy of a structure except as provided for in Section 118.2. Final inspection approval or approvals shall be permitted to serve as the certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.

B. Change subsection 118.2 to read:

118.2 Temporary occupancy: Upon the request of the holder of a permit, a temporary certificate of occupancy shall be permitted to be issued before the completion of the entire work covered by the permit provided that such portion or portions shall be occupied safely prior to full completion of the structure without endangering life or public welfare.

C. Change subsection 118.3 to read:

118.3 Existing structures: Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure provided the structure is in substantial compliance with applicable provisions of this code. The code official is not permitted to require the removal, alteration or abandonment of, or prevent the continuance of, the

occupancy of an existing structure except under conditions provided for in this code.

D. Change subsection 118.4 to read:

118.4 Contents of certificate: When a structure is entitled thereto, the code official shall issue a certificate of occupancy within 10 days after written application. Upon completion of the final inspection in accordance with Section 113.3 and correction of the violations and discrepancies, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following period.

1. The edition of the code under which the permit is issued.
2. The use group and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided, whether the sprinkler system is required.
5. Any special stipulations and conditions of the building permit.

E. Add subsection 118.5 to read:

118.5 Posting structures: Structures classified in Use Groups B, F, H, M or S shall be posted with a sign approved by the code official stating the use group and occupancy, live load, occupant load, and date of posting.

F. Add subsection 118.6 to read:

118.6 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 way.

13 VAC 5-61-170. BNBC Section 119.0 Conditions.

Change subsection 119.1 to read.

119.1. Conditions: All structures or existing equipment which, during construction, are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. All unsafe structures shall be taken down and removed or made safe, as the code official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

13 VAC 5-61-180. BNBC Section 120.0 Emergency Measures.

A. Change subsection 120.1 to read:

120.1. Imminent danger: When, during construction, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when, during construction, any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the code official is hereby authorized and empowered to order and require the

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occupants to vacate the same forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or of demolishing the same.

B. Delete subsection 120.5.

13 VAC 5-61-190. BNBC Section 121.0 Means of Appeal.

A. Change subsection 121.1 to read:

121.1 Application for appeal: Appeals from the code official concerning application of this code or refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a structure shall first lie to the board of appeals established in this section. The appeal shall be submitted within 30 days of the application of this code or the refusal to grant a modification to the provisions of this code.

Exception: Appeals by the involved state agency from the decision of the code official for state-owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.

B. Change subsection 121.2 to read:

121.2 Board of appeals: There shall be established within each department of building inspection a board of appeals. A separate board of appeals may be established for different areas of enforcement of this code provided each board of appeals complies with this section. The board of appeals shall consist of at least five members appointed by the chief appointing authority.

C. Change subsection 121.2.1 to read:

121.2.1 Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines.

1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering or architectural experience.
3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience, or a fire protection contractor

with at least 10 years experience, five of which shall have been in responsible charge of work.

The code official, technical assistants, inspectors or other employees of the department of building inspection shall not serve as members of the board of appeals.

D. Change subsection 121.2.2 to read:

121.2.2 Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

E. Delete subsection 121.2.6.

F. Change subsection 121.3 to read:

121.3 Notice of meeting: The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.

G. Change subsection 121.5 to read:

121.5 Postponed hearing: When a quorum of the board is 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.

H. Change subsection 121.6 to read:

121.6 Board decision: The board shall rule by a concurring vote of a majority of members present.

I. Change subsection 121.6.1 to read:

121.6.1 Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.

J. Change subsection 121.7 to read:

121.7 Appeal to the TRB: No appeal to the TRB shall lie prior to a final determination by the board of appeals. Application shall be made to the TRB within 21 days of receipt of the resolution of the board of appeals.

Exception: Appeals by the involved state agency from the decision of the code official for state-owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.

13 VAC 5-61-200. BNBC Section 202.0 General Definitions.

A. Change the following definitions to read:

Building: 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; however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family and farm employees shall be exempt from this code, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to

flood proofing regulations or mudslide regulations, as applicable. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. For application of this code, each portion of a building which is completely separated from other portions by fire walls complying with Section 707.0 shall be considered as a separate building.

Owner: 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 or structure.

Structure: An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. Farm structures not used for residential purposes shall be exempt from the provisions of this code, but such structures 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 "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 the following definitions to read:

Breezeway: See Section 1002.0.

Building regulations: Any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Construction: The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn): See Section 1202.0.

DHCD: The Virginia Department of Housing and Community Development.

Equipment: Plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

Farm structure: A structure located on a farm utilized for either the storage, handling or production of agricultural, horticultural or floricultural products or the sheltering, raising or processing of farm animals or farm animal products, which products or animals are normally intended for sale to domestic or foreign markets. The term shall include

structures used for the maintenance, storage or use of farm equipment.

Local building department: The agency or agencies of any local governing body charged with the administration, supervision or enforcement of this code, approval of plans, inspection of buildings or issuance of permits, licenses, certificates, or similar documents. For application of this code the term "department of building inspection" shall mean the local building department.

Sound transmission class (STC) rating: See Section 1202.0.

TRB: The Virginia State Building Code Technical Review Board.

C. Delete the definition "Approved rules."

13 VAC 5-61-210. BNBC Section 308.0 Institutional Use Groups.

Add exception to subsection 308.2 to read:

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 or R-4.

13 VAC 5-61-220. BNBC Section 310.0 Residential Use Groups.

A. Change subsection 310.1 to read:

310.1 General: All structures in which sleeping accommodations are provided, excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3 or R-4. The term "Use Group R" shall include Use Groups R-1, R-2, and R-3. Family day homes licensed or certified by the Virginia Department of Social Services shall be permitted to accommodate the numbers of children permitted under the licensing restrictions and shall be classified as a residential use group.

B. Change subsection 310.6 to read:

310.6 Use Group R-4 structures: This use group shall include all detached one- or two-family dwellings and one-family townhouses not more than three stories in height, and the accessory structures as indicated in the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code. All such structures shall be designed in accordance with the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code or in accordance with the requirements of this code applicable to Use Group R-3.

Exceptions:

1. Structures classified as Use Group R-4 shall comply with applicable requirements of Section 3107.0 of this code.
2. Structures classified as Use Group R-4 shall comply with the requirements of Section 1214.4 of this code, when applicable.

C. Add subsection 310.6.1 to read:

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310.6.1 Amendments to the CABO Code: The following changes shall be made to the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code:

1. Delete the note in CABO subsection 114.1.
2. Add CABO subsection 114.2 to read:

114.2 Installation of manufactured homes. Construction associated with manufactured homes shall comply with the provisions in Appendix A or with this code.

3. Change CABO subsection 115.1 to read:

115.1 General. Swimming pools, spas and hot tubs shall comply with the provisions in Appendix D.

4. Change CABO subsection 119.1 to read:

119.1 General. The provisions for energy conservation contained in Appendix E shall be part of this code.

5. Add exception to CABO subsection 301.2 to read:

Exception: Heating facilities shall be required in accordance with Section 303.6. The winter design temperature for heating facilities required or provided shall be established by the jurisdiction in accordance with this section.

6. Change CABO subsection 303.6 to read:

303.6 Required heating. Every dwelling unit or portion thereof which is to be rented, leased or let on terms, either express or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 1 to May 15 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the winter design temperature for heating facilities established by the jurisdiction.

7. Add CABO subsection 303.7 to read:

303.7 Insect screens. Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

8. Add CABO subsection 306.5 to read:

306.5 Modification by Health Department approval. The requirements of subsections 306.1 through 306.4 may be modified to the extent approved by the Virginia Department of Health; however, if plumbing fixtures are provided, they shall be connected to an approved water supply and to a sanitary sewer or to an approved private sewage disposal system.

9. Change CABO subsection 310.4 to read:

310.4 Type of lock or latch. All egress door shall be readily openable from the side which egress is to be made without the use of a key unless the key cannot be removed from the lock when the door is locked from the side from which egress is to be made.

10. Change CABO subsection 314.2 to read:

314.2 Treads and risers. The maximum riser height shall be 8¼ inches (210 mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2.0% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

11. Change CABO subsection 314.4 to read:

314.4 Winders. Winders are permitted, provided that the width of the tread at a point not more than 12 inches (305 mm) from the side where the treads are narrower is not less than nine inches (229 mm) and the minimum width of any tread is not less than six inches (153 mm). The continuous handrail required by Section 314.1 shall be located on the side where the tread is narrower.

12. Change CABO subsection 314.6 to read:

314.6 Circular stairways. Circular stairways shall have a minimum tread depth and a maximum riser height in accordance with Section 314.2 and the smaller radius shall not be less than twice the width of the stairway. The minimum tread depth of nine inches (229 mm) shall be measured from the narrower end.

13. Delete CABO subsection 316.1.1.

14. Change subsection 401.4 to read:

401.4. Soil tests: Localities having 20% and greater moderate and high shrink/swell potential of the jurisdictional land area shall implement an expansive soil test policy. Localities having less than 20% moderate and high shrink/swell potential of the jurisdictional land area may adopt a soil test policy. The policy shall establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. The policy shall be established in a manner selected by the local government having jurisdiction. All localities shall obtain and retain as a reference guide a copy of the applicable National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and the Virginia Polytechnic Institute and State University, where this survey is available. Figures 401.4a and 401.4b shall be used to determine the percentage of jurisdictional land area which has moderate or high shrink/swell potential.

13 VAC 5-61-230. BNBC Section 418.0 Use groups H-1, H-2 and H-3.

- Change subsection 418.3.2 to read:

418.3.2 Flammable and combustible liquids: The storage, handling, processing, and transporting of flammable and combustible liquids shall be in accordance with the mechanical code and the fire prevention code listed in Chapter 35 of this code. Regulations governing the

installation, repair, upgrade, and closure of underground and aboveground storage tanks under the Virginia State Water Control Board regulations 9 VAC 25-580-10 et seq., 9 VAC 25-130-10 et seq. and 9 VAC 25-140-10 et seq. are adopted and incorporated by reference to be an enforceable part of this code. Where differences occur between the provisions of this code and the incorporated provisions of the State Water Control Board regulations, the provisions of the State Water Control Board regulations shall apply. Where a Class I, II or IIIA flammable or combustible liquid is stored in tanks inside the building, the installation shall conform to Sections 418.3.2.1 through 418.3.2.10 and NFPA 30 listed in Chapter 35 of this code. The requirements shall only apply where tanks have an individual storage capacity that exceeds the exempt amounts specified in Tables 307.8(1) and 307.8(2). The fire area containing the tank or tanks shall be classified as Use Group H-2.

13 VAC 5-61-240. BNBC Section 420.0 Mobile Units.

A. Change subsection 420.1 to read:

420.1 General: A mobile unit is a structure of vehicular, portable design, built on a chassis and designed to be moved from one site to another, and to be used with or without a permanent foundation.

B. Change subsection 420.2 to read:

420.2 Construction: Construction work associated with the installation of a mobile unit shall comply with the manufacturer's installation instructions and to the extent not provided for in the manufacturer's installation instructions, applicable requirements of this code. Where the manufacturer's installation instructions, for mobile units which occupancy classification is a residential use group, are not available, the NCSBCS/ANSI A225.1 standard, 1987 edition, may be substituted for the manufacturer's installation instructions.

C. Add subsection 420.2.1 to read:

420.2.1 Wind load requirements for manufactured homes: Manufactured homes displaying the certification label as prescribed by the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) shall be anchored to withstand the wind loads established by the federal regulation for the area in which the mobile unit is installed. For the purpose of this code, Wind Zone II of the federal regulation shall include the cities of Chesapeake, Norfolk, Portsmouth, and Virginia Beach.

D. Add subsection 420.2.2 to read:

420.2.2 Skirting requirements for manufactured homes: Manufactured homes displaying the certification label as prescribed by the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) 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 (457 mm) in any dimension and not less than three square feet (.28 m²) 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 this code.

As used in this section, "skirting" means a weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.

E. Delete subsection 420.3.

F. Delete subsection 420.3.1.

13 VAC 5-61-250. BNBC Section 904.0 Fire Suppression Systems.

Change subsection 904.9 to read:

904.9 Use Group R-2: An automatic fire suppression system shall be provided throughout all buildings with an occupancy in Use Group R-2 in accordance with Sections 906.2.1 or 906.2.2. The following exceptions are permitted when the necessary water pressure or volume, or both, for the automatic fire suppression system is not available.

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 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 and a two-hour fire separation assembly is provided between each pair of dwelling units. Each bedroom of a dormitory or boarding house shall be considered a dwelling unit under this exception.

13 VAC 5-61-260. BNBC Section 918.0 Fire Alarm Systems.

Change subsection 918.4.6 to read:

918.4.6 Use Group R-2: A fire alarm system shall be installed and maintained in all occupancies in 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.

13 VAC 5-61-270. BNBC Section 1002.0 Definitions.

Add definition to Section 1002.0 to read:

Breezeway: A roofed passageway traversing through a building connecting two exterior stairways complying with Section 1014.12 (See Section 1011.6).

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13 VAC 5-61-280. BNBC Section 1011.0 Exit Access Passageways and Corridors.

Add subsection 1011.6 to read:

1011.6 Breezeways: Exit access breezeways shall be permitted in Use Group R-2 buildings up to four stories in height and containing no more than four dwelling units per floor when meeting the following criteria:

1. The building is sprinklered in accordance with Section 906.2.1 or 906.2.2 and the sprinkler system is supervised in accordance with Section 924.1, method 1.
2. An exit access breezeway shall conform to the requirements of this section for corridors and shall be protected to prevent the accumulation of snow and ice in climates subject to those elements.
3. An exit access breezeway shall be separated from the interior of the building by walls and opening protectives as required by Section 1014.12.2.
4. An exit access breezeway shall not be required to be separated from exterior exit stairs.
5. The floor construction of the breezeway shall have a fire-resistance floor construction rating in accordance with Table 602, Line 10.
6. Sprinkler protection shall be extended to the breezeway. Sprinkler system shall be protected against freezing.
7. The maximum exit access breezeway length shall be 125 feet (38100 mm), and the minimum width shall be six feet (1829 mm).

13 VAC 5-61-290. BNBC Section 104.0 Stairways.

A. Change subsection 1014.12 to read:

1014.12 Exterior stairways: Exterior stairways shall have openings on at least one side facing an outer court, yard or public way. The openings shall have an aggregate width of not less than 20% of the stairway perimeter and aggregate area on each level of not less than 12% of the total perimeter wall area of each level. In other than occupancies in Use Group R-3, and occupancies in Use Group U that are accessory to an occupancy in Use group R-3, treads, platforms and landings which are part of exterior stairways in climates subjected to snow or ice shall be protected to prevent accumulation of same. Exterior stairways shall not be accepted as an exit in the following cases:

1. Occupancies in the Use Groups I-2 and I-3 in buildings that exceed four stories or 50 feet (15240 mm) in height.
2. Floors that exceed five stories or 65 feet (19812 mm) in height above the level of exit discharge.

B. Add exception to subsection 1014.12.2 to read:

4. Protection is not required on an exterior wall of a building that is at an angle of, or greater than, 180 degrees from the adjacent exterior face of the stairs.

13 VAC 5-61-300. BNBC Section 1017.4 Door hardware.

A. Add subsection 1017.4.1.4 to read:

1017.4.1.4 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.

B. Add subsection 1017.7 to read:

1017.7 Entrance doors: Entrance doors to dwelling units of Use Group R-2 building 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.

13 VAC 5-61-310. BNBC Section 1103.0 Applicability.

A. Add exception to subsection 1103.1 to read:

6. Pulpit, choir, baptismal and similar areas in Use Group A-4 structures are not required to be accessible.

B. Add subsection 1103.1.1 to read:

1103.1.1 Identification of accessible parking spaces: In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface.

13 VAC 5-61-320. BNBC Section 1202.0 Definitions.

Add definitions to subsection 1202.1 to read:

Ldn (Day-night average sound level): A 24-hour energy average sound level expressed in dBA, with a 10 decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

STC (Sound transmission class rating): A single number 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."

13 VAC 5-61-330. BNBC Section 1208.0 Natural Ventilation.

A. Add subsection 1208.5 to read:

1208.5 Insect screens: Every door, window and other outside opening for natural ventilation serving structures classified as other than a residential use group containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured,

packaged, or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

Exception: Screen doors shall not be required for outswinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are provided.

B. Add subsection 1208.5.1 to read:

1208.5.1 Insect screens serving structures classified as a residential use group: Every door, window and other outside opening required for natural ventilation purposes which serves a structure classified as a residential use group shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

13 VAC 5-61-340. BNBC Section 1214.0 Sound Transmission Control in Residential Buildings.

A. Add exception to subsection 1214.1 to read:

Exception: Section 1214.4 applies to the construction of the exterior envelope of residential structures and shall be enforced only after action by the governing body of any county, city or town pursuant to § 15.1-491.03 of the Code of Virginia.

B. Add subsection 1214.4 to read:

1214.4 Airport noise attenuation standards: Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table 1214.4. As an alternative to compliance with Table 1214.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by a registered design professional.

C. Add Table 1214.4 to read:

Table 1214.4 AIRPORT NOISE ATTENUATION STANDARDS		
Ldn	STC of exterior walls and roof/ceiling assemblies	STC of doors and windows
65-69	39	25
70-74	44	33
75 or greater	49	38

13 VAC 5-61-350. BNBC Section 1610.0. Earthquake loads.

A. Add exception to subsection 1610.1 to read:

5. Buildings assigned to Seismic Performance Category B and Seismic Hazard Exposure Group I are only required to comply with Section 1610.3.6.1 provided the following requirements are met:

5.1. The height of the building does not exceed four stories or 40 feet (12192 mm);

5.2. A_vS is less than 0.10 and the soil profile type has been verified; and

5.3. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1610.3.4.2.

B. Add exception to subsection 1610.3.5.2 to read:

Exception: Regular or irregular buildings assigned to Category B and Seismic Hazard Exposure Group I are not required to be analyzed for seismic forces for the building as a whole provided the following requirements are met:

1. The height of the building does not exceed four stories or 40 feet (12192 mm);

2. A_vS is less than 0.10 and the soil profile type has been verified; and

3. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1610.3.4.2.

C. Add exception to subsection 1610.3.6.2 to read:

Exception: Buildings meeting the exception to Section 1610.3.5.2 shall conform to the requirements of Section 1610.3.6.1 for Category A.

13 VAC 5-61-360. BNBC Section 1705.0 Special Inspections.

Change subsection 1705.1 to read:

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.

13 VAC 5-61-370. BNBC Section 2101.0 General.

Add exception to subsection 2101.2.2 to read:

Exception: Buildings meeting the exception to Section 1610.3.5.2 shall comply with the requirements of Section 2101.2.1.

13 VAC 5-61-380. BNBC Section 2310 Fire-retardant-Treated Wood.

Add subsection 2310.2.3 to read:

2310.2.3 Durability of roof sheathing: Documentation shall be submitted to the code official prior to the use of fire-retardant-treated plywood as roof sheathing, which provides reasonable assurance of satisfactory performance of the material. Documentation may include test results from an approved agency, proof of satisfactory past product performance or equivalent indicators of future product performance which address longevity of service under conditions of the proposed installation.

13 VAC 5-61-390. BNBC Section 2701.0 General.

Add subsection 2701.1.1 to read:

2701.1.1 Amendments to NFPA 70: The following change shall be made to NFPA 70 listed in Chapter 35 of this code:

Change subsection 336-5 (a) (1) to read:

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(1) In any dwelling or structure exceeding four floors above grade.

13 VAC 5-61-400. BNBC Section 2801.0 General.

A. Add exception to subsection 2801.1 to read:

Exception: This code shall not govern the installation, alteration and repair of water heaters, boilers and pressure vessels to the extent which they are regulated by the Virginia Boiler and Pressure Vessel Regulations (16 VAC 25-50-10 et seq.); however, the code official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

B. Add subsection 2801.1.1 to read:

2801.1.1 Heating facilities: Heating facilities shall be provided in structures as follows:

1. Every dwelling unit or portion thereof which is to be rented, leased or let on terms, either express or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 1 to May 15 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the outside design temperature required for the locality by this code.

2. Every enclosed occupied work space in nonresidential structures shall be provided with heating facilities capable of producing 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. The required room temperatures shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.

Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from these requirements.

13 VAC 5-61-410. BNBC Section 2901.1 General.

Add exception to subsection 2901.1 to read:

Exception: The requirements of this code relating to water supply sources, sewage disposal and required plumbing fixtures may be modified to the extent approved by the Virginia Department of Health, except that if plumbing fixtures are provided, they shall be connected to an approved water supply and to a sanitary sewer or to an approved private sewage disposal system.

13 VAC 5-61-420. BNBC Section 3107.0 Flood-Resistant Construction.

Change subsection 3107.8 to read:

3107.8 Mobile units: New or replacement mobile units to be located in any hazard zone shall be placed in accordance with the applicable elevation requirements of Sections 3107.4.1 and 3107.5.1.

Exception: Manufactured homes displaying the certification label as prescribed by the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches (914 mm) 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.

13 VAC 5-61-430. BNBC Section 3401.0 General.

A. Change subsection 3401.1 to read:

3401.1. Scope: The provisions of this chapter shall control the alteration, repair, addition and change of occupancy of existing structures. Alterations, repair, additions, and change of occupancy to existing structures shall comply with Sections 3403.0 through 3407.0 or with the requirements for compliance alternatives in accordance with Section 3408.0.

B. Change subsection 3401.2 to read:

3401.2 Maintenance and repairs: The owner shall be responsible for the maintenance and repair of structures in accordance with the maintenance requirements of this code and the property maintenance code listed in Chapter 35 of this code to the extent that equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, which were provided when constructed. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations. The provisions in the property maintenance code listed in Chapter 35 of this code for unsafe structures (Sections PM-108.0, PM-109.0 and PM-110.0) shall be considered part of the provisions of this code for the maintenance of existing structures.

C. Add subsection 3401.2.1 to read:

3401.2.1 Amendments to the property maintenance code: The following changes shall be made to the property maintenance code listed in Chapter 35 of this code:

1. Change subsection PM-101.1 to read:

PM-101.1 Title and use: These regulations shall be known as the Property Maintenance Code hereinafter referred to as "this code." Any provisions of this code which are in conflict with, or exceed the scope of, the Virginia Uniform Statewide Building Code shall be invalid.

2. Add the date "April 1" to the first bracketed [DATE] area and "December 1" to the second bracketed [DATE] area in subsection PM-304.14.

3. Add the date "October 1" to the first bracketed [DATE] area and "May 15" to the second bracketed [DATE] area in subsection PM-602.2.1.

4. Add the date "October 1" to the first bracketed [DATE] area and "May 15" to the second bracketed [DATE] area in subsection PM-602.3.

5. Add subsection PM-606.3 to read:

PM-606.3 Inspection standard: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8 of this code. The code official may also provide for such inspection by an approved agency or through agreement with other local certified elevator inspectors. An approved agency includes any individual, partnership or corporation who has met the certification requirements established by Virginia Certification Standards (13 VAC 5-21-10 et seq.).

13 VAC 5-61-440. BNBC Section 3402.0 General requirements.

A. Change subsection 3402.2 to read:

3402.2 Replacement glass: Any replacement glass installed in buildings constructed prior to the initial effective date of this code shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation.

B. Change subsection 3402.3 to read:

3402.3 Smoke detectors in colleges and universities: College or university buildings containing dormitories for sleeping purposes shall be provided with battery or AC powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. After January 1, 1984, all college and university dormitories shall have installed and use due diligence in maintaining in good working order such detectors regardless of when the building was constructed.

The chief administrative officer of the college or university shall obtain a certificate of compliance from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

C. Change subsection 3402.4 to read:

3402.4 Smoke detectors in certain juvenile care facilities: Battery-powered or AC-powered smoke detectors shall be installed and maintained in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles which are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, in accordance with the provisions of this code in effect on July 1, 1984 by July 1, 1986. Administrators of such homes and facilities shall be responsible for the installation and maintenance of the smoke detector devices.

D. Change subsection 3402.5 to read:

3402.5 Smoke detectors for the deaf and hearing impaired: Smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired

occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing-impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

E. Change subsection 3402.6 to read:

3402.6 Smoke detectors in adult care residences, adult day care centers and nursing homes and facilities: Battery-powered or AC-powered smoke detector devices shall be installed in all adult care residences and adult day care centers licensed by the Virginia Department of Social Services, regardless of when the building was constructed. The location and installation of the smoke detectors shall be determined by the provisions of this code in effect on October 1, 1990.

The licensee shall obtain a certificate of compliance from the building official of the locality in which the residence or center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The licensee shall maintain the smoke detector devices in good working order.

Fire alarm or fire detectors systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing homes and nursing facilities licensed by the Virginia Department of Health by August 1, 1994, and shall be maintained in good working order.

F. Change subsection 3402.7 to read:

3402.7 Fire suppression systems in nursing homes and facilities: Fire suppression systems as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed, and shall be maintained in good working order. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

G. Delete subsection 3402.9.

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H. Add subsection 3402.10 to read:

3402.10 *Fire suppression systems in hospitals:* Fire suppression systems shall be installed in all hospitals licensed by the Virginia Department of Health as required by the edition of this code in effect on October 1, 1995, regardless of when such facilities were constructed, and shall be maintained in good working order.

I. Add subsection 3402.11 to read:

3402.11 *Identification of handicapped parking spaces by above grade signs:* All parking spaces reserved for the use of handicapped persons shall be identified by above grade signs, regardless of whether identification of such spaces by above grade signs was required when any particular space was reserved for the use of handicapped persons. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. Any parking space not identified by an above grade sign shall not be a parking space reserved for the handicapped within the meaning of this section.

All above grade handicapped parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. Such signs shall be designed and constructed in accordance with the provisions of Chapter 11 of this code.

J. Add subsection 3402.12 to read:

3402.12 *Sprinkler systems and smoke detectors in hotels and motels:* An automatic sprinkler system or smoke detectors, or both, shall be installed in hotels and motels as required by the edition of this code in effect on March 1, 1990, by the dates indicated, regardless of when constructed, and shall be maintained in good working order.

K. Add subsection 3402.13 to read:

3402.13 *Protection of potable water supply:* The code official shall be permitted to require those minimum changes as determined to be necessary to plumbing systems in existing structures to prevent contamination from nonpotable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the plumbing system, regardless of when the structure was constructed. In no case shall changes be required which exceed the requirements for installation of the plumbing system in new structures.

13 VAC 5-61-450. BNBC Section 3408.0 Compliance Alternatives.

Change subsection 3408.2 to read:

3408.2 *Applicability:* The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Groups H or I.

VA.R. Doc. No. R97-100; Filed October 23, 1996, 11:50 a.m.

DOCUMENTS INCORPORATED BY REFERENCE

The BOCA National Building Code/1996, 13th Edition, Building Officials and Code Administrators International, Inc.

The BOCA National Property Maintenance Code/1996, 5th Edition, Building Officials and Code Administrators International, Inc.

National Electrical Code/1996, NFPA 70, Building Officials and Code Administrators International, Inc.

CABO One and Two Family Dwelling Code, 1995 Edition, Building Officials and Code Administrators International, Inc.

ASME A17.1 - 1990, Part X--Routine, Periodic, and Acceptance Inspections and Tests, American Society of Mechanical Engineers.

ASTM E 541-84, Standard Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, American Society for Testing and Materials.

ASTM E 90-90, Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions, American Society for Testing and Materials.

Title of Regulation: 13 VAC 5-90-10 et seq. Virginia Industrialized Building and Manufactured Home Safety Regulations (REPEALING).

VA.R. Doc. No. R97-93; Filed October 23, 1996, 11:52 a.m.

Title of Regulation: 13 VAC 5-91-10 et seq. Virginia Industrialized Building Safety Regulations.

Statutory Authority: § 36-73 of the Code of Virginia.

Public Hearing Date: December 9, 1996 - 9 a.m.

Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Section 36-73 of the Code of Virginia empowers and directs the Board of Housing and Community Development to adopt and promulgate rules and regulations prescribing standards for industrialized buildings.

Purpose: The purpose of the proposed amendments is to make the regulation better comport with the state law, be more easily understood and better mesh with the Uniform Statewide Building Code and to update to current standards, all of which impact in a positive way on the public's health, safety and welfare.

Substance: These proposed amendments to the regulation will (i) divide the existing combined industrialized building and manufactured home regulations into their own separate regulations, as they are directed by different sections of state law, (ii) bring it in-line with the latest model codes and

standards, (iii) make the regulation better comply with the Virginia Code Commission's requirements.

Issues: The advantages of this regulatory action will be (i) to keep Virginia's construction and maintenance regulations up to date with national standards thereby providing a more friendly environment for acceptance of new construction materials which meet those standards, (ii) to eliminate confusion by removal of the manufactured housing regulations, and (iii) to bring the text more in line with the Virginia Administrative Code format. There are no anticipated disadvantages for the public, the agency or related entities associated with this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth performance requirements for the construction of manufactured buildings. The primary amendments contained in the proposed regulation are as follows:

- the proposed regulation has been updated to reflect current nationally approved safety standards; and
- requirements regarding manufactured home safety standards have been transferred from this regulation to the Virginia Manufactured Home Safety Regulations (13 VAC 5-95-10).

Estimated Economic Impact.

Incorporation of current national standards. Revising the current regulation to reflect the most recent nationally approved standards is likely to have two primary economic effects. First, it will have a positive effect on health and welfare by ensuring that manufactured buildings in Virginia comport to the most recent performance and safety standards. Second, in those instances where the new national standards entail an increase in regulatory stringency, there may be a modest increase in regulatory compliance costs. Although it would be cost prohibitive for DPB to quantify the precise magnitude of these economic effects, it seems reasonable to assume, given the inclusive and comprehensive process used to develop the national standards, that the anticipated benefits exceed anticipated costs.

Removal of requirements regarding manufactured home safety standards. Because this portion of the current regulation is simply being transferred to the Virginia

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Manufactured Home Safety Regulations (13 VAC 5-95-10) and will remain in force, this amendment will have no economic consequences.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects businesses that produce or construct manufactured buildings.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed amendments to the current regulation will have a positive effect on public health and safety, although it may entail some increase in regulatory compliance costs.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The Virginia Industrialized Building Safety Regulations provide for the administration and enforcement of uniform, statewide, health and safety standards for industrialized buildings, wherever produced. The regulation provides for precertification of manufactured buildings that contain concealed parts which cannot be readily inspected at the point of use. Such units must be accepted by the local building official without disassembly. The enforcement system includes (i) state accreditation, use and monitoring of independent third party compliance assurance agencies to review the design of manufactured buildings and to inspect their production for code compliance, (ii) assignment of responsibility for safe installation to local building departments, and (iii) state action to secure correction of defects discovered after installation. Section 36-119 of the Code of Virginia provides that these regulations supersede the Uniform Statewide Building Code when a manufactured building is constructed, labeled and registered under the regulation. Also, included in this regulatory action is the updating to the latest construction model codes and standards. Requirements regarding manufactured home safety standards are being transferred from this regulation to 13 VAC 5-95-10 et seq., Virginia Manufactured Home Safety Regulations.

CHAPTER 91. VIRGINIA INDUSTRIALIZED BUILDING SAFETY REGULATIONS.

13 VAC 5-91-10. Definitions.

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

"Administrator" means the Director of DHCD or his designee.

"Approved" as applied to a material, device, method of construction, registered building, or as otherwise used in this chapter means approved by the administrator.

"BHCD" means the Virginia Board of Housing and Community Development.

"BOCA" means the Building Officials and Code Administrators International, Inc.

"CABO" means the Council of America Building Officials.

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by the department to be specially qualified by reason of facilities, personnel, experience, and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to those promulgated by the board; to provide adequate followup services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each manufactured section or module.

"DHCD" means the Virginia Department of Housing and Community Development.

"ICC" means the International Code Council, Inc.

"Industrialized building" means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 of the Code of Virginia and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act (42 USC § 5401 et seq.) shall not be considered industrialized buildings for the purpose of this law.

"Local code official" means the officer or other designated authority charged with the administration and enforcement of USBC, or duly authorized representative.

"Manufactured Housing and Industrialized Building Office" means the office of DHCD which has been designated to carry out the state plan for enforcement of the Virginia Industrialized Building Safety Regulations.

"Model" means a specific design, as designated by the producer, of an industrialized building. Production buildings of any model may include variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical, or electrical systems or any other items governed by this chapter.

"NFPA" means the National Fire Protection Association.

"Registered" means an industrialized building which displays a registration seal issued by DHCD in accordance with this chapter.

"Regulation" or "regulations" means 13 VAC 5-91-10 et seq.

"The law" or "this law" means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia.

"TRB" means the State Building Code Technical Review Board as established by § 36-108 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code, 13 VAC 5-61-10 et seq.

13 VAC 5-91-20. Application and compliance.

A. This chapter shall apply to industrialized building, as defined in 13 VAC 5-91-10.

B. No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building produced after the effective date of any provision of these regulations unless it conforms with such provision of the regulations.

C. Industrialized buildings subject to any edition of these regulations when constructed shall be maintained in compliance with the applicable edition by the owners or occupants or both.

D. Industrialized buildings constructed prior to the effective date of the first edition of these regulations (January 1, 1972) when relocated shall be subject to the pertinent provisions of the USBC.

13 VAC 5-91-30. Purpose.

The purpose of this chapter is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for industrialized buildings.

13 VAC 5-91-40. Inspection and enforcement.

The Manufactured Housing and Industrialized Building Office is designated as the administrator's representative for the enforcement of this chapter. It shall have authority to make such inspections and to take such other actions as are required to enforce the regulations.

Note: The Manufactured Housing and Industrialized Building Office shall act as the building official for registered industrialized buildings.

13 VAC 5-91-50. Factory and field inspections.

A. The administrator's representative shall, during reasonable hours, make such inspections of factories producing industrialized buildings as may be necessary to determine whether the compliance assurance agency having jurisdiction is performing its evaluation and compliance assurance functions in a satisfactory manner.

B. The administrator's representative may, during reasonable hours, make inspections to determine whether industrialized buildings, not at the time occupied as dwellings, are in compliance with this chapter. Such inspections may include but are not limited to industrialized buildings on dealer lots or industrialized buildings that are otherwise offered for sale to the public. Industrialized buildings that are occupied as dwellings may be inspected at the request of the owners or occupants.

13 VAC 5-91-60. Violations.

A. Where the administrator finds any violation of the provisions of this chapter, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance within a reasonable time.

B. If the nature of the violation is such that it may be remedied under this chapter, the administrator may refer the matter to the local code official for enforcement.

13 VAC 5-91-70. Appeals.

A. Appeals from local code officials, compliance assurance agencies or manufacturers of industrialized buildings concerning DHCD's application of this chapter will be heard by the TRB upon application by the aggrieved party. The application shall be submitted to the office of the TRB within 21 calendar days of receipt of the decision by DHCD. A copy of the decision of DHCD to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of DHCD's decision.

B. 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.

13 VAC 5-91-80. Limitation of manufacturer's liability.

The manufacturer of the building shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the registered industrialized building.

13 VAC 5-91-90. Penalty for violation.

Any person, firm or corporation violating any provisions of this chapter shall be considered guilty of a Class 1 misdemeanor and, upon conviction, shall be fined not more than \$1,000 (§ 36-83 of the Code of Virginia).

13 VAC 5-91-100. Responsibility of local code officials.

Every local code official is authorized to and shall enforce the provisions of this chapter within the limits of his jurisdiction. He shall not permit the use of any industrialized building that does not comply with this chapter.

13 VAC 5-91-110. Registered industrialized buildings.

Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, local code officials are authorized to carry out the following functions that apply to registered industrialized buildings provided such functions do not involve disassembly of the registered building or change of design, or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.

1. Local code officials shall verify that the registered industrialized building has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems

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and gas piping and tests for shorts at the meter connection in the electrical system.

2. Local code officials shall verify that supplemental components required by the label or by this chapter are properly provided.

3. Local code officials shall verify that the instructions of the label for installation and erection are observed.

4. Local code officials shall verify that any special conditions or limitations of use that are stipulated by the label in accordance with this chapter are observed.

5. Local code officials may require submission and approval of plans and specifications for the supporting structures, foundations including anchorages, and all other components necessary to form the completed building. They may require such architectural and engineering services as may be specifically authorized by this chapter to assure that the supporting structures, foundations including anchorages, and other components necessary to form the completed building are designed in accordance with this chapter.

6. Local code officials shall enforce applicable requirements of this chapter and the USBC for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.

7. Local code officials shall enforce the requirements of the USBC applicable to utility connections, site preparation, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.

8. Local code officials shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.

13 VAC 5-91-120. Unregistered industrialized buildings.

A. The local code official shall determine whether any unregistered industrialized building complies with this chapter and shall require any noncomplying unregistered building to be brought into compliance with this chapter. The local code official shall enforce all applicable requirements of this chapter including those relating to the sale, rental and disposition of noncomplying buildings. The local code official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements.

B. Unregistered industrialized buildings offered for sale by dealers in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with this chapter and must be inspected and approved by the local code official having jurisdiction. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

13 VAC 5-91-130. Disposition of noncomplying building.

When a building is found to be in violation of this chapter, the local code official may require the violations to be corrected before occupancy of the building is permitted.

13 VAC 5-91-140. Report to the Manufactured Housing and Industrialized Building Office.

If the building is moved from the jurisdiction before the violations have been corrected, the local code official shall make a prompt report of the circumstances to the Manufactured Housing and Industrialized Building Office. The report shall include the following:

1. A list of the uncorrected violations;
2. All information contained on the label pertinent to the identification of the building, the manufacturer and the compliance assurance agency;
3. The number of the Virginia registration seal;
4. The new destination of the building, if known;
5. The party responsible for moving the building; and
6. Whether the building was placarded for violation.

13 VAC 5-91-150. When modification may be granted.

A. The administrator shall have the power upon request in specific cases to authorize modification of the regulations so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the modification requested.

B. Before a modification is authorized, the local code official having jurisdiction may be afforded an opportunity to present his views and recommendations.

13 VAC 5-91-160. Hazards prohibited and standards specified.

Industrialized buildings produced after the effective date of this chapter shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the following codes and standards, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision:

1. BOCA National Building Code
 - a. 1993 Edition - until June 1, 1997
 - b. 1996 Edition - no time limit
2. BOCA National Plumbing Code
1993 Edition - until June 1, 1997
3. ICC International Plumbing Code
1995 Edition with 1996 Supplement - no time limit
4. BOCA National Mechanical Code
1993 Edition - until June 1, 1997

5. ICC International Mechanical Code

1996 Edition - no time limit

6. National Electrical Code - NFPA NO. 70

a. 1993 Edition - until June 1, 1997

b. 1996 Edition - no time limit

7. CABO One- and Two-Family Dwelling Code

a. 1992 Edition and 1993 Amendments - until June 1, 1997

b. 1995 Edition - no time limit

The CABO One- and Two-Family Dwelling Code may be used as an optional alternative standard for one- and two-family dwellings to the standards specified in subdivisions 1 through 6 of this section.

Note: The codes and standards (BOCA, CABO, ICC and NFPA) referenced above may be procured from:

Building Officials and Codes Administrators International,
Inc.
4051 West Flossmoor Road
Country Club Hills, Illinois 60478-5795

13 VAC 5-91-170. Amendments to codes and standards.

A. All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications, and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of this chapter and the applicable provisions of Chapter 1 of the USBC.

B. The referenced codes and standards are amended as per USBC.

13 VAC 5-91-180. Compliance agencies.

Application may be made to the administrator for acceptance as a compliance assurance agency as defined in 13 VAC 5-91-10. Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the administrator to determine whether the applicant is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized buildings for compliance with this chapter, and to provide adequate followup and compliance assurance services at the point of manufacture.

Note: A suggested format for the application for acceptance as a compliance assurance agency may be obtained from the Manufactured Housing and Industrialized Building Office.

13 VAC 5-91-190. Freedom from conflict of interest.

A compliance assurance agency shall not be affiliated with nor influenced or controlled by producers, suppliers, or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. A compliance assurance agency is judged to be free of

such affiliation, influence, and control if it complies with all of the following conditions:

1. The agency has no managerial affiliation with producers, suppliers or vendors and is not engaged in the sale or promotion of any product or material.

2. The results of the agency's work accrue no financial benefits to the agency through stock ownership and the like of any producer, supplier or vendor of the product involved.

3. The agency's directors and other management personnel, in such capacities, receive no stock option, or other financial benefit from any producer, supplier, or vendor of the product involved.

4. The agency has sufficient interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's or vendor's product with this chapter would not be a determining factor in its financial well-being.

5. The employment security status of the agency's personnel is free of influence or control by producers, suppliers, or vendors.

13 VAC 5-91-200. Information required by the administrator.

The following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices;

2. Specification and description of services proposed to be furnished under this chapter;

3. Description of qualifications of personnel and their responsibilities. Personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors shall meet the requirements of the American Society for Testing and Material (ASTM) Standards E-541-84, Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings;

4. Summary of experience within the organization;

5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory followup, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels;

6. Procedures to deal with any defective buildings resulting from oversight;

7. Acceptance of these services by independent accrediting organizations and by other jurisdictions; and

8. Proof of independence and absence of conflict of interest.

Note: The ASTM Standard E-541-84 may be procured from:

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American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, PA 19428-2956

13 VAC 5-91-210. Minimum information required.

Every registered industrialized building shall be marked with a label, seal, or similar evidence of compliance supplied by the compliance assurance agency that includes the following information directly or by reference:

1. Name and address of compliance assurance agency;
2. List of codes and standards for which the building has been evaluated, inspected and found in compliance by the compliance assurance agency and the type of construction classification, the use group classification and occupancy under those codes and standards;
3. Serial number of label;
4. Special instructions for handling, installation and erection, or list of such instructions that are furnished separately with the building; and
5. Special conditions or limitations of use of the building under the standards for which the building has been evaluated, or list of such conditions and limitations that are furnished separately with the building.

13 VAC 5-91-220. Mounting of label.

To the extent practicable, the label shall be so installed that it cannot be removed without destroying it. It shall be applied in the vicinity of the electrical distribution panel or other location that is readily accessible for inspection. When a building is comprised of more than one section or module, the required label may be furnished as a single label for the entire building, provided each section or module is marked by the compliance assurance agency in a clearly identifiable manner that is listed with the label.

13 VAC 5-91-230. Manufacturer's data plate and other markings.

The following information shall be placed on one or more permanent manufacturer's data plates in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form, completeness and location of the data plate to include the information listed below:

1. Manufacturer's name and address;
2. Serial number of the label of the compliance assurance agency;
3. Serial number of the building;
4. Name of manufacturer and model designation of major factory installed appliances;
5. Where applicable, identification of permissible type of gas for appliances, designation of electrical ratings for single and multiple cord entrance, and directions for water and drain connections;
6. Serial number of the registration seal;

7. Seismic design zone number; and

8. Design loads: live load, dead load, snow load, and wind load.

13 VAC 5-91-240. Label control.

The labels shall be under direct control of the compliance assurance agency until applied by the manufacturer to buildings that comply fully with this chapter. The manufacturer shall place its order for labels with the compliance assurance agency. The manufacturer is not permitted to acquire labels from any other source. Each compliance assurance agency shall keep a list of the serial numbers of labels issued to each manufacturer's plant in such manner that a copy of the record can be submitted to the administrator upon request.

13 VAC 5-91-250. Industrialized buildings eligible for registration.

Any industrialized building must meet the following requirements to be registered and eligible for a Virginia registration seal:

1. The design of the building has been found by a compliance assurance agency to be in full compliance with this chapter;
2. The compliance assurance agency has conducted any necessary testing and evaluation of the building and its component parts;
3. The compliance assurance agency has provided the required inspections and other quality assurance followup services at the point of manufacture to assure the building complies with this chapter; and
4. The building has been provided with appropriate evidence of such compliance with a label, seal or similar device permanently affixed by the compliance assurance agency.

13 VAC 5-91-260. Registration seal for industrialized buildings.

A. Registered industrialized buildings shall be marked with an approved registration seal issued by DHCD. The seal shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

B. Registered industrialized buildings shall bear a registration seal for each dwelling unit in residential occupancies. For nonresidential occupancies, a registration seal is required for each registered building of a single occupancy and use group.

C. Approved registration seals may be purchased from DHCD in advance of use. The fee for each registration seal shall be \$50. Checks shall be made payable to "Treasurer of Virginia." Payment for the seals must be received by the administrator before the seals can be sent to the user.

D. To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

13 VAC 5-91-270. *Manufacturer's instruction; installation.*

A. *The manufacturer of each industrialized building shall provide with each building, specifications or instructions, or both, for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.*

B. *Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.*

VA.R. Doc. No. R97-94; Filed October 23, 1996, 11:53 a.m.

DOCUMENT INCORPORATED BY REFERENCE

In addition to the documents referenced in 13 VAC 5-91-160, the following document is incorporated by reference:

ASTM E541-84, Standard Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings, American Society for Testing and Materials.

Title of Regulation: 13 VAC 5-95-10 et seq. Virginia Manufactured Home Safety Regulations.

Statutory Authority: § 36-85.7 of the Code of Virginia.

Public Hearing Date: December 9, 1996 - 9 a.m.

Public comments may be submitted until January 10, 1997.

(See Calendar of Events section for additional information)

Basis: Section 36-85.7 of the Code of Virginia empowers and directs the Board of Housing and Community Development to adopt, amend, or repeal such rules and regulations as are necessary to implement the Virginia Manufactured Housing Construction and Safety Standards Law.

Purpose: The purpose of the proposed regulation is to make the regulation better comport with state law, and be more easily understood, which impacts in a positive way on the public's health and safety.

Substance: This proposed regulation will divide the existing combined industrialized building and manufactured home regulations into their own separate regulations, as they are directed by different sections of state law.

Issues: The advantages of this regulatory action will be to eliminate confusion by separating this regulation from the industrialized building regulation.

There are no anticipated disadvantages for the public, the agency or the related entities.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the

Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation sets forth performance requirements for the construction of manufactured homes. This regulation was deleted from the Virginia Industrialized Building and Manufactured Home Safety Regulations/1993 and is being promulgated independently. The proposed regulation contains no substantive changes.

Estimated Economic Impact. Because the proposed regulation is currently in force as part of another regulation, its promulgation as an independent regulation will entail no economic consequences.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects businesses engaged in the construction of manufactured homes and those members of the public that use such homes.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. Because the proposed regulation is currently in force as part of another regulation, DPB anticipates that its independent promulgation will have no economic impact.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The department agrees with the Department of Planning and Budget's assessment of economic impacts.

Summary:

The Virginia Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, and safety standards for manufactured homes, wherever produced. A major purpose of the regulation is to make good quality housing more affordable for residents of Virginia. It does so by providing precertification of manufactured homes that contain concealed parts which cannot be readily inspected at the point of use. Such units must be accepted by the local building official without disassembly. The enforcement system includes (i) assignment of responsibility for safe installation to local building departments and (ii) state action to secure correction of defects discovered after installation.

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The text of this regulation is substantively the same as the text contained in the Virginia Industrialized Building and Manufactured Home Safety Regulations/1993, which are being repealed.

CHAPTER 95.
VIRGINIA MANUFACTURED HOME SAFETY
REGULATIONS.

13 VAC 5-95-10. Definitions.

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

"Act" or "the Act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 USC § 5401 et seq.).

"Administrator" means the Director of DHCD or his designee.

"DHCD" means the Virginia Department of Housing and Community Development.

"Dealer" means any person engaged in the sale, lease, or distribution of manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

"Defect" means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

"Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.

"Federal regulation" means the federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by § 625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of HUD's regulations (24 CFR Part 3282). (Part 3282 consists of subparts A through L, with sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

"Label" or "certification label" means the approved form of certification by the manufacturer that, under 24 CFR 3282.362(c)(2)(i) of the Manufactured Home Procedural and Enforcement Regulations, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

"Local code official" means the officer or other designated authority charged with the administration and enforcement of USBC, or duly authorized representative.

"Manufactured home" means a structure subject to federal regulation, 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.

"Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"Noncompliance" means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

"Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"Secretary" means the Secretary of HUD.

"Serious defect" means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

"Standards" or "federal standards" means the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) adopted by HUD, in accordance with authority in the Act. The standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

"State administrative agency" or "SAA" means DHCD which is responsible for the administration and enforcement of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia throughout Virginia and of the plan authorized by § 36-85.5 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.).

B. Terms defined within the federal regulations and standards shall have the same meanings in this chapter.

13 VAC 5-95-20. Application and enforcement.

A. This chapter shall apply to manufactured homes as defined in 13 VAC 5-95-10 and 13 VAC 5-95-20.

B. Enforcement of this chapter shall be in accordance with the federal regulation.

C. Manufactured homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as amended.

D. DHCD is delegated all lawful authority for the enforcement of the federal standards pertaining to manufactured homes by the administrator according to § 36-85.5 of the Code of Virginia. The Division of Building and Fire Regulation of DHCD is designated as a state administrative agency in the HUD enforcement program, and shall act as an agent of HUD. The administrator is authorized to perform the activities required of an SAA by the HUD enforcement plan including, but not limited to, investigation, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required.

E. All local code officials are authorized by § 36-85.11 of the Code of Virginia to enforce the provisions of this chapter within the limits of their jurisdiction. Such local code officials shall enforce this chapter, subject to the general oversight of the Division of Building and Fire Regulation and shall not permit the use of any manufactured home containing a serious defect or imminent safety hazard within their jurisdiction.

F. Mounting and anchoring of manufactured homes shall be in accordance with the applicable requirements of the USBC.

13 VAC 5-95-30. Effect of label.

Manufactured homes displaying the HUD label shall be accepted in all localities as meeting the requirements of this chapter, which supersede the building codes of the counties, municipalities and state agencies. Notwithstanding this provision, local code officials are authorized to carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the homes or parts of the homes, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations.

1. Local code officials shall verify that the manufactured home has not been damaged in transit to a degree that would render it unsafe. When determined necessary by the local code official, tests may be required for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.
2. Local code officials shall verify that supplemental components required by the label or this chapter are properly provided.
3. Local code officials shall verify that installation or erection instructions are followed.
4. Local code officials shall verify that any special conditions or limitations of use stipulated by the label in accordance with the standards or this chapter are followed.
5. Local code officials shall enforce applicable requirements of this chapter and the USBC for alterations and additions to manufactured homes, and may enforce the USBC for maintenance of the homes.
6. Local code officials shall enforce the requirements of the USBC applicable to utility connections, site preparation, building permits, skirting, certificates of use

and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units.

7. Local code officials may verify that a manufactured home displays the required HUD label.

8. Local code officials may verify that nonconforming items have been corrected.

13 VAC 5-95-40. Report to DHCD.

Whenever any manufactured home is moved from a local jurisdiction before a noted violation has been corrected, the local code official shall make a prompt report of the circumstances to the administrator. The report shall include a list of uncorrected violations, all information pertinent to identification and manufacture of the home contained on the label and the data plate, the destination of the home if known, and the name of the party responsible for moving it.

13 VAC 5-95-50. Alterations.

A. No distributor or dealer shall perform or cause to be performed any alteration affecting one or more requirements set forth in the federal standards, except those alterations approved by the administrator.

B. In handling and approving dealer requests for alterations, the administrator may be assisted by local code officials. The local code official shall report violations of subsection A of this section and failures to conform to the terms of their approval to the administrator.

13 VAC 5-95-60. Installations.

Distributors or dealers installing or setting up a manufactured home shall perform such installation in accordance with the manufacturer's installation instructions or other support and anchoring system approved by the local code official in accordance with the USBC.

13 VAC 5-95-70. Prohibited resale.

No distributor or dealer shall offer for resale any manufactured home possessing a serious defect or imminent safety hazard.

13 VAC 5-95-80. Lot inspections.

At any time during regular business hours when a manufactured home is located on a dealer's or distributor's lot and offered for sale, the administrator shall have authority to inspect such home for transit damages, seal tampering, violations of the federal standards and the dealer's or distributor's compliance with applicable state and federal laws and regulations. The administrator shall give written notice to the dealer or distributor when any home inspected does not comply with the federal standards.

13 VAC 5-95-90. Consumer complaints; on-site inspections.

A. The administrator shall receive all consumer complaints on manufactured homes reported to DHCD by owners, dealers, distributors, code officials, and other state or federal agencies. The administrator may request such reports to be submitted by letter or on a report form supplied by DHCD.

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B. The administrator may conduct, or cause to be conducted, an on-site inspection of a manufactured home at the request of the owner reporting a complaint with the home or under the following conditions with the permission of the owner of the home:

1. The dealer, distributor or manufacturer requests an on-site inspection;
2. The reported complaint indicates extensive and serious noncompliances;
3. Consumer complaints lead the administrator to suspect that a class of homes may be similarly affected; or
4. Review of manufacturer's records, corrective action, and consumer complaint records leads the administrator to suspect secondary or associated noncompliances may also exist in a class of homes.

C. When conducting an on-site inspection of a home involving a consumer complaint, the administrator may request the dealer, distributor, and manufacturer of the home to have a representative present to coordinate the inspection and investigation of the consumer complaint.

D. After reviewing the complaint report or the on-site inspection of the home involved, the administrator shall, where possible, indicate the cause of any nonconformance and, where possible, indicate the responsibility of the manufacturer, dealer, distributor, or owner for the noncompliance and any corrective action necessary.

E. The administrator shall refer to the manufacturer of the home, in writing, any consumer complaint concerning that home reported to the administrator. The administrator may refer any such reported complaint to HUD, to the SAA in the state where the manufacturer is located and to the inspection agency involved with certifying the home.

F. The administrator shall assist the owner, dealer, distributor, and manufacturer in resolving consumer complaints. The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I of the federal regulations for consumer complaint handling and shall take such actions as are necessary to assure compliance of all involved parties with applicable state and federal regulations.

13 VAC 5-95-100. Violation; appeal; penalty.

A. Where the administrator finds any violation of the provisions of this chapter, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.

B. Parties aggrieved by the findings of the notice of violation may appeal to the State Building Code Technical Review Board, which shall act on the appeal in accordance with the provisions of the USBC. The aggrieved party shall file the appeal within 10 days of the receipt of the notice of violation. Unless the notice of violation is revoked by the review board, the aggrieved party must comply with the stipulations of the notice of violation.

C. Any person, firm or corporation violating any provisions of this chapter shall, upon conviction, be considered guilty of a misdemeanor in accordance with § 36-85.12 of the Code of Virginia.

VA.R. Doc. No. R97-95; Filed October 23, 1996, 11:51 a.m.

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: 13 VAC 10-20-10 et seq. Rules and Regulations for Multi-Family Housing Developments (amending 13 VAC 10-20-40).

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

Summary:

The proposed amendments require that (i) any mortgage loan application in excess of \$750,000 be initially submitted to a financial institution and (ii) effective January 1, 1998, the financial institution to whom any such application is initially submitted must satisfy certain criteria specified in the proposed amendments in order to be approved by the authority.

13 VAC 10-20-40. Application and acceptance for processing.

Application for a mortgage loan 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, together with such documents and additional information as may be requested by the authority. The applicant shall complete a previous participation certificate, in such form as the executive director shall require, which shall provide information about rental housing projects in which the principal participants (or their affiliates) in the proposed development have previously had any interest or participation, all as more fully specified by the executive director.

In the case of an application for a mortgage loan in excess of \$750,000, such application shall be initially submitted to a financial institution. The financial institution shall perform an initial review of the application, shall advise the applicant of any changes necessary to comply with the requirements under these regulations, shall make recommendations to the authority regarding the application, and shall perform such other functions and responsibilities as the authority may require. Effective January 1, 1998, the financial institution to whom any such application is initially submitted must be approved by the authority. In order to be so approved by the authority, the financial institution must satisfy the following criteria:

1. The financial institution is authorized to do business in the Commonwealth;

2. During the immediately preceding calendar year, the financial institution has originated mortgage loans for rental housing developments located in the Commonwealth in an aggregate principal amount not less than \$10,000,000 to a minimum of three borrowers who are not, in the determination of the authority, in any respect directly or indirectly related to any of the other such borrowers or to the financial institution; provided, however, that the financial institution may not satisfy this criterion pursuant to any formal or informal arrangement under which the parties thereto collaborate on any means or method for satisfying this criterion (for the purpose of the foregoing criterion, a person or entity shall be deemed to be related to another person or entity if any of the following relationships existed at any time, directly or indirectly, between them or through one or more of such relationships: (i) the persons are in the same immediate family, which shall include a spouse, children, parents, brothers, and sisters and shall also include any person living in the same household; (ii) the entities have one or more common general partners, officers, directors, members, substantial (10% or more) shareholders, or other principals; (iii) the entities are under the control of any other person or entity; (iv) the person is a general partner, officer, director, employee, member, substantial (10% or more) shareholder, or principal in the entity; (v) the entity is a general partner, member, substantial (10% or more) shareholder, or principal in the other entity; or (vi) the person or entity is otherwise controlled, in whole or in part, by the other person or entity); and

3. The financial institution has a staff with demonstrated ability and experience in the origination of mortgage loans for rental housing developments.

The authority may from time to time review its approval of the financial institution and, if the authority determines that the financial institution then fails to satisfy the foregoing criteria, may terminate such approval.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience, financial capacity and predisposition to regulatory compliance of the applicant;
3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;
4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to

sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and

5. A preliminary evaluation of the need for such housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by the proposed development.

Based on the authority's review of the applications, previous participation certificates, documents, and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines satisfy the following criteria:

1. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

2. Subject to further review and evaluation by the authority's staff under 13 VAC 10-20-50, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

3. Subject to further review and evaluation by the authority's staff under 13 VAC 10-20-50, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the units to such persons and families; and (iii) sustain the operation of the proposed development.

4. The applicant and other principal participants in the proposed development have the experience, ability, financial capacity and predisposition to regulatory compliance necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development and will fully and properly perform all of their respective duties and obligations relating to the proposed development under law, regulation and the applicable mortgage loan documents of the authority.

5. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

6. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in 13 VAC 10-20-50 and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act, the documents and contracts executed at initial

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closing, applicable federal laws, rules and regulations, and the provisions of this chapter and without unreasonable delay, interruptions or expense.

The executive director's determinations with respect to the above criteria shall be based on the documents and information received or obtained by him at that time from any source and are subject to modification or reversal upon his receipt of additional documents or information at a later time. If the executive director determines that the above criteria are satisfied, he will recommend further processing of the application and shall present his recommendation to the board. If the executive director determines that one or more of the above criteria are not satisfied, he may nevertheless, in his discretion, recommend to the board that the application be approved and that the mortgage loan and issuance of the commitment therefor be authorized subject to satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to the further review in 13 VAC 10-20-50 and such terms and conditions as the board shall require in such resolution.

A resolution authorizing a mortgage loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit housing sponsor's equity in such development (such equity being established in accordance with 13 VAC 10-20-80), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with 13 VAC 10-20-80.

A mortgage loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by subsection A of § 36-55.39 of the Code of Virginia. The board, however, may in its discretion authorize the mortgage loan without the executive director having previously made the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the executive director prior to the financing of the mortgage loan.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto. If the executive director determines not to recommend approval of the application, he shall so notify the applicant.

VA.R. Doc. No. R97-87; Filed October 22, 1996, 11:57 a.m.

Title of Regulation: 13 VAC 10-180-10 et seq. Rules and Regulations for the Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50 and 13 VAC 10-180-60).

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

Summary:

The proposed amendments (i) require some applicants seeking rehabilitation credits to spend at least \$5,000 per unit in construction costs; (ii) allow the executive director to treat two or more applications as a single application; (iii) clarify requirements for admission into the nonprofit pool; (iv) make revisions to certain scoring categories, particularly with respect to site plan approval, use of rural development financing, weighted average for different size units, points for rehabilitation projects, points for projects in underserved jurisdictions, and substitution of points for the sale of a development to a nonprofit entity in lieu of points for the conversion of the units to home ownership; (v) limit general partners of applicants to one development, except developments in the rural pool; (vi) create overall credit dollar limits for general partners of applicants; and (vii) make other technical and clarification changes.

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 unit" means in subdivision 3 a of 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 for each type of unit as defined by the number of bedrooms (efficiency, one-bedroom unit, two-bedroom unit, three- or more bedroom units) in any development in the state (or, if the executive director shall so determine, in each pool) for which an application for credits has been filed at the time of assignment of points pursuant to 13 VAC 10-180-60.

"Estimated lowest gross square footage per bedroom unit" means in subdivision 3 a of 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 for each type of unit as defined by the number of bedrooms (efficiency, one-bedroom unit, two-bedroom unit, three- or more bedroom units) in any development in the state (or, if the executive director shall so determine, in each pool) for which an application for credits has been filed at the time of assignment of points pursuant to 13 VAC 10-180-60.

"Estimated highest per bedroom cost for new construction units" means, in subdivision 6 d of 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time

of assignment of points pursuant to 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 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) for which an application for credits has been filed at the time of assignment of points pursuant to 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.

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 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, if applicable, needs to be included in the application: site acquisition costs, site preparation costs, construction 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. *All applications seeking credits for rehabilitation of existing units must provide for construction costs of at least \$5,000 per unit.*

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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~~ *four* 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 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, 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. The executive director may reject any application from consideration for a reservation or allocation of credits unless the above information is submitted with the application. If, after reviewing the above information *or any other information available to the authority*, 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 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 may be indicated on the application form, 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.

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. The division of such pools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth. *In any situation in which the executive director deems appropriate, he may treat two or more applications as a single application.*

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 "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) 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 regular, continuous and substantial involvement as determined by the executive director~~) 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 reservation of credits to the buildings or development, own all of the general partnership interests of the ownership entity thereof; (iii) (ii) 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) (iii) the executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (v) (iv) 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 determinations required by *subdivision 1* and clauses (iii) (ii), (iv) (iii) and (v) (iv) 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, *and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities 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 ("nonprofit pools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools 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 any such applications in such nonprofit pools 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 to make such reservations) shall be assigned to such other pool 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 a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, 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 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 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 as the executive director shall designate 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. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit pools to any application with respect to which

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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 any combination of pools 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. Written evidence satisfactory to the authority (i) of approval by local authorities of the plan of development or special use permit, or site plan for the proposed development or (ii) that such approval is not required or will be obtained prior to the end of the calendar year. (20 points)

b. Written evidence satisfactory to the authority of preliminary approval by local authorities of the plan of development or special use permit. (10 points)

~~b. c.~~ c. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning for such site or (ii) that no zoning requirements are applicable. (30 points)

e. d. Valid building permit(s) or letter dated within three months prior to the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. (35 points)

~~d.~~ Evidence satisfactory to the authority documenting availability of all requisite public utilities for such site. (15 points)

e. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a *unit-by-unit* 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 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 *determination by the authority that the proposed development is located in a 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 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, housing authority or the Rural Economic and Community Development 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 or *in certain cases existing financing from Rural Development. In the case of the acquisition and rehabilitation (or rehabilitation only) of a property which is currently financed with a Rural Development loan which will be assumed (or retained), the application will only qualify for these points if the sponsor waives all rights to any developer's fee associated with the acquisition and rehabilitation (or rehabilitation only) of the property.* (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.) The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, the quotient of (i) the number of units of a given unit type divided by (ii) the total number of units in the proposed development, times the quotient of (iii) the average actual gross square footage per unit for a given unit type minus the estimated lowest gross square footage per unit for a given unit type divided by (iv) the estimated highest gross square footage per unit for a given unit type minus the estimated lowest gross square footage per unit for a given unit type.)~~

b. (1) 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.)

(2) Rehabilitation of existing housing stock. (50 points if hard construction costs equal or exceed \$25,000 per unit; 25 points if hard construction costs equal or exceed \$15,000 up to \$24,999 per unit; 10 points if hard construction costs equal or exceed \$5,000 up to \$14,999 per unit.)

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)
- (b) If all units have a washer and dryer. (7 points)
- (c) If all units have a balcony or patio. (5 points)
- (d) If all units have a washer and dryer hook-up only. (3 points)
- (e) If all units have a dishwasher. (2 points)
- (f) If all units have a garbage disposal. (1 point)

(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)

(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)

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(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.

e. Location of the proposed development. (Projects located in a city or county which has not received an allocation of credits (excluding tax exempt bonds) in the previous (i) 3 calendar years - 60 points; (ii) 2 calendar years - 40 points; and (iii) 1 calendar year - 20 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 55 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 committing to serve physically disabled persons must meet the requirements of the Americans with Disabilities Act (42 USC § 12101 et seq.).* 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, or principals of the controlling general partner or partners acting in the capacity of 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 low-income housing units (60 points); or (ii)

two or more times as many low-income housing units (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. *In implementing the scoring of this subdivision a, (i) only existing units will be counted, (ii) the units of the proposed development will not be counted, and (iii) the executive director may determine that multiple applications for which he deems to be a single development shall be considered a single application.*

b. Participation by a qualified nonprofit organization authorized to do business in Virginia substantially based or active in the community of the development that (i) acts as a managing general partner under the partnership agreement (20 points); 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 (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)~~ (ii) of this subdivision b may not be combined with any points awarded under clause (i).

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 500 525 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 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 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 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 sell the proposed development by option or right of first refusal to a qualified nonprofit organization authorized to do business in Virginia and substantially based or active in the community of the development, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for profit entity according to a homeownership plan approved by the authority. Such plan must include, but not be limited~~

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~~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 must record such plan option or right of first refusal as an exhibit to the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any refinancings of the development. 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 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 shall have been established, each application shall be assigned to a pool and shall be ranked within such pool. 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, 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, 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, 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, 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, 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 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 at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. 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 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 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 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 for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate 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.

~~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. Notwithstanding anything contained herein, the executive director may not reserve credits in any calendar year to more than one application of applicants having any common general partner(s) or individual(s) having any direct or indirect ownership interest in such general partner(s), unless all of the applications of such applicants to which credits are to be reserved are eligible for the Rural Pool as set forth in Part I of the Plan of the Virginia Housing Development Authority for the Allocation of Low-Income Housing Tax Credits (the "Plan"). In the case of applications eligible for the Rural Pool, the executive director shall not reserve more than \$200,000 of credits in any calendar year to any applicant or any applicants having any common general partner(s) or individual(s) having a direct or indirect ownership interest in such general partner(s). Further, notwithstanding anything contained herein, the executive director may not reserve more than \$500,000 of credits to any applicant in any credit year for any development not eligible for the Rural Pool, unless the development set forth in the application is eligible for the Northern Virginia MSA Pool in Part I of the Plan, in which case, the executive director may not reserve more than \$800,000 of credits to any applicant in any credit year. For the purposes of the credit dollar amount limitations set forth in this paragraph, the prereservation of any future year's credits shall be deemed reserved in such future year. The limitations set forth above do not apply to developments eligible for the Nonprofit Pool in Part I of the Plan or to any qualified nonprofit organization which is a partner or principal of such partner in any applicant. In the event that two or more applications of applicants having common general partners or individuals having any direct or indirect ownership interest in such general partners rank high enough for a reservation of credits, the executive director shall reserve~~

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credits to the highest ranked application absent the full agreement of the applicants to do otherwise.

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 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.

VA.R. Doc. No. R97-86; Filed October 22, 1996, 11:56 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

DEPARTMENT OF CONSERVATION AND RECREATION

REPRINT

EDITOR'S NOTICE: The following regulation is being reprinted to correct typographical errors and errors in rounding of tax rates against certain charges. The corrected text appears in brackets. The final regulation appeared in 12:26 VA.R. 3634-3645 September 16, 1996 and became effective October 17, 1996.

Title of Regulation: 4 VAC 5-35-10 et seq. **Standard Fees for Use of Department of Conservation and Recreation Facilities, Programs and Services.**

Statutory Authority: § 10.1-104 of the Code of Virginia.

Effective Date: October 17, 1996.

Summary:

This regulation establishes the standard rates for overnight and day use facility rental, and for standard fee programs and services in Virginia state parks, and establishes the criteria for deviating from and waiving fees. It further establishes pricing guidelines for nonstandardized facility rental and fee programs.

Agency Contact: Copies of this regulation may be obtained from the Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, telephone (804) 786-6124.

CHAPTER 35.

STANDARD FEES FOR USE OF DEPARTMENT OF CONSERVATION AND RECREATION FACILITIES, PROGRAMS AND SERVICES.

4 VAC 5-35-10. Definitions.

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

"Department" means the Department of Conservation and Recreation.

"Department director" means the Director of the Department of Conservation and Recreation.

"Natural area" means all properties owned or operated by the Department of Conservation and Recreation as natural area preserves or natural areas.

"Off-season" means the days, weeks or months of a year that a particular facility is not in high demand.

"Prime season" means the days, weeks, or months of a year that a particular facility is in high demand.

"Standard fee" is a fee or price charged for facilities, services or products as established on the Department of Conservation and Recreation fees list.

"State park" means all properties owned or operated by the Department of Conservation and Recreation as parks or historic sites.

"Weekly rental" means a seven-night rental period.

4 VAC 5-35-20. Applicability and effective dates.

A. *This chapter applies to all state parks and natural areas and facilities, programs and services operated by the Department of Conservation and Recreation.*

B. *This chapter establishes all fees and prices by setting standard fees for facilities, programs and services or otherwise establishing guidelines for setting fees for nonstandardized facilities, programs and services. All revenues from fees and prices thus established will be deposited in the Conservation Resources Fund.*

C. *Provisions of this chapter will become effective as provided for by § 9-6.14:9.3 of the Administrative Process Act or as otherwise stated in this chapter.*

4 VAC 5-35-30. General conditions and criteria concerning waiving or deviating from established fees for facilities, programs and services.

A. *The department director may waive fees for any person, group, or organization whenever such action is deemed to be in the public interest.*

B. *The department director may allow deviations from established fees in the form of discounts or special promotion prices for the purpose of stimulating visitation and use of departmental facilities, programs and services.*

4 VAC 5-35-40. General conditions and criteria concerning the establishment of new fees.

A. *The department director may establish fees for new or nonstandardized facility rentals, programs, and services as the need arises according to reasonable and accepted business practices, negotiation with third party [and] providers, and local market conditions. Such fees and prices shall be in effect immediately upon the reasonable availability of information allowing the public to be aware of the most current fee or price.*

B. *In the event that newly established or nonstandardized facility rentals, programs or services become a continuing offering, the department director shall standardize them and publish them in accordance with the Virginia Register Act (§ 9-6.15 et seq. of the Code of Virginia).*

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4 VAC 5-35-50. Standard fees for facilities, programs and services.

PARKING FEES (Nontaxable)

TYPE	WEEKDAYS	WEEKENDS
Main Season Daily Parking (Cars, trucks, vans, motorcycles)		
Price Range A: Natural Area Preserve and Parks under construction. (Belle Isle)	\$1.00	\$1.00
Price Range B: Parks other than below.	\$1.00	\$2.00
Price Range C: Westmoreland	\$1.00	\$3.00
Price Range D: First Landing/Seashore, Lake Anna, Smith Mt. Lake, Claytor Lake, Leesylvania, Kiptopeke (partial season, see note).	\$2.00	\$3.00
Price Range E: Pocahontas, Kiptopeke (partial season, see note).	\$3.00	\$4.00
Off Season Daily Parking (Cars, trucks, vans, motorcycles)		
Standard fee	\$1.00	\$1.00
Annual Parking - Cars, trucks, vans, motorcycles		
Standard fee	ANNUAL	
(requires daily price differential surcharge when used at parks below)	\$25.00	
	\$13.00 after 7/21	
First Landing/Seashore, Lake Anna, Smith Mt. Lake, Claytor Lake Leesylvania, Westmoreland, Pocahontas	\$30.00	
	\$16.00 after 7/21	
Kiptopeke Annual Parking	\$40.00	
	\$24.00 after 7/21	
Annual Senior Citizens Parking	\$15.00	
	\$8.00 after 7/21	
Annual Bus Parking (Seashore)	\$65.00	
Daily Parking - bus		
Parks other than below	\$8.00	
Claytor Lake, Hungry Mother, First Landing/Seashore, Leesylvania, Mason Neck	\$10.00	(First Landing/Seashore-\$8.00 Spring/Fall)
Kiptopeke, Pocahontas, Westmoreland	\$15.00	
Daily Boat Launch Fee		
(For all registered watercraft and trailed boats. Add this fee to daily parking fee [if] also parking)		
Standard Fee	\$2.00	
First Landing/Seashore	\$4.00	
Leesylvania	\$4.00	\$5.00
Leesylvania: Group Fee (10 or more)	\$3.00	\$4.00
Surcharge for second Boat on same trail (jet ski)	\$2.00	
Overnight parking at boat launch (where available)	\$5.00	
Annual Parking/Boat Launch		
(Price includes parking & launch)	ANNUAL	
Claytor Lake, Kiptopeke, Lake Anna, Occoneechee, Smith Mt. Lake, Staunton River, Westmoreland, York River	\$65.00	
(requires daily price differential surcharge when used for boat launch at First Landing/Seashore or Leesylvania)	\$35.00 after 7/21	
First Landing/Seashore (requires daily price differential surcharge when used for boat launch at Leesylvania)	\$80.00	
	\$45.00 after 7/21	

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Leesylvania (good for parking & launching at all parks) \$105
\$55.00 after 7/21

Annual Senior Citizen Parking/Boat Launch

(Price included parking and launch good also for parking only at all parks) Claytor Lake, Kiptopeke, Lake Anna, Occoneechee, Smith Mt. Lake, Staunton River, Westmoreland, York River \$50.00
[\$28.00 after 7/21]

(requires daily price differential surcharge when used for boat launch at First Landing/Seashore or Leesylvania)
First Landing/Seashore (requires daily price differential surcharge when used for boat launch at Leesylvania) \$65.00
\$38.00 after 7/21

Leesylvania (good for parking and launching at all parks) \$90.00
\$48.00 after 7/21

Trailer Parking Fee (add to daily parking fee)
Other than those covered by camping or boat launch fee \$1.00 per trailer

Special Notes:

1. Weekend rates apply on Memorial Day, Fourth of July, and Labor Day holidays.
2. Off season rates apply after the last full weekend in October and up to the first full weekend in April.
3. At Kiptopeke, Price Range D applies to that portion of the main season outside of Memorial Day weekend through Labor Day. Price Range E applies from the Saturday before Memorial Day through Labor Day.

ADMISSION FEES (Nontaxable)

TYPE	WEEKDAYS	WEEKENDS
Park Admission Fee, Main Season		
Westmoreland, Memorial Day Week - Labor Day	Under 3 free \$1.00 (Ages 3-12) \$1.00 (Ages 13 & up)	Under 3 free \$1.00 \$2.00
Historic Areas		
Shot Tower, Chippokes Farm & Forestry Museum, Grist Mill	\$1.00 (Ages 6-12) \$2.00 (Ages 13 & up)	\$1.00 (Ages 6-12) [\$2.00 (Ages 13 & up)]
Chippokes Mansion, Southwest VA Museum	\$1.50 (Ages 6-12) \$3.00 (Ages 13 & up)	[\$1.50] (Ages 6-12) [\$3.00 (Ages 13 & up)]
Group Rates (10 or more)	\$1.50 (adult) \$1.00 (child)	\$1.50 (adult) \$1.00 (child)
Group Rate for Children (same as regular rate)		
Annual Pass	\$5.00 (adult) \$2.00 (child) \$10.00 (family)	\$5.00 (adult) \$2.00 (child) [\$10.00 (family)]
Natural Tunnel Chairlift		
	\$2.00 (Ages 6 & up) Round Trip \$1.00 (Ages 6 & up) One Way \$1.50 [each] (Group rate 10 or more Round Trip)	\$2.00 [(Ages 6 & up)] Round Trip \$1.00 (Ages 6 & up) [One way] \$1.50 [each] (Group rate 10 or more Round Trip)
Fishing Pier, Kiptopeke	\$1.00 (Ages 6-12) \$3.00 (Ages 13 & up) \$1.00 (observation)	\$1.00 (Ages 6-12) [\$3.00 (Ages 13 & up)] \$1.00 (observation)

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Annual Fishing Pier Pass (includes parking)	\$25.00 (Ages 6-12)	\$25.00 (Ages 6-12)
	\$60.00 (Ages 13 & up)	\$60.00 (Ages 13 & up)
False Cape Seasonal Transportation Fee	\$4.00/day (Ages 3 & up)	\$4.00/day (Ages 3 & up)

CAMPING FEES (Taxable)

Camping fees include free swimming and boat launching for members of the camping party during their stay at the property, when and where available.

TYPE	PRIME SEASON	OFF SEASON
Standard Sites (no hookups)		
Price Range A: Holliday Lake, Bear Creek Lake, Twin Lakes, Natural Tunnel, Staunton River, Grayson Highlands (see primitive off-season), Pocahontas	\$10.53 / Night	\$8.61 / Night
Price Range B: Douthat (except campground A), Hungry Mother, Westmoreland, Occoneechee, Claytor Lake	\$11.48 / Night	\$9.57 / Night
Price Range C: Douthat Campground A	\$16.27 / Night	\$13.40 / Night
Price Range D: Kiptopeke	\$15.31 / Night	\$13.40 / Night
Price Range E: Seashore	\$19.14 / Night	\$13.40 / Night
Water & Electric Sites		
Price Range A: Holliday Lake, Fairy Stone, Bear Creek Lake, Twin Lakes, Natural Tunnel, Staunton River, Grayson Highlands, Chippokes Plantation	\$14.35 / Night	\$12.44 / Night
Price Range B: Douthat, Hungry Mother, Westmoreland, Occoneechee, Claytor Lake, Pocahontas	\$16.27 / Night	\$13.40 / Night
Price Range C: Kiptopeke	[\$19.14] / Night	\$17.22 / Night
Water, Electric & Sewage Sites		
Kiptopeke	\$21.05 / Night	[\$19.14] / Night
Primitive Camping		
Sky Meadows, Smith Mt. Lake, False Cape	\$7.65 / Night	\$6.70 / Night
Grayson Highlands	Not available	\$7.65 / Night
Group Camping		
<i>Per/Site Pricing</i>		
Price Range A: Twin Lakes, Natural Tunnel, Pocahontas	\$10.53 / Night	\$8.61 / Night
Price Range B: Douthat, Westmoreland,	\$11.48 / Night	\$9.57 / Night
Price Range C: First Landing/Seashore	\$19.14 / Night	[\$13.40] / Night
<i>Total Campground Pricing:</i>		
Natural Tunnel	\$45.93 / Night	\$42.10 / Night
Horse Camping (Grayson Highlands only)		
Campsite Fee	\$10.53 / Night	\$8.61 / Night
Horse Stall Fee		
(all horses must be in stalls)		
Same price all seasons	\$5.74 / night-outside stall [\$7.66] / night-inside stall	\$5.74 / night-outside stall [\$7.66] / night-inside stall
Dump Station Fee (where available)	[\$2.87]	

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PET FEES (no maximum, charge for each night of stay) \$3.00 / pet / night \$3.00 / pet / night

Special Notes:

Prime Season Camping Rates begin according to the following schedule:

1. (Bear Creek Lake, Douthat, Holliday Lake, Occoneechee, Pocahontas, Twin Lakes) Friday night of the first full weekend in April.
2. (First Landing/Seashore, Claytor Lake, Grayson Highlands, False Cape) Friday night of the first full weekend in May.
3. (Westmoreland, Kiptopeke, Sky Meadows, Smith Mt. Lake, Staunton River, Fairy Stone, Hungry Mother, Natural Tunnel, Chippokes Plantation) from the Friday night of Memorial Day weekend.

The last night for charging Prime Season Camping Rates will be according to the following schedule:

1. (Fairy Stone, Natural Tunnel, Holliday Lake, Occoneechee, Sky Meadows, Smith Mt. Lake, Staunton River, Twin Lakes, Kiptopeke, First Landing/Seashore, False Cape, Westmoreland) Sunday night of Labor Day weekend.
2. (Bear Creek Lake, Pocahontas, Claytor Lake, Douthat, Grayson Highlands, Hungry Mother) Saturday night of the last full weekend of October.

CABINS (Taxable)

Cabin fee includes free swimming and boat launching for members of party during their stay at the property, when and where available.

TYPE	PRIME SEASON	OFF SEASON
Weekly Rates		
1 room: Douthat, Fairy Stone, Hungry Mother, Staunton River, Westmoreland	\$258.37 / Week	\$232.54 / Week
1 bedroom: Douthat, Fairy Stone, Hungry Mother, Staunton River, Westmoreland	\$287.08 / Week	\$258.37 / Week
Lake front: Fairy Stone, Hungry Mother	\$320.57 / Week	\$288.99 / Week
2 bedrooms		
All parks, except First Landing/Seashore	\$394.26 / Week	\$355.02 / Week
Lakeview (Claytor Lake, Fairy Stone, Hungry Mother, Twin Lakes, Westmoreland)	\$430.62 / Week	[\$387.56] / Week
Seashore	\$497.61 / Week	\$355.02 / Week
Creasey Lodge at Douthat	\$669.86 / Week	\$669.86 / Week
Main Lodge at Douthat	\$1100.48 / Week	\$1100.48 / Week
Daily Rates: (Note: 2 night minimum)		
1 room: Douthat, Fairy Stone, Hungry Mother, Staunton River, Westmoreland	\$57.42 / Night	\$51.67 / Night
1 bedroom: Douthat, Fairy Stone, Hungry Mother, Staunton River, Westmoreland	\$62.20 / Night	\$55.50 / Night
Lake front: Fairy Stone	\$66.98 / Night	\$60.29 / Night
2 bedrooms		
All parks, except First Landing/Seashore	\$76.55 / Night	\$68.90 / Night
Lake front (Claytor Lake, Fairy Stone, Hungry Mother, Twin Lakes, Westmoreland)	\$81.34 / Night	\$73.68 / Night
Seashore	\$81.34 / Night	\$68.90 / Night
Creasey Lodge at Douthat	\$275.60 /per night 1st - 2 nights	\$275.60 /per night 1st - 2 nights
	\$82.30 / per night 3rd - 7 nights	\$82.30 / per night 3rd - 7 nights

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Main Lodge at Douthat	\$454.54 / per night 1st - 2 nights	\$454.54 / per night 1st - 2 nights
	\$129.19 / per night 3rd - 7 nights	\$129.19 / per night 3rd - 7 nights
Camping cabins (Overnight cabins) at Westmoreland (4 person max. occupancy & 2 night min.)	\$28.71 / night	\$25.84 / night
Extra Bed rentals	\$2.87/Bed / night	\$2.87/Bed / night
Linen (rented only upon request)	\$5.74/Bed / week	\$5.74/Bed / week
PET FEES (no maximum, charge for each night of stay)	\$5.00 / pet / night	\$5.00 / pet / night

Special Notes:

At no time will the weekly rental price be exceeded for all or a portion of a seven continuous night period.

Prime Season Cabins Rates will begin according to the following schedule:

1. Claytor Lake, Douthat, Fairy Stone, Hungry Mother: on May 1, weekly rentals which span this date will be prorated according to the number of prime and off-season days included in the week.
2. Westmoreland, First Landing/Seashore, Staunton River, Twin Lakes: on Friday of Memorial Day weekend; weekly rental which span this date will be prorated according to the number of prime and off-season days included in the week.

Prime Season Cabins Rates will end according to the following schedules.

1. Claytor Lake, Douthat, Fairy Stone, Hungry Mother: when the facility is closed for the winter.
2. First Landing/Seashore, Westmoreland, Twin Lakes, Staunton River; after Sunday night of Labor Day weekend. Weekly rentals which span this date will be prorated according to the number of prime and off-season days included in the week.

RESERVATION CANCELLATION FEES (Nontaxable)

Camping	\$5.00 / reservation
Cabins (including camping cabins at Westmoreland)	\$10.00 / reservation
Horse stalls	\$5.00 / reservation

PICNIC SHELTERS (Taxable)

Small Shelters (Less than 750 sq ft)	\$24.00 / Half day	\$40.00 / Full day
Large Shelters (Greater than 750 sq ft)	\$40.00 / Half day	\$70.00 / Full day
Two reservation periods per day, per shelter		
Large Shelter	\$80.00 / Full day	
Leesylvania Group Picnic Area	\$40.00 / Full day	
Chippokes Plantation Conference Shelter		
With Kitchen	\$100.00 / Function	
Without Kitchen	\$ 60.00 / Function	

(The shelter is available on a reservation basis only.)

Amphitheater

Natural Tunnel: First Half-day period (8:00 am - 3:00 pm)	\$70.00
Second Half-day period (3:00 pm - 10:00 pm)	\$70.00
All Day	\$135.00
Leesylvania, Hungry Mother Amphitheater	\$15.00 / reservation period

Claytor Lake Gazebo \$40.00 / full day
\$24.00 / half day

INTERPRETIVE, RESOURCE, AND ENVIRONMENTAL EDUCATION PROGRAM FEES (Nontaxable)

INTERPRETIVE BROCHURES \$.50

Interpretive Canoe & other on-water programs:

Bear Creek Lake, Holliday Lake, Staunton River,
Twin Lakes, Smith Mt. Lake \$2.00 (13 & up)
\$1.00 (12 & under)

Hungry Mother \$3.00 (13 & up)
\$2.00 (12 & under)

Belle Isle, Kiptopeke \$4.00 (13 & up)
\$2.00 (12 & under)

Chippokes Plantation, York River \$5.00 (13 & up)
\$2.00 (12 & under)
\$4.00 / person, (family/groups. 4 pers. min)
\$7.00 / person, extended/moonlight

Mason Neck, Leesylvania \$6.00 (13 & up)
\$4.00 (12 & under)
\$5.00 / person, (family/groups. 4 pers. min)
\$8.00 / person extended
\$6.00 / person, (family/groups. 4 pers. min)
\$10.00 / person, moonlight

False Cape Canoe Trips \$5.00 / person

Lake Anna Pontoon Boat Tours \$3.00 adult / 2.00 child

False Cape Environmental Education Fees:

Transportation:

Transportation from Little Isle (optional) Bus (round trip) - \$36.00

Additional Park Vehicle (round trip) \$36.00

Per Hour (within the park) \$18.00

Tours and Programs:

Caledon Eagle Tours \$4.00 per person
Group Rate (10 or more) \$2.00 per person

Environmental Education Package Plans \$75.00 / program

Menu Programs \$15.00 / program

State Park Hunting Fees

Hunt Application \$5.00

Daily Hunting Fee (one-time fee per season per park)
(applies to managed hunts only) \$10.00

Environmental Education Center Fee: (Taxable)

False Cape Environmental Education Center (EEC)
(Maximum occupancy 20) \$191.39 / Night
\$ 57.42 / Day use rental

First Landing/Seashore, Caledon, Mason Neck, Sky Meadows,
Douthat \$ 57.42 / Day
\$38.28 Half day

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Douthat (Bunkhouse) \$57.42 / Night

Rentals (includes tax)

Personal Flotation Device (P.F.D.)
When separate from boat rental \$.96 / day

Bike Rentals \$2.87 / hour

Canoe Rentals \$3.83 / hour
\$8.61 / half day
\$15.31 / full day

Row Boats \$3.83 / hour
\$8.61 / half day
\$15.31 / full day

Paddle Boats \$4.78 / hour

SWIMMING (Nontaxable)

Nonswimming adults in street clothes admitted free when supervising children

Swimming:	WEEKDAYS	WEEKENDS
All parks EXCEPT: Bear Creek Lake, Chippokes Plantation, Fairy Stone, Holliday Lake, Natural Tunnel, Twin Lakes		
Standard Swimming Fee:	Under 3 -Free	Under 3 -Free
Child	\$2.00 (Ages 3-12)	\$3.00 (Ages 3-12)
Adult	\$3.00 (Ages 13 & up)	\$4.00 (Ages 13 & up)
Bear Creek Lake, Chippokes Plantation, Fairy Stone, Holliday Lake, Natural Tunnel, Twin Lakes		
Swimming Fee:	Under 3 -Free	Under 3 -Free
Child	\$2.00 (Ages 3-12)	\$2.00 (Ages 3-12)
Adult	\$3.00 (Ages 13 & up)	\$3.00 (Ages 13 & up)
Deposit on all locker keys	\$2.00 each; returned when key is returned	
Coupon Book (Beach or Pool)		
20 coupons, adult or child	\$35.00	
10 coupons, adult or child	\$18.00	
Permits / Package		
Season Permit (Swimming Pools & Beaches)	\$40.00 (Ages 3-12) \$50.00 (Ages 13 & up)	
Family Annual Swimming Package (4 annual pass, any age, & 1 parking pass)	\$190.00	

GROUP CABINS - POCAHONTAS (Taxable)

Algonquian Ecology Camp & Group Camp 3

Dinning Hall (with kitchen facilities)
when rented with minimum of 2 units \$ 76.55 / day
\$382.77 / week

One Unit-Capacity: 28 \$47.85 / day
\$287.08 / week

Two Units-Capacity: 56 \$86.12 / day
\$478.47 / week

Three Units-Capacity: 84	\$114.83 / day \$650.72 / week
Four Units-Capacity: 112	\$133.97 / day \$765.55 / week
Complete AE Camp (with Dining Hall)	\$210.53 / day \$1148.32 / week
Complete GC 3 (with Dining Hall)	\$162.68 / day \$861.24 / week
Dining Hall (with kitchen facilities) Day use 8:00am - 10:00pm	\$143.34 / day

CONFERENCE CENTERS (Taxable)

Hemlock Haven Conference Center at Hungry Mother

-Taxables (add taxes to the fees listed below)

Meeting Rooms: Base charge for 8-hr period.

Additional time by hour:

Main Hall (Capacity 375)	\$225.00 / 8hrs + \$30.00 / add'l hr. Half-day \$150.00 / 4 hrs.
Upper Level (Capacity 50)	\$75.00 / 8hrs + \$10.00 / add'l hr. Half-day \$50.00 / 4 hr.
Split Conference Room (Capacity 35 per room - there are 2 rooms)	\$60.00 / 8hrs + 5.00 / add'l hr. Half-day \$40.00 / 4 hrs.
Single Room (Capacity 20)	\$40.00 / 8hrs + 5.00 / add'l hr. Half-day \$25.00 / 4 hrs.
Entire Complex	\$350.00 /day + \$45.00 / add'l hr. Half-day \$200.00 / 4 hrs.

Exclusive Use (includes all Cabins & meeting rooms).

1 Day Exclusive Conf.	\$1,045.00
2 Day Exclusive Conf.	\$2,090.00
3 Day Exclusive Conf.	\$2,860.00
5 Day Exclusive Conf.	\$4,400.00
6 Day Exclusive Conf.	\$5,170.00
7 Day Exclusive Conf.	\$5,940.00

Lodging

Conference Cabins	\$36.00 / Single, \$4.00 add'l person \$65.00 minimum / cabin
Individual Cabins	\$65.00 / night ("Pines")

Hemlock Haven

Day Use Recreational Package (includes all outside recreational facilities)

Hours 10:00 am - 8:00 pm

0 - 250 persons	\$500.00 all day \$250.00 half day
250 - 500 persons	\$750.00 all day \$375.00 half day

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500 + persons	\$1,000.00 all day \$500.00 half day
Exclusive Use Recreational Package - (Includes all recreational facilities, Pool, & main floor of Ferrell Hall. Does not include cabins)	\$1,150.00
Pool Use	\$150.00 all day \$ 75.00 half day
Cedar Crest Conference Center at Twin Lakes	
Day-use Fees (8 am - 11 pm)	
Complex (pavilion w/deck, grounds, volleyball, horseshoes)	\$170.00 / 8 hours \$85.00 / 4 hours \$25.00 / each add'l hour
Pavilion (indoor use only)	\$130.00 / 8 hours \$85.00 / 4 hours \$25.00 / each add'l hour
Picnic Shelter or Gazebo	\$68.00 / 8 hours \$34.00 / 4 hours \$10.00 / each add'l hour
Kitchen Cleaning Fee	\$50.00 / event
Beach (10 am - 6 pm w/ guards) Less than 175 persons	\$130.00 / 8 hours \$65.00 / 4 hours
More than 175 persons	\$160.00 / 8 hours \$80.00 / 4 hours
Picnic Package (complex, gazebo, beach) Less than 175 persons	\$350.00 / 8 hours \$175.00 / 4 hours
More than 175 persons	\$380.00 / 8 hours \$190.00 / 4 hours
Recreational Package	
Boat Package (4 paddle boats & 2 row boats) (Only available with Beach or Picnic Package)	\$100.00 / 8 hours \$50.00 / 4 hours
Bike Package (3 mens & 3 ladies bikes)	\$72.00 / 8 hours \$36.00 / 4 hour
OVERNIGHT FEES	
Mistletoe Lodge (8 persons max / 2 night min.)	\$88.00 / Night for 6 persons (\$10.00 for add'l persons)
Cabins (6 person max. / 2 Cabins - 2 night min.)	\$67.00 / Night
Campsites (limit 6 per site; 20 available) 1-5 every additional over 5	\$10.50 / Night \$7.00 / Night
Total Group Campground	\$157.00 / Night
PACKAGE PLANS (includes overnight rental for 24 hour period and complex rental for an 8 hour period between 8:00am and 11:00pm)	
A. Cabins & Complex (one night minimum)	\$504.00 plus tax
B. Cabin, Campsites, & Complex (one night minimum)	\$598.00 plus tax
SPECIAL SERVICES	
Fax	First 2 pages free, then \$2.00 each add'l page

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Copies Single copy free, then \$.15 per copy.

Chippokes Meeting, Conference, & Special Use Facilities:

Chippokes Board Room	\$150.00 / 8 hours \$25.00 / hour
Mansion Grounds (includes parking for renting party)	\$300.00 / event
Program Options:	
Wagon Tour (24 max)	\$48.00
Canoe Trip	\$48.00 (first 24 persons) \$ 4.00 (each add'l person)
Chippokes Conference Shelter	
With Kitchen	\$100.00 / function
Without Kitchen	\$ 60.00 / function

(The shelter is available on a reservation basis only.)

Southwest VA Museum Meeting Facilities

	DAY RATE	NIGHT RATE
Option 1: Victorian Parlor - Basic Room Package		
Under 22 person, table seating	\$50.00	\$75.00
23 to 30 person, table seating	\$60.00	\$85.00
31 to 50 persons, theater seating w/ head table	\$50.00	\$75.00
Option 2: Victorian Parlor - Executive Room Package		
Under 22 person, table seating	\$60.00	\$85.00
23 to 30 person, table seating	\$70.00	\$95.00
31 to 50 persons, theater seating w/ head table	\$60.00	\$85.00
Option 3: Additional Meeting Rooms		
A. Hallway (Downstairs)	\$20.00	\$20.00
B. Additional tables (each)	\$10.00	\$10.00
C. Small Parlor	\$30.00	\$30.00
D. Big Stone Gap Development Room	\$40.00	\$40.00
E. Additional Hours	\$10.00	\$10.00

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DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Chapter 902 of the 1996 Acts of the Assembly abolished the Virginia Health Services Cost Review Council and specified that the regulations of the council would remain in effect until superseded by regulations adopted by the Board of Health. The Virginia Health Services Cost Review Council's proposed regulation, 12 VAC 25-20-10 et seq., Rules and Regulations of the Virginia Health Services Cost Review Council, was published in 12:16 VA.R. 2112-2120 April 29, 1996. Subsequent to the change in legislation, amendments to the regulation were adopted in final form by the Board of Health as 12 VAC 5-650-10 et seq., Rules and Regulations Governing Health Data Reporting.

Title of Regulation: 12 VAC 5-650-10 et seq. Rules and Regulations Governing Health Data Reporting (formerly 12 VAC 25-20-10 et seq., Rules and Regulations of the Virginia Health Services Cost Review Council).

Statutory Authority: §§ 32.1-12 and 32.1-276.2 et seq. of the Code of Virginia.

Effective Date: December 11, 1996.

Summary:

The amendments eliminate the requirement for nursing homes and hospitals to submit budget filings, for nursing homes to submit Commercial Diversification Surveys and for hospitals to submit quarterly filings with the board. The regulation also provides a method for assessing fees that is not related to a budget filing. No substantive changes were made to the regulation since proposed. Technical changes are being made to address the abolition of the Health Services Cost Review Council.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Tim Catherman, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 371-4134.

[CHAPTER 650.

RULES AND REGULATIONS GOVERNING HEALTH DATA REPORTING.]

PART I. DEFINITIONS.

[~~12 VAC 25-20-10, 12 VAC 5-650-10.~~] Definitions.

The following words and terms, when used in this chapter, shall have the following meanings:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's current operating costs, including expenses for operating and maintenance of approved services and facilities, direct and indirect expenses for

patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and accumulation of funds for approved capital projects;

3. For investor owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor owned institutions organized as proprietorships, partnerships, or S corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carry forwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

["Board" means the Board of Health.]

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137 [of the Code of Virginia].

["~~Council~~" means the Virginia Health Services Cost Review Council].

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia and or (iii) a hospital operated by

the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include *continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia*, any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to § 32.1-123 et seq. or § 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that ~~files its budget, annual report, or charge schedule with the council submits any of the [council's board's] filings past the due date.~~

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the [council board], newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be equivalent to one patient day.

PART II. GENERAL INFORMATION.

[~~12 VAC 25-20-20. 12 VAC 5-650-20.~~] Authority for regulations.

The [~~Virginia Health Services Cost Review Council created board~~], by §§ [~~9-156 through 9-166 32.1-276.2 through 32.1-276.11~~] of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. [~~Section 9-164 Sections 32.1-276.7 and 32.1-276.8~~] of the Code of Virginia [~~directs direct~~] the [council board] from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

[~~12 VAC 25-20-30. 12 VAC 5-650-30.~~] Purpose [~~, administration, application, and effective date~~] of rules and regulations.

[A.] The [council board] has promulgated these rules and regulations to set forth an orderly administrative process by

which the [council board] may govern its own affairs and require compliance with the provisions of §§ [~~9-156 through 9-166 32.1-276.2 through 32.1-276.11~~] of the Code of Virginia.

[~~12 VAC 25-20-40. Administration of rules and regulations.~~

B.] These rules and regulations are administered by the [~~Virginia Health Services Cost Review Council board~~].

[~~12 VAC 25-20-50. Application of rules and regulations.~~

C.] These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1 et seq. of the Code of Virginia, apply to their promulgation.

[~~12 VAC 25-20-60. Effective date of rules and regulations.~~

D.] These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in The Virginia Register.

[~~12 VAC 25-20-70. 12 VAC 5-650-40.~~] Powers and procedures of regulations not exclusive.

The [council board] reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of [~~§ 9-156 et seq. §§ 32.1-27 and 32.1-276.11~~] of the Code of Virginia.

[PART III. COUNCIL PURPOSE AND ORGANIZATION.]

12 VAC 25-20-80. [~~Statement of mission. (Repealed.)~~

The mission of the council is to promote cost containment within Virginia's health care institutions by collecting, analyzing, and disseminating information to the public.]

12 VAC 25-20-90. [~~Council chairman. (Repealed.)~~

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.]

12 VAC 25-20-100. [~~Vice chairman. (Repealed.)~~]

The council shall annually elect from its membership a vice chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.]

12 VAC 25-20-110. [~~Expense reimbursement. (Repealed.)~~

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.]

12 VAC 25-20-120. [~~Additional powers and duties. (Repealed.)~~

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.]

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PART [~~IV. III.~~] FILING REQUIREMENTS AND FEE STRUCTURE.

[~~12 VAC 25-20-130. 12 VAC 5-650-50.~~] Annual historical report filing].

Each individual health care institution shall file *submit* an annual historical report *filing* of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 [*(Repealed)*] of the Code of Virginia on forms provided by the [*council board*] together with unconsolidated certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia. *If the health care institution is part of a publicly held company, the individual institution may submit unconsolidated unaudited financial statements. Investor-owned institutions organized as proprietorships, partnerships, or S-corporations that impute income tax on the annual historical filing report an imputed income tax based on the maximum tax rates for federal and state income. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Operating losses may be carried forward no more than five years but may not be carried back to prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the [Virginia Health Services Cost Review Council board] by the institution.* The annual historical report *filing* and the unconsolidated certified audited financial statement shall be received by the [*council board*] no later than 120 days after the end of the respective applicable health care institution's fiscal year. The requirement for the filing *submission* of an annual historical report *filing* and an unconsolidated certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Requests for a waiver must be submitted in writing prior to the due date. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with ~~home for adult~~ *adult care residence* beds in the annual report filed with the [*council board*]. For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the [*council board*]. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the [*council board*] and the health care institution must continue to utilize that methodology for all

subsequent filings unless a subsequent change is approved by the [*council board*].

12 VAC 25-20-140. Budget. *(Repealed.)*

~~Each individual health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-160 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than 30 days before the beginning of its respective applicable fiscal year. An institution's budget for a given fiscal year will not be accepted unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.~~

12 VAC 25-20-150. Quarterly historical report. *(Repealed.)*

~~Each individual hospital shall file a quarterly historical report of revenue, expenses, and related statistics. The hospital quarterly file shall be received by the council no later than 45 days after the end of the respective applicable hospital's quarter end.~~

[~~12 VAC 25-20-160. 12 VAC 5-650-60.~~] Schedule of charges.

Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-159 A 4 3 [*(Repealed)*] of the Code of Virginia. The institution's schedule of charges shall be received by the [*council board*] within 10 days after the beginning of its respective applicable fiscal year.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed within 10 days of the effective date of the revised annual projection. ~~An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted unless the institution has complied with all prior filing requirements contained in 12 VAC 25-20-130 and 12 VAC 25-20-140 for previous fiscal years.~~

In addition to the requirement above, a new schedule of charges must be submitted if any of the following conditions exist: (i) the creation or revision of a markup or pricing methodology, or (ii) the creation or revision of charges for new services or products. Amendments or modifications to a schedule of charges that are due only to cost adjustments resulting from the pass through of a markup or pricing methodology that had been implemented since the beginning of the fiscal year are considered minimal as described in ~~12 VAC 25-20-140~~ and need not be reported.

~~[12 VAC 25-20-170. 12 VAC 5-650-70.]~~ Survey of rates.

Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. For hospitals this information shall be received by the [council board] from each hospital no later than April 30 of each year.

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the [council board]. For nursing homes this information shall be provided to received by the [council board], no later than March 31 of each year.

~~[12 VAC 25-20-180. 12 VAC 5-650-80.]~~ Commercial diversification survey.

Each health care institution *hospital* or any corporation that controls a health care institution *hospital* shall respond to a survey conducted by the [council board] to determine the extent of commercial diversification by such health care institutions *hospitals* in the Commonwealth. The survey shall be in a form and manner prescribed by the [council board] and shall request the information specified in subdivisions a through j below for each affiliate of such health care institution *hospital* or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;
- d. The method by which each affiliate was acquired or created;
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;
- f. The total assets;
- g. The total revenues;
- h. The net profit after taxes, or if not-for-profit, its excess revenues;
- i. The net equity, or, if not-for-profit, its fund balance; and
- j. Information regarding related party transactions.

~~[12 VAC 25-20-190. 12 VAC 5-650-90.]~~ Affiliates.

The information specified in ~~[12 VAC 25-20-180 12 VAC 5-650-80]~~ shall relate to any legal controls that exist as of the ~~1st of July of each calendar year in which the survey is required to be submitted~~ *hospital's fiscal year end*. The response to the survey shall include the required information for all affiliates in which the health care institution *hospital* or any corporation which controls a health care institution *hospital* has a 25% or greater interest. Information regarding affiliates or organizations that do not have corporate headquarters in Virginia and that do no business in Virginia need not be provided.

~~12 VAC 25-20-200. Time table for survey. (Repealed.)~~

~~For fiscal years ending on or before June 30, 1992, each health care institution or any corporation that controls a health care institution and that is required to respond to the survey specified in 12 VAC 25-20-180 shall complete and return the survey to the council by the 31st day of August of 1992.~~

~~12 VAC 25-20-210. Financial statement (hospital). (Repealed.)~~

~~For fiscal years ending on or before June 30, 1992, each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.~~

~~12 VAC 25-20-220. Financial statement (nursing home). (Repealed.)~~

~~For fiscal years ending on or before June 30, 1992, each nursing home that reports to the council or any corporation which controls a nursing home that reports to the council shall submit either a certified audited financial statement or an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.~~

~~The filings required by this section shall be submitted to the council by the 31st day of August of 1992 or 120 days after the health care institution's fiscal year end, whichever is later.~~

~~[12 VAC 25-20-230. 12 VAC 5-650-100.]~~ Financial statement (healthcare institution).

~~For fiscal years ending on or after July 1, 1992, each health care institution *Each hospital* that reports to the [council board] or any corporation which controls a health care institution *hospital* that reports to the [council board] shall submit audited consolidated financial statements and consolidating financial schedules to the [council board] which include its total assets, liabilities, revenues, expenses, and net worth.~~

~~[12 VAC 25-20-240. 12 VAC 5-650-110.]~~ Deadline.

~~For fiscal years beginning on or after July 1, 1992, The information required by [12 VAC 25-20-180, 12 VAC 25-20-~~

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~~400, and 12 VAC 25-20-230 12 VAC 5-650-80, 12 VAC 5-650-90, and 12 VAC 5-650-100] shall be due 120 days after the end of the health care institution's hospital's fiscal year end.~~

~~[12 VAC 25-20-250, 12 VAC 5-650-120.] IRS Forms.~~

Each health care institution that reports to the [council board], any corporation controlling any such health care institution a hospital, and each affiliate of the health care institution hospital or corporation that controls a hospital shall submit, if the health care institution, corporation, or affiliate is an organization exempt from taxes pursuant to § 501(C)(3) of the Internal Revenue Code, a copy of the most recent federal information return (Form 990) which was filed on behalf of the institution, corporation, or affiliate together with all accompanying schedules that are required to be made available to the public by the Internal Revenue Service. Information regarding not-for-profit affiliates which do no business in Virginia need not be submitted.

~~For fiscal years beginning on or after July 1, 1992, The information required by this section shall be due to the [council board] 120 days after the completion of the health care institution's fiscal year end. If the information return (Form 990) has not been filed with the Internal Revenue Service, the due date will be extended to no later than the normal due date to the IRS or any extensions granted.~~

~~[12 VAC 25-20-260, 12 VAC 5-650-130.] Filing.~~

All filings required by this chapter will be made to the [council board].

~~[12 VAC 25-20-270, 12 VAC 5-650-140.] Fees.~~

A filing fee based on an adjusted patient days rate shall be set by the [council board], based on the needs to meet annual [council board] expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the [council board]. All fees shall be paid directly to the [council board]. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the [council board] shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the [council's board's] proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

~~[12 VAC 25-20-280, 12 VAC 5-650-150.] Schedule.~~

~~Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of 12 VAC 25-20-140 of this chapter. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of 12 VAC 25-20-130 of this chapter. Fifty percent of the fee shall be paid to the [council board] no later than 30 days before the beginning of the health care institution's fiscal year. The fee shall be based on the health care institution's most recently submitted annual historical adjusted patient days. If there have been no previous annual historical filings, the health care institution's fee shall be based on its projected adjusted patient days for the fiscal year. The~~

~~balance of the fee shall be paid to the [council board] at the same time the health care institution submits its annual historical filing under the provisions of [12 VAC 25-20-130 12 VAC 5-650-50].~~

~~[12 VAC 25-20-290, 12 VAC 5-650-160.] Late fee—reports and fees Late fees.~~

A. A late charge shall be paid to the [council board] by a health care institution that files reports or fees past the due date. The late charge may be waived if such a waiver is requested prior to the due date and the health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstances include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

~~12 VAC 25-20-300. Late fee—budget, historical report, financial statements and fees.~~

B. A late charge of \$10 per working day shall be paid to the [council board] by a health care institution that files its annual projection (budget), quarterly historical report, annual historical report filing, unconsolidated audited financial statements (or extracted equivalent) or fees past the due date.

~~12 VAC 25-20-310. Late fee—charge schedule.~~

C. A late charge of \$50 shall be paid to the [council board] by the health care institution that files the charge schedule past the due date.

~~12 VAC 25-20-320. Late fee—survey and financial statement.~~

D. A late charge of \$25 per working day shall be paid to the [council board] by the reporting entity required to complete the survey required by [12 VAC 25-20-180 12 VAC 5-650-80] including the audited consolidated financial statement required by [12 VAC 25-20-230 12 VAC 5-650-100], or both.

~~12 VAC 25-20-330. Late fee—survey.~~

E. A late charge of \$25 per working day shall be paid to the [council board] by the reporting entity required to complete the survey required by [12 VAC 25-20-170 12 VAC 5-650-70].

~~12 VAC 25-20-340. Late fee—IRS Forms.~~

F. A late charge of \$25 per working day shall be paid to the [council board] by the reporting entity required to submit the Form 990s as provided by [12 VAC 25-20-250 12 VAC 5-650-120].

PART [V. IV.] WORK FLOW AND ANALYSIS

~~[12 VAC 25-20-350, 12 VAC 5-650-170.] Analysis of historical report filing data and schedule of charges.~~

A. The annual historical report filing data filed submitted by health care institutions as prescribed in [12 VAC 25-20-130

12 VAC 5-650-50] of this chapter shall be analyzed as directed by the [council board].

12 VAC 25-20-360. Analysis of budget.

B. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed by 12 VAC 25-20-140 of this chapter shall be analyzed as directed by the [council board].

PART [VI. V.]

PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

12 VAC 25-20-370. Inspection. (Repealed).

The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection.

[12 VAC 25-20-380. 12 VAC 5-650-180.] Rate publication.

Periodically, but at least annually, the [council board] will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semi-private and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the [council board] office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of [12 VAC 25-20-160 of this chapter 12 VAC 5-650-60] will be kept on file at the [council board] office for public inspection.

[12 VAC 25-20-390. 12 VAC 5-650-190.] Annual report publication.

Periodically, but at least annually, the [council board] will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

[12 VAC 25-20-400. 12 VAC 5-650-200.] Comparison report.

The [council board] will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

[12 VAC 25-20-410. 12 VAC 5-650-210.] Statistical data.

The [council board] shall release historical financial and statistical data reported by health care institutions pursuant to [§ 9-159-B §§ 32.1-276.2 through 32.1-276.11] of the Code of Virginia. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

NOTICE: The forms used in administering 12 VAC 5-650-10 et seq., Rules and Regulations Governing Health Data Reporting, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health, 1500 East Main Street, Richmond, Virginia 23219, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Hospital Annual Historical Filing Form (eff. 3/22/94), 03-01, revised 4/30/96.

Ambulatory Surgery Surgical Hospital Annual Historical Filing Form (eff. 3/22/94), 03-02, revised 4/30/96.

Nursing Home Annual Historical Filing Form (eff. 3/22/94), 03-03, revised 4/30/96.

Hospital and Nursing Home Income Statement Reconciliation Worksheet (eff. 3/22/94), 04-04, revised 4/30/96.

Psychiatric Hospital Annual Historical Filing Form (eff. 3/22/94), 03-05, revised 4/30/96.

Rehabilitation Hospital Annual Historical Filing Form (eff. 3/22/94), 03-06, revised 4/30/96.

VA.R. Doc. No. R97-88; Filed October 23, 1996, 10:08 a.m.

BOARD OF HEALTH PROFESSIONS

Title of Regulation: 18 VAC 75-30-10. Regulations Governing Standards for Dietitians and Nutritionists.

Statutory Authority: §§ 54.1-2400 and 54.1-2731 of the Code of Virginia.

Effective Date: December 11, 1996.

Summary:

The final regulation establishes that, in addition to criteria set forth in § 54.1-2731 of the Code of Virginia, a person may hold himself out to be a dietitian or nutritionist if he holds a baccalaureate degree with a major or equivalent hours in foods and nutrition course work and has two years of related work experience concurrent with or subsequent to such degree, and is employed by or under contract to a governmental agency.

In response to comments and requests from the Virginia Dietetic Association, the board determined that there was no potential risk of harm to the public by adopting the additional criteria of employment with a governmental agency. The less stringent qualifications for use of restricted titles is appropriate in governmental agencies where there is oversight and regulatory criteria for their practice.

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 Elaine J. Yeatts, Department of Health Professions,

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6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9918.

CHAPTER 30. REGULATIONS GOVERNING STANDARDS FOR DIETITIANS AND NUTRITIONISTS.

18 VAC 75-30-10. Requirements for use of title of dietitian or nutritionist.

In addition to the criteria established in § 54.1-2731 of the Code of Virginia, a person may hold himself out to be a dietitian or nutritionist who has met the following requirements:

1. Has a baccalaureate degree with a major in foods and nutrition or dietetics or has equivalent hours of food and nutrition course work [, and ;]
2. Has two years of work experience in nutrition or dietetics concurrent with or subsequent to such degree [; and
3. Is employed by or under contract to a governmental agency.]

VA.R. Doc. No. R97-83; Filed October 17, 1996, 1 p.m.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulatory actions are exempt from 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 Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16 VAC 25-90-1910. General Industry Standards (29 CFR Part 1910) (amending 16 VAC 25-90-1910.1003; repealing 15 VAC 25-90-1910.96; and adding 16 VAC 25-90-1910.1096).

Title of Regulation: 16 VAC 25-100-1915. Shipyard Employment Standards (29 CFR Part 1915) (amending 16 VAC 25-100-1915.1003, 16 VAC 25-100-1915.1004, 16 VAC 25-100-1915.1006 through 16 VAC 25-100-1915.1016, 16 VAC 25-100-1915.1027, and 16 VAC 25-100-1915.1200); and adding 16 VAC 25-100-1915.1002, 16 VAC 25-100-1915.1017, 16 VAC 25-100-1915.1018, 16 VAC 25-100-1915.1025, 16 VAC 25-100-1915.1028, 16 VAC 25-100-1915.1030, 16 VAC 25-100-1915.1044, 16 VAC 25-100-1915.1045, 16 VAC 25-100-1915.1047, 16 VAC 25-100-1915.1048, 16 VAC 25-100-1915.1050, and 16 VAC 25-100-1915.1450.

Title of Regulation: 16 VAC 25-175-1926. Construction Industry Standards (29 CFR Part 1926) (amending 16 VAC 25-175-1926.53 (c) through (r), 16 VAC 25-175-1926.59, 16

VAC 25-175-1926.60 Appendices A, B, C, D, E, 16 VAC 25-175-1926.61, 16 VAC 25-175-1926.1071, 16 VAC 25-175-1926.1072, 16 VAC 25-175-1926.1076, 16 VAC 25-175-1926.1080 through 16 VAC 25-175-1926.1087, 16 VAC 25-175-1926.1090, 16 VAC 25-175-1926.1091, 16 VAC 25-175-1926.1092, 16 VAC 25-175-1926.1071 through 1926.1092 Appendix A and B, 16 VAC 25-175-1926.1102, 16 VAC 25-175-1926.1103, 16 VAC 25-175-1926.1104, 16 VAC 25-175-1926.1106 through 16 VAC 25-175-1926.1118, 16 VAC 25-175-1926.1127 Appendices A, B, C, D, E, and F, 16 VAC 25-175-1926.1128, 16 VAC 25-175-1926.1129, 16 VAC 25-175-1926.1144, 16 VAC 25-175-1926.1145, 16 VAC 25-175-1926.1147, and 16 VAC 25-175-1926.1148); and repealing 16 VAC 25-175-1926.97, 16 VAC 25-175-1926.98, 16 VAC 25-175-1926.150 (c)(1)(xi) through (c)(1)(xiv), and 16 VAC 25-175-1926.156 through 16 VAC 25-175-1926.159.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

As part of a line-by-line review of its standards, federal OSHA consolidated repetitious provisions, removed duplicative pages, made corrections and clarified and reorganized various sections of its standards in the Code of Federal Regulations (CFR). This revision is the second in a series of actions and is directed at consolidating repetitious provisions. Identical text in shipyard (Part 1915) and construction (Part 1926) standards has been consolidated into standards for general industry (Part 1910) to avoid repetition. OSHA will print the regulatory text that is common to all three industries in its general industry standard.

Most of the changes made in the final rule affect Subpart Z (Toxic and Hazardous Substances) of Parts 1910, 1915 and 1926 by eliminating duplicate health standards from the shipyard and construction parts of the CFR and replacing them with cross references to the identical text in the general industry part. The technical amendments will retain the section number and heading in the shipyard and construction standards, but the text will be replaced with a cross reference directing readers to the correct text in Subpart Z of the General Industry standard.

Other revisions include the following:

1. Within the general industry standards the Ionizing Radiation standard was moved from Subpart C— General Safety and Health Provisions to Subpart Z to place virtually all of OSHA's general industry health standards in Subpart Z of 1910, in one volume of the CFR;
2. Commercial Diving standard, which is currently codified in both general industry and construction standards, was moved to Subpart T of the General Industry standard, which covers Commercial Diving Operations; and
3. Certain fire protection standards were removed from safety and health regulations for construction because they inadvertently had been identified as applicable to

the construction industry. This misidentification has been corrected.

The new final rule does not make any substantive changes to the requirements of the OSHA standards.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standards (29 CFR Part 1910), Shipyard Employment Standards (29 CFR Part 1915), and Construction Industry Standards (29 CFR Part 1926) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's technical amendments and recodifications of the Consolidation of Repetitive Provisions for 29 CFR Part 1910 for General Industry, 29 CFR Part 1915 for Shipyard Employment, and 29 CFR Part 1926 for Construction Industry, as published in the Federal Register, Vol. 61, No. 120, pp. 31427-31434, June 20, 1996. The amendments as adopted are not set out.

When the regulations, as set forth in the technical amendments and recodification of Repetitive Provisions in General Industry, Shipyard Employment, and Construction Industry, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
June 30, 1996	December 15, 1996



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-90-1910 et seq., 16 VAC 25-100-1915 et seq., and 16 VAC 25-175-1926 et seq. relating to technical amendments and recodifications of the Consolidation of Repetitive Provisions for Parts 1910, 1915, and 1926, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-76; Filed October 11, 1996, 1:06 p.m.

Title of Regulation: 16 VAC 25-90-1910.1001. Asbestos Standard for General Industry (29 CFR 1910.1001).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

Federal OSHA corrected certain provisions of the final asbestos standards issued in the Federal Register on August 10, 1994, and corrected and clarified in the Federal Registers on June 29, 1995, and September 29, 1995. In 29 CFR 1910.1001(j)(3)(v), employers are required to assure employee comprehension of the signs and labels, although it is not mandated that signs and labels be written in languages other than English.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for General Industry (29 CFR 1910.1001) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to the Asbestos Standard for General Industry, 29 CFR 1910.1001, which was published in the Federal Register Vol. 61, No. 165, pp. 43456-43459, August 23, 1996, along with corrections to the Asbestos Standard for Construction Industry, 29 CFR 1926.1001, and Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001. The corrections as adopted are not set out.

When the regulations, as set forth in the corrections to 16 VAC 25-175-1926.1101, Asbestos Standard for General Industry, 29 CFR 1910.1001, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commission of Labor and Industry
Agency	Department
September 23, 1996	December 15, 1996



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910 CAPITOL STREET
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(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-90-1910.1001, Asbestos Standard for General Industry, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-100-1915.152. Personal Protective Equipment, Shipyard Employment (29 CFR 1915.152).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

This amendment corrects an error in the placement of Note 1 to 29 CFR 1915.152(b) in the final rule on Personal Protective Equipment (PPE) for Shipyard Employment which was published in the Federal Register on May 24, 1996.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Personal Protective Equipment, Shipyard Employment (29 CFR 1915.52) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to Personal Protective Equipment for Shipyard Employment, 29 CFR 1915.152, as published in the Federal Register, Vol. 61, No. 115, pp. 29957-29958, June 13, 1996. The corrections as adopted are not set out.

When the regulations, as set forth in the correction to the regulation for 16 VAC 25-100-1915.152, Personal Protective Equipment, Shipyard Employment, 29 CFR 1915.152, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
September 23, 1996	December 15, 1996



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310 CAPITOL STREET
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(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-100-1915.152, Personal Protective Equipment, Shipyard Employment, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-100-1915.1001.
Occupational Exposure to Asbestos, Shipyard Employment (29 CFR 1915.1001).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

Federal OSHA corrected certain provisions of the final asbestos standards issued in the Federal Register on August 10, 1994, and corrected and clarified in the Federal Registers on June 29, 1995, and September 29, 1995. Changes include the following:

1. In paragraph (h)(2)(iii), employers must inform employees of their right to require provision of a powered air-purifying respirator in lieu of a negative pressure respirator;

2. In paragraphs (k)(6) and (k)(8)(vii), employers are required to assure employee comprehension of the signs and labels, although it is not mandated that signs and labels be written in languages other than English;

3. In paragraph (k)(9), the requirement for a 32-hour training course for workers engaged in Class II removals as part of general asbestos abatement work was restored and clarified to require controls for those operations that present the greatest potential for high exposure, and the workers who perform such operations must thoroughly understand when and how such controls must be used. The training provisions have also been clarified to state that training for workers who engage in other Class II removals must include training in each category of material the employee removes and in each work practice and each removal method the employee uses.

Additionally, a training course may use written materials and electronic media such as videotapes or computer-based training; however, a knowledgeable person must be available to answer questions during the training.

4. In paragraph (m)(1)(i)(A), the wording of the medical surveillance requirement was modified to avoid confusion concerning the meaning of the following sentence: The employer shall institute a medical surveillance program for all employees who for a combined total of 30 or more days per year are engaged in Class I, II, and III work or are exposed at or above a permissible exposure limit or excursion limit. OSHA's intent was to count towards the medical surveillance requirement all of the days in which an employee performed either Class I or Class II or Class III work or, regardless of the type of work being done, was exposed over either the permissible exposure limit or excursion limit. Removal or disturbance of nonintact material presents the potential for considerable exposure to asbestos fibers, and any day in which such work takes place should count towards the medical surveillance

requirement. This provision was also modified to state that the one hour time period includes the time spent on the entire removal operation, including cleanup.

5. The preamble to these corrections states that it is generally proper practice to fill a glove bag only 9 to 1/2 full to facilitate secure closure and avoid breakage.

6. Also in the preamble to these corrections, Class IV activities consist of cleanup work that takes place after Class I, II, or III work is completed and cleaned up. The Class IV cleanup is meant only for picking up residual debris after the cleanup associated with the higher classes of work.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Occupational Exposure to Asbestos, Shipyard Employment (29 CFR 1915.1001) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001, which was published in the Federal Register, Vol. 61, No. 165, pp. 43454-43459, August 23, 1996, along with corrections to Asbestos Standard for General Industry, 29 CFR 1910.1001 and Asbestos Standard for Construction Industry, 29 CFR 1926.1001. The corrections as adopted are not set out.

When the regulations, as set forth in the corrections to 16 VAC 25-100-1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
September 23, 1996	December 15, 1996



COMMONWEALTH of VIRGINIA

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910 CAPITOL STREET
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(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-100-1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-175-1926.556. Aerial Lifts, Construction Industry (REPEALED) (29 CFR 1926.556).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: February 15, 1997.

Summary:

The existing Scaffolds regulation was revised and updated by federal OSHA. As part of this revision, the section on Aerial Lifts, 29 CFR 1926.556 was moved from Subpart N (Cranes, Derricks, Hoists, Elevators, and Conveyors), to Subpart L, Scaffolds, and redesignated as Aerial Lifts, 29 CFR 1926.453(a)(2). Virginia's regulation, Aerial Lifts, Construction Industry, 16 VAC 25-175-1926.556, is identical to the federal regulation, 29 CFR 1926.556. The Safety and Health Codes Board adopted the new federal OSHA standard on Aerial Lifts, 29 CFR 1926.453 as 16 VAC 25-175-1926.453. Thus, to avoid redundant regulations, 16 VAC 25-175-1926.556, Aerial Lifts, is being repealed.

Agency Contact: Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

On September 30, 1996, the Safety and Health Codes Board repealed 16 VAC 25-175-1926.556, Aerial Lifts, which is identical to federal OSHA standard 29 CFR 1926.556. Federal OSHA removed this standard from Subpart N, Cranes, Derricks, Hoists, Elevators, and Conveyors, and redesignated it as Aerial Lifts, 29 CFR 1926.453 (a)(2), in Subpart L, Scaffolds. This standard was adopted by the Safety and Health Codes Board as part of the construction industry scaffold regulations, 16 VAC 25-175-1926.453. This regulatory action was published in the Federal Register, Vol. 61, No. 170, p. 46131, August 30, 1996, with Scaffolds, Construction Industry, 29 CFR 1926.450 through 29 CFR 1926.454.



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910 CAPITOL STREET
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October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-175-1926.556, Aerial Lifts, Construction Industry (Repealed), filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in dark ink, appearing to read "E. M. Miller, Jr." with a stylized flourish at the end.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-175-1926.450 through 16 VAC 25-175-1926.454. Scaffolds, Construction Industry (29 CFR 1926.450 through 29 CFR 1926.454).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: February 15, 1997.

Summary:

The requirements of this regulation apply to all establishments in the construction industry. These establishments can be divided into three broad types of activities: building construction general contractors (SIC 15); heavy construction general and special trade contractors (SIC 16); and construction by other special trade contractors (SIC 17).

This regulation updates the existing scaffold regulation and sets performance-oriented criteria, where possible, to protect employees from scaffold-related hazards such as falls, falling objects, structural instability, electrocution and overloading. This update specifically addresses various types of scaffolds, such as catenary scaffolds, chimney hoist scaffolds, step and trestle ladder scaffolds, and multi-level suspended scaffolds, which were not covered by the previous scaffold standards. Highlights of the revised regulation include the following:

1. Ten-foot trigger height provisions for fall protection on scaffolds is retained;
2. Minimum top rail height for scaffolds where the guardrail is the primary means of fall protection is set at 38 inches. Top rail height of 36 inches for scaffolds is permitted where personal fall arrest systems are the principal means of fall protection;
3. Use of crossbracing is permitted in place of either a midrail or a top rail where certain criteria are present, but not in place of an entire guardrail system;
4. A competent person is required to determine the usefulness and safety of providing fall protection and safe access for scaffold erectors and dismantlers based on job site conditions, but does not require the determination to be in writing;
5. Training requirements for scaffold workers are clarified and details are provided to determine when workers must be retrained; and
6. A distinction is provided between the training needed by employees to erect and dismantle scaffolds, and the training needed by employees who are on scaffolds during the course of work.

The following nonmandatory appendices were also adopted by the board:

Appendix A--Scaffold Specifications to assist employers in designing scaffold systems

Appendix B--Criteria for Determining the Feasibility of Providing Safe Access and Fall Protection for Scaffold Erectors and Dismantlers [Reserved]

Appendix C--List of National Consensus Standards

Appendix D--List of Training Topics for Scaffold Erectors and Dismantlers

Appendix E--Drawings and Illustrations of scaffolds and scaffold components and graphic illustrations of bracing patterns and tie spacing patterns

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Scaffolds, Construction Industry (29 CFR 1926.450 through 29 CFR 1926.454 and Appendices A through E) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for Scaffolds, Construction Industry, 29 CFR 1926.450 through 29 CFR 1926.454, which was published in the Federal Register, Vol. 61, No. 170, pp. 46104-46131, August 30, 1996. This regulation includes five nonmandatory appendices which were also adopted. The amendments as adopted are not set out.

When the regulations, as set forth in the final rule for 16 VAC 25-100-1926.450 through 16 VAC 25-175-1926.454, Scaffolds, Construction Industry, 29 CFR 1926.450 through 29 CFR 1926.454, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
November 30, 1996, except for 29 CFR 1926.453(a)(2), which will not become effective until a control number is assigned by the Office of Management and Budget	February 15, 1997

Final Regulations

September 2, 1997 for
29 CFR 1926.451(e)(9),
and (g)(2), which
address safe access
and fall protection,
respectively, for
employees erecting
and dismantling
supported
scaffolds

September 2, 1997 for
29 CFR 1926.451(e)(9) and (g)(2)



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-175-1926.450 through 16 VAC 25-175-1926.454, Scaffolds, Construction Industry, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr.", written in dark ink.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-175-1926.416 and 16 VAC 25-175-1926.417. Electrical Standards for Construction Industry (29 CFR 1926.416 and 29 CFR 1926.417).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

This amendment deletes the regulatory text which incorporated 16 VAC 25-90-1910.333 and 16 VAC 25-90-1910.334 of the General Industry Standards into 16 VAC 25-175-1926.416 and 16 VAC 25-175-1926.417 of the Construction Industry Standards because the preamble to the final rule on Electrical Safety-Related Work Practices clearly states that 16 VAC 25-90-1910.333 and 16 VAC 25-90-1910.334 do not apply to construction employment. Thus, paragraphs (a)(4), (f), and (g) were removed from 16 VAC 25-175-1926.416 and paragraph (d) was removed from 16 VAC 25-175-1926.417.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Electrical Standards for Construction Industry (29 CFR 1926.416 and 29 CFR 1926.417) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's correcting amendment to 29 CFR 1926.416, General Requirements, and 29 CFR 1926.417, Lockout and Tagging of Circuits, in the Electrical Standards for Construction Industry, as published in the Federal Register, Vol. 61, No. 156, pp. 41738-41739, August 12, 1996. The correction as adopted is not set out.

When the regulations, as set forth in the final rule for 16 VAC 25-175-1926.416 and 16 VAC 25-175-1926.417, Electrical Standards for Construction Industry, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms

29 CFR

Assistant Secretary

Agency

August 12, 1996

VOSH Equivalent

VOSH Standard

Commissioner of Labor and Industry

Department

December 15, 1996



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910 CAPITOL STREET
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October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-175-1926.416 and 16 VAC 25-175-1926.417, Electrical Standards for Construction Industry, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-175-1926.1101. Asbestos Standard for Construction Industry (29 CFR 1926.1101).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: December 15, 1996.

Summary:

Federal OSHA corrected certain provisions of the final asbestos standards issued in the Federal Register on August 10, 1994, and corrected and clarified in the Federal Registers on June 29, 1995, and September 29, 1995. Some of the changes include the following:

1. In paragraph (h)(2)(iii), employers must inform employees of their right to require provision of a powered air-purifying respirator in lieu of a negative pressure respirator.
2. In paragraph (k)(6) and (k)(8)(vii), employers are required to assure employee comprehension of the signs and labels, although it is not mandated that signs and labels be written in languages other than English.
3. In paragraph (k)(9)(iii), the requirement for a 32-hour training course for workers engaged in Class II removals as part of general asbestos abatement work was restored and clarified to require controls for those operations that present the greatest potential for high exposure, and the workers who perform such operations must thoroughly understand when and how such controls must be used. The training provisions have also been clarified to state that training for workers who engage in other Class II removals must include training in each category of material the employee removes and in each work practice and each removal method the employee uses.

Additionally, a training course may use written materials and electronic media such as videotapes or computer-based training, however, a knowledgeable person must be available to answer questions during the training.

4. In paragraph (m)(1)(i)(A), the wording of the medical surveillance requirement was modified to avoid confusion concerning the meaning of the following sentence: The employer shall institute a medical surveillance program for all employees who for a combined total of 30 or more days per year are engaged in Class I, II, and III work or are exposed at or above a permissible exposure limit or excursion limit. OSHA's intent was to count towards the medical surveillance requirement all of the days in which an employee performed either Class I or Class II or Class III work or, regardless of the type of work being done, was exposed over either the permissible exposure limit or excursion limit. Removal or disturbance of non-intact material presents the potential for considerable exposure to asbestos fibers, and any day in which such work takes place should count towards the medical surveillance requirement. This provision was also modified to state

that the one hour time period includes the time spent on the entire removal operation, including clean-up.

5. The preamble to these corrections states that it is generally proper practice to fill a glove bag only 3/4 to 1/2 full to facilitate secure closure and avoid breakage.

6. Also in the preamble to these corrections, Class IV activities consist of clean-up work that takes place after Class I, II, or III work is completed and cleaned up. The Class IV cleanup is meant only for picking up residual debris after the cleanup associated with the higher classes of work.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for Construction Industry (29 CFR 1926.1101) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On September 30, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to Asbestos Standard for Construction Industry, 29 CFR 1926.1101, which was published in the Federal Register, Vol. 61, No. 165, pp. 43456-43459, August 23, 1996, along with corrections to the following: Asbestos Standard for General Industry, 29 CFR 1910.1001, and Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001. The corrections as adopted are not set out.

When the regulations, as set forth in the corrections to 16 VAC 25-175-1926.1101, Asbestos Standard for Construction Industry, 29 CFR 1926.1101, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
September 23, 1996	December 15, 1996



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

October 28, 1996

Linwood Saunders, Vice-Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Saunders:

This letter acknowledges receipt of 16 VAC 25-175-1926.1101, Asbestos Standard for Construction Industry, filed by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from those required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

REGISTRAR'S NOTICE: The following fee reductions filed by the Board for Waste Management Facility Operators are exempt from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 9 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

Title of Regulation: 18 VAC 155-20-10 et seq. Waste Management Facility Operators Regulations (amending 18 VAC 155-20-40).

Statutory Authority: §§ 54.1-113 and 54.1-2211 of the Code of Virginia.

Effective Date: December 11, 1996.

Summary:

The amendments reduce the fees charged to applicants for certification and certification renewal as waste management facility operators. This includes the fee for full certification, full certification renewal, full certification late renewal, full certification reinstatement, certification examination/reexamination, training course approval, and CPE sponsor approval.

Agency Contact: Copies of the regulation may be obtained from Thomas Perry, Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 367-2176.

18 VAC 155-20-40. Fees.

- A. All fees are nonrefundable and shall not be prorated.
- B. An application shall not be deemed complete and shall not be processed without the required fee.
 - 1. The application fee for full certification shall be ~~\$ 300~~ \$200.
 - 2. The fee for renewal of full certification shall be ~~\$ 300~~ \$150.
 - 3. The fee for late renewal of full certification shall be \$ 600 \$175 as stated in 18 VAC 155-20-180 of this chapter.
 - 4. The fee for reinstatement of full certification shall be \$ 600 \$250 as stated in 18 VAC 155-20-190 of this chapter.
 - 5. The fee for taking the examination or reexamination for certification shall be ~~\$ 325~~ \$200. This examination fee is subject to fees charged to the department by an outside vendor competitively negotiated and contracted for in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

6. The application fee for training course approval shall be ~~\$ 250~~ \$150.

7. The application fee for CPE sponsor approval shall be ~~\$ 250~~ \$100.

8. The fee for interim certification shall be \$85.

9. The fee for renewal of interim certification shall be \$85.

10. The fee for paying any of the above fees with a check or other instrument not honored by the bank or other financial institution upon which it is drawn shall be \$25.

C. All checks shall be made payable to the Treasurer of Virginia.

D. Receipt and deposit of fees submitted with applications do not indicate certification.

FOR OFFICE USE ONLY

Lic# _____
Date _____

Commonwealth of Virginia
Department of Professional and
Occupational Regulation
3600 West Broad Street
Richmond, VA 23230

APPLICATION FEE
\$200.00
(Non Refundable)

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
APPLICATION FOR FULL CERTIFICATION

I. General Information For Individual Certification

Name _____
(Last) (First) (M.I.)

Home Address _____

Home Phone () _____ Business Phone () _____

Date of Birth _____ SSN _____

Did you receive interim certification? _____ Your Number _____

II. Classification (Please check the appropriate classification.)

Class I _____ Class II _____ Class III _____ Class IV _____ Class V _____

III. Method Of Certification (Please check the appropriate method.)

_____ Training and Examination _____ Experience and Examination _____ Reciprocity

IV. Education History

Name and location of High School or College: _____

Diploma? _____ Yes _____ No _____ GED? _____ Yes _____ No _____ Major? _____

V. Employment History (Complete this section for all applicable employment and use additional sheets if necessary. Please forward the Verification of Employment Form to each employer listed.)

Current Employer _____

Business Address _____

Date(s) of Employment: From _____ To _____

Supervisor _____ Title _____

Does this facility hold a permit(s) from the Virginia Department of Environmental Quality? _____ If so, what is the permit number(s)? _____

Revised 10/15/96

Previous Employer _____

Business Address _____

Date(s) of Employment: From _____ To _____

Supervisor _____ Title _____

Previous Employer _____

Business Address _____

Date(s) of Employment: From _____ To _____

Supervisor _____ Title _____

VI. Reciprocity (Please include a copy of the certificate/licenses.)

Are you certified/licensed in any other state or jurisdiction as a solid waste management facility operator? _____ Yes _____ No. If so, where? _____

State _____ Date of Expiration _____ Certification Number _____

VII. Training (Please include a copy of all applicable training certificates.)

Have you completed the Class I Basic Training course? _____ Date of Training _____

Have you completed training specific to your desired classification? _____ Date of Training _____

VIII. Enforcement History

Have you ever had a waste management facility operator's certificate/license revoked? _____ If so, please explain. _____

Have you ever had any final order actions against you issued by an administrative body or court regarding an environmental violation or crime which resulted in significant harm to the environment or human health? _____ If so, please explain. _____

Have you ever pleaded guilty, entered a plea of nolo contendere or been convicted of a felony regarding an environmental violation or crime which resulted in significant harm to the environment or human health? _____ If so, please explain. _____

I hereby certify by my signature, that the above information is correct and that no information has been suppressed which may affect this application. I understand that Section 54.1-111(6) of the Code of Virginia, deems it unlawful to materially misrepresent facts in an application for a certificate, and that violations of this section could result in criminal prosecution which could result in one year in jail and up to a \$2,500 fine.

Name _____ Date _____

(Signature of applicant)

Revised 10/15/96

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, VA 23230

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
VERIFICATION OF EMPLOYMENT EXPERIENCE

I. To Be Completed By The Applicant:

(Complete one verification form for each employer listed on the application. Please submit this entire form to your applicable current and past employers for verification.)

Name _____
(Last) (First) (M.I.)

Home Address _____

Employer _____

Address _____

Job Title _____ Dates of Employment: From _____ To _____

Please provide a thorough and complete description of your daily job activities. This should include how much time you spend at the site, your duties and how many individuals you may supervise. This must be complete or the application will be returned for additional information.

Name of Supervisor _____ Title _____

II. To Be Completed By The Supervisor:

Is/was the applicant employed during the time period indicated above? _____ If not, when? _____
Is the job description accurate and complete? _____ Comments: _____

Name of certifying Supervisor _____

Signature _____ Date _____

Please forward the completed form to the Department of Professional and Occupational Regulation at the address above. Please use additional sheets as necessary.

Revised 10/15/96

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, VA 23230

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
VERIFICATION OF EDUCATION/DEGREE GRANTED

I. To Be Completed By The Applicant:

Name _____ SSN _____

Home Address _____

Home Phone (____) _____ Date of Birth _____

Name of Institution _____

Dates/ Attended _____

Degree _____ OR _____ Semester _____ Quarter Hours Completed _____

Signature of Applicant _____ Date _____

After completion of the above section, send this form to the high school, GED issuing institution, college or university listed above. Please request that the following certification be completed and that this form be returned directly to the Board at the above address. If you have not completed a college degree, request an official transcript to be sent to the above address.

+++++

II. To Be Completed By Educational Institution Or Authorizing Jurisdiction

CERTIFICATION

I hereby certify that the above-named applicant has graduated from this school/institution:

DEGREE _____ MAJOR _____

DATE RECEIVED _____

Signature _____

OFFICIAL SEAL

Official Title _____

Revised 10/15/96

Final Regulations

FOR OFFICE USE ONLY
LIC# _____
DATE _____

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BRAD STREET
RICHMOND, VIRGINIA 23230

Application for Virginia Approved Sponsor of Continuing Education

APPLICATION FEE: \$100.00

I. Sponsor
Name _____
Address _____ Telephone _____
Contact Person _____ Title _____
Address (if different than above) _____ Telephone _____

II. Training History
How long have you or your organization been offering continuing education
in waste management issues?
Provide number of courses to be given a year?
Location(s) _____
Site Visits? _____ if yes, where?
Address _____

III. Training Materials
How will satisfactory completion of this course be measured? (Check the
appropriate boxes)
() examination () attendance () written exercise
() other _____

IV. Instructors
Name _____ Title _____
Address _____ Telephone _____
Course Title _____
Name _____ Title _____
Address _____ Telephone _____
Course Title _____

V. Required Attachments
() Examination form(s)
() Instructor form(s)
List of course titles to be
included under the approval with the designated "level of knowledge" and
appropriate number of credit hours.

VI. Optional Attachments
() course outline(s)
() course objective(s)

VII. Signature of Contact Person
Name _____ Date _____

Revised 10/15/96

FOR OFFICE USE ONLY
LIC# _____
DATE _____

Board for Waste Management Facility Operators
Department of Professional and Occupational Regulation
3600 West Brad Street
Richmond, Virginia 23230

Application for Approval of Waste Management Facility Operators
Training Course

APPLICATION FEE: \$150.00

I. Sponsor
Name _____
Address _____
Phone Number _____ Title _____
Contact Person _____ Title _____

II. Training Course
Title _____ Recurring? _____
Scheduled dates of classes _____
Location _____ Intended Audience _____
Is the course open to the public? Address Facility being used for the site
visit? _____
How does this training course relate to the management and operation of a
waste management facility? _____

Training is appropriate for which classification of certification?
Intended hours of instruction? _____ Is there an examination? _____
Please attach a detailed hour by hour course outline.

III. Training Materials
How will satisfactory completion of this course be measured? (Check the
appropriate boxes).
() Skill demonstration () Site visit () Exam
() Attendance () Other _____
List reference materials to be used.
List audio-visual materials to be used.
List handouts to be used.

IV. Instructor(s) Please use additional sheets as necessary.
Name _____ Title _____
Employer _____
Address _____ Phone _____

V. Required Attachments (Please enclose 3 sets of all items indicated)
() Course objectives () Course outline () Handouts () Certificate
() Reference materials () Instructor(s) resume
Signature of Contact Person _____
Date _____

Revised 10/15/96

STATE CORPORATION COMMISSION

Division of Energy Regulation

AT RICHMOND, OCTOBER 7, 1996

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. PUE950060

STATE CORPORATION COMMISSION

Ex Parte: In re, Investigation
of Spent Nuclear Fuel Disposal

APPLICATION OF
VIRGINIA ELECTRIC AND POWER CO.

CASE NO. PUE960226

To revise its fuel factor pursuant
to Virginia Code § 56-249.6

ORDER

On July 18, 1995, the Commission opened its investigation of spent nuclear fuel disposal, Case No. PUE950060. The Commission directed interested parties and its Staff to provide comments on legal and public policy issues related to spent nuclear fuel storage and disposal, including, but not limited to, whether to allow utilities to continue to recover from ratepayers some or all money paid to the Nuclear Waste Fund,¹ whether to establish an escrow account for spent nuclear fuel storage and/or disposal, and whether utilities should develop plans for storage and disposal of spent nuclear fuel. On February 27, 1996, the Commission Staff filed its report ("Staff Report" or "Report").

In its Report, Staff formulated for Commission consideration eight options regarding the continuing contributions of the Commonwealth's ratepayers and electric utilities to the federal government for the high-level nuclear waste program. Under option 4 Staff discussed an escrow proposal. A more complete description of this Staff recommendation may be found on pages 50-52 of the Staff Report. Staff suggested, however, that the promulgation of the definitive policy could be delayed until (1) a ruling has been provided on pending litigation which seeks to impose on the federal government an obligation to begin acceptance of spent nuclear fuel no later than January 31, 1998,² (2) the outcome has been determined for proposed legislation that

¹ The Nuclear Waste Policy Act authorizes the Department of Energy ("DOE") to enter into contracts with any utility that generates spent nuclear fuel. Under the terms of the contracts, the DOE collects from each utility signing the contract a fee, currently set at 1 mill per kilowatt-hour of electricity generated and sold from each nuclear power reactor. All proceeds from these fees must be deposited into the Nuclear Waste Fund.

² In 1993, several states and utilities asked the DOE to address its responsibilities under the Nuclear Waste Policy Act and the January 31, 1998 deadline for accepting spent nuclear fuel. The DOE responded that it does not have an obligation to accept spent nuclear fuel absent an operational repository. The DOE then published a Notice of Inquiry on Waste Acceptance Issues. In 1995, the DOE issued its Final Interpretation of Nuclear Waste Acceptance Issues, stating that it would not be able to begin taking spent nuclear fuel by the January 31, 1998 deadline. Further, the DOE concluded that it did not have an unconditional obligation to accept spent nuclear fuel in the absence of a repository or an interim storage facility. Several states and utilities then filed a petition for review. The Virginia State Corporation Commission was not a party to that petition.

would amend the Nuclear Waste Policy Act in part by requiring the development of a centralized interim storage facility,³ and (3) a vision has been fully conceptualized for the likely outcome of the electric utility industry's efforts to restructure.

On March 29, 1996, Virginia Power filed its Reply Comments addressing the Staff Report ("Comments"). In its Comments, Virginia Power did not agree with all of the Staff's conclusions and observations. The Company did, however, "[concur] with the Staff's conclusion that the Commission should refrain from framing a definitive policy until the pending litigation and legislation pertaining to DOE's obligations are resolved and a clear vision of the future structure of the electric industry is available."

Since the filing of Staff's Report and Virginia Power's Comments, the United States Circuit Court for the District of Columbia has ruled on the pending litigation regarding the Department of Energy's obligation to begin acceptance of spent nuclear fuel no later than January 31, 1998. Indiana Michigan Power Co. v. Department of Energy, 88 F.3d 1272 (D.C. Cir. July 23, 1996). The Circuit Court found that the U.S. Department of Energy has a statutory obligation to begin disposing of spent nuclear fuel no later than January 31, 1998. The Circuit Court remanded the case for further proceedings consistent with the Circuit Court opinion. In addition, the 104th Congress has adjourned without enacting legislation to amend the Nuclear Waste Policy Act.

The sum Virginia Power remits to the Nuclear Waste Fund is one type of fuel expense the Company recovers from its rate payers through its fuel factor; therefore, it is appropriate to address the treatment of such payments in the Company's fuel factor proceeding. This fact, coupled with the developments mentioned above, leads the Commission to consolidate its investigation of spent nuclear fuel as it relates to Virginia Power with Virginia Power's application to revise its fuel factor, Case No. PUE960226.

As the Commission may render a decision with respect to spent fuel, including the treatment of the millage paid to the DOE, in this consolidated proceeding, all parties to Case No. PUE950060 who desire further participation regarding the spent nuclear fuel storage issue with respect to Virginia Power should do so through this consolidated proceeding.

Parties to the investigation of spent nuclear fuel disposal may supplement their original filings with factual information and/or supplemental legal analysis by filing such information in the form of testimony or legal brief on the date that protests are due to be filed. Such testimony and briefs shall include all information, documentation, and legal analysis necessary for the Commission to consider any treatment options the parties deem appropriate, as well as discussion of option 4 contained in the Staff Report.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's investigation of the spent nuclear fuel storage and disposal, Case No. PUE950060 insofar as it

³ A more complete description of legislation initiatives addressing the problem that were introduced in 1995 can be found on pages 14-18 of the Staff Report.

State Corporation Commission

pertains to Virginia Power, is consolidated with Virginia Power's pending fuel factor proceeding, Case No. PUE960226.

(2) A hearing is hereby scheduled for 10:00 a.m. on November 26, 1996, in the Commission's Second Floor courtroom for the purpose for receiving evidence related to this matter.

(3) Virginia Power shall file its fuel factor application, projections and all testimony relevant to such issues by October 21, 1996.

(4) Virginia Power shall file its testimony, supporting documents, and brief relevant to the spent nuclear fuel storage and disposal issues by November 4, 1996, and serve a copy on all Protestants in Case No. PUE950060 in a manner that will ensure receipt of all filed material by November 5, 1996.

(5) On or before November 12, 1996, any person desiring to participate as a Protestant as defined in SCC Rule 4:6 shall file with the Clerk of the State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, an original and twenty (20) copies of a notice of protest as provided in SCC Rule 5:16(a) and serve a copy on Virginia Power. (Service on Virginia Power shall be directed to: Pamela Johnson, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261). Any person who has filed a notice of protest in Case No. PUE950060 and who intends to limit his or her participation in this proceeding to the spent nuclear fuel storage and disposal issues need not file an additional notice of protest.

(6) On or before November 12, 1996, each Protestant shall file an original and twenty (20) copies of a protest (SCC Rule 5:16(b)) and of the prepared testimony, supporting documents, and brief Protestant intends to present at the hearing and serve two (2) copies of each on Virginia Power and all other Protestants.

(7) On or before November 15, 1996, the Commission Staff shall investigate the spent nuclear fuel and storage issue, as well as the reasonableness of Virginia Power's estimated costs and proposed fuel factor. Staff's testimony and brief shall be filed with the Clerk, sending a copy to Virginia Power and each Protestant.

(8) On or before November 21, 1996, Virginia Power shall file with the Commission an original and twenty (20) copies of all testimony it expects to introduce in rebuttal to the direct prefiled testimony of both Staff and Protestants; additional rebuttal evidence may be presented by Virginia Power without prefiling, provided it is in response to evidence that was not prefiled but elicited at the hearing, and provided the need for additional rebuttal is timely addressed by motion at the hearing, and leave is granted by the Commission. A copy of the prefiled rebuttal evidence shall be sent to all Protestants by Virginia Power.

(9) Discovery herein shall be conducted in accordance with Part IV of the SCC Rules, except that Virginia Power and Protestants shall respond to data requests within five (5) days. Objections to all data requests on any basis must be filed within five (5) days after receipt of the data requests by the party to whom the data requests are directed. Any

objection to data requests not timely raised may be subject to waiver.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; Robert F. Deegan, 340 Ramapo Road, Virginia Beach, Virginia 23462; Peter F. Clark, Esquire, Delmarva Power & Light Company, P.O. Box 231, Wilmington, Delaware 19899; Frank J. Kelley, Esquire, Office of the Attorney General, Michigan, 6545 Mercantile Way, #15, Lansing, Michigan 48911; H. Allen Glover, Jr., Esquire, John D. Sharer, Esquire, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Pamela Johnson, Esquire, Virginia Electric & Power Company, P.O. Box 26666, Richmond, Virginia 23261; John A. Pirko, Esquire, Old Dominion Electric Cooperative, 4201 Dominion Boulevard, Glen Allen, Virginia 23060; and Carl J. Paperiello, Director of Office of Nuclear Safety and Safeguards, Nuclear Regulatory Commission, 11545 Rockville Pike, Mail Stop T-8D43, Rockville, Maryland 20852.

VA.R. Doc. No. R97-82; Filed October 15, 1996, 3:52 p.m.

Bureau of Insurance

AT RICHMOND, OCTOBER 7, 1996

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS960164

Ex Parte, In re: Determination of competition as an effective regulator of rates pursuant to Virginia Code § 38.2-1905.1.E.

FINAL ORDER

On September 24, 1996, pursuant to an order entered herein July 16, 1996, the Commission conducted a hearing in its courtroom for the purpose of determining whether competition is an effective regulator of rates charged for certain lines and subclassifications of commercial liability insurance, which lines and subclassifications were designated in the Commission's December, 1995 Report to the General Assembly of Virginia pursuant to Virginia Code § 38.2-1905.1(C).

At the hearing, appearances were made by counsel for the American Insurance Association ("AIA") and the Bureau of Insurance ("BOI"). Witnesses testified *ore tenus* and by stipulation, respectively, on behalf of BOI and AIA. The only line or subclassification designated by the Commission in its report to the legislature that was contested at the hearing with respect to BOI's several recommendations was medical professional liability insurance. Witnesses for BOI recommended to the Commission, principally because of the rates of return on equity earned by insurers writing medical professional liability insurance ("MPL"), that rates for MPL insurance continue to be subject to the delayed effect rate-filing rule to which MPL has been subject for some number of

years; provided, however, because of effective competition by insurers for business in the MPL subclass "other health care liability", such insurers should be permitted to "file and use" rates with respect to that subclass of MPL. Moreover, BOI's evidence demonstrates that, while additional insurers have entered the MPL market since the Commission's last hearing in 1994, the same top four insurers of MPL who wrote 76.6% of the MPL market by premium volume in 1994 wrote 77.0% of the MPL market by premium volume in 1995. On the other hand, witnesses for AIA recommended to the Commission, because of a perceived increase in the total number of insurers writing MPL in Virginia during the past several years and other reasons, that MPL be declared a competitive line of insurance and that insurers writing MPL be permitted to file and use rates with respect to all subclasses of MPL without delayed effect.

The Commission is encouraged to learn that, during the past several years, additional insurers have entered the MPL insurance market and have begun to write certain of the various subclasses of MPL insurance in Virginia. The Commission is further encouraged to learn from BOI's evidence that rates for the line or subclassification lawyers professional liability insurance, which line has been subject to the delayed effect rate-filing rule since 1989, have become competitive to the point that the Commission may permit such rates to be "regulated" by the market place on a "file and use" basis.

The Commission is convinced that a competitive market place is the preferable regulator of rates and that a rate system of "open competition" or "file and use", rather than a governmental "prior approval" or "delayed effect" rate system, should be encouraged. To this end, the Commission believes the Bureau of Insurance should monitor on a continuous basis the competitive behavior of the MPL market in an effort to determine as early as practicable whether competition has, in fact, become an effective regulator of MPL rates.

Notwithstanding the aforesaid, however, and based on the record developed in this proceeding, it does not appear to the Commission that effective competition in the MPL market place has actually arrived. Accordingly, the Commission believes that rates for the various subclasses of the MPL market, with the exception of the rates charged for MPL subclass "other health care liability", should continue to be subject to the delayed effect provisions of Virginia Code § 38.2-1912.

NOW, THEREFORE, THE COMMISSION, having considered the record in this proceeding and the law applicable herein is of the opinion, finds and ORDERS:

(1) That competition is not an effective regulator of the rates charged for the following lines and subclassifications of insurance: insurance agents professional liability; medical professional liability with the exception of the subclass "other health care liability"; real estate agents professional liability; volunteer fire departments and rescue squad liability; and, that, pursuant to Virginia Code § 38.2-1912, for twenty-seven months from the date of this order or until further order of the Commission, whichever is sooner, all insurance companies licensed to write the aforesaid lines and subclassifications of insurance and, to the extent permitted by law, all rate service

organizations licensed pursuant to the provisions of Chapter 19 of Title 38.2 of the Code of Virginia shall file with the Commissioner of Insurance any and all changes in the rates, prospective loss costs and supplementary rate information for the aforesaid lines and subclassifications of insurance, and, pursuant to Virginia Code § 38.2-1912 (B) and (D), such supporting data and information as is deemed necessary by the Commissioner of Insurance for the proper functioning of the rate-monitoring process not less than 60 days prior to the date on which they are proposed to become effective.

(2) That, while evidence was presented at the hearing concerning competition with respect to architects and engineers liability insurance, landfill liability insurance and environmental liability insurance (including underground tanks), pursuant to Virginia Code § 38.2-1903, and for good cause shown, these lines and subclassifications of insurance be, and they are hereby, exempted from the rate-filing requirements of Chapter 19 of Title 38.2 of the Code of Virginia; and

(3) That competition is an effective regulator of the rates charged for the subclass of medical professional liability insurance known as "other health care liability" and lawyers professional liability insurance and that insurers writing such line or subclass of insurance be, and they are hereby, relieved of the duty of complying with any delayed effect filing rule or the provisions of Virginia Code § 38.2-1912 with respect thereto until further order of the Commission; and

(4) That the Bureau of Insurance shall monitor on a continuous basis the competitive behavior of the medical professional liability insurance market and report the results of its findings to the Commission at any time the Bureau believes that there has been a material change in that market place.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Donald G. Owens, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122, counsel for the American Insurance Association; Peter B. Smith, Esquire, Office of General Counsel, State Corporation Commission; and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister who shall forthwith cause a copy of this order to be sent to all insurers licensed to transact the business of property and casualty insurance in the Commonwealth of Virginia and all rate service organizations pursuant to Chapter 19 of Title 38.2 of the Code of Virginia.

VA.R. Doc. No. R97-81; Filed October 15, 1996, 3:51 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER SIXTY-SEVEN (96)

CREATING THE GOVERNOR'S COMMISSION ON SURPLUS PROPERTY

The extent to which the extensive real property of the Commonwealth is efficiently and effectively utilized must be a major concern of state government. This issue has been addressed over time, by the Department of General Services, the Governor's Commission on Government Reform (Blue Ribbon Strike Force), and the Governor's Commission on the Conversion of State-Owned Property.

Considerable progress has been made in determining specific properties that can be put to higher or better use. It is important not only to continue this progress, but in addition, to institutionalize a process that ensures comprehensive and systematic oversight on behalf of the citizens of the Commonwealth.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § 2.1-51.36 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Surplus Property.

The Commission is classified as a gubernatorial advisory commission in accordance with Section 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to provide the Governor with advice on the use of real property assets controlled by the agencies and institutions of the executive branch and on institutionalizing a program for real estate asset management. The Commission shall have the following specific responsibilities:

1. To evaluate real property assets controlled by executive branch agencies and institutions in a manner that takes into account their highest and best use on behalf of the Commonwealth at large, as well as the narrower interests of individual agencies and institutions.
2. To appraise the market value and potential of real property assets that should be considered for sale or other disposition, and to recommend assets that should be sold, used for other purposes, or otherwise disposed.
3. To examine the utility of such assets as they relate to the mission of the controlling agency or institution and to consider, as appropriate, alternative means to achieve agency missions with alternative assets.
4. To coordinate any specific recommendations that involve substantial policy and program change with the appropriate Governor's Secretary.
5. To recommend an approach to establish a comprehensive and systematic process for managing real estate assets in close coordination with the respective state agencies which control that property, and giving careful consideration to the potential role for the private sector and public/private partnerships.

6. To recommend incentives for state agencies and institutions to participate in a real property management program that pursues benefits on behalf of the Commonwealth as a whole, rather than only the narrower interests of a single agency or institution.

The Commission shall be comprised of fifteen members, including the Governor's Secretary of Administration and Secretary of Finance; appointed by and serving at the pleasure of the Governor. The Governor shall designate a Chair, or one or more Co-Chairs, from among the Commission members. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the discharge of their official duties, with the approval of the Secretary of Administration.

Such staff support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Department of General Services, the Commonwealth Competition Council, the Offices of the Governor's Secretaries, and such other executive agencies with closely and definitely related purposes as the Governor may designate. An estimated 1,500 hours of staff support will be required to support the Commission. Such funding as is necessary during the Commission's existence shall be provided from sources authorized by Section 2.1-51.37 of the *Code of Virginia*, which have been appropriated for the same purposes as the Commission. Direct expenditures for the Commission's work are estimated to be \$35,000.

The Commission shall complete its examinations of these matters by October 1, 1997, and provide periodic progress reports and recommendations to the Governor on a schedule to be approved by the Secretary of Administration.

All agencies and institutions of the executive branch shall cooperate with the Commission and provide in a timely manner such information as the Commission may request. The Secretary of Administration periodically shall report to the Governor regarding the timeliness and completeness of responses by executive agencies and institutions to Commission requests.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until October 1, 1997, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 4th day of October, 1996.

/s/ George Allen
Governor

VA.R. Doc. No. R97-72; Filed October 10, 1996, 11:05 a.m.

PROCLAMATION

EXEMPTION OF ALIEN AGRICULTURAL WORKERS FROM THE VIRGINIA UNEMPLOYMENT COMPENSATION ACT

WHEREAS, at my request, House Bill 1555 was introduced and passed in the 1996 Session of the General Assembly; and Chapter 745 of the 1996 Acts of Assembly amended

Section 60.2-214.A.2 of the Code of Virginia to exempt permanently from the definition of employment under the Virginia Unemployment Compensation Act labor performed by alien agricultural workers admitted to the United States pursuant to Sections 214(c) and 1101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act; and

WHEREAS, the second enactment of Chapter 745 provides that this amendment shall become effective on the effective date of amendments or changes to Section 3306(c)(1)(B) of the Federal Unemployment Tax Act (the "Act") made by the Congress of the United States rendering the amended aforesaid provisions of Section 60.2-214.A.2 without further effect; and

WHEREAS, on August 20, 1996, the President of the United States signed Public Law 104-188, the Small Business Job Protection Act of 1996, Section 1203 of which amended Section 3306(c)(1)(B) of the Act to exempt alien agricultural labor from the definition of employment under the Act, to be effective January 1, 1995;

NOW THEREFORE, I, George Allen, do hereby proclaim that Section 60.2-214.A.2 of the Code of Virginia is amended pursuant to Chapter 745 of the 1996 Acts of Assembly, effective January 1, 1995;

I FURTHER PROCLAIM that, in accordance with the third enactment of Chapter 745, that any employer taxes paid pursuant to Section 60.2-214.A.2 of the Code of Virginia on or after January 1, 1995, shall be refunded pursuant to Section 60.2-524 of the Code of Virginia.

Given under my hand, and under the lesser seal of the Commonwealth at Richmond this 18th day of October in the year of Our Lord, on thousand nine hundred and ninety-six, and in the two hundred twentieth year of the Commonwealth.

/s/ George Allen
Governor

VA.R. Doc. No. R97-108; Filed October 24, 1996, 11:05 a.m.

The Legislative Record

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HJR 160

Commission on the Future of Transportation in Virginia

September 25, 1996, Richmond

Previous Studies

Senate Finance Committee staff briefed the commission on earlier General Assembly studies of transportation financing and the transportation revenue allocation process, focusing particularly on the work of the Commission on Transportation for the Twenty-First Century (COT 21) in 1986 and 1987 and the Select Committee Studying the Transportation Trust Fund in 1993 and 1994. COT 21 had recommended using "pledge bonds" for funding major transportation projects with costs that could not be met through the usual transportation revenue allocation system, but a constitutional amendment to authorize use of pledge bonds has not been approved by the voters. The work of the later select committee similarly failed to result in any mechanism for funding these major transportation construction projects.

Revenue Projections

The chief economist for the Forecasting and Analysis Office of the Department of Motor Vehicles presented the members with projections of Virginia's transportation revenues for the coming 20 years. Central to the presentation was the distinction between Virginia's Highway Maintenance and Operating Fund (HMO, the source of maintenance program funding) and Transportation Trust Fund (TTF, the source of construction program funding). TTF revenues (derived from a combination of fuel tax revenues and sales tax revenues) tend to grow faster than HMO revenues (derived from fuel tax revenues only), because sales taxes have both a volume and a value component (being based both on the amount of sales and also on the value of those sales), while fuel taxes have only a volume compo-

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nent (being based on the volume of fuel sales, but not on the price of the fuel).

While HMO revenues beyond those necessary to cover the costs of the maintenance program are presently transferred to the TTF for support of the construction program, increasing costs to maintain an expanding transportation system, coupled with slower-growing HMO

VIRGINIA DIVISION OF LEGISLATIVE SERVICES

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revenues (compared to TTF revenues), will eventually require transfer of revenues from the TTF to the HMO to adequately fund maintenance of existing transportation facilities. Thus, in coming years, major transportation construction projects will have to compete with the maintenance program for TTF revenues.

Federal Contributions

The assistant commissioner for finance in the Virginia Department of Transportation (VDOT) completed the day's presentations by detailing for the members federal contributions to Virginia's transportation program. Currently, federal revenues constitute about 43 percent of VDOT's construction program. Unlike some other states, Virginia has always used all available federal transportation funds and has often been able to receive more federal funds than it would otherwise qualify for when other states were not able to spend all the federal funds for which they qualified.

Predicting the volume of future federal aid available to Virginia is complicated by the coming expiration of the present federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and uncertainty as to the content of its legislative successor. The administration is presently supporting congressional proponents of a proposal known as the Streamlined Transportation Efficiency Program for the Twenty-First Century (STEP 21). If enacted by the Congress as the successor to ISTEA, STEP 21 would increase the amount of federal highway aid to Virginia by guaranteeing that each state receive from the federal government at least 95 percent of its contributions to the federal Highway Trust Fund, simplify the entire process by which federal funds are apportioned and allocated, and provide greater discretion and flexibility for Virginia in its use of federal funds.

The assistant commissioner concluded his remarks by sketching for the members the steps by which Virginia's six-year transportation plan is formulated and updated, pointing out that, unless some change is made prior to fiscal year 1999, funds in the HMO would not be adequate to cover the costs of Virginia's highway maintenance program, and funds would have to be transferred from the TTF to the HMO if Virginia's transportation infrastructure is to be adequately maintained. Such transfers would further reduce the amount of TTF revenues available to fund high-cost major construction projects.

Advisory Panel

Chairman Robinson announced his intention of appointing an advisory panel, composed of representatives of the Virginia Municipal League, the Virginia Association of Counties, and other non-legislators, to prepare a list, for the commission's consideration, of major transportation projects whose construction will be required over the next 25 years.

The commission unanimously agreed that it would not be possible to meet the July 1, 1997, reporting deadline contained

in HJR 160 and instructed staff to prepare legislation extending this deadline to July 1, 1998. The commission will next meet in the second or third week of November.

The Honorable William P. Robinson, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold



SJR 50

Joint Subcommittee to Study the Legal and Policy Ramifications of Genetic Research

October 2, 1996, Richmond

The joint subcommittee, continued by SJR 50 (1996), is charged with continuing to examine the effects that genetic testing and its consequences might have on the citizens of the Commonwealth. The resolution directs the subcommittee to continue to seek and utilize the perspectives and expertise of individuals who have experienced breast cancer and other genetic diseases, medical ethicists, medical researchers, physicians, nurses, counselors, other health care practitioners, and insurance providers. The subcommittee also is charged with the review of existing and new Virginia law on genetic information and privacy, including current definitions.

1996 Legislation

The joint subcommittee reviewed the legislation it sponsored in the 1996 General Assembly addressing the issue of genetic privacy in §§ 38.2-613 and 38.2-508.4 of the Code of Virginia. The statute now defines terms such as "genetic characteristic," "genetic information," and "genetic test" in the process of providing protection against discrimination in the access to health care. Basically, the statute prohibits genetic discrimination in health insurance. The statute provides additional protections for the transfer of information without the authorization of the individual. For purposes of review, the legislation has a two-year "sunset" clause that would cause it to expire on July 1, 1998, unless the clause is removed by a future General Assembly.

Speakers reviewed and reminded the subcommittee of some of the issues that prompted the legislation and that remain valid concerns. Speakers urged the subcommittee to remove the sunset clause on the legislation, because genetic discrimination would have a devastating effect on society, denying not only accessibility to health care but also to expanded treatments that may be developed as a result of genetic studies. Among the reasons cited for prohibiting genetic discrimination in health insurance:

- ▶ Medical genetics research holds much promise for alleviating disease and suffering in the future, and treatments, cures, and prevention strategies based on genetics research may lower health care costs in the future.
- ▶ Discrimination will have an adverse effect on the recruitment of participants for genetics research because of the fear of losing health care coverage.
- ▶ Refusing health insurance to those without "perfect" genes is a form of eugenics.
- ▶ There are no new hereditary diseases and no increased incidences of these diseases, so the insurance industry will experience no increased costs resulting from the ability to identify those with a genetic susceptibility to disease.
- ▶ Adverse selection, which occurs when someone purchases insurance because they know they will need it, does not occur so often with health insurance as it does with life and disability insurance. Almost all persons purchase as much health insurance as they can afford.
- ▶ If insurance companies currently covering genetic diseases are allowed to deny coverage, costs will increase elsewhere, in such programs as Medicaid and indigent care.
- ▶ Congress has passed legislation recently to protect employees of self-insured companies from genetic discrimination. Heretofore, the Employee Retirement Income Security Act (ERISA) exempted self-insured health care plans from state insurance laws.

Life Insurance

Life insurance does not have the same day-to-day impact as health insurance. Health insurance is the fundamental means to health care for most people. Indeed, the National Association of Insurance Commissioners has stated that disability and life insurance will be increasingly necessary as states and the federal government withdraw from providing security. But the life and disability insurance marketplace differs somewhat from the health insurance industry in that (i) life and disability income insurers have no desire to turn away business, (ii) the industry is very competitive, (iii) products are widely available because prices are affordable; and (iv) increased technology and medical advances have increased the availability and affordability of insurance.

The joint subcommittee has not taken a formal position regarding life insurance. Speakers generally indicated that health insurance is the primary interest at this time because of its life-and-death implications. Speakers did request, however, that the life insurance industry not interfere with the removal of the "sunset" clause on this legislation and that it work with the state in developing protocols for the sharing of genetic information.

Informed Consent

A summary of the final report of the Joint Subcommittee Studying Issues Regarding Informed Consent to Medical Procedures and Treatment (Senate Document No. 4, 1997) was presented to the joint subcommittee by staff. These two joint

subcommittees were directed to work together since many of the issues are so closely intertwined. One of the major issues in the field of genetic testing is the issue of informed consent and appropriate counseling with respect to what knowledge will be gained by the testing and what resources are available subsequent to testing.

Course work regarding informed consent is available at, but not mandatory at all, state medical schools. In order not to intrude into substantive course decisions at this time, the joint subcommittee studying informed consent endorsed a letter to the State Board of Medicine to request that it initiate discussions among health care professionals to determine the need for published guidelines to be used in the teaching of informed consent and the practice of physicians. Rigid rules and regulations would appear to be inappropriate given the flux of technology and knowledge about the appropriate treatment of any ailment.

Next Meeting

The next meeting of the joint subcommittee will continue to examine the current statutory definitions and will look at penalties and remedies available to persons who have suffered discrimination and damages. Additionally, the joint subcommittee will hear from consumers and a medical ethicist.

The Honorable Janet D. Howell, *Chair*
Legislative Services contact: Gayle N. Vergara



HJR 165

Joint Subcommittee Studying the Efficacy and Appropriateness of Creating a School Incentive Reward Program in the Commonwealth

September 27, 1996, Richmond

SOA Revision Survey

At the subcommittee's second meeting, a representative of the Virginia Department of Education reported the results of 320 surveys collected from seven preliminary public hearings held by the State Board of Education regarding revision of the Standards of Accreditation (SOA). The surveys may identify those areas of public education that could benefit from the creation of performance incentives. Identified as first among those things schools do "particularly well" was "educate a diverse

student population, tailoring education to the individual child and providing necessary support services." Also noted among those things schools "do well" were offering a broad curriculum and providing a "sufficient academic foundation." Receiving the fewest positive responses to this survey question was educating gifted and special education students.

When asked what things schools "do not do as well as they should," respondents cited, in descending order, preparing students in core academics; effectively involving parents in school life; educating students in fine arts, art, and music; and adequately controlling discipline problems. Respondents generally agreed that schools and students should be measured by achievement against the Standards of Learning (SOL), but noted that assessments should closely correlate to the standards and that the standards should be measurable, attainable, and not lowered. Respondents also noted that testing should not be the only method of assessing performance. In addition, respondents stated that accommodations should be made for students with disabilities and that financial, socioeconomic, and educational disparities should be recognized and remedied.

Among those changes cited by respondents as needed in the public school were creating a fine arts credit requirement for graduation; establishing student achievement in core academics as the basis of accountability; maintaining class sizes and pupil-teacher ratios; incorporating current special education program standards into the SOA; establishing higher expectations for all students, while recognizing that all students are not college-bound; making schools accountable to the same standards to eliminate disparities; and protecting and extending instructional time, especially in core subjects.

Board of Education

The Board of Education met in executive session on September 26 to discuss the procurement of a vendor to develop tests for the new SOL. The board will meet again on October 10 to award a contract to a vendor; after a 10-day period, the contract will become final. The new tests will be first administered in 1997 and used for measuring pupil performance in 1998. Within the current six-year textbook approval cycle, not all school divisions have "transitioned" to textbooks that more closely correlate to the new SOL. The Commonwealth does not dictate what books divisions should use but will indicate which books or series may best correlate with the new SOL. The actual selection of textbooks, however, remains at the discretion of the local school board.

Accountability/ Incentive Programs

Joint subcommittee members heard reports from a number of current accountability and incentive initiatives.

- ▶ A program of the Norfolk public schools combines an instructional management system with an accountability sys-

tem to include analysis of student outcomes by school, gender, race, and socioeconomic status; review of instructional practices; and assessment of central office readiness.

- ▶ The director of elementary education with the Roanoke City public schools described Roanoke's three-year plan, developed in 1993-94 to set division-wide direction for schools, students, and staff.
- ▶ Incentive programs in Portsmouth, where the most improved elementary, middle, and high school receives a cash grant, and in Brunswick, where benchmarks are set for fourth grade reading, were described by a representative of the Virginia School Boards Association.
- ▶ The Fairfax County public schools, according to the director of governmental relations, rely on building on current initiatives and those that promote minimal competition, such as the Reading Recovery Program and the International Baccalaureate Program.

The Honorable Mitchell Van Yahres, *Chairman*
Legislative Services contact: Kathleen G. Harris



HJR 55/SJR 36

Joint Subcommittee Studying the Creation of an Insurance Fraud Bureau

September 26, 1996, Richmond

The second meeting of the subcommittee focused on the feasibility of forming an insurance fraud division within the Bureau of Insurance. Further material was furnished to clarify unresolved issues from the first meeting and draft legislation creating a fraud unit was presented. Representatives from the State Corporation Commission responded to the proposal.

Unresolved Issues

The executive director of the Coalition Against Insurance Fraud provided follow-up information to clarify questions from the first meeting. These questions concerned (i) the statistics concerning prosecutions and convictions in those states that created insurance fraud units and (ii) the impact of other states' insurance fraud units on the cost of insurance premiums. Comparing these numbers to fraud activity within Virginia is difficult, primarily because Virginia has no specific insurance fraud statute. Table 1 summarizes prosecutions and convictions in four states with fraud statutes.

Table 2 shows the number of requests received from a national video surveillance firm to perform investigations into possible insurance fraud. The numbers of these requests provide an indication of the presence of suspected fraudulent ac-

**Table 1:
Insurance Fraud Prosecutions and Convictions**

State	Prosecutions	Convictions
Maryland	89	28
North Carolina	50	29
Minnesota	21	19
Massachusetts	63	57

Minnesota's numbers are comparatively smaller because their fraud division only handles cases involving worker's compensation claims.

The presenter suggested that Maryland's investigative request total is lower due to surveillance staff vacancies during the period studied. He also explained that the number of requests for investigations in Virginia was lower because insurance companies feel that Virginia, lacking a specific insurance fraud statute, does not prosecute insurance fraud cases.

The joint subcommittee requested information showing the relationship between the establishment of fraud units and savings to consumers in their premium payments. There was discussion of initiative studies in California and Massachusetts that cite antifraud efforts as important reasons for the lowering of automobile insurance and workers' compensation insurance rates. The final point presented by this speaker concerned the source of funding for insurance fraud divisions. The current trend in financing these units is to use industry assessments. Since 1990, most fraud divisions formed receive operating expenses through industry assessments, while fraud units established before 1990 tend to receive their funding from general revenue sources.

Draft Legislation

Following a staff summary of insurance fraud units in Maryland and North Carolina, local counsel for the National Association of Independent Insurers presented draft legislation. Besides developing a fraud unit, the legislation specifically makes insurance fraud a crime and provides immunity to those reporting such activity. The subcommittee had many questions concerning the draft legislation, including concerns about the police powers bestowed on the investigators. Members of the subcommittee sought clarification about the relationship between the proposed fraud unit and the work currently conducted by the Agent Investigations Section of the Bureau of Insurance. There was discussion concerning the amount of money needed for start up and the question of which lines of insurance must contribute to the establishment of the fraud unit.

SCC

The commissioner of insurance responded to the draft legislation by reading a letter to the subcommittee from the chairman of the State Corporation Commission (SCC), which opposes the establishment of a fraud unit. The letter stated that using other law-enforcement agencies with a wider scope of existing law-enforcement authority responsibilities is more ap-

Table 2: Investigation Requests

State	Investigation Requests
Maryland	76
North Carolina	166
Minnesota	176
Massachusetts	142
Virginia	114

propriate and that the creation of a fraud unit would be an unnecessary duplication of services that will result in avoidable cost increases to the public.

A substantial impact on the Bureau of Insurance's space, equipment requirements, budget, and personnel was noted. The SCC chairman outlined in his correspondence the recent reductions in the maintenance assessments that the Bureau of Insurance makes against licensed insurers in Virginia. The maintenance assessment has fallen from .08 percent of premiums in 1989 to .07 percent in 1992 and been further reduced to .06 percent in 1995. Reductions in maintenance assessments represent a direct financial relief to licensed insurance companies, with potential savings to Virginia insurance customers.

Financing

A consultant with the Bureau of Insurance provided analysis of the financial implications of creating a fraud unit. Assumptions made in determining the fiscal impact included the use of figures that represent the cost associated with creating an investigative unit and support staff. The Bureau of Insurance estimates that developing such a unit would cost between \$2 million and \$2.5 million. Funding this through maintenance assessments directed at all insurance companies to raise \$2 million would increase the annual assessment from .06 percent to .08 percent. Raising \$1 million would raise the assessment against all insurance companies from .06 percent to .07 percent. The evolving nature of these units makes it difficult to estimate the cost of maintaining and operating a fraud unit.

A representative from the Virginia Trial Lawyers Association expressed concern about the legislation applying to insurance companies and their agents as well as policyholders. He also described some legal issues for consideration, including fifth amendment rights, the grant of police powers and the scope of such powers, and the immunities granted to those involved in reporting fraud.

Next Meeting

The chairman requested that all interested parties submit comments and suggestions concerning the proposed bill before the subcommittee's next meeting, on October 22 in Richmond. The proposed legislation together with these comments will be discussed at that time.

The Honorable George H. Heilig, Jr., *Chairman*
Legislative Services contact: Robert Omberg



Joint General Laws Subcommittee on Charitable Gaming

September 17, 1996, Richmond

A joint subcommittee of the House and Senate Committees on General Laws conducted a public hearing on Virginia's charitable gaming laws. The administration and enforcement of charitable gaming (bingo and raffles) was transferred from local governments to the Virginia Charitable Gaming Commission effective July 1, 1996.

Transfer of Authority

This transfer of regulatory control came as a result of a three-year study of Virginia's bingo and raffle statutes during which allegations of illegal bingo operations in Virginia provided fodder for numerous media accounts, some of which characterized the conduct of bingo as the perfect white collar crime due to unscrupulous bingo operators skimming proceeds, leasing facilities to charities at greatly inflated rental rates, and forming bogus charities to act as fronts for illegal bingo operations. Also, the lack of uniformity in the administration and enforcement of Virginia's bingo and raffle laws and the widespread disparity in the number and types of games being played led to the transfer of the regulation of charitable gaming from local governing bodies to the state.

Since that time, there have been numerous inquiries made of members of the General Assembly concerning this transfer of regulatory control and its attendant issues. The purpose of the public hearing was to solicit comment on the regulation of charitable gaming and to identify remaining problems and suggest their solution.

Public Comment

The joint subcommittee heard testimony from 67 persons representing various charitable organizations and received approximately 60 written comments. In terms of frequency of comment, the most prominent issues identified include:

- ▶ Reducing the two percent audit fee charged by the Virginia Charitable Gaming Commission;
- ▶ Removing the prohibition on persons less than 18 years old playing bingo in PTA/PTO sponsored events;
- ▶ Lessening the burden of record-keeping and reporting requirements;
- ▶ Removing the restriction on the playing of instant bingo;
- ▶ Authorizing charitable organizations to feed workers/volunteers and to allow workers to play under certain conditions;
- ▶ Increasing prize amounts;
- ▶ Removing the exemption from permit and financial report-

- ing requirements for volunteer fire and rescue squads;
- ▶ Finding an alternative to the submission of membership lists of charitable organizations to determine eligibility to conduct charitable gaming;
- ▶ Basing all fees of the Virginia Charitable Gaming Commission on an organization's *net* income.

The Joint General Laws Subcommittee plans to meet again in November to consider comments made at the public hearing and to formulate legislative recommendations.

The Honorable Charles J. Colgan, *Chairman*
Legislative Services contact: Maria J. K. Everett



HJR 158

Joint Subcommittee Studying the Demise of Independent Pharmacies

September 20, 1996, Charlottesville

At its second meeting the subcommittee heard testimony from a professor of pharmacy administration on the impact of third-party reimbursement on the economic viability of community pharmacy practice and from a representative of the Virginia Pharmacists Association. A public hearing was also held.

Research Results

A professor from the School of Pharmacy at Virginia Commonwealth University presented research that he and his colleagues completed in 1995. Using data collected from surveys and Board of Pharmacy files, they attempted to determine (i) if a relationship exists between third-party reimbursement and profit and (ii) the changes in the number and distribution of pharmacies. The time span of the research was from January 1, 1989, through December 31, 1994.

The data suggested a strong and statistically significant relationship between third-party reimbursement and profit, actually accounting for 38 percent of the differences. The research further showed that in the time period studied, there was a net loss of over 200 independent and chain pharmacies and a net gain of over 100 supermarket and mass-merchandise pharmacies. There were, however, no dramatic changes in the number of pharmacies by locality, although the data indicate that pharmacies are moving away from areas with a high percentage of elderly and poor populations.

The conclusions, then, were as follows. First, private third-party reimbursement is related to a pharmacy's profits. Second, such third-party payment probably contributed to the increased number of pharmacy closings. Finally, there was little evidence that the increased pharmacy closings lead to a lack of

availability as of the end of 1994. The professor cautioned, however, that there may be future availability problems because of the continued growth of private third-party payment, the continued decline in private third-party fees, and decreased Medicaid fees.

Pharmacists Association

A representative from the Virginia Pharmacists Association gave an historical accounting of discriminatory pricing legislation and information relating to reimbursement issues. House Bills 842 (1994) and 2303 (1995), both of which failed, were measures whose purpose was to prohibit discriminatory pricing practices occurring in the retail setting. A decision from the courts regarding the issue has not yet been rendered. The speaker also addressed other issues affecting the current market situation, namely closed formularies and the evolution of third-party reimbursement based on the product only and not any services associated with the prescription.

The current reimbursement system was also explained. In the past, the amount reimbursed from the insurance company covered not only the cost of the product, but also included a dispensing fee that offset the expenses of providing the services associated with good, interactive patient care and drug therapy. Now, however, reimbursement is based on "take it or leave it" contracts presented by the insurance companies, the terms of which are most often based on national cost averages of the product.

Public Hearing

Ten people addressed the subcommittee during the public hearing. Presenters were mostly pharmacist/owners but also included a consumer and a pharmacy manager. The following concerns or issues were echoed by virtually every speaker.

Reimbursement Contracts

Community pharmacy owners have no powers of negotiation with the insurance companies, according to several speakers. They either sign a contract, accepting lowered reimbursement terms, or forfeit quite a sizable portion of their clientele. Repeated anecdotal evidence pointed to pharmacies being reimbursed below cost, and many of the pharmacists stressed that they are not even making a profit on prescriptions. One speaker presented data gathered from a random sample of prescription reimbursements from his store for a period of five months. The data showed that his gross profit per prescription was \$.50; after calculating normal business expenses (e.g., rent, utilities, salaries), he was operating at a loss. He argued that the reason there is no profit is because of the price discrimination between retail and mass-merchandising pharmacies.

Insurance Company Practices

An informal survey of pharmacy owners pointed to the intrusion of insurance companies into the business as the one

factor most responsible for the demise of independent pharmacies. The use of drug formularies and the practice of prescription-switching raise concern in the community pharmacies. Moreover, a number of pharmacists articulated frustration with the insurance companies' use of pharmacy benefits managers (PBMs) who, they allege, interfere with the health care of patients and, in essence, practice medicine without a license.

Professionalism

For the above reasons, as well as the stressful environment, many pharmacists feel that their profession is declining and that market forces are driving out qualified, caring people who want to be pharmacists but cannot afford to do so.

Uniqueness of Independent Pharmacies

In response to questions, speakers noted that independent pharmacies offer services that chains cannot. For example, many community pharmacists deliver prescriptions, provide in-depth counseling, and operate on-call 24 hours a day. These are services for which they are contractually bound not to charge a fee. A long-time consumer of an independent pharmacy described such pharmacists as the backbone of a community.

Next Meeting

The next meeting of the subcommittee will be held November 8 in Richmond. Speakers will include representatives from the Attorney General's office, the Department of Personnel and Training, and the Department of Medical Assistance Services.

The Honorable John J. Davies III, *Chair*
Legislative Services contact: Gayle Vergara



Virginia Small Business Commission

October 3, 1996, Newport News

The commission met at the Thomas Jefferson National Accelerator Facility (Jefferson Laboratory) in Newport News to discuss the impact of high technology research and development on small business activity in Virginia. Its members were also briefed on Virginia's health care reform legislation and its current effects on the affordability and availability of insurance in the small business community. The Small Business Development Center program's utilization of 1996 appropriations was also reviewed at this meeting, and the commission received reports from its subcommittees examining child day care financing and rural area capital access.

High Technology and Small Business

The commission was briefed on Jefferson Laboratory's contribution to nuclear research through electron acceleration technology. Currently its nuclear physics projects serve an international user community of 1,000 scientists. Its facilities represent a \$600 million investment, principally by the federal government, the Commonwealth of Virginia, and the City of Newport News. The commission toured the laboratory and was briefed on its activities affecting the small business community.

The commission learned that the Jefferson Laboratory is making its technologies available to aid small business development through consulting and technical services and cooperative ventures. It currently sponsors a mentoring program to expand the abilities of small disadvantaged businesses, and its long-term projects include working with the city of Newport News and others to build a research and development park near its facilities where incubator space for small companies with interests in laser technologies will be provided.

Health Care Reforms

Since 1992, the Virginia General Assembly has focused health care reform activities on Virginia's small business community. A commission goal in 1996 is to determine whether these efforts have been effective or beneficial, and it invited a representative of the Joint Commission on Health Care to address that issue at this meeting. The commission learned that approximately one-third of all health care coverage plans in Virginia are subject to state regulation. Consequently, the small group reform legislation (affecting employee groups with fewer than 50 members—increased to 99 in 1996) limiting the exclusionary period for preexisting conditions to 12 months, prohibiting carriers from excluding group members, and requiring guaranteed renewability of policies sold to these groups does not affect coverage for the majority of Virginians.

The essential and standard plans developed in conjunction with small employer market reform legislation have had minimal market impact. According to the Joint Commission on Health Care, as of March 1, 1996, three insurance carriers reported issuance of guaranteed issue plans to 15 employers, with a total coverage of 65 individuals. Trigon Blue Cross Blue Shield separately reported selling guaranteed issue products to only three employers as of June 27. Reasons offered for this modest impact include the recent enactment of this legislation, a suggestion that carriers have little incentive to market these plans, and indications that carriers and insurance agents believe the essential and standard plans are difficult to market and need to be revised.

Recent federal reform legislation (HR 3103) expands accessibility for groups and individuals and will become effective July 1, 1997. Key provisions in this measure affecting small

groups similar to Virginia's small market reform legislation include those that (i) prohibit group health plans from excluding individuals or charging premium differentials based on health status, (ii) limit exclusions for preexisting conditions to 12 months, and (iii) require credit for waiting periods served in previous coverage. Other provisions permit small businesses with fewer than 50 employees to obtain tax deductions for medical savings accounts. According to the Joint Commission on Health Care, the impact of this legislation on state-regulated health insurance plans is currently being determined by Virginia's insurance regulators.

Small Business Development Centers

The 1996 General Assembly appropriated \$500,000 to Virginia's Small Business Development Center (SBDC) program in each year of the current budget biennium. The SBDC program provides small business assistance and counseling through centers located throughout Virginia. A representative of the Department of Business Assistance summarized the program's plans for using approximately \$750,000 annually in new funds (including the new appropriations). A portion will be used for computer upgrades, professional development, and a federal Small Business Administration-sponsored minority lending demonstration project. The funding will also enable the opening of new SBDCs in Alexandria and in Longwood (Martinsville).

Subcommittee Activities

A commission subcommittee has been examining the elimination of Child Day Care Financing Program funding in Virginia's current state plan for federal assistance under a Child Care and Development Block Grant. The subcommittee had been directed to determine whether the plan could be amended to restore this funding. Senator Janet Howell, the subcommittee chair, reported that she had recently received correspondence from the Department of Social Services commissioner on behalf of the administration indicating that approximately \$170,000 in outstanding child day financing requests would be funded from the department's budget. In the meantime, the department plans to coordinate the formation of a task force to examine the larger issue of state support for day care programs in the Commonwealth. Commission members voted to formally advise the administration of their interest in participating in the activities of this task force.

Delegate Victor Thomas reported on the HJR 34 rural capital access study assigned to a special commission subcommittee he chairs (see report in the *Legislative Record*, September 1996, page 21). The subcommittee met in September and received information from representatives of the Rural Economic Analysis Program (REAP) at Virginia Tech, Virginia's banking community, and the state agriculture department. The principal question before the subcommittee is whether the current mix of private and public lending programs is sufficient to finance new

small business operations in agriculture, aquaculture, and agribusiness, as well as expansions in existing operations. The commission was advised that REAP is currently conducting an extensive survey of 1,000 recent loan applicants for such financing to determine whether a credit gap actually exists in this area as a means of further determining whether credit access in rural communities is a significant barrier to economic development. The subcommittee anticipates receiving an update on this survey before the 1997 Session and will report this information and any recommendations to the full commission at that time.

The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Arlen K. Bolstad



Immigrant and Refugee Policy Council

August 5, 1996, October 8, 1996, Richmond

The Immigrant and Refugee Policy Council has met twice this year to discuss issues under its charge. Legislation in 1996 changed the status of the council to a legislative commission and in so doing, added four new members. Chapter 47 of Title 9 (§ 9-354 et seq.) of the Code of Virginia outlines the responsibilities of the council to include meeting on a regular basis to:

- ▶ Assess and initiate procedures to work with the federal Immigration and Naturalization Service (INS) on the issue of the incarceration of undocumented aliens committed to state and local correctional facilities;
- ▶ Review the responsibilities of sponsors for legal immigrants to determine whether sponsors are fulfilling their financial and social obligations and to develop methods to enhance enforcement of this provision;
- ▶ Gather relevant data to determine the number of undocumented immigrants residing in the Commonwealth, how many are receiving services at state expense, the nature of those services, and the resultant expense;
- ▶ Collect and analyze data that can be used to support any action that the Governor, the General Assembly, or any state agency may take to obtain federal reimbursement for the cost of services to both legal and undocumented immigrants;
- ▶ Gather and review documentation relating to unlawful discrimination against immigrants and refugees; and
- ▶ Report to the Governor and General Assembly annually regarding potential program and policy initiatives.

1996 Activities

The council received and approved the report of last year's work, reviewed legislation offered in the 1996 Session of the

General Assembly that affected immigrants and refugees particularly, and began substantive work in a number of topical areas.

Welfare Reform

The recently enacted federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Conference agreement for H.R. 3734) addresses specific immigration issues with regard to eligibility for certain social programs. Exceptions are generally granted for certain classifications of non-citizens, and each program may have specific exceptions. The bill:

- ▶ Denies Supplemental Security Income (SSI) and food stamps to aliens until they become citizens;
- ▶ Allows states the option to determine the eligibility of current legal immigrants for federal cash assistance under Title IV-A (TANF), Medicaid, and services under the Social Services Block Grant. Current recipients may receive benefits until January 1, 1997;
- ▶ Bars newly arriving legal immigrants who are qualified aliens from all means-tested, federally funded public benefits for the first five years they are in the country. Some exceptions include emergency medical assistance, disaster relief, school lunches, non-means-tested programs, public health assistance for immunizations and treatment of communicable diseases, Head Start, and others;
- ▶ Gives state and local governments increased responsibility in determining eligibility for programs;
- ▶ Requires states to "deem" all federal means-tested programs, meaning that the income and resources of a sponsor must be considered when determining eligibility for a program and amount of benefits;
- ▶ Makes affidavits of support by sponsors legally enforceable against the sponsor by the sponsored alien, the federal government, and any state or locality that provides means-tested programs for up to 10 years after receipt of benefit. Affidavits of support are enforceable until citizenship;
- ▶ Bars illegal immigrants from federal benefits, including (i) grants, contracts, loans, licenses, and (ii) retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefits provided to an individual, household or family by the U.S. or by appropriated funds of the U.S.;
- ▶ Requires agencies that administer SSI, housing assistance, or TANF to report quarterly to the INS the names and addresses of individuals they know are unlawfully in the U.S.

The Congressional Budget Office estimates that this legislation will account for 44 percent of the total savings of the entire welfare reform bill, amounting to \$54.1 billion over six years. Unfortunately, in past years, when federal programs have withdrawn support for the immigrant and refugee population, states have been forced to supplement programs with state dollars. It is unknown at this time just what impact this legislation will have on state programs.

State Criminal Alien Assistance Program

Pursuant to 8 U.S.C. Sec. 1252(j), a notice went out announcing the availability of \$500 million for states and political subdivisions that apply to the Bureau of Justice Assistance for reimbursement for their expenditures for the incarceration of undocumented criminal alien felons. This new authorization alters somewhat the program as it was implemented last year. In 1995, states applied for funding of 37,679 eligible inmates at a total of \$128.7 million. Unfortunately, this represents an average payment of only approximately 16 cents on the dollar of the estimated costs of incarceration. Virginia applied for \$2.4 million to pay the \$17,692 expense of incarceration of each of 138 eligible inmates in the state correctional system but received only \$394,534. The Commonwealth is applying again for funds this year.

Other Issues

The council also heard presentations about ongoing studies or areas of interest that will be presented more fully at a later meeting. The Crime and Youth Commissions' Youth Gang Study will figure into future presentations, as will updates on educational programs and constitutional issues that affect non-citizen programs. The council will hear from the district director of the INS at its next meeting and from the Social Security Administration and the Office of the Attorney General. Continuing updates on federal legislation will be provided as they become available.

The Honorable Warren E. Barry, *Chairman*
Legislative Services contact: Gayle N. Vergara



HJR 202

Select Committee Studying the Gross Premium Tax on Insurance Companies

October 10, 1996, Richmond

The second meeting of the select committee focused on the effect that changing the current method of taxing insurance companies would have on general fund revenues.

Credit for Retaliatory Taxes Paid to Other States

Several states allow their domestic insurers to take a credit against their gross premium tax liability for all or a portion of retaliatory taxes paid by the insurers to other states. In 1995,

Virginia-domiciled insurance companies paid \$2.8 million in retaliatory taxes to other states in which they conduct business (see Table 1).

Table 1: Retaliatory Tax Payments, by Company Type (1995)

Company Type	Retaliatory Tax Payments
Life and Health	\$2,295,906
Property and Casualty	\$170,684
Title	\$334,343
Total	\$2,800,934

If Virginia provided domestic insurers with a credit for their retaliatory tax payments, if these insurers continued to do the same amount of business in other states, and if the insurance tax rates in other states did not change, then the credit would reduce general fund revenues by \$2.8 million. However, the credit's effect on future revenues is difficult to predict. If Virginia insurers increased the amount of business conducted in other states that collect retaliatory taxes, the credit would reduce Virginia's premium tax income. In addition, changes in the rates of premium tax imposed by other states might increase the amount of retaliatory taxes on Virginia-based insurers. As a result, a credit could make Virginia's premium tax revenue subject to legislative changes in other states.

Revenue Impact of Tax Rate Reductions

If the amount of insurance written in the Commonwealth were to remain stable, lowering Virginia's gross premium tax rate would reduce premium tax collections. However, the percentage of the revenue reduction would be less than the corresponding percentage cut in the tax rate because some foreign insurers doing business in the Commonwealth would be required to pay additional retaliatory taxes to Virginia. In order to determine the extent to which lower premium tax rates would generate offsetting increases in retaliatory tax collections, the Bureau of Insurance examined the returns of foreign insurers. The amount of the retaliatory taxes that Virginia would collect if taxes and fees were lowered was calculated under several scenarios based on 1995 collections.

The first scenario examined the effect of lowering the gross premium tax rate to 2.0 percent on all lines where the rate currently is 2.25 percent. Estimated gross premium tax revenue would fall under this scenario by an estimated \$24.5 million. This reduction would be partially offset by a \$2.6 million increase in retaliatory tax collections. The net effect is therefore estimated to be a \$21.9 million reduction in revenue.

Under the second scenario, the tax rate on property and casualty insurance only would be lowered by 0.25 percent to 2.0

percent. This change would reduce premium tax collections from \$204 million to \$192.5 million. An increase in retaliatory tax collections of \$1.6 million would cause a net revenue loss to the general fund of \$10.3 million.

A third scenario illustrated the effect of leaving gross premium tax rates unchanged while providing insurers with a credit against premium tax liability for payments to the Fire Programs Fund, the HEAT Fund, and the Flood Prevention and Assistance Fund. These credits would reduce premium tax revenues by \$12.7 million. This reduction would be partially offset by an anticipated retaliatory tax increase of \$1 million, resulting in a net reduction of \$11.7 million.

Reciprocal Nonretaliation Agreements

Four states (Massachusetts, Minnesota, New York, and Rhode Island) have enacted statutes providing that they will not impose a retaliatory tax on insurers domiciled in other states that do not subject insurers based in their state to retaliation. Three of these states have gross premium tax rates lower than Virginia's rate. As a result, reciprocal nonretaliation with these states may not reduce Virginia's retaliatory tax collections and may allow Virginia insurers doing business in those states to avoid retaliatory tax liability.

Comparative Tax Burdens: Various States

A state's gross premium tax rate is not the only measure of the total cost of conducting insurance business. Many states charge additional taxes, fees, and assessments on certain lines; levy income, franchise, or local taxes; and provide a variety of tax credits. In order to account for the interaction of these various features, the tax burden on hypothetical insurers doing an equal amount of business in eight states (Virginia, Florida, Georgia, Maryland, New York, North Carolina, Pennsylvania and South Carolina) was calculated.

The exercise indicated that among these eight states, Virginia would levy the greatest amount of taxes and fees on the hypothetical property and casualty company. For the hypothetical life and health insurer, Florida's taxes and fees would be the highest, with Virginia's ranked second. Florida's higher ranking is attributable to the fact that it is the only one of the eight states that taxes annuity considerations.

Guaranty Fund Tax Credits

Virginia has established two guaranty associations, for property and casualty insurers and for life and health insurers, to protect policyholders against company insolvencies. If an insolvency occurs, the guarantee associations assess member insurers in proportion to their market shares to obtain funds to pay outstanding claims for policyholders of the insolvent com-

pany. Virginia and many other states allow insurers to take a credit against their premium tax for assessments they have paid to the associations.

Of the states that allow tax credits for guaranty fund assessments, most use a five- or ten-year amortization schedule. Virginia's formula for computing guaranty fund credits is unique. Direct gross premium income for the year preceding the assessment is multiplied by 0.05 percent, and the product is the maximum amount of tax credit that may be claimed in each succeeding year until the full amount of the assessment is recovered. As a result, amortization schedules are different for each assessment against each insurer, and can extend 40 years or more into the future.

Virginia's method of calculating guaranty fund credits minimizes the pressure on the general fund to absorb the cost of large assessments. However, it has several disadvantages. The system imposes an administrative burden on the Bureau of Insurance and the insurance companies and creates a potential for retaliatory taxation of Virginia companies by other states.

Adopting a five- or ten-year amortization schedule for guaranty fund tax credits would have a negative effect on general fund revenues. A five-year amortization schedule would cause a \$13.7 million reduction in revenues, compared to the current method, over the period 1996-2000. A ten-year amortization schedule would cause a \$14.4 million reduction in revenues over the period 1996-2005.

Other Studies

Pursuant to the second enactment clause of HB 1026, the Joint Commission on Health Care is examining the impact of guaranteed issue reforms on the taxation of open enrollment carriers. If the Commonwealth enacts legislation requiring guaranteed issue of the essential and standard plans by all carriers in the individual market, the primary reason for providing a tax advantage to open enrollment carriers in this market would be eliminated. Currently, the two open enrollment carriers in Virginia are taxed at 0.75 percent of their premiums from individual policies, while other carriers in this market pay a 2.25 percent rate. If this tax preference is eliminated as a result of guaranteed issue of the essential and standard plans, additional premium taxes of an estimated \$5.2 million would be paid by open enrollment carriers.

Currently, open enrollment carriers are not taxed at the same rate on their premium income derived from primary small groups. Trigon Blue Cross Blue Shield is required to pay a rate of 2.25 percent on this premium income, while Blue Cross Blue Shield of the National Capitol Area pays a rate of 0.75 percent. Taxing both open enrollment carriers at the same 2.25 percent rate in 1995 would have increased gross premium tax revenue by \$239,327.

The select committee also received a report on the status of the study being conducted pursuant to HJR 55 of establishing

an insurance fraud division within the State Corporation Commission. Establishing the division is expected to cost \$2.5 million in the first year. If this expense is funded by an increase in the maintenance assessment paid by all insurance companies, the assessment rate is expected to increase from its current level of 0.06 percent of gross premium income to 0.08 percent.

The next meeting of the select committee will be held in December. At that time, members are expected to determine whether any legislative changes will be recommended for the 1997 Session.

The Honorable William J. Howell, *Chairman*
Legislative Services contact: Franklin D. Munyan



HJR 230

Joint Subcommittee Studying the Licensure of Employee Assistance Programs and Professionals

September 25, 1996, Richmond

At the joint subcommittee's second meeting, members heard testimony regarding the benefits and varieties of both in-house and externally based Employee Assistance Programs (EAP). In addition, staff provided an overview of licensure in Virginia and a summary of case law addressing the employee assistance profession.

Radford Study

Radford University conducted a study of employee assistance programs in Southwest Virginia and surveyed 167 organizations, each employing over 100 individuals. The study defined EAPs as "job-based strategies for the identification, motivation and treatment of bio-medical conditions not limited to, but usually including, alcohol and drug addictions, mental health problems and adjustment problems." Of the organizations surveyed, 56 percent have an EAP and 76 percent of the EAPs used by these organizations are externally based programs. The primary problems covered by the EAPs include alcohol and drug abuse, job stress, and emotional problems. The study noted that over 50 percent of the survey's respondents indicated that their EAP is effective in addressing employee problems and that such programs increase job productivity and employee morale and reduce absenteeism. However, survey respondents were less likely to agree that EAPs increase vigilance on worker safety, reduce employee turnover, and lower health insurance premiums.

Mobil Oil Program

An employee assistance professional from the Mobil Oil Corporation testified that his company saves four dollars in health care costs for every dollar expended for EAP services and that six percent of the corporation's 36,000 employees regularly use Mobil's EAP. The employee assistance professional asserted that his company's program has improved productivity and reduced substance abuse problems among its employees. In addition, he noted that although Mobil Oil audits its external EAP providers as a quality control measure, a licensure system for EAPs would promote effective professional service for employees at both Mobil and other corporations in Virginia.

Professional Licensure

The executive director of Lynchburg Employee Assistance Services of Central Virginia and the president of COPE, Inc., urged licensure of employee assistance professionals to decrease the number of unqualified individuals representing themselves to be professionals and to firmly establish and enforce the confidentiality standards of their vocation. Also voicing support for licensure was an employee assistance consultant who has worked in both the public and private sectors. In her most recent position at a public transit company, she observed that the employee assistance professionals were unqualified and ineffective, resulting in a dangerous situation where drug and alcohol abusers continued to operate public transit vehicles. The consultant asserted that a professional licensure system could avoid such situations by ensuring referrals to quality providers and maintaining basic vocational standards.

Court Cases

Staff summarized *Reich v. Price*, 429 S.E.2d 372, 110 N.C.App. 255 (1993), a North Carolina Court of Appeals case in which the court held that the plaintiff failed to establish a professional malpractice claim against an employee assistance professional because she could not establish the nature of the professional's profession nor could she establish the professional's duty to conform to a certain standard of conduct. Staff also discussed the United States Supreme Court case of *Jaffe v. Redmond*, 116 S.Ct. 1923 (1996), in which the court established a psychotherapist-patient evidentiary privilege. The court noted in dicta that the determination of evidentiary privileges is not a static rule, but one in which the court will consider each profession on a case-by-case basis, thereby opening the door for potential recognition of an employee assistance professional-client evidentiary privilege.

Licensure in Virginia

Members of the joint subcommittee were also provided with a staff overview of licensure in Virginia. Staff noted that there are five levels of occupational regulation in the Commonwealth. From least to most intrusive, they are: (i) amending or creating

civil and criminal remedies to eradicate existing harm or prevent potential harm; (ii) promulgating regulations to provide more adequate inspection procedures and enhance the injunctive powers of the appropriate regulatory board; (iii) implementing a system of registration if it is necessary to determine the impact of a profession on the public; (iv) implementing a system of certification when the public requires a substantial basis for relying on the professional services of a practitioner; and (v) implementing a system of licensure when adequate regulation cannot be achieved by means other than licensing. As a general rule, a regulatory program that establishes job-entry requirements is unnecessary if there is not clear and overwhelming evidence that the public is at immediate risk.

Next Meeting

The subcommittee plans to meet again during late October. The anticipated agenda includes a work session on the regulatory options available for employee assistance professionals. An opportunity for public comment will be provided.

The Honorable L. Karen Darnier, *Chair*
Legislative Services contact: Kenneth W. Gibson



HJR 33

Joint Subcommittee Studying Sovereign and Charitable Immunity

October 8, 1996, Richmond

At its second meeting, the subcommittee heard from representatives of the Virginia Municipal League (VML), the Virginia Association of Counties (VACO), the Association of Local Government Attorneys (ALGA), and the Virginia Trial Lawyers Association (VTLA). These groups addressed the following four issues:

1. Whether counties and municipal corporations should have the same degree of immunity and whether the discretionary v. ministerial test is more appropriate than the governmental v. proprietary test to decide if governmental conduct is protected;
2. Whether the notice of claim of injury required by cities and towns should remain different from that required by counties;
3. Whether the immunity afforded private contractors working under a contract with a governmental agency should be the same degree of immunity enjoyed by the governmental agency; and
4. Whether physicians who establish protocols for E-911 local emergency systems should be immune from liability.

Local Government Organizations

With regard to the four issues, the VML, VACO, and ALGA were in agreement. None objected to expanding the immunity for municipal corporations to the same extent and degree currently enjoyed by the counties. They favored uniformity among the localities, but they were strongly against changing the governmental/proprietary and discretionary/ministerial tests that have been thoroughly litigated and decided in the courts. They felt that last year's report stated the line of immunity cases that afford satisfactory and proper protection and that the law is clear with no need for legislation. They also agreed that the present notice provisions were salutary in effect. Advance notice allows the localities to fix or repair the problem causing the injury and allows for the early settlement of claims. The VML did not wish for its six-month notice provisions under § 8.01-222 to be extended to one year. The counties and ALGA felt uniform notice provisions may prove helpful to the public and eliminate certain legal traps. All felt that physicians who were advising local E-911 emergency systems on a voluntary basis should receive immunity.

Trial Lawyers

The VTLA stated that no locality or the state should have immunity. As a general policy they believe a negligent employee of a municipality or county who causes harm in the course of employment should be held liable, the same standard that applies to every other person. Short of that rule, the VTLA favored a uniform system of immunity where localities share the same degree of immunity and the same test to determine what conduct is protected. They suggested that at a minimum counties should waive their immunity at least to the same extent that the Commonwealth has under the Tort Claims Act.

Regarding the notice of claim provisions, the VTLA noted that such a six-month provision as provided under § 8.01-222 is a trap for the unwary. At a minimum the subcommittee should recommend a uniform notice provision of one year. This would maintain the salutary effect to fix or repair the problem while giving notice and extend an injured person's time to notify the locality, the same as provided under the Tort Claims Act.

The trial lawyers opposed extending any immunity to contractors working for localities, because the reasons advanced for giving localities immunity do not apply to private contractors, who are required to be insured. The VTLA was not aware of any problems regarding E-911 systems and therefore did not respond to the issue.

Draft Legislation

The subcommittee decided that Senators John Edwards and Henry Marsh should look into having a draft prepared to include the localities within the Tort Claims Act. Such a draft would abolish sovereign immunity for localities up to a cap and provide for a simple negligence standard of care to determine

liability, could provide more uniformity in the notice of claims provisions and statute of limitations, and would allow injured persons to recover from all localities up to a cap. The subcommittee decided that it would review the draft at its next meeting, along with the following charitable immunity issues:

1. Whether a charity's insurance coverage should be discoverable and considered;
2. Whether charities should maintain some minimum level of insurance to limit exposure; and
3. Whether, except for Good Samaritan acts, the distinction between volunteer and paid employee or for-profit and not-for-profit should remain.

The Honorable Joseph P. Johnson, Jr., *Chairman*
Legislative Services contact: C. William Cramm  III



SJR 29

Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act

October 4, 1996, Richmond

The joint subcommittee received the Virginia Employment Commission's (VEC) annual unemployment insurance trust fund briefing. Additionally, the VEC provided an update on HB 1555, 1996 legislation that results in credit refunds to some employers of alien agricultural laborers. The VEC also analyzed the fiscal impact of the sunset clause in § 60.2-526 of the Code of Virginia.

Unemployment Trust Fund

The commissioner of the VEC briefed subcommittee members on several Virginia unemployment statistics compiled through June 30, 1996. The joint subcommittee was advised that the unemployment insurance trust fund solvency rate was 90.7 percent as of June 30, 1996. The solvency rate reported in June of 1995 was 79.3 percent. Assuming no legislated changes in benefits or taxes, the VEC projects this figure to rise slightly in 1997. A solvency rate of 50 percent or more indicates a relatively strong trust fund balance. No changes in compensation levels or employer tax rates were recommended by the joint subcommittee.

HB 1555

The VEC also provided an update on HB 1555. This bill, passed in the 1996 Session of the General Assembly, results in credit refunds totaling less than \$200,000 to employers who paid unemployment taxes for alien agricultural labor. Federal law requiring payment of unemployment taxes for alien agricultural workers was repealed as a part of the Small Business Job Protection Act. These credit refunds will have no significant impact on the trust fund solvency rate.

Tax Rate

The VEC presented data concerning the new employer tax rate contained in § 60.2-526 of the Code of Virginia. The provisions of this section, effective until January 1, 1998, specify the unemployment tax rate for new employers. Depending on the month the new employer commences payment of unemployment tax, the specified rate is applied for 18 to 29 months. Upon completion of this period, an experience-based rate is applied. If the sunset clause is not extended or repealed, the tax rate for new employers will revert to the specified rate for three years before an experience-based rate is applied.

The VEC did not take a position on this issue but did present data showing the effect of changing the rates for new employers in a shorter period to an experience-based rate. The result of this more rapid change is an increase in unemployment taxes for established employers. Members of the subcommittee noted that charging a specified rate for new employers keeps unemployment tax rates lower for established employers, because the specified rate is typically higher than the rate the new employer would pay as an experience-based rate. The subcommittee discussed these rates and unanimously agreed to recommend that the current provisions of this law be extended for two more years.

The Honorable Jackson E. Reasor, Jr., *Chairman*
Legislative Services contact: Robert A. Omberg



SJR 93

Joint Subcommittee Studying the Comprehensive Services Act

October 9, 1996, Richmond

The subcommittee is directed to review the successes and difficulties experienced by local governing bodies in implementing the Comprehensive Services Act (CSA); to review the status of implementation of recommendations of a 1994 study of the CSA by the Secretaries of Health and Human Resources,

Public Safety, and Education; and to recommend improvements. The 1996 General Assembly also passed SJR 123, a JLARC study of the CSA due in 1998. JLARC has been directed to study the administration of the CSA, including examining the information, administrative, financial and accounting requirements; forecasting of utilization and delivery of services; and recommending improvements in program services and strategies for cost containment.

Background of the CSA

The CSA, which became effective July 1, 1992, was enacted to coordinate local services for emotionally and behaviorally disturbed children. The legislation stemmed from a 1989 study of residential care that found high costs and fragmented services. To facilitate coordinated service delivery, various funding streams were consolidated into one pool. The funding streams consolidated were from the Department of Education, for special education and private tuition; the Department of Social Services, for regular and residential foster care; and the Department of Youth and Family Services (now the Department of Juvenile Justice), for special placements.

Local match rates, which were different for each program, were unified so that each locality's share is based on the same formula used for the cooperative health department budget: "ability to pay," but no greater than 45 percent. Funds are distributed on measures of need, building on a base year of historical funding. Localities are mandated to serve most of the eligible children, notably those entitled to special education and foster care services.

Fiscal Information

Senate Finance Committee staff reported that growth in caseloads appears to be driving up costs more than cost of services. Caseloads grew 17.2 percent between 1994 and 1995, from 9,536 to 11,180 children. The average cost of services grew only 2.9 percent, from \$10,964 to \$11,284 per child.

During the 1996 Session, the Governor requested and the General Assembly approved an additional \$11.8 million in state funds for CSA. In June 1996, expenditure estimates were revised upward again, requiring an additional \$11.5 million in state funds. Total costs in FY 1996 are now estimated at \$145 million. The state share is \$82.3 million, the local share is \$54.8 million, and federal block grants provide \$8.4 million. The Department of Planning and Budget intends to fund the shortfall from year-end balances in other agencies.

Staff further reported that funding for 1996-98 is not likely to be sufficient. During the 1996 Session, the General Assembly appropriated an additional \$37.7 million for CSA in the 1996-98 biennium. Based on June 1996 expenditure revisions, average annual growth in spending for FY 1993 through FY 1996 was 17.8 percent. Virtually no growth can be accommodated within 1997 and 1998 appropriations.

During the 1996 Session, the Governor proposed to cap state reimbursement to localities for the 1996-98 biennium. Under the proposal, if the state share of costs exceeds appropriations, localities would be required to pay the added costs. The Governor also proposed to increase the maximum local share from 45 to 80 percent for any added CSA funds. The General Assembly rejected these proposals in FY 1997 and added \$6.0 million for that year. However, the state cap language remains in FY 1998, pending legislative action on language and appropriations during the 1997 Session.

Senate Finance Committee staff also noted that demographic trends in Virginia indicate that the at-risk youth population is likely to increase, which could have a significant impact on CSA funds.

Local Government Perspective

Representatives of local government involved with the CSA explained Community Policy and Management Teams (CPMT) and Family Assessment and Planning Teams (FAPT). The chair of the Hanover County FAPT explained the role of the FAPT in assessing an individual case.

Henrico

After overspending its CSA budget in FY 1995, Henrico County funded with local money a CSA Coordinator position to control costs. The coordinator explained to the subcommittee that he coordinates the implementation of CSA, tracks the funding, and reports to the CPMT. He stated that the upper levels of Henrico County government are committed to CSA, which works well in Henrico. A great deal of effort goes into managing CSA money at the local level, and Henrico receives Medicaid funds, state and federal foster care money, SSI, and parental contributions. Services provided through the CSA include day care, recreation, afterschool, public agency services, individual and group counseling, private day education programs, in-home and community based services, emergency shelters, specialized foster care, day treatment programs, acute hospital care, and specialized residential services.

Prince William

The Prince William coordinator, also funded with local money, explained the operation and duties of a CPMT. Prince William overspent its budget by \$6,000 in FY 1996 and has taken steps to ensure that this will not happen again. County budget and finance staff have been added to the CPMT. The following were identified as issues for CPMT in performing its duties:

- ▶ How to provide responsive services to at-risk youth referred by court service units and community services while remaining within the total state allocation;
- ▶ How to convince a diverse group of CPMT members that managing the pool budget is the most effective and intelli-

- gent strategy for serving a growing population of at-risk youth:
- ▶ How to balance the essential responsibilities of lead agencies and FAPTs in designing appropriate treatment plans with the duties of CPMT to manage the program and budget;
 - ▶ How to accurately measure outcomes for youth served with pool funds;
How to ensure that pool funds are used as a supplement to formal and informal community resources rather than as a replacement;
 - ▶ How to effectively contract with private providers to "manage care" rather than be a passive purchaser of services; and
 - ▶ How to promote a collaborative rather than an adversarial approach to serving at-risk youth.

Local Leadership

The president and chief executive officer of the National Association of Partners in Education (NAPE) explained the Local Leadership Development Project, which was developed by a broad and diverse group of stakeholders in Virginia. Local leadership policy teams receive training and develop a plan for delivering comprehensive services to high-risk youth in their communities. NAPE recruited Kraft Foods, which has invested a total of \$260,000 in the development of sophisticated and practical training materials and curriculum, a statewide network of trained

facilitators to conduct the training, and development and implementation of a series of regional conferences throughout the state. Comparison data regarding fund pool expenditures and number of at-risk children served during the 1994 and 1995 fiscal years indicate that the training program reduces the rate of increase of expenditures. In localities where training has been delivered, more children are served at lower cost.

Issues

Members of the subcommittee indicated their plans to explore the following issues during the course of the study:

- ▶ What, if any, service mandates are state versus federal?
- ▶ Should local budget/finance officials be required on CPMTs?
- ▶ Can localities utilize Medicaid, SSI, and parental copayments to a greater extent?
- ▶ What is the role of residential treatment?
- ▶ How are services accessed through the juvenile court?

The subcommittee's next meeting will be Monday, November 18, 1996.

The Honorable R. Edward Houck, *Chairman*
Legislative Services contact: Jessica F. Bolecek



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GENERAL NOTICES/ERRATA

Symbol Key

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

† Notice of Guidance Documents in Use

The Department of Environmental Quality has numerous documents in use which guide staff in the implementation of the regulations adopted by the three boards: State Air Pollution Control Board, Virginia Waste Management Board and State Water Control Board. In an effort to keep the public informed of program implementation activities, the department will publish an annual list of guidance documents.

The list which follows contains documents prepared by the department. It does not include documents which merely restate regulatory provisions in a different format such as checklists or boilerplates, nor does it include guidance documents developed by federal and other state agencies.

Since this is the department's first attempt to put all of this information together, we will continue to refine and enhance this listing for future publications.

For copies of any of the documents listed, please write to: FOIA Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Questions regarding interpretation of Waste Division Guidance should be directed to: Central Office Waste Division, 629 E. Main Street, P.O. Box 10009, Richmond, Virginia 23240, (804) 629-4147.

Questions regarding interpretation of the FOIA policy should be directed to: Central Office FOIA Coordinator, 629 E. Main Street, P.O. Box 10009, Richmond, Virginia 23240, (804) 629-4531.

Questions regarding interpretation of the litter prevention and recycling documents should be directed to: Coordinator, Litter Control and Recycling, Department of Environmental Quality, 629 E. Main Street, P.O. Box 10009, Richmond, Virginia 23240, (804) 698-4003.

Questions regarding interpretation of any of the other guidance documents should be directed to the appropriate regional office:

Abingdon Regional Office
355 Deadmore Street
P.O. Box 24210, Abingdon, Virginia 24210
Phone (540) 676-4800

Valley Regional Office
4411 Early Road
Harrisonburg, Virginia 22801
Phone (540) 574-7800

Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Phone (804) 527-5020

West Central Regional Office
3019 Peters Creek Road
Roanoke, Virginia 24019
Phone (540) 562-6700

Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, Virginia 23462
Phone (757) 518-2000

Northern Regional Office
13901 Crown Ct.
Woodbridge, Virginia
Phone (703) 583-3800

WATER DIVISION

NUMBER	SUBJECT	AUTHOR	DATE
* Included in July 1995 VPDES Permit Manual			
** Out-of-Date or Superseded			
* 90-001	Permit Public Notice Procedure Option	Ayers	1/12/90
** 90-002	Quality Assurance Manual	Cook	1/12/90
90-003	Heating Oil USTs Metering for Release Detection when Inventory Control is Chosen Method	Cunningham Ellison	1/17/90
90-004	VPA Procedures Manual, Change 2, Jan.90	Astruc	1/18/90
* 90-005	Aquaculture Projects	Lawson	1/22/90
**90-006	401 Certification Guidance	Bigelow	2/12/90
90-007	VPDES Technical Manual, Change 1-Feb. 1990	Astruc	2/23/90

General Notices/Errata

**90-008	Oil & Grease Checksheet	Purcell	4/5/90
90-009	VPDES Permitting Strategy for Discharges Resulting from Aquatic Animal Production Facilities	Buehler	4/13/90
**90-010	VPDES Applications for Stormwater Discharges	Holt	4/18/90
90-011	Interpretation of Nutrient Policy	Holt	4/20/90
90-012	Changes to VPA Manual Requirements	Astruc	4/20/90
90-013	Change 2 to the VPDES Technical Manual	Osborne	5/1/90
* 90-014	Changes to Water Control Law & Effect on Permit Process	Ayers	6/18/90
* 90-015	Revision of Permit Boilerplate	Ayers	6/18/90
90-016	Use of State Model by Consultants	Phillips	7/2/90
* 90-017	Revision of Permit Boilerplate	Ayers	7/10/90
90-018	Use of Form Letters to Advise Consultants/Responsible Parties of Expected Review Date for Their Submittals	Chance	7/12/90
**90-019	Eastern Virginia Ground Water Management Area Administration	Wagner	8/27/90
90-020	Criteria for Setting Remediation Goals/Permit Limits for Ground Water Remediations	Chance	9/17/90
**90-021	Guidelines for the Accessing the VUPSTF for Emergency Corrective Actions at Petroleum UST Sites	Cunningham	9/21/90
**90-022	Determining Costs for Sample Analysis	Morgan	9/26/90
90-023	Revision of VPA Permit Application Form	Ayers	9/28/90
**90-024	Authorization to Issue Permits	Ayers	10/11/90
* 90-025	Changes to NPDES Permit Fact Sheet & Statements of Basis	Ayers	10/11/90
90-026	Notification of Incorporation from Privately Owned Treatment Works (PVOTW)	Ayers	10/23/90
**90-027	Guidance on Defining "Occurrence" for LUST Site Corrective Actions	Cunningham	10/25/90
**90-028	Criteria for Extension and Establishment of Release Response and Corrective Action Schedule Requirements	Weaver	11/7/90
* 90-029	Revised Special Condition for Discharges into Nutrient Enriched Waters	Ayers	11/16/90
* 90-030	Revocation & Reissuance of Permits	Ayers	11/19/90
**90-031	UST/LUST Procedures & Guidance Staff Manual	Chance	12/26/90
**91-001	Revisions to the General & Individual Chemical Parameter Laboratory Evaluation Checksheets	Purcell	1/4/91
91-002	Use of WQS in the VPDES Permit Program	Lawson	1/15/91
91-003	Guidelines for Accessing the VUPSTF for Emergency Correction Actions at	Williams	1/30/91

General Notices/Errata

Petroleum UST Sites			
91-004	Permits/Certificates Approved at Bd. Mtgs.	Ayers	2/1/91
**91-005	401 Certification Approval Procedures	Ferguson	2/19/91
91-006	Purchase of Sample Containers	Cook	2/20/91
91-007	Sample Volumes for Nonmetals Lab	Cook	2/20/91
**91-008	Quality Assurance Manual-1990 Revisions	Cook	2/20/91
**91-009	Change to Membrane Filter Checksheet	Purcell	3/13/91
**91-010	Final Version of the VPDES Permit Manual	Turner	3/18/91
* 91-011	Selection of Sample Types for VPDES Monitoring	Purcell	3/21/91
91-012	Virginia Department of Health Review of VPA Permit Applications for Animal Feeding Operations	Lawson	4/19/91
**91-013	Single Family Home (SFH) VPDES Permits	Lawson	4/30/91
* 91-014	New Application Form for Fish Farms & Hatcheries	Ayers	7/12/91
* 91-015	Revised Procedure for Public Notice Mail List	Ayers	7/23/91
**91-016	Use of Existing WQS Criteria for Silver and Phenol	Holt	7/24/91
* 91-017	Criteria for Processing General Permit Registration Statement from 1,000 GPD Discharges	Ayers	7/26/91
91-018	Revised VPA Permit Application Deficiency Memo	Turner	8/19/91
91-019	Solids Disposal Plans for Sand & Gravel Operations	Holt	9/4/91
91-020	Modifications to September 8, 1989 Guidance Memo "VPDES Permitting Strategy for Discharges Resulting From UST Remediation Projects and Similar Projects"	Buehler	10/1/91
* 91-021	Processing General VPDES Permit Registration Statements from <1,000 Gallon Per Day Sewage Discharges with Existing Individual VPDES Permits	Ayers	10/1/91
91-022	Model CAP Permit	Buehler	10/2/91
**91-023	Quality Assurance Manual 1991 Rev.	Cook	10/8/91
**91-024	Quality Assurance Manual - Revisions	McMillan	11/8/91
**91-025	Revised Laboratory Inspection SOP	Purcell	11/14/91
91-026	Oil & Grease Analysis Manual	Purcell	11/18/91
91-027	Staff Procedures for Responsible Parties Leaking UST Sites	Cunningham/ Lawson	11/18/91
91-028	Procedure for Assigning Numbers to Permits	Buehler	12/10/91
* 92-001	Flow Measurements	Purcell	1/14/92
**92-002	A-1 Fecal Coliform Checklist	Purcell	1/14/92

General Notices/Errata

* 92-003	Testing Waivers for VPDES Applic. Forms	Ayers	2/18/92
* 92-004	VPDES Permit Major/Minor Work Sheet	Ayers	2/25/92
92-005	Pretreatment Program Priorities	Lawson	2/27/92
92-006	Authorization to Issue Certifications for Tax Exemptions	Lawson	3/9/92
* 92-007	Public Notice Format for Combining Permit Issuance, Reissuance or Modification & Approval or Modification of Final Pretreatment Program	Ayers	3/19/92
92-008	Modifying Existing VPDES or VPA Permits to Incorporate CAP Requirements	Chance	3/25/92
* 92-009	Additional Guidance on Use of the NPDES Permit Rating Work Sheet	Ayers	3/26/92
92-010	Model CAP Permit	Buehler	3/26/92
92-011	Statement of Basis for CAP Permits Without A Discharge to State Waters	Buehler	3/27/92
**92-012	Guidance on Use of WQS for Toxics in VPDES Permits	Holt	4/13/92
92-013	Reporting of BOD ₅ Results for VPDES Monitoring	Purcell	4/21/92
**92-014	Modification of the VPDES General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day	Ayers	5/8/92
92-015	Conditions for Approval of Interim Authorization at Leaking Underground Storage Tank Sites	Lawson/ Cunningham	5/14/92
92-016	Final Version of VPA Permit Manual 6/92	Turner	7/20/92
**92-017	Permit Transmittal Letters Appeal Lang.	Allen	7/28/92
92-018	VPA Permit Program	Lawson	8/28/92
**92-019	VPDES Permit Part I.A., Eff. Limitation	Allen	9/14/92
* 92-020	Registration Statement for VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day	Turner	10/6/92
**92-021	Quality Assurance Manual - 1992 Revisions	Cook	11/12/92
* 92-022	Boldfacing Compliance Items & Due Dates in VPDES and VPA Permits	Ayers	12/7/92
93-001	Permitting Strategy for CAP Permits, VPDES Permits for non-CAP Remediation Sites, and Other VPDES Permits	Ayers	1/22/93
93-002	Guidance on Waiver of Virginia Water Protection Permits	Lawson	2/08/93
93-003	Procedures for Group Revocation of No-Discharge Certificates	Ayers	2/19/93
**93-004	VPDES Permitting & Compliance Strategy for Permit Limits & Monitoring Results that are Less Than Detection	Holt	2/23/93
**93-005	State & Agency Policy Regarding Management of State Waters; Storm Water	Lawson	3/3/93

General Notices/Errata

	Management BMPs in State Waters Including Wetlands		
93-006	Regional Director Authorization to Process VPA Permits for Land Application of Municipal Sewage Sludge	Lawson	3/12/93
93-007	VPA Manual Update-New PAN Uptake Tables	Wells	4/07/93
93-008	DEQ Water Division Water Purification Systems Contaminants	McMillan	4/20/93
93-009	CAP General Permit Procedures	Cunningham/ Lawson	5/17/93
**93-010	VPDES Permitting Strategy for Storm-water Discharges Associated with Industrial Activity	Boatwright	5/21/93
* 93-011	Guidance on Calculating Stream Flow Frequencies & Other Hydrologic Analysis for the VPDES Permitting Process	Martin	6/9/93
* 93-012	Revised VPDES Permit Part I.A., Effluent Limitations pages	Wells	6/14/93
* 93-013	Application Forms for Fed. Facilities	Wells	6/15/93
93-014	Violation Reporting Procedures	Bigelow	6/17/93
93-015	Guidance on Preparing VPDES Permits Based on the Water Quality Standards for Toxics	Lawson/Roland Anthony	6/22/93
93-016	Revised Chemical Translator for Metal Standards	Anthony/Daub/ Lawson	6/23/93
* 93-017	Documentation of Public Notice to the Mailing List	Wells	7/07/93
**93-018	Local Gov't. Ordinance Form (LGOF) Revisions	Wells	7/07/93
**93-019	Reissuance Reminder Letter Revisions	Wells	7/12/93
* 93-020	VPDES & VPA Permit Manual DEQ revisions	Wells	7/26/93
93-021	Antidegradation Implementation Guidance	J.Gregory/ Lawson	7/27/93
93-022	Regional Directors Authorization to Process VPA Permits for Food Processing Category	Ferguson	9/20/93
93-023	Procedures for Processing VPA Permits for the Food Processing Category	Ferguson	9/20/93
* 93-024	Implementation of the VPDES General Permit for Nonmetallic Mineral Mining VAG84	Ayers	9/27/93
**93-025	Procedures Manual for Preparation of the 1994 Water Quality Assessment (305(b)) Report	Hegstrom	10/25/93
* 93-026	Permitting Strategy for Wood Preserving	Choi	12/01/93
* 93-027	Application Transmittal & Reissuance Reminder Letter	Wells	12/14/93
* 93-028	Regional Director Authorization to To Process VPDES Permits to Include the Toxics Management Program	Lawson	12/17/93

General Notices/Errata

93-029	Procedures for Implementing the T M Program	Lawson	12/20/93
93-030	Procedures for Approving Plans & Specification for Sewerage Systems & Sewage Treatment Works & Concept Engineering Designs for Industrial Facilities	Lawson	12/21/93
**94-001	Revised VPDES Major Permits List	Ayers	01/12/94
94-002	Regional Directors Authorization to Process VPA Permits for Land Application of Municipal Wastewater	Holt	02/15/94
94-003	Classification of Effluent/Water Quality Limiting Segments & Relationship with Antidegradation Tiers	Phillips	03/22/94
* 94-004	Revised Industrial Reopener Clause For VPDES Permits	Wells	03/22/94
**94-005	Quality Assurance Manual - 1994 Revisions	McMillan	04/15/94
* 94-006	Revision to LGOF Requirement of the SWCL	Ayers	05/19/94
**94-007	Revised Guidance for Virginia Water Protection Permit Decisions for Storm Water Management BMP's in Surface Waters, Including Wetlands	Bigelow	05/19/94
94-008	Metals Monitoring, Monitoring Special Condition TMP Revisions, & Di-2-Ethylhexyl Phthalate	Holt	05/19/94
94-009	On-Site Disposal of Ground Water at Petroleum Contaminated Sites	Chance	07/29/94
94-010	1. Review of Environmental Impact Documents and 2. Permitting Dept. of Transportation Projects	Bigelow	10/05/94
94-011	Virginia Water Protection Permit Programs Public Notice Procedures	Bigelow	10/05/94
94-012	Calcium Carbonate Equivalence (CCE) Testing Requirements	Holt	10/20/94
* 94-013	Regional Implementation of the VPDES General Permits for Storm Water Discharges Associated with Industrial Activity	Hooper	10/20/94
94-014	Implementation of the VPA General Permit for Confined Animal Feeding Operations (VPG1)	Ayers	11/16/94
* 94-015	VPDES Permits Majors List	Ayers	12/21/94
94-016	Form Letters & Procedures Utilized in the VWP Program	Ferguson	12/22/94
94-017	VPA Farm Fertilizer & Chemical Dealerships	Holt	12/22/94
95-001	Revised Guidance for Virginia Water Protection Permit Decisions for Storm Water Management BMPs in Surface Waters, Including Wetlands	Ferguson	1/10/95
95-002	VPA Land Application of Water Treatment Plant Residuals	Choi	01/19/95
95-003	VPDES and VPA Permit Part II Telephone	Ayers	5/23/95

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Number Changes

95-004	Transition from VPA Permits for Sewage Sludge to VDH Biosolids Use Permits	Ayers	6/20/95
95-005	Local Government Ordinance Forms (LGOF)	Ayers	6/20/95
95-006	Updated Technical Criteria for VPA Industrial Land Application Program	Choi	9/28/95
95-007	Application of Permit Fees for the VDOT	Ferguson	9/28/95
95-008	General Permits	Ayers	11/03/95
95-009	Nutrient Management Plans for Activities Covered Under the VPA General Permit for Confined Animal Feeding Operations	Ayers	11/06/95
95-010	VPA Permit Application Forms Revision	Choi	11/06/95
95-011	Sludge Reopener Clause for VPDES Municipal Permits, Public Hearing Procedures, EPA Contact, Termination Procedure, DEQ Program Delegations - Associated VPDES Permit Manual Revisions	M. Gregory	11/17/95
95-012	pH Limits in the VPDES Permits for Cooling Water Outfalls	Phillips	11/20/95
96-001	Storm Water Permitting	Ferguson	3/15/96
96-002	O&G/TPH Limits for Certain Effluents	Phillips	4/09/96

GROUND WATER

93-005	Preliminary Ground Water Withdrawal	Wagner	5/12/93
94-002	Ground Water Withdrawal Permit Procedures Manual	Wagner	3/4/94
94-004	Procedures to Issue Ground Water Withdrawal Permit Based on Historic Use	Wagner	4/21/94
94-007	Ground Water Withdrawal Permit Tracking System Data Entry Procedures Manual	Patton	5/3/94

AIR DIVISION

Document	Date	Topic
ENF-1	(Rescinded)	
ENF-2	10/1/90	Gasoline delivery tanks and vapor collection/control systems - requirements for operation, testing and certification.
ENF-3	11/21/84	Procedures for emissions testing.
ENF-8	5/92	Stationary source inspection program (air).
ENF-12	11/8/85	Complaint handling (air).
ENF-13	6/94	Enforcement procedures, including penalty policy and boilerplate consent agreement.
ENF-14	8/25/92	Continuous emission monitoring policy.
ENF-15	10/28/91	Emergency operating procedures
AQP-1	7/1/91	Test methods and procedures for facilities subject to emission standards for volatile organic compounds.
AQP-2	7/1/91	Procedures for determining compliance with volatile organic compound emission standards covering surface coating operations.

General Notices/Errata

AQP-3	7/1/91	Procedures for the measurement of capture efficiency for determining compliance with volatile organic compound emission standards covering surface coating operations and graphic arts printing processes.
AQP-4	7/1/91	Procedures for maintaining records for surface coating operations and graphic arts printing processes.
AQP-5	8/13/96	Air toxics program priority implementation policy.
AQP-7	8/1/92	Communication procedures pertaining to the State Air Pollution Control Board.
AQP-8	1/1/93	Procedures for preparing and submitting emission statements for stationary sources.
AQP-9	1/1/93	Procedures for implementation of regulations covering stage II vapor recovery systems for gasoline dispensing facilities.
AQP-11	1/1/93	Implementation of the Prevention of Significant Deterioration (PSD) of Air Quality program.
	3/31/93	MOU with National Park Service: Memorandum of understanding establishing procedures for notification of and interaction with Shenandoah National Park regarding PSD permitting issues.
	3/30/93	MOU with Jefferson National Forest: Memorandum of understanding establishing procedures for notification of and interaction with Jefferson National Forest regarding PSD permitting issues.
	8/11/95	NSR permit guidelines: Air permitting guidelines for new and modified sources.
	8/12/94	State operating permit manual: (DRAFT) Draft procedure manual for issuing state operating permits.
	12/8/94	Guidance memo - synthetic minor permits: Memorandum by Engineering Managers' Group providing guidance on use of state operating permits to create synthetic minor permits.
	3/29/95	Interim public participation memo: Memorandum providing interim guidance on providing public participation in the state operating permit process.
	11/19/93	Title V operating permit manual: Draft procedure manual for issuing federal operating permits.
	4/9/93	PSD modeling procedures: Draft guidance to applicants for PSD permits in performance of air quality modeling. Permit audit procedures (being revised): Procedures for auditing issued permits to determine regulatory conformance, technical quality and procedural consistency.
	6/26/96	Permit boilerplate 10 and procedure for major new and modified sources.
	6/26/96	Permit boilerplate 10A and procedure including acceptable deviations for minor new and modified sources.
	6/26/96	Permit boilerplate amendment procedure for amending new and modified source permits.
	6/26/96	Permit boilerplate asphalt: Permit boilerplate and procedure for new and modified hot mix asphalt plants.
	6/26/96	Permit boilerplate coal preparation: Permit boilerplate and procedure for new and modified coal preparation plants.
	6/26/96	Permit boilerplate concrete: Permit boilerplate for new and modified concrete batch plants.
	6/26/96	Permit boilerplate generator: Permit boilerplate for new and modified emergency electric generators.
	6/26/96	Permit boilerplate incinerator: Permit boilerplate and procedure for new and modified incinerators.
	6/26/96	Permit boilerplate miscellaneous metal: Permit boilerplate for new and modified miscellaneous metal parts manufacture.
	7/11/96	Permit boilerplate metal parts coating: Permit boilerplate and procedure for new and modified miscellaneous metal parts coating facilities.
	8/7/96	Permit boilerplate gas/oil: Permit boilerplate and procedure for new and modified gas and distillate oil boilers (<100 MMBtu/hr.)
	7/11/96	Permit boilerplate minor print: Permit boilerplate and procedure for new and modified minor printing facilities.

General Notices/Errata

- 7/11/96 Permit boilerplate quarry: Permit boilerplate and procedure for new and modified stone quarries.
- 7/11/96 Permit boilerplate residual oil: Permit boilerplate and procedure for new and modified residual oil boilers (<100 MMBtu/hr.)
- 7/11/96 Permit boilerplate silo: Permit boilerplate and procedure for new and modified storage silos.
- 7/11/96 Permit boilerplate tanks: Permit boilerplate and procedure for new and modified storage tanks.
- 7/11/96 Permit boilerplate synthetic minor: Permit boilerplate and procedure for state operating permits to create synthetic minor sources.
- 7/25/96 Permit boilerplate wood boiler: Permit boilerplate and procedure for new and modified small wood boilers.
- 7/25/96 Permit boilerplate wood coat: Permit boilerplate and procedure for new and modified minor wood coating facilities.
- 7/25/96 Permit boilerplate wood furniture: Permit boilerplate and procedure for new and modified wood furniture/fixture facilities.
- 8/9/93 Test report format for in-stack and visible emission evaluation testing.
- 6/26/96 Initial permit review form letter for notification of applicant of receipt of application and results of initial review.
- 6/26/96 1st deficiency form letter for notification of applicant of deficiencies detected in initial review.
- 6/26/96 2nd deficiency form letter for notification of applicant of failure to correct deficiencies identified in 1st deficiency letter.
- 12/12/94 Permit application withdrawal form letter for acknowledgement of voluntary withdrawal of permit application, or default withdrawal by failure to maintain application currency.
- 7/26/93 Merge codes data tables and instruction for boilerplate permits.
- 7/25/96 Minor permit checklist for use by permit engineer in determining completeness and adequacy of permit application and processing.
- 5/10/95 Lime manufacturing emissions factors for use in evaluating emissions from lime manufacturing facilities.

Air Division Policy Statement No. 1-96. Evaluation and Air Permitting Requirements for Landfills in Virginia. April 23, 1996.

Air Division Policy Statement No. 2-96. Procedures for permitting and other activities associated with coal processing plants. April 22, 1996.

- APG96239 8/28/96 Permit Rescission guidance document.
- APG96240 9/16/96 Public hearing for major source (localities particularly affected) guidance document.
- Vehicle emission inspections manual: Informational manual for permitted vehicle emission inspection stations.
- Mobile Source Operations Section Operational Orders (many different dates): Series of operational directives to Mobile Source Operations Section staff for performance of duties.
- Quality Assurance Manual for Air Pollution Measurement Systems, Vol. I 5/15/95 Part of series providing guidance on operation and calibration of ambient air quality monitoring network.
- Quality Assurance Manual for Air Pollution Measurement Systems, Vol. II 2/20/92 Part of series providing guidance on operation and calibration of ambient air quality monitoring network.
- Quality Assurance Manual for Air Pollution Measurement Systems, Vol. III 5/87 Part of series providing guidance on operation and calibration of ambient air quality monitoring network.
- 1/18/95 PAMS Procedure Manual: Draft procedure manual for Enhanced Ambient Air Monitoring of Ozone Precursors Program, Type I Photochemical Assessment Monitoring Stations for canister sampling at Corbin, Va. station.
- Procedures Manual: AIRS Facility Subsystem Guidance manual for DEQ users of EPA's AIRS emission inventory database.

"AIRS for Airheads" Manual: Training manual for DEQ users of EPA's AIRS emission inventory database.

8/29/95 Policy & procedure memorandum for Review of Emission Statement (documents submitted in accordance with AQP-8).

Small Business Assistance Program

Small Business Assistance Program Modification Procedures for Modification of Work Practices, Technical Methods or Time Frame for Compliance with the Provisions of the Clean Air Act of 1990 Section 507 (a), (7), (A) & (B). October 28, 1994.

Small Business Assistance Program (SBAP) Voluntary Compliance Audit Procedures - Draft. December 22, 1994. Procedures for staff to follow when performing a voluntary compliance audit for a client.

A Guide to Compliance Requirements for Dry Cleaners. March 17, 1994. A lay users guide for dry cleaners to understand their requirements to come into compliance with the federal NESHAP.

Fact Sheet - Wood Furniture Operations - Final Draft. February 7, 1996. A lay guide to compliance with the federal wood furniture facility NESHAP.

Fact Sheet - Lithographic Printing Processes - Final Draft. April 1996. A lay guide to compliance with Virginia's new air rule 4-45, RACT requirements for existing lithographic printing sources.

Fact Sheet - Flexographic, Rotogravure, and Publication Rotogravure Printing Lines - Final Draft. April 1996. A lay guide to compliance with Virginia's new air rule 4-36, RACT requirements for the Flexographic and Rotogravure sources.

Fact Sheet - Small Business Assistance Program. August 1995. A description of Virginia's Small Business Assistance Program.

Air Monitoring Section

Quality Assurance Manual for Air Pollution Measurement Systems, Volume I, Revised May 15, 1995

Quality Assurance Manual for Air Pollution Measurement Systems, Volume II, Revised March 1, 1993

Quality Assurance Manual for Air Pollution Measurement Systems, Volume III, Non-Criteria Pollutants, May 1987

Enhanced Ambient Air Monitoring of Ozone Precursors Program, Standard Operating Procedures Manual (Draft), January 18, 1995

Acetone, Acetic Acid Policy. Permitting Policy. April 23, 1996.

Mobile Source Activities - On-Road Mobile Source Emission Inventory Guidance and Protocol:

1990 Base Year Ozone SIP Emission Inventory for Volatile Organic Compounds (VOC), Nitrogen Oxides (NO_x), and Carbon Monoxide (CO) Emissions for Richmond, Hampton Roads, and White Top Mountain Virginia, Nonattainment Areas, Commonwealth of Virginia, Department of Environmental Quality, 1994, Chapter 4: On-Road Mobile Source Emission Inventory.

Mobile Source Activities - Transportation Conformity Review:

Transportation Conformity Regulations, Interagency Consultation Process: 40 CFR Part 51.402 - Consultation; Part 51.396 - State Implementation Plan Revision; Part 93.105 - Consultation; and Draft 9 VAC 5-150-130 - Consultation.

Data Analysis:

Procedure documentation for the Urban Airshed Model (UAM) modeling project, Office of Data Analysis, Air Division

Protocol for Regulatory Photochemical Air Quality Modeling of the Richmond Area, VADEQ, 1993

Baltimore-Washington Region Ozone Modeling Protocol, Maryland Department of the Environment, 1992

Protocol for Emissions and Compliance Data Reporting [DRAFT].

Quick Reference Manual - AIRS FACILITY SUBSYSTEM.

AFs for Airheads.

WASTE DIVISION

Hazardous Waste (RCRA) Applications and Compliance Assistance

What is Satellite Accumulation?

Frazier

rev. 7/95 (11/93)

When Does the Accumulation Date Begin?

General Notices/Errata

Synopsis of Requirements for Conditionally Exempt Small Quantity Generators	Frazier	rev. 3/12/96
Synopsis of Requirements for 100-1000 kg/mo Generators	Frazier	rev. 4/93 (8/23/88)
Synopsis of Requirements for 100-1000 kg/mo Generators - Dry Cleaners	Frazier	rev. 4/93 (8/23/88)
Synopsis of Requirements for 100-1000 kg/mo Generators - Vehicle Maintenance	Frazier	rev. 4/93 (8/23/88)
Basic RCRA: Handout Notes (SW/HW Definition, Characteristic/Listed Wastes, Basic Requirements)	Frazier	rev. n/a
Regulated Used Oil Summary	Frazier	rev. 4/96 (4/91)
Used Oil Recycling In Virginia - Information for "Do-It-Yourself" Oil Collectors (and Addendum)	Frazier	rev. 4/96
Mixtures of Petroleum Products and Water: Criteria for Conditional Exclusion from Regulation as a Hazardous Waste	Frazier	rev. 7/31/95
Management of Used Antifreeze	Frazier	rev. 7/31/95
Recyclable Materials: Lead-Acid Batteries Being Reclaimed	Frazier	rev. 11/95
How Do You Manage Contaminated Rags?	Frazier	rev. 2/94
Disposal of Spent Fluorescent Lamps; and Addendum Comments	Frazier	rev. 2/26/96
Disposal of PCB Small Capacitors Fluorescent Light Ballasts)	Brown	rev. 5/3/96
Precious Metal Recovery: Photographic Silver	Frazier	rev. 6/95 (2/17/93)
Management of Household Chemical Waste - Synopsis	Frazier	rev. 6/95
Interim Recommendations for Household Hazardous Waste Collection	Frazier	rev. 5/93
Hazardous Waste Treatment In Tanks and Containers (Draft)	Smith	rev. n/a
Who Is the Generator? - Letter to NORSHIPCO 7/29/92 "Determination of Generator Status"		
Site Access and Waivers - Inspection Guidance Memorandum	Ely	7/23/93
Solid Waste		
Name of Document	Signed By	Date
Guidelines for Special Waste Disposal	Hassan Vakili	12/16/94
Policy for Handling of Investigation of Investigation Derived Waste	Hassan Vakili	6/28/95
Hazardous Waste & Solid Waste Emergency Permit Procedures	Hassan Vakili	12/5/95
Closed Landfill Inspection Guidance	Ulysses Brown	10/30/95
Thermal Treatment Facility Inspection	Ulysses Brown	11/9/93

Guidance

CDD Landfill Inspection Guidance	Ulysses Brown	11/9/93
Sanitary Landfill Inspection Guidance	Ulysses Brown	10/1/95
Industrial Landfill Inspection Guidance	Ulysses Brown	11/9/93
Yard Waste Composting Facility Inspection Guidance	Ulysses Brown	6/14/93
Solid Waste Material Recovery Facility Inspection Guidance	Ulysses Brown	11/9/93
Solid Waste Energy Recovery & Incineration Facility Inspection Guidance	Ulysses Brown	11/9/93
Solid Waste Transfer Station Inspection Guidance	Ulysses Brown	11/9/93

Guidance on Statistical Methods for Groundwater Data Analysis at a Solid Waste or Hazardous Waste Site, Department of Environmental Quality, Guideline Version 2.0, 8/10/95

Guidance on Developing Groundwater Protection Standards for Solid Waste and Hazardous Waste Facilities, Department of Environmental Quality, Guideline Version 2.0, 8/15/1995.

Some Guidance on Groundwater Monitoring Requirements for Solid Waste Management Facilities, in accordance with the Virginia Solid Waste Management Regulations, Department of Environmental Quality, September 15, 1995.

Statistical Methods for Groundwater Monitoring by Dr. Robert D. Gibbons, 1994.

Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Interim Final Guidance, Office of Solid Waste, U.S. Environmental Protection Agency, April 1989.

Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Addendum to Interim Final Guidance, Office of Solid Waste, U.S. Environmental Protection Agency, April 1992.

Waste Permitting

<u>Memo #</u>	<u>Subject</u>	<u>Author</u>	<u>Date</u>
92-001H	Exposure Information - VHWMR §11.2.J.	Romanchik	08/27/92
92-002S	RCRA Subtitle D Closure Cap	Vakili	11/24/92
92-003S	Final Agency Actions - Notice of Appeal	Vakili	12/07/92
92-004S	Solid Waste Permit Application Processing	Vakili	12/16/92
93-001S	Distribution of Final Permits	Vakili	01/03/93
93-002S	Permit-By-Rule Processing	Vakili	02/01/93
93-003S	Copying Regional Offices on Documentation	Vakili	02/08/93
93-004S	Draft Permits - Form	Vakili	02/17/93
93-005S	Permit Fees	Vakili	02/18/93
93-006S	Form Letter Acknowledging Permit-By Rule Submissions	Vakili	04/01/93
93-007S	Seismic Impact Zone - Part A Requirements	Essex	04/14/93
93-008S	Permit Amendment Process	Vakili	04/21/93
93-009S	Clarification of Required Final Cover Designs and Acceptable Alternate Designs	Vakili	05/18/93
93-010S	HELP Model - Leachate Generation for Tank Design	Vakili	05/24/93
93-011S	Submission Instructions for Solid Waste Permit Applicants	Gulevich	06/01/93

General Notices/Errata

93-012S	Solid Waste Permitting Manual	Gulevich	06/01/93
93-013S	Coordination with Other State Agencies	Clark	06/03/93
93-014S	Siting Requirements for Bioremediation Petroleum Contaminated Soil Facility	Essex	06/14/93
93-015S	HJR 529 - Local Government Certifications Received After July 1, 1993	Vakili	07/01/93
93-016S	Solid Waste Management Permit-by-Rule, Technical Support Document for the Bioremediation of Petroleum Contaminated Soil	Dieter	09/02/93
93-017S	Clarification of Public Notice Requirements for Permit Modifications	Vakili	09/20/93
93-018S	Wetlands Citing Criteria	Essex	09/27/93
93-019S	Checklists for Permit by Rules Reviews	Vakili	09/28/93
93-020S	P. E. Certifications for Permit by Rules	Vakili	10/01/93
93-021S	Updated Public Notice Mailing List		
93-022S	Permit by Rule Response Letter	Clark	10/13/93
93-023S	Permit by Rule Signature Authority	Vakili	10/29/93
93-024S	Part B Transmittal to Water Division	Vakili	11/01/93
93-025S	Permit Processing	Adams	11/02/93
93-026S	Permit-by-Rule Submittals - Handling of Leachate	Vakili	11/09/93
94-001S	Notice of Intent & Local Government Certifications	Vakili	01/06/94
94-002S	Permit-by-Rule	Vakili	01/21/94
94-003S	Leachate Storage	Vakili	01/21/94
94-004S	Airport Siting Requirement	Essex	05/09/94
94-005S	Petroleum Contaminated Soils - Analytical Methods	Vakili	06/14/94
94-006S	Checklists for Medical Waste PBRs	Vakili	06/29/94
94-007S	Work Related Issues	Vakili	07/15/94
94-008S	Guidelines for the Storage of Tires at Sanitary	McReynolds	07/20/94
94-009S	Gas Condensate Recirculation	Vakili	08/23/94
94-010H	Hazardous Waste Permit and Closure Plan Processing Guidelines	Romanchik	10/25/94
95-001S	Updated Public Notice Mailing List	Vakili	02/02/95
95-002H	Withdrawal of Permit Applications	Romanchik	03/20/95
95-003S	Financial Assurance	Vakili	05/30/95
95-004S	Financial Assurance for Transfer Stations	Vakili	06/19/95
95-005B	Policy for the Handling of Investigation Derived Waste	Vakili	06/28/95
95-006B	Permit Related Issues	Romanchik	06/30/95
95-007S	Landfill Gas Management	Romanchik	08/14/95

General Notices/Errata

95-008S	Guidance for Permitting Waste Tire Facilities	Vakili	12/15/95
96-001B	Permit Procedures - Public Notice of Draft Permit	Romanchik	01/18/96
96-002S	New Condition in Solid Waste Permits	Romanchik	04/16/96
96-003S	Clarification of Public Notice Requirements for Permit Modifications	Vakili	04/24/96
96-004B	Additional Public Notice Procedures for Draft Permits	Romanchik	05/14/96
96-005S	Permit Appeal Language for Solid Waste Permits	Romanchik	05/24/96
96-006H	Scope of Facilities Subject to Corrective Action under RCRA Subtitle C	Vakili	06/10/96

ABOVEGROUND STORAGE TANK GUIDANCE DOCUMENTS

94-001	Leak Detection Guidelines		02/14/96
94-002	Groundwater Characterization Study Guidelines		02/14/96
95-001	Oil Discharge Contingency Plan Guidelines		01/10/95
95-002	AST Pollution Prevention Guidelines		01/10/95

UNDERGROUND STORAGE TANKS: TECHNICAL STANDARDS AND CORRECTIVE ACTION

91-001	Criteria for Extension and Establishment of Release Response and Corrective Action Schedule Requirements		02/22/91
91-002	UST Responsible Party Determination		07/09/91
91-003	Staff Procedures Relating to UST		08/27/91
91-004	Staff Procedures Relating to UST Financial Responsibility Compliance Dates Enforced in Virginia (Revised)		03/31/92
91-005	Staff Procedures Relating to UST Disbursements from the Virginia Underground Petroleum Storage Tank Fund		08/27/91
91-006	Staff Procedures Relating to UST Applicability of the UST Technical Regulations to Removed or Exempt USTs		08/27/91
91-007	Staff Procedures for Responsible Party Leaking UST Sites		11/19/91
91-008	Staff Procedures for State Lead Leaking UST Sites		12/16/91
91-009	Files of Record		12/17/91
92-001	Article 11 Requirements for Provision of Alternate Water Supplies Caused by Oil Discharges		03/10/92
92-002	Modifying Existing VPDES or VPA Permits to Incorporate CAP Requirements		03/25/92
92-003	Closure of Leaking UST Sites with Limited Soil Contamination		04/29/92
92-004	Conditions for Approval of Interim Authorization at LUST Sites		05/19/92

General Notices/Errata

92-005	Suspension of CAP Requirements at Sites Where Remediation Endpoints Have Been Achieved		12/29/92
93-001	Per Occurrence Determinations		01/14/93
93-002	Tanks Considered Closed When Taken Out of Use Prior to December 22, 1988		06/07/93
93-003	Immediate Relief for AWS Sites		03/01/93
93-004	CAP General Permit Procedures		05/17/93
93-006	Revised Procedure for Responsibility Party Provision of AWS/State Lead Referrals		07/09/93
94-005	Regional UST Compliance Inspection Program - Final Guidance		04/18/94
94-006	Policy Issue Determination: Excluded USTs		05/02/94
94-009	On-Site Disposal of Ground Water at Petroleum Contaminated Sites		07/29/94
94-010	Criteria for Extension and Establishment of Release Response & Corrective Action Schedule Requirements		08/03/94
94-011	Policy Issue Determination: Excluded USTs Notification Requirements		08/22/94

UNDERGROUND STORAGE TANKS; FINANCIAL RESPONSIBILITY GUIDELINES

03-001	Reimbursement Guidance Manual	OSRR	03/01/95
03-002	Summary of 1996 Changes to Articles 9, 10, and 11	Kendall	06/30/96
03-003	Prioritization of Delayed Claim Payments	Kendall	01/01/96
03-004	Reimbursement Training for Consultants and Responsible Parties	Kendall	03/01/95
03-005	Reimbursement Training	Kendall	08/17/94
03-006	How to Get Access to the Virginia Petroleum Storage Tank Fund	Kendall	12/31/93
03-007	List of Insurers Who Provide Wrap Coverage	Kendall	08/17/94
03-008	Banks Which Finance UST Cleanup/Upgrades		09/01/95
03-009	Responsible Person Determination Policy	Kendall	03/25/96
03-010	Petroleum Program Fact Sheets	Regions	04/01/95
03-011	Information On Ordering Underground Storage Tank Materials	EPA	05/01/92
03-012	Insurance Companies Which Provide Third Party Liability Coverage for Bodily Injury and Property Damage for Waste Facilities	Kendall	04/01/95
03-013	Financial Assurance Demonstration for Liability Coverage for Solid Waste Facilities	Kendall	04/01/95
03-014	Financial Assurance Demonstration for Closure and Post-Closure for Solid Waste Facilities		04/01/95
03-015	Individual Ability To Pay Policy	Bridgman	09/01/93

General Notices/Errata

03-016	Corporate Ability to Pay Policy	Bridgman	09/01/93
03-017	Estate Ability to Pay Policy	Bridgman	08/15/94
03-018	Bankruptcy Ability to Pay Instructions	Bridgman	01/19/96
03-019	Financial Responsibility Requirements for Petroleum Underground Storage Tank Owners and Operators	Bridgman	06/01/95
03-020	Financial Responsibility Demonstration Requirements for Local Governments	Bridgman	06/01/94
03-021	Reconsideration Procedure Guidelines	Bridgman	04/15/96
03-022	VPSTF Technical Review Guidelines	Bridgman	06/01/95
03-023	Reimbursement and Reconsideration Mailings	Bridgman	03/01/96
03-024	Tardy Post-Panel Follow Up Procedure	Bridgman	03/01/96
03-025	How to Determine Whether Financial Responsibility Demonstration Is Required	Bridgman	06/01/94

ENFORCEMENT

Compliance and Enforcement Guidance and Manual	Enforcement	03/12/96
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OFFICE OF ENVIRONMENTAL RESEARCH AND STANDARDS

Advisory Notification of Effluent Limits for Swamp and Marsh Waters	Anthony	2/9/87
Chlorine Standard/Policy Guidance	Anthony	3/6/87
Procedure for Regional Office to Follow in Processing Exceptions under Section 4b of the Chlorine Policy.	Gregory	3/19/87
Joint State Water Control Board and Virginia Health Department Modified Disinfection Requirements Protocol for VR 680-21-02.2	Gregory/ et al.	1990
Halogen Ban Variances for Public Entities	Gregory	1992
New Standards Interpretation	Gregory/ Daub	2/24/92
Guidance on Water Body Variances (VR 680-21-01.14.E)	Anthony	5/15/92
Water Quality Standards Interpretation of Biologically Based Flows, Low Flow Application and Mixing Zones		11/2/92
Guidance for Exceptional Surface Waters Designations in Antidegradation Policy Section of Water Quality Standards (VR 680-21-01.3 C)	Gregory	1993
Discharger Specific Variances for Public Entities	Gregory	1993
Interpretation of Fecal Coliform Bacteria and Mixing Zones	Gregory	4/20/93
Interpretation of Tributyltin Water Quality Standard	Anthony	10/21/94
Interpretation of Water Quality Standard for Cyanide	Gregory	11/1/94
Guidance on Application of Public Water Supply Designations	Gregory	11/2/94

ADMINISTRATIVE

Virginia Freedom of Information Act Compliance	Burton	3/1/94
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General Notices/Errata

Litter Prevention and Recycling Education Programs
Litter Prevention and Recycling Grants

Katzen 12/29/95
Murphy 7/22/96

DEPARTMENT OF HEALTH

† Drinking Water Funding

Following enactment of the Safe Drinking Water Act Amendments of 1996, Congress authorized \$1.275 billion in capitalization grants to states for 1997. The Virginia Department of Health (VDH) expects to receive a portion of these funds. In addition to awarding funds for construction improvements, VDH may set aside a portion of the funds for technical assistance and related activities. Set-aside funds will help waterworks owners prepare for future drinking water challenges and assure the sustainability of safe drinking water.

Private and public owners of community and nonprofit noncommunity waterworks are eligible to apply to VDH for loans. VDH will make selections based on conditions such as existing public health problems, readiness to proceed, funding need, and the availability of matching funds. Disadvantaged communities may receive additional assistance.

Interested persons may suggest uses for various set-aside funds. Set-asides include small system technical assistance, source water protection, viability enhancements, operator programs, and general technical assistance.

The Act also provides for a demonstration project in Southwest Virginia in Planning Districts 1 and 2. This will allow VDH to loan a portion of the construction funds to a regional endowment fund.

After receiving loan requests and set-aside suggestions, VDH will develop a draft Intended Use Plan for public review and comment. A public meeting is planned from 2 - 4 p.m. on January 7, 1997, in Richmond at the Virginia War Memorial; written comments are due by 3 p.m. on January 14. These actions will help expedite release of federal funds as soon as possible.

Loan requests and set-aside suggestions are requested by 5 p.m. on December 11, 1996. Information is available by writing, calling, or faxing:

Thomas B. Gray, P. E.
Virginia Department of Health
P.O. Box 2448
Richmond, Virginia 23218
Voice: (804) 786-5566
Fax: (804) 786-5567

Safe Drinking Water Act Capitalization Grant Set-asides
and Special Considerations

From the amounts allotted to states, the following elements are available:

1. Administration of construction revolving loan fund and technical assistance 4%
2. Small system technical assistance 2%
3. Assistance to state programs 10%
(with equal match of expenditure at least half of which must be additional to that expended in federal FY93)
 - a. for the public water system supervision programs
 - b. provide technical assistance through source water protection programs
 - c. develop and implement a capacity development strategy under section 1420(c)
 - d. for the operator program of section 1419
4. Combination of the following (with no more than 10% in any one area) 15%
 - a. loans for acquire land or a conservation easement to protect source water
 - b. loans for community water systems to implement voluntary source water protection measures
 - c. loans to implement source water protection partnership program
 - d. technical and financial assistance to a water system as part of the capacity development strategy in section 1420(c)
 - e. make expenditures from grants available in FY 96 and 97 to delineate and assess source water protection areas as mentioned in section 1453
 - f. make expenditures to establish and implement wellhead protection programs
5. Of the amounts in the construction revolving loan account:
 - a. loans to water systems serving fewer than 10,000 persons 15%
 - b. loan subsidies (including forgiveness of principal) to disadvantaged communities 30%
 - c. loan to a regional endowment in Southwest Virginia Planning Districts 1 and 2 not specified

MOTOR VEHICLE DEALER BOARD

† Motion Regarding the Denial, Suspension, Revocation, or Refusal to Renew a License or Certificate of Dealer Registration or Qualification

The following motion, as passed by the Motor Vehicle Dealer Board at their September 1996 meeting, supersedes the previous motion adopted by the board at their March 1996 meeting. The notice announcing the previous delegation of authority to the Executive Director was published in the General Notices/Errata section of the May 13, 1996, issue of The Virginia Register.

WHEREAS, § 46.2-1575(13) of the Code of Virginia, provides that the Motor Vehicle Dealer Board (board) may deny, revoke, suspend, or refuse to renew a license or certificate of dealer registration or qualification issued under Subtitle IV, Chapter 15 of Title 46.2, for conviction of a felony; and

WHEREAS, it is the policy of the board in carrying out this statutory authority that any person who has been convicted of a felony within five years of the application date or renewal date for a license or certificate of dealer registration or qualification, or who has been convicted of a felony and remains under the jurisdiction of the court or parole board (i.e., parole, probation, supervised or unsupervised release, etc.), at the time of application or renewal, that a license or certificate of dealer registration or qualification be denied, suspended, or revoked; and

WHEREAS, pursuant to the provisions of § 9-6.14:11 of the Code of Virginia, the board must hold informal fact-finding regarding the denial, suspension, revocation, or refusal to renew a license or certificate of dealer registration or qualification, unless said informal fact-finding is waived by the parties; and

WHEREAS, pursuant to that same section of the Code, a decision must be rendered by the board within certain time limits contained in that section; and

WHEREAS, pursuant to § 9-6.14:12, where the basic law requires that a hearing be held, the agency must hold a hearing and render a decision within time limits established by that section; and

WHEREAS, pursuant to the provisions of § 46.2-1514 of the Code of Virginia, an applicant denied a license or certificate shall be given a hearing upon written request; and

WHEREAS, pursuant to § 46.2-1576 of the Code of Virginia, the board is given the statutory authority to suspend, revoke, or refuse to renew a license or certificate of dealer registration or qualification after a public hearing has been held pursuant to that section; and

WHEREAS, § 46.2-1576 also provides that the board make a decision on the suspension, revocation, or renewal after reviewing the hearing officer's recommendation; and

WHEREAS, pursuant to the provisions of § 2.1-20.01:2 of the Code of Virginia, tasks required to be performed by supervisory boards may be delegated; and

WHEREAS, it is the desire of the board to delegate the authority to hold informal fact-finding proceedings and to make decisions resulting from those proceedings, pursuant to the provisions of § 9-6.14:11, to the office manager of the board, and to delegate to the executive director of the board the authority to hold formal hearings as required by § 9-6.14:12, § 46.2-1514, and § 46.2-1576, and to make decisions resulting from the hearing regarding the suspension, revocation, or refusal to renew a license or certificate of dealer registration or qualification in accordance with the authority vested in the board by § 46.2-1575(13) and in accordance with the board's policy on felony convictions.

NOW THEREFORE, BE IT RESOLVED, that the authority to hold informal fact-finding proceedings and to make decisions resulting from those proceedings regarding the denial, suspension, revocation or refusal to renew a license or certification of dealer registration or qualification pursuant to the provisions of § 9-6.14:11 be delegated to the office manager of the board and that the authority to hold formal hearings as required by § 9-6.14:12, § 46.2-1514, and § 46.2-1576, and to make decisions resulting from the hearing regarding the denial, suspension, revocation, or refusal to renew a license or certificate of dealer registration or qualification be delegated to the executive director of the board, all in accordance with the authority vested in the board by § 46.2-1575(13) and in accordance with the board's policy on felony convictions.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

- NOTICE of INTENDED REGULATORY ACTION - RR01
- NOTICE of COMMENT PERIOD - RR02
- PROPOSED (Transmittal Sheet) - RR03
- FINAL (Transmittal Sheet) - RR04
- EMERGENCY (Transmittal Sheet) - RR05

General Notices/Errata

NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08

ERRATA

VIRGINIA AVIATION BOARD

Title of Regulation: 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.

Publication: 12:17 VA.R. 2259-2269 May 13, 1996

Correction to Final Regulation:

Page 2263, 24 VAC 5-20-140, subdivision 1, line 2, change "obstructed" to "unobstructed"

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-90-20 et seq. Part II. Nursing Home Payment System (amending 12 VAC 30-90-20)

Publication: 13:1 VA.R. 45-46 September 30, 1996.

Correction to Final Regulation:

Page 46, column 1, 12 VAC 30-90-20 D, starting on line 15, delete new language ", but shall be reimbursed allowable cost as defined in Medicare and Medicaid principles of reimbursement"

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† December 12, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia ♿
(Interpreter for the deaf provided upon request)

A work session of the three-member Regulatory Review Committee to conduct regulatory review. No other business will be discussed at this meeting. All meetings are subject to cancellation. Call the board office 24 hours in advance of the scheduled meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Aquaculture Advisory Board

November 14, 1996 - 9 a.m. -- Open Meeting
Virginia Polytechnic Institute and State University, Cheatham Hall, Room 315, Blacksburg, Virginia ♿

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, P.O. Box 1163, Suite 211, Richmond, VA 23218, telephone (804) 371-6094.

Virginia Corn Board

December 11, 1996 - 9 a.m. -- Open Meeting
Sheraton Inn, 4700 South Laburnum Avenue, Richmond, Virginia ♿

The board will conduct business in the areas of research, education and promotion of the Virginia corn industries. 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 Corn Board, 1100 Bank St., Room 1005, Richmond, VA 23231, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Soybean Board

† December 9, 1996 - 10 a.m. -- Open Meeting
Hotel Colonial America, 6483 Richmond Road, Williamsburg, Virginia.

A meeting to discuss the progress of the board's research, education and promotion projects. The board will review nominations for both internal and external positions. 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., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Calendar of Events

Virginia Winegrowers Advisory Board

November 13, 1996 - 8:45 a.m. -- Open Meeting
Virginia Tech, The Donaldson-Brown Center, Blacksburg,
Virginia. ☒

A quarterly meeting of the board to conduct regular board business including committee and treasurer's reports. 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 Mary E. Davis-Barton at least seven days before the meeting date so that suitable arrangements can be made.

Contact: Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

STATE AIR POLLUTION CONTROL BOARD

December 2, 1996 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Training Room, First Floor, Richmond, Virginia.

December 31, 1996 -- Public comments may be submitted
until 4:30 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 Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Provisions.** 9 VAC 5-20-21 lists documents that are incorporated by reference into the Regulations for the Control and Abatement of Air Pollution. In addition to federal documents (which include portions of the Code of Federal Regulations as listed in Rules 5-5 and 6-1), a number of technical documents are listed. These documents include materials from the American Society for Testing and Materials, the American Petroleum Institute, and the National Fire Prevention Association. The regulation amendments update the documents to include the most current version available.

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

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents

may be examined by the public at the department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
Executive Office Park
3019 Peters Creek Road
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

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

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m. December 31, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental

Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, (804) 698-4021/TDD ☎, or toll-free 1-800-592-5482.

ALCOHOLIC BEVERAGE CONTROL BOARD

November 18, 1996 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Board for Architects

November 15, 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

November 21, 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 OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 21, 1996 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A general board meeting. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Elizabeth Young Kirksey, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR BARBERS

December 2, 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 two weeks 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) 367-8552, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Northern Area Review Committee

November 12, 1996 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Shawn Smith, Senior Planner, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

Calendar of Events

Regulation Advisory Committee

November 26, 1996 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A work session of the committee composed of stakeholders to discuss amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et seq.).

Contact: Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219-1924, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

Southern Area Review Committee

November 12, 1996 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Shawn Smith, Senior Planner, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

VIRGINIA CHESAPEAKE BAY TRIBUTARY STRATEGY INTERAGENCY WORK GROUP

November 12, 1996 - 3 p.m. -- Open Meeting
Northern Virginia Community College, 8333 Little River Turnpike, Annandale, Virginia.

November 13, 1996 - 3 p.m. -- Open Meeting
J. Sargeant Reynolds Community College, North Run Corporate Center, 1630 East Parham Road, Richmond, Virginia.

November 14, 1996 - 3 p.m. -- Open Meeting
Lord Fairfax Community College, 173 Skirmisher Lane, Middletown, Virginia.

November 18, 1996 - 5 p.m. -- Open Meeting
Colonial Beach High School, One Hundred and First Street, Colonial Beach, Virginia.

November 20, 1996 - 3 p.m. -- Open Meeting
Augusta County Government Center, 4801 Lee Highway, Verona, Virginia.

The draft of Virginia's Potomac Basin Tributary Nutrient Reduction Strategy is available for public comment from October 21 to November 21, 1996. Copies are available for review at the Planning District Commission, the Soil and Water Conservation District, the Department of Environmental Quality and the Department of Conservation and Recreation regional offices in the Potomac basin. The strategies are designed to reduce controllable nutrient loads in the Potomac River. The reduction strategies will address point (treatment plants, industrial discharges, etc.) and nonpoint (runoff from agricultural fields, residential areas stormwater, etc.) sources of pollution. In addition, a series of public open houses on the strategy will be held. Using posters and other display materials, the open houses are designed to provide citizens the opportunity to review the strategies and the concepts behind them at their leisure. Staff will be available to answer questions about the strategies. A brief orientation will also be presented on the hour. Written comments can also be submitted at these meetings or by sending them to the addresses on the draft.

Contact: Gary Waugh, Public Relations Manager, Department of Conservation and Recreation, 203 Governor St., Suite 213, Richmond, VA 23219, telephone (804) 786-5045, FAX (804) 371-2072, or (804) 786-2121/TDD

CHILD DAY-CARE COUNCIL

November 14, 1996 - 9 a.m. -- CANCELLED
December 12, 1996 - 9 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comment will be received at noon. Please call ahead of time for possible changes in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775.

VIRGINIA STATE CHILD FATALITY REVIEW TEAM

November 13, 1996 - 10 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, 3rd Floor Conference Room, Richmond, Virginia.

A meeting to (i) discuss the status of ongoing studies; (ii) review data collection and analysis issues; and (iii) update the team on any new legislative or administrative matters. The second part of this meeting will be closed for specific case discussion.

Contact: Suzanne J. Keller, Coordinator, Virginia State Child Fatality Review Team, 9 N. 14th St., Richmond, VA 23219, telephone (804) 786-1048, FAX (804) 371-8595, or toll-free 1-800-447-1706.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **November 22, 1996 - 10 a.m.** -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Room 200, Richmond, Virginia. ♿

The Stormwater Management Subcommittee of the Board of Conservation and Recreation will meet with Department of Conservation and Recreation officials to discuss and comment on proposed amendments to the Virginia Stormwater Management Regulations and to discuss various aspects of the implementation of stormwater management in design and in the field. A field visit to some local projects with stormwater management measures will follow the business meeting. Public comment will be received at the end of the regular business meeting. The public is welcome to attend the field visits but must provide their own transportation.

Contact: Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

Appomattox Scenic River Advisory Board

† **November 23, 1996 - 4 p.m.** -- Open Meeting
Appomattox River Park, River Road, Dinwiddie County, Virginia.

A river park tour and a meeting to discuss river issues. A public comment period will be held at the end of regular business.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

Board on Conservation and Development of Public Beaches

November 26, 1996 - 10 a.m. -- Open Meeting
Virginia Institute of Marine Science, Director's Conference Room, Richmond, Virginia. ♿

A meeting to discuss proposals from localities requesting matching grant funds from the board. A public comment period will be held at the end of regular business.

Contact: Carlton Lee Hill, Public Beach Advisor, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998 or FAX (804) 786-1798.

BOARD FOR CONTRACTORS

† **November 13, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ♿

A meeting of a subcommittee of the board to discuss certification of backflow prevention device workers. 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 Debra Vought 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: Debra Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-9142 or (804) 367-9753/TDD ☎

Recovery Fund Committee

December 4, 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.

DEPARTMENT OF CORRECTIONAL EDUCATION

† **November 22, 1996 - 10 a.m.** -- Open Meeting
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia.

A monthly meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-3314.

Calendar of Events

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

November 13, 1996 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. ☎

A meeting to discuss matters which may be presented to the board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

November 16, 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 Corrections intends to amend regulations entitled: **6 VAC 15-20-10 et seq. Regulations Governing Certification and Inspection.** The Regulations Governing Certification and Inspection comply with § 53.1-5 of the Code of Virginia, which requires the Board of Corrections to develop program standards for correctional facilities and services and to monitor the activities of the department and its effectiveness in implementing those standards. These regulations, then, serve to enforce all facility and program standards promulgated by the board. The regulations provide uniform factors for evaluating all programs and establish the proper steps in the certification, appeal and waiver processes. Through a regular board and departmental review, the attached amendments are being proposed to (i) strengthen the regulations by tightening requirements for timeliness and communication of departmental information to the board; (ii) meet specific recommendations made by the Joint Legislative Audit and Review Commission; and (iii) comply with the requirements of § 53.1-68 of the Code of Virginia, which was recently amended to require one unannounced annual inspection and one unannounced annual health inspection of local correctional facilities.

Statutory Authority: §§ 53.1-5 and 53.1-68 of the Code of Virginia.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, P.O. Box 26963, Richmond, VA 23261-6963, telephone (804) 674-3119.

Administration Committee

November 13, 1996 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. ☎

A meeting to discuss administrative matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Correctional Services Committee

November 12, 1996 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. ☎

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

BOARD OF DENTISTRY

† **November 22, 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 meeting of the informal conference committee to hear disciplinary cases. 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 ☎

† **November 22, 1996 - 1:30 p.m. -- Open Meeting**
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Legislative/Regulatory meeting to discuss (i) a regulatory review report to proceed regulatory changes - pre-NOIRA; (ii) scope of licensure; (iii) specialty advertising; (iv) HIV discrimination; (v) the board's proposed legislation; and (vi) other business. 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 ☎

STATE BOARD OF ELECTIONS

† **November 25, 1996 - 11 a.m. -- Open Meeting**
State Capitol, Capitol Square, House Room 4, Richmond,
Virginia. ☎

A meeting to certify election results of the November 5, 1996, general election.

Contact: M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or 1-800-260-3466/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

December 5, 1996 - 5:30 p.m. -- Open Meeting
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† November 13, 1996 - 3 p.m. -- Open Meeting
Montgomery County Courthouse, Main and Franklin Streets,
Room 327, Christiansburg, Virginia. ☒

A meeting to focus on training for committee members and emergency squad personnel and on updating the emergency plan document.

Contact: Patrick Burton, Regional Planner, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (540) 639-9313.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† November 12, 1996 - 10 a.m. -- Open Meeting
† November 21, 1996 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Training Room, First Floor, Richmond, Virginia. ☒

A working meeting of the regulatory ad hoc group engaged in the development of an exclusionary general permit under 9 VAC 5 Chapter 500 that would exempt certain sources from the Title V operating permit program if actual emissions were below a specified level.

Contact: Robert Mann, Director of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☒

November 14, 1996 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Training Room, First Floor, Richmond, Virginia. ☒

A working meeting of the regulatory ad hoc group engaged in the development of changes to the minor new source review permit program established under 9 VAC 5-80-10 of the Regulations for the Control and Abatement of Air Pollution.

Contact: Beth Major, Policy Analyst Senior, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☒

November 12, 1996 - 7 p.m. -- Public Hearing
Virgil Grissom Library, 366 DeShazole Drive, Newport News, Virginia.

A public hearing to receive comments on the proposed issuance of a permit for post closure care of a hazardous waste facility to Newport News Shipbuilding in Newport News, Virginia.

Contact: Douglas Brown, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182.

Virginia Coastal Resources Management Program

† December 11, 1996 - 7 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒

A public hearing to discuss the intent to incorporate the Chesapeake Bay Preservation Act into the Virginia Coastal Program. The Department of Environmental Quality will be requesting federal approval of this program amendment from the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management. For copies of the proposed amendment to the Virginia Coastal Program or to submit written comments (no later than December 11, 1996), please write or call Laura McKay. Copies of the proposed amendment are also available from Scott Kudlas, Chesapeake Bay Local Assistance Department, 805 East Broad Street, Richmond, VA 23219, telephone (804) 371-7500.

Contact: Laura McKay, Virginia Coastal Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4323 or FAX (804) 698-4319.

Virginia Ground Water Protection Steering Committee

November 19, 1996 - 9 a.m. -- Open Meeting
State Corporation Commission, 8th Floor Conference Room,
Richmond, Virginia. ☒

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain a meeting agenda 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 or FAX (804) 698-4032.

VIRGINIA FIRE SERVICES BOARD

November 14, 1996 - 7 p.m. -- Public Hearing
Augusta County Government Complex, 4801 Lee Highway,
Verona, Virginia.

Calendar of Events

November 23, 1996 - 7 p.m. -- Public Hearing
Sheraton National, Columbia Pike and Washington
Boulevard, Arlington, Virginia.

The Virginia Fire Services Board and Virginia
Department of Fire Programs are holding a series of
public hearings throughout the state in September,
October and November regarding revisions to the Fire
Programs Fund Policies and Code. If you have any
questions or need a copy of the revisions please contact
the Department of Fire Programs area office. Comments
will be received at the beginning of each session.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

† **December 5, 1996 - 7 p.m.** -- Public Hearing
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A public hearing to discuss fire training and policies. The
hearing is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

† **December 6, 1996 - 9 a.m.** -- Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A business meeting to discuss fire training and policies.
The meeting is open to the public for comments and
input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

Fire/EMS Education and Training Committee

† **December 5, 1996 - 10:30 a.m.** -- Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

Fire Prevention and Control Committee

† **December 5, 1996 - 8:30 a.m.** -- Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.

14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

Legislative/Liaison Committee

† **December 5, 1996 - 2 p.m.** -- Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

Residential Sprinkler Committee

† **December 4, 1996 - 1 p.m.** -- Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director,
Department of Fire Programs, James Monroe Bldg., 101 N.
14th St., 18th Floor, Richmond, VA 23219, telephone (804)
527-4236.

BOARD OF FORESTRY

† **November 25, 1996 - 8:30 a.m.** -- Open Meeting
Potomac Supply Corporation, Highway 203 North, Kinsale,
Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general business. Please notify
the department with requests for interpreter services five
working days prior to the meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist,
Department of Forestry, P.O. Box 3758, Charlottesville, VA
(804) 977-6555 or (804) 977-6555/TDD

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

NOTE: CHANGE IN MEETING DATE
November 19, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia.

A general board meeting to discuss board business.
Public comments will be received at the beginning of the
meeting for 15 minutes. A formal hearing will follow.

Contact: Elizabeth Young Kirksey, 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

CHARITABLE GAMING COMMISSION

† **November 19, 1996 - 10:30 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate
Room B, Richmond, Virginia. ☎

A meeting to discuss regulations.

Contact: Kari Walter, Policy Analyst, Charitable Gaming
Commission, 200 N. 9th St., Room 1030, Richmond, VA
23219, telephone (804) 786-0238 or FAX (804) 786-1079.

BOARD FOR GEOLOGY

† **November 14, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to
participate in the meeting and requiring special
accommodations or interpreter services should contact
the department at least two weeks prior to the meeting
so that suitable arrangements can be made. The
department fully complies with the Americans with
Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230, telephone (804)
367-2406, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

GEORGE MASON UNIVERSITY

Board of Visitors

† **November 20, 1996 - 4 p.m.** -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax,
Virginia. ☎

A regular meeting to hear reports of the standing
committees, and to act on those recommendations
presented by the standing committees. An agenda will
be available seven days prior to the board meeting for
those individuals or organizations who request it.

Contact: Ann Wingblade, Administrative Assistant, or Carole
Richardson, Administrative Staff Assistant, Office of the
President, George Mason University, Fairfax, VA 22030-
4444, telephone (703) 993-8701 or FAX (703) 993-8707.

STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

† **November 12, 1996 - 10 a.m.** -- Open Meeting
Department of Emergency Services, 310 Turner Road,
Training Room, Richmond, Virginia. ☎

A meeting to discuss curriculum course development
and to review existing hazardous materials courses.
Individuals with a disability, as defined in the Americans
with Disabilities Act, desiring to attend should contact the
Department of Emergency Services at (804) 674-2489

10 days prior to the meeting so appropriate
accommodations can be provided.

Contact: George B. Gotschalk, Jr., Department of Criminal
Justice Services, 805 E. Broad St., Richmond, VA 23219,
telephone (804) 786-8001.

DEPARTMENT OF HEALTH (STATE BOARD OF)

November 16, 1996 -- Public comments may be submitted
until 5 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 Board of Health
intends to amend regulations entitled: **12 VAC 5-220-10
et seq. Virginia Medical Care Facilities Certificate of
Public Need Rules and Regulations.** The purpose of
the proposed amendment is to establish a distinct
process for acceptance and consideration of requests for
Certificates of Public Need which involve the
establishment of new nursing home facilities or
increasing the number of beds at an existing medical
care facility, and to implement changes to the Certificate
of Public Need law effective July 1, 1996.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the
Code of Virginia.

Public comments may be submitted until 5 p.m. on November
16, 1996, to Nancy R. Hofheimer, Director, Office of Health
Facilities Regulation, Department of Health, 3600 West
Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Paul E. Parker, Director, Division of Resource
Development, Office of Health Facilities Regulation,
Department of Health, 3600 W. Broad St., Suite 216,
Richmond, VA 23230, telephone (804) 367-2127 or FAX
(804) 367-2149.

November 16, 1996 -- Public comments may be submitted
until 5 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 Board of Health
intends to amend regulations entitled: **12 VAC 5-360-10
et seq. State Medical Facilities Plan: Nursing Home
Services.** The purpose of the proposed regulation is to
revise and expand project review standards for the
evaluation of nursing home Certificate of Public Need
requests. The amendments are proposed to prepare the
Department of Health for competitive review of nursing
home bed applications which has not occurred since
1988.

Statutory Authority: §§ 32.1-12, 32.1-102.2, and 32.1-145 of
the Code of Virginia.

Public comments may be submitted until 5 p.m. on November
16, 1996, to Nancy R. Hofheimer, Director, Office of Health
Facilities Regulation, Department of Health, 3600 West
Broad Street, Suite 216, Richmond, Virginia 23230.

Calendar of Events

Contact: Paul E. Parker, Director, Division of Resource Development, Office of Health Facilities Regulation, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2127 or FAX (804) 367-2149.

Commissioner's Waterworks Advisory Committee

† **November 21, 1996 - 10 a.m.** -- Open Meeting
Sydnor Hydrodynamics, Inc., 2111 Magnolia Street, Richmond, Virginia.

A general business meeting of the committee. The committee meets on the third Thursday of odd months at various locations around the state. Meeting locations and dates will be announced.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566 or FAX (804) 786-5567.

BOARD OF HEALTH PROFESSIONS

Regulatory Research Committee

† **November 26, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss counseling related professions and other business as needed. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD

BOARD FOR HEARING AID SPECIALISTS

† **January 13, 1997 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia.

A routine business meeting. 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 David Dick 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: 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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

November 12, 1996 - 8 a.m. -- Open Meeting
University of Virginia, Charlottesville, Virginia.

December 16, 1996 - 8 a.m. -- Open Meeting
College of William and Mary, Williamsburg, Virginia.

The council's executive, planning, outreach, and resources committees will meet consecutively between 8 a.m. and noon. Please call the council for the order of the committee meetings and meeting agenda. A general business meeting of the council will begin at 1 p.m.

Contact: Michael McDowell, Public Information Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

November 21, 1996 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia.

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 786-2060.

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

November 12, 1996 - 7:30 p.m. -- Public Hearing
College of William and Mary, University Center, Chesapeake Room A, Williamsburg, Virginia. (Interpreter for the deaf provided upon request)

November 13, 1996 - 7 p.m. -- Public Hearing
Lynchburg Public Library, 2315 Memorial Avenue, Community Room, Lynchburg, Virginia. (Interpreter for the deaf provided upon request)

A public hearing on HIV prevention and Ryan White Health Care in Virginia.

Contact: Elaine G. Martin, Coordinator, STD/AIDS Education, Bureau of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 3, 1996 - 9 a.m. -- Open Meeting
January 7, 1997 - 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.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

November 15, 1996 - CANCELLED

Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ☎

This meeting has been cancelled.

Contact: Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or (804) 371-7089/TDD ☎

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: **13 VAC 5-20-10 et seq., Virginia Certification Standards/1993** and adopt regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards.** The purpose of this proposal is (i) to delete the tradesmen certification requirements since regulatory authority for tradesmen certification was transferred to the Department of Professional and Occupational Regulation, and (ii) to transfer the blaster certification requirements from this regulation to the Virginia Statewide Fire Prevention Code.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: **13 VAC 5-30-10 et seq., Virginia Amusement Device Regulations/1993** and adopt regulations entitled: **13 VAC 5-31-10 et seq. Virginia Amusement Device Regulations.** The Virginia Amusement Device Regulations provide statewide standards for the construction, maintenance, inspection and operation of amusement devices. The proposed changes update this regulation to reflect current nationally approved standards.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: **13 VAC 5-50-10 et seq., Virginia Statewide Fire Prevention Code/1993** and adopt regulations entitled: **13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code.** The proposed regulation sets forth performance requirements for the use of explosives, and the maintenance and use of structures with regard to fire safety. The proposed regulation has been updated to reflect current nationally approved safety standards, blaster certification requirements have been deleted from the Virginia Certification Standards and incorporated into this regulation, and the format of the regulation has been changed to make it more understandable to the regulated community

Statutory Authority: § 27-97 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and

Calendar of Events

Community Development intends to repeal regulations entitled: 13 VAC 5-60-10 et seq., Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993, and 13 VAC 5-70-10 et seq., Virginia Uniform Statewide Building Code, Volume II - New Construction Code/1993, and adopt regulations entitled: 13 VAC 5-61-10 et seq., Virginia Uniform Statewide Building Code. The Building Code prescribes standards for construction, maintenance and use of buildings and structures and their equipment. This proposal consolidates Volumes I and II of the USBC into a single regulation and updates the latest construction and maintenance model codes and standards.

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

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-90-10 et seq., Virginia Industrialized Building and Manufactured Home and Safety Regulations/1993, and adopt regulations entitled: 13 VAC 5-91-10 et seq., Virginia Industrialized Building Safety Regulations. The proposed amendments update documents incorporated by reference to reflect current nationally approved safety standards and transfer requirements regarding manufactured home safety standards from this regulation to the Virginia Manufactured Home Safety Regulations (13 VAC 5-95-10 et seq.).

Statutory Authority: § 36-73 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

† **December 9, 1996 - 9 a.m.** -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.

† **January 10, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and

Community Development intends to adopt regulations entitled: 13 VAC 5-95-10 et seq., Virginia Manufactured Home Safety Regulations. The Virginia Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, and safety standards for manufactured homes, wherever produced.

Statutory Authority: §§ 36-85.7 of the Code of Virginia.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

NOTE: CHANGE IN MEETING DATE

December 9, 1996 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☎

A public hearing to receive comments on the following proposed regulations: Certification Standards (13 VAC 5-21-10 through 13 VAC 5-21-60); Statewide Fire Prevention Code (13 VAC 5-51-10 through 13 VAC 5-51-180); Amusement Device Regulations (13 VAC 5-31-10 through 5-31-170); Uniform Statewide Building Code (13 VAC 5-61-10 through 13 VAC 5-61-410); Industrialized Building Safety Regulations (13 VAC 5-91-10 through 13 VAC 5-91-400); and Manufactured Housing Safety Regulations (13 VAC 5-95-10 through 13 VAC 5-95-250).

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

State Building Code Technical Review Board

† **November 22, 1996 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, 1st Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to hear administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **November 19, 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; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

November 15, 1996 - 1 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☎

The council will meet jointly with its three advisory committees.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (800) 828-1120/TDD ☎

† **November 25, 1996 - 10 a.m.** -- Open Meeting
Council on Information Management, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☎

The first meeting of the Virginia Information Providers Network Authority Board of Directors.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (800) 828-1120/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL

December 11, 1996 - 9:30 a.m. -- Open Meeting
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), Early Intervention for Infants and Toddlers with Disabilities and their families. Discussion focuses on issues related to Virginia's implementation of the Part H program. A public comment period will begin at 11 a.m.

Contact: Richard B. Corbett, Part H Program Support, Department of Mental Health, Mental Retardation and

Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-3710 or FAX (804) 371-7959.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

November 11, 1996 - 1 p.m. -- Open Meeting
The Homestead, Hot Springs, Virginia.

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 8th Street Office Building, Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999, or (804) 786-1860/TDD ☎

STATE BOARD OF JUVENILE JUSTICE

† **December 11, 1996 - 10 a.m.** -- Open Meeting
Fredericksburg City Hall, 715 Princess Anne Street, Council Chambers, Fredericksburg, Virginia.

A meeting to receive public comments regarding the promulgation of (i) consolidated standards for juvenile residential facilities; (ii) new standards for nonresidential services available to the juvenile and domestic relations district court; and (iii) the concurrent termination of existing regulations governing juvenile detention facilities, juvenile correctional centers, family group homes, pre- and post-dispositional group homes, post-dispositional detention, court service units and holdovers.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

December 5, 1996 - 10 a.m. -- Open Meeting
Danville Community College, 1008 South Main Street, Danville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly meeting of the council.

Contact: Fred T. Yontz, Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-0295, FAX (804) 786-9877 or (804) 786-2376/TDD ☎

COMMISSION ON LOCAL GOVERNMENT

November 25, 1996 - 10:30 a.m. -- Open Meeting
Bristol, Virginia area. Site to be determined.

Calendar of Events

Oral presentation regarding the City of Bristol and Washington County Voluntary Settlement Agreement. 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, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

November 25, 1996 - 7 p.m. -- Public Hearing
Bristol, Virginia area. Site to be determined.

A public hearing regarding the City of Bristol and Washington County Voluntary Settlement Agreement. Persons desiring to participate in the proceedings 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, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

November 26, 1996 - 9 a.m. -- Open Meeting
Bristol, Virginia area. Site to be determined.

A regular meeting 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, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

VIRGINIA MANUFACTURED HOUSING BOARD

November 20, 1996 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† **November 26, 1996 - 9:30 a.m.** -- Open Meeting
† **December 17, 1996 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission

will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD ☎

MATERNAL AND CHILD HEALTH COUNCIL

School Health Subcommittee

† **December 17, 1996 - 10 a.m.** -- Open Meeting
Virginia PTA Building, 3810 Augusta Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's children and adolescents by promoting and improving programs and service delivery systems related to school health programs.

Contact: Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23219, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **November 19, 1996 - 10 a.m.** -- Open Meeting
† **December 17, 1996 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss medical assistance service and take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099.

Pharmacy Liaison Committee

November 21, 1996 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Registered Pharmacist, Division of Client Services, Department of Medical Assistance

Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

BOARD OF MEDICINE

Informal Conference Committee

† **November 21, 1996 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

November 22, 1996 - 9 a.m. -- Open Meeting
Holiday Inn Tysons Corner, 1960 Chain Bridge Road, McLean, Virginia.

December 6, 1996 - 8:30 a.m. -- Open Meeting
Fort Magruder Inn and Conference Center, Route 60, Williamsburg, Virginia.

† **December 10, 1996 - 8:30 a.m.** -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

December 19, 1996 - 8:30 a.m. -- Open Meeting
Fort Magruder Inn and Conference Center, Route 60, Williamsburg, 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: Lorraine McGehee, Acting Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Credentials Committee

† **December 14, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Executive Committee

† **December 13, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to (i) review disciplinary files requiring administrative action; (ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act on other issues that come before the board. The chairman will not entertain public comments.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Project Leadership Team

December 13, 1996 - 10:30 a.m. -- Open Meeting
Location to be announced.

A meeting to continue the development of plans for mental health, mental retardation and substance abuse system reform pilot projects. The team will hear the reports of the Priority Populations/Case Rate Funding Subcommittee; the Consumer and Family Involvement Subcommittee; and the POMS Subcommittee.

Contact: Marion Greenfield, Policy Analyst, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-6431 or FAX (804) 786-0092.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **December 7, 1996 - 8:30 a.m.** -- Open Meeting
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia. ♿

A regular meeting to hear committee reports. The Board of Visitors does not provide an opportunity for public comment at this meeting. Public comment is received at the first meeting of the academic year, normally in August or September.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7600.

Calendar of Events

STATE MILK COMMISSION

November 13, 1996 -- Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given that the State Milk Commission intends to amend regulations entitled: **2 VAC 15-20-10 et seq. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry of Virginia.** The proposal removes the sunset provisions to enable the commission to continue calculating monthly Class I producer prices using reconstructed and reweighed index of prices paid and prices received, and the index of prices paid, production items, complete feeds as published by U.S. Department of Agriculture, National Statistics Service.

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200-202 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

November 20, 1996 - 10:30 a.m. -- Open Meeting
900 Natural Resources Drive, 2nd Floor Board Room, Charlottesville, Virginia.

A regular meeting of the board to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters, and to receive reports from staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. In addition, the commission will review public comment on making the provisions of amended Temporary Order No. 20 prior to taking action on promulgating its provisions as a permanent regulation. Any persons who require accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr., at least five days prior to the meeting so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200-202 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

DEPARTMENT OF MINES, MINERALS AND ENERGY

November 14, 1996 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, U. S. Route 23 South, Big Stone Gap, Virginia.

November 15, 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 Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-130-10 et seq. Coal Surface Mining Reclamation Regulations.** The Department of Mines, Minerals and Energy is proposing amendments to

the Virginia Coal Surface Mining Reclamation Regulation governing protection against uncontrolled blowouts of water from underground coal mine workings. The amendments are identical to the emergency regulation amendments effective from March 29, 1996, through March 28, 1997 (see 12:16 VA.R. 2193-2198 April 29, 1996). The amendments add a requirement that applicants for coal mining permits must include information in their permit applications about the steps to be taken during mining to prevent the sudden release of accumulated water from the underground mine workings. The amendments also establish a minimum width for the barrier of coal to be left in place where the coal seam being mined dips toward the land surface and where the barrier may impound water. The amendments provide a standard formula for calculating the required barrier thickness, or alternately allows for site-specific designs to determine the needed barrier thickness.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

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) 523-8100, FAX (540) 523-8163, or toll-free 1-800-828-1120 (VA Relay Center).

MOTOR VEHICLE DEALER BOARD

† **November 19, 1996 - 1 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Advertising Committee

† **November 19, 1996 - 8:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services

should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Dealer Practices Committee

† **November 18, 1996 - 10 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Finance Committee

† **November 19, 1996 - 11 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Finance Committee to conduct general business will immediately follow the conclusion of the Advertising Committee meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Licensing Committee

† **November 18, 1996 - 1 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Transaction Recovery Fund Committee

† **November 18, 1996 - 4:30 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Transaction Recovery Fund Committee to conduct general business will immediately follow the conclusion of the Licensing Committee meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Calendar of Events

VIRGINIA MUSEUM OF FINE ARTS

Buildings and Grounds Committee

† **November 18, 1996 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to review architectural work under way for the Center for Education and Outreach. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Collections Committee

† **December 17, 1996 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to consider gifts, purchases and loans of works of art. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Executive Committee

† **December 19, 1996 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to receive committee and staff reports and to consider art acquisitions recommended by the Collections Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

† **November 13, 1996 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Member's Dining Room, Payne Room, Richmond, Virginia. ☎

A regularly scheduled meeting to review the budget. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Nominating Committee

† **December 19, 1996 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to consider candidates for next year's Board of Trustees. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† **November 16, 1996 - 11:30 a.m.** -- Open Meeting
William King Regional Arts Center, 415 Academy Drive,
Abingdon, Virginia. ☎

A bimonthly meeting to receive reports from committees and the director, and to conduct budget review. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

† **December 3, 1996 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A monthly briefing of museum officers with the Director and Deputy Director for Administration. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

BOARD OF NURSING

† **November 18, 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 will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the Board of Nursing. The Education Special Conference Committee will meet to review proposals and reports and prepare recommendations for the board. 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 ☎

† **November 18, 1996 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Two Special Conference Committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings. 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

† **November 19, 1996 - 9 a.m.** -- Open Meeting

† **November 20, 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 regular meeting of the Board of Nursing to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m. on Tuesday, November 19. On November 20 the board will conduct formal hearings.

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

† **November 21, 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 panel of the Board of Nursing will conduct formal hearings with licensees and certificate holders. 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 OPTOMETRY

November 15, 1996 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comments will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD

BOARD OF PHARMACY

† **November 14, 1996 - 9 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 comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

† **December 4, 1996 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting to conduct formal hearings before a panel of the board. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **December 17, 1996 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to 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 interpreter 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. Please call the board 24 hours in advance to confirm that the meeting will take place.

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

November 21, 1996 - 10:30 a.m. -- Open Meeting

November 21, 1996 - 11:30 a.m. -- Open Meeting

November 22, 1996 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, 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) 662-9967.

BOARD OF PSYCHOLOGY

November 12, 1996 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

Calendar of Events

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 Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

November 26, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, 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 Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

December 10, 1996 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct general board business. Public comment will be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Discipline Committee

† **November 14, 1996 - 9 a.m. -- Open Meeting**

† **November 26, 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 an informal disciplinary hearing. Public comment will not be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Regulatory/Legislative Review Committee

† **November 22, 1996 - Noon -- Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to review regulations governing the practice of psychology pursuant to Executive Order 15(94).

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎.

REAL ESTATE BOARD

† **November 21, 1996 - 9 a.m. -- Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. 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) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Continuing Education Committee

† **November 21, 1996 - 8 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 board. 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) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

RECYCLING MARKETS DEVELOPMENT COUNCIL

Subcommittee on Construction Demolition Debris Recycling

† **November 21, 1996 - 11 a.m. -- Open Meeting**
BFI Northern Virginia District, 2813 Juniper Street, Fairfax, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the subcommittee to develop the scope of work and startup process to be reported at the next council meeting on December 12, 1996. Members of the subcommittee are Paul Gilbert, BFI; Bob Brickner, Gershman, Brickner & Bratton, Inc.; Dan Kemmna, Waste Management, Inc.; George Hampton, Member, Virginia Recycling Markets Development Council. For details call Paddy Katzen at (804) 698-4488 or e-mail pmkatzen@deq.state.va.us.

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.

STATE REHABILITATION ADVISORY COUNCIL

November 18, 1996 - 10 a.m. -- Open Meeting
† **November 25, 1996 - 11 a.m. -- Open Meeting**
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Kathy Hayfield, SRAC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

† **November 21, 1996 - 9 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A quarterly business meeting.

Contact: John R. Vaughn, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

December 27, 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 Rehabilitative Services intends to amend regulations entitled: **22 VAC 30-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed amendment is to make the department's regulations more representative of public needs and views through greater public participation in the regulatory process and make changes mandated by 1993 amendments to the Administrative Process Act.

Statutory Authority: §§ 9-6.14:7.1 and 51.5-14 of the Code of Virginia.

Contact: Mary C. Lutkenhaus, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 662-7610, FAX (804) 662-7696, toll-free 1-800-552-5019, or toll-free 1-800-464-9950/TDD ☎

Assistive Technology Loan Fund Authority Board

† **December 12, 1996 - 1 p.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A business meeting of the board.

Contact: Michael Scione, ATLFA Staff, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7606, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† **December 5, 1996 - 5 p.m.** -- Open Meeting

Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia. ☎

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

VIRGINIA RESOURCES AUTHORITY

November 12, 1996 - 9:30 a.m. -- Open Meeting

December 10, 1996 - 9:30 a.m. -- Open Meeting

January 14, 1997 - 9:30 a.m. -- Open Meeting

The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month, to review the authority's operations for the prior months, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

STATE BOARD OF SOCIAL SERVICES

† **December 3, 1996 - 9 a.m.** -- Open Meeting
Location to be announced.

A work session and formal business meeting of the board.

Contact: Pat Rengnerth, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1906, FAX (804) 692-1949, toll-free 1-800-552-7096 or 1-800-552-3431/TDD ☎

BOARD OF SOCIAL WORK

November 29, 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 Board of Social Work intends to amend regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work**. The purpose of the proposed amendment is to reduce licensure renewal fees and eliminate the initial licensure fee for new licensees.

Statutory Authority: §§ 54.1-113, 54.1-2400, and 54.1-3700 et seq.

Contact: Janet Delorme, Deputy Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA

Calendar of Events

23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

DEPARTMENT OF TAXATION

† **November 25, 1996 - 9:30 a.m.** -- Public Hearing
George Mason University, 4400 University Drive, Mason Hall, Fairfax, Virginia.

† **November 26, 1996 - 9:30 a.m.** -- Public Hearing
Chesapeake Central Library, Chesapeake Civic Center Complex, 298 Cedar Road, Room 1, Chesapeake, Virginia.

† **November 26, 1996 - 12:20 p.m.** -- Public Hearing
Hampton Public Library, Main Branch, 4207 Victoria Boulevard, Room A, Hampton, Virginia.

† **November 27, 1996 - 9 a.m.** -- Public Hearing
Department of Taxation, Richmond District Office, 1708 Commonwealth Avenue, Richmond, Virginia.

† **December 4, 1996 - 10:30 a.m.** -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

Public hearings to hear comments on changes to the Guidelines for the Business, Professional, Occupational License (BPOL) Tax as amended by the Virginia legislature in 1996. The department, with input from localities and interested parties from the business community, has developed proposed draft guidelines to implement changes required by the 1996 BPOL legislation. The draft includes explanations and discussions on, among other things, the new thresholds, rules relating to "situs" of gross receipts, definition of "professional," and the new BPOL appeals process.

Contact: Robert L. Megna, Assistant Commissioner, Department of Taxation, Office of Tax Policy, P.O. Box 1880, Richmond, VA 23218-1880, telephone (804) 367-8010 or FAX (804) 367-0045.

COMMONWEALTH TRANSPORTATION BOARD

November 20, 1996 - 2 p.m. -- Open Meeting
DIMON, Inc., Carrington Center, 512 Bridge Street, Danville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

November 21, 1996 - 10 a.m. -- Open Meeting
DIMON, Inc., Carrington Center, 512 Bridge Street, Danville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public

comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

December 10, 1996 7 p.m. -- Public Hearing
Department of Transportation, 1221 East Broad Street, Main Auditorium, Richmond, Virginia.

December 27, 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 Commonwealth Transportation Board intends to repeal regulations entitled: **24 VAC 30-70-10 et seq. Minimum Standards of Entrances to State Highways;** and adopt regulations entitled: **24 VAC 30-71-10 et seq. Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to repeal the existing regulation and promulgate a new regulation concerning state highway entrances. The proposal is intended to make the regulation less restrictive to all users.

Statutory Authority: §§ 33.1-12, 33.1-197, and 33.1-198 of the Code of Virginia.

Contact: Steve Edwards, Transportation Engineer, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-0121 or Virginia Relay Center 1-800-828-1120/TDD

TREASURY BOARD

November 20, 1996 - 9 a.m. -- Open Meeting
December 18, 1996 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular meeting.

Contact: Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD ON VETERANS' AFFAIRS

† **November 14, 1996 - 1:30 p.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, 3rd Floor, East Conference Room, Richmond, Virginia. ☎

A meeting to discuss the state veterans' cemetery and other items of interest to Virginia's veterans. The public is invited to speak on items of interest to the veteran community; however, presentations should be limited to 10 minutes. Speakers are requested to register with an aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should designate one person to speak on behalf of the entire organization in order to allow ample time to accommodate all who may wish to speak.

Contact: Beth Tonn, Secretary for the Board, Department of Veterans' Affairs, 270 Franklin Rd., S.W., Room 1012, Roanoke, VA 24011-2215, telephone (540) 857-7104.

BOARD OF VETERINARY MEDICINE

† **November 19, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 3, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Advisory Council

December 14, 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 vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

† **December 12, 1996 - 2 p.m.** -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ☎

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the

formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Monroe Building, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on December 12, 1996, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4325.

STATE WATER CONTROL BOARD

December 12, 1996 - 9 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

A regular meeting.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

COLLEGE OF WILLIAM AND MARY

Board of Visitors

† **November 14, 1996 - 2 p.m.** -- Open Meeting
† **November 15, 1996 - 8 a.m.** -- Open Meeting
Blow Memorial Hall, Richmond Road, Williamsburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

† **December 6, 1996 - 9 a.m.** -- Open Meeting
Richard Bland College, 11301 Johnson Road, Petersburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regularly scheduled meeting of the Board of Visitors to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of the College of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individuals and organizations who request it.

Contact: William T. Walker, Jr., Director, Office of University Relations, College of William and Mary, 312 Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2624.

INDEPENDENT

STATE LOTTERY BOARD

† **November 20, 1996 - 9:30 a.m.** -- Open Meeting
State Lottery Department, 900 East Main Street, 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

Calendar of Events

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

VIRGINIA CODE COMMISSION

November 19, 1996 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ☎

A meeting to receive a report from the Administrative Law Advisory Committee and to conduct general business.

Contact: Jane D. Chaffin, Deputy Registrar, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

VIRGINIA HOUSING STUDY COMMISSION

† **December 5, 1996 - 1 p.m.** -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎

A meeting relating to HB 625 (Board of Housing and Community Development/Membership), HB 1251 (Dissolution of Local Redevelopment and Housing Authorities), HB 1322 (Cable Service), HB 1513 (Water and Sewer Fees); HJR 8 (Regulation of Property Owners' Associations), HJR 161 (Preservation of Affordable Housing); SB 520 (Common Interest Community Management Information Fund); state regulations governing unlicensed home improvement contractors; and state regulations governing air conditioning in multifamily rental housing.

Contact: Nancy D. Blanchard, Virginia Housing Study Commission, 601 South Belvidere St., Richmond, VA 23220, telephone (804) 782-1986, ext. 5565.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

November 12, 1996 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

Staff briefings on Phase II - Juvenile Justice: Virginia's Juvenile Corrections Centers.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

COMMISSION ON YOUTH

November 21, 1996 - 4 p.m. -- Public Hearing
Ruffner Middle School, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing on HJR 181 Study of Homeless Children in Virginia (with Housing Study Commission). Speakers may sign up by phone.

Contact: Joyce Garner, Commission on Youth, General Assembly Building, 910 Capitol Street, Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

November 21, 1996 - 6:30 p.m. -- Public Hearing
Ruffner Middle School, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing on HJR 92 Study of Youth Gangs in Virginia (with State Crime Commission). Speakers may sign up by phone.

Contact: Joyce Garner, Commission on Youth, General Assembly Building, 910 Capitol Street, Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

November 11
Intergovernmental Regulations, Advisory Commission on

November 12
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- Southern Area Review Committee
Chesapeake Bay Tributary Strategy Interagency Work Group, Virginia
Corrections, Board of
- Correctional Services Committee
† Environmental Quality, Department of
† Hazardous Materials Training Advisory Committee, State
Higher Education for Virginia, State Council of Legislative Audit and Review Commission, Joint Psychology, Board of
Resources Authority, Virginia

November 13
Agriculture and Consumer Services, Department of
- Virginia Winegrower's Advisory Board
Chesapeake Bay Tributary Strategy Interagency Work Group, Virginia
Child Fatality Review Team, State
† Contractors, Board for
Corrections, Board of
- Administration Committee
† Emergency Planning Committee, Local - County of Montgomery/Town of Blacksburg
† Museum of Fine Arts, Virginia
- Finance Committee

November 14

Agriculture and Consumer Services, Department of
 - Virginia Aquaculture Advisory Board
 Chesapeake Bay Tributary Strategy Interagency Work
 Group, Virginia
 Environmental Quality, Department of
 † Geology, Board for
 † Pharmacy, Board of
 † Psychology, Board of
 - Discipline Committee
 † Veterans' Affairs, Board on
 † William and Mary, College of
 - Board of Visitors

November 15

Architects, Professional Engineers, Land Surveyors and
 Landscape Architects, Board for
 - Board for Architects
 Information Management, Council on
 Optometry, Board of
 † William and Mary, College of
 - Board of Visitors

November 16

† Museum of Fine Arts, Virginia

November 18

Alcoholic Beverage Control Board
 Chesapeake Bay Tributary Strategy Interagency Work
 Group, Virginia
 Funeral Directors and Embalmers, Board of
 † Motor Vehicle Dealer Board
 - Dealer Practices Committee
 - Licensing Committee
 - Transaction Recovery Fund
 † Museum of Fine Arts, Virginia
 - Buildings and Grounds Committee
 † Nursing, Board of
 Rehabilitation Advisory Council, State

November 19

Virginia Code Commission
 Environmental Quality, Department of
 - Virginia Groundwater Protection Steering Committee
 Funeral Directors and Embalmers, Board of
 † Gaming Commission, Charitable
 † Housing Development Authority, Virginia
 † Medical Assistance Services, Board of
 † Motor Vehicle Dealer Board
 - Advertising Committee
 - Finance Committee
 † Nursing, Board of
 † Veterinary Medicine, Board of

November 20

Chesapeake Bay Tributary Strategy Interagency Work
 Group, Virginia
 † George Mason University
 - Board of Visitors
 † Lottery Board, State
 Manufactured Housing Board
 Milk Commission, State
 † Nursing, Board of
 Transportation Board, Commonwealth

Treasury Board

November 21

Architects, Professional Engineers, Land Surveyors and
 Landscape Architects, Board for
 - Board for Professional Engineers
 Audiology and Speech-Language Pathology, Board of
 † Environmental Quality, Department of
 † Health, Department of
 - Commissioner's Waterworks Advisory Committee
 Higher Education Tuition Trust Fund, Virginia
 Medical Assistance, Department of
 - Pharmacy Liaison Committee
 † Medicine, Board of
 † Nursing, Board of
 Professional Counselors and Marriage and Family
 Therapists, Board of
 † Real Estate Board
 - Continuing Education Committee
 † Recycling Markets Development Council
 - Subcommittee on Construction Demolition Debris
 Recycling
 † Rehabilitative Services, Board of
 Transportation Board, Commonwealth

November 22

† Conservation and Recreation, Board of
 † Dentistry, Board of
 † Housing and Community Development, Department of
 - State Building Code Technical Review Board
 Local Government, Commission on
 Medicine, Board of
 Professional Counselors and Marriage and Family
 Therapists, Board of
 † Psychology, Board of
 - Regulatory/Legislative Review Committee

November 23

† Conservation and Recreation, Department of
 - Appomattox Scenic River Advisory Board

November 25

† Elections, State Board of
 † Forestry, Board of
 † Information Management, Council on
 † Rehabilitative Advisory Council, State

November 26

Chesapeake Bay Local Assistance Board
 - Regulation Advisory Committee
 Conservation and Recreation, Department of
 - Board on Conservation and Development of Public
 Beaches
 † Health Professions, Board of
 - Regulatory Research Committee
 Local Government, Commission on
 † Marine Resources Commission
 † Psychology, Board of
 - Discipline Committee

December 2

Barbers, Board for

December 3

Hopewell Industrial Safety Council

Calendar of Events

- † Museum of Fine Arts, Virginia
- † Social Services, State Board of

December 4

- Contractors, Board for
 - Recovery Fund Committee
- † Fire Services Board, Virginia
 - Sprinkler Committee
- † Pharmacy, Board of

December 5

- Emergency Planning Committee, Local - County of Chesterfield
- † Fire Services Board, Virginia
 - Fire/EMS Education and Training Committee
 - Fire Prevention and Control Committee
 - Legislative/Liaison Committee
- † Housing Study Commission, Virginia Labor and Industry, Department of
 - Apprenticeship Council
- † Richmond Hospital Authority
 - Board of Commissioners

December 6

- † Fire Services Board, Virginia
- Medicine, Board of
- † William and Mary, College of
 - Board of Visitors

December 7

- † Military Institute, Virginia
 - Board of Visitors

December 9

- † Agriculture and Consumer Services, Department of
 - Virginia Soybean Board

December 10

- † Medicine, Board of
- Psychology, Board of
- Resources Authority, Virginia

December 11

- Agriculture and Consumer Services, Department of
 - Virginia Corn Board
- Interagency Coordinating Council, Virginia
- † Juvenile Justice, State Board of

December 12

- † Accountancy, Board for
- Chesapeake Bay Local Assistance Board
 - Regulatory Committee and Regulation Advisory Committee
- Child Day-Care Council
- † Rehabilitative Services, Department of
 - Assistive Technology Loan Fund Authority Board
- Water Control Board, State

December 13

- † Medicine, Board of
 - Executive Committee
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Project Leadership Team

December 14

- † Medicine, Board of
 - Credentials Committee
- Visually Handicapped, Department for the
 - Vocational Rehabilitation Council

December 16

- Higher Education for Virginia, State Council of

December 17

- † Marine Resources Commission
- † Maternal and Child Health Council
 - School Health Subcommittee
- † Medical Assistance Services, Board of
- † Museum of Fine Arts, Virginia
 - Collections Committee
- † Polygraph Examiners Advisory Board

December 18

- Treasury Board

December 19

- Medicine, Board of
- † Museum of Fine Arts, Virginia
 - Executive Committee
 - Nominating Committee

January 7, 1997

- Hopewell Industrial Safety Council

January 13

- † Hearing Aid Specialists, Board for

January 14

- Resources Authority, Virginia

PUBLIC HEARINGS

November 12

- Environmental Quality, Department of
- HIV Prevention Community Planning Committee

November 13

- HIV Prevention Community Planning Committee

November 14

- Fire Services Board, Virginia
- Mines, Minerals and Energy, Department of

November 21

- Youth, Commission on

November 23

- Fire Services Board, Virginia

November 25

- Local Government, Commission on
- † Taxation, Department of

November 26

- † Taxation, Department of

November 27

- † Taxation, Department of

December 2

- Air Pollution Control Board, State

December 4

† Taxation, Department of

December 5

† Fire Services Board, Virginia

December 9

Housing and Community Development, Board of

December 10

Transportation Board, Commonwealth

December 11

† Environmental Quality, Department of
- Virginia Coastal Resources Management Program

December 12

† Voluntary Formulary Board, Virginia

