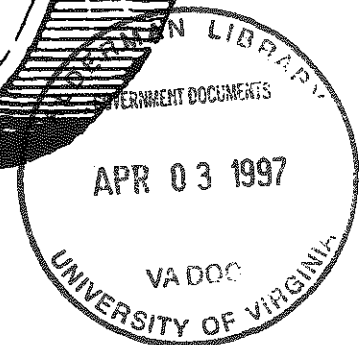
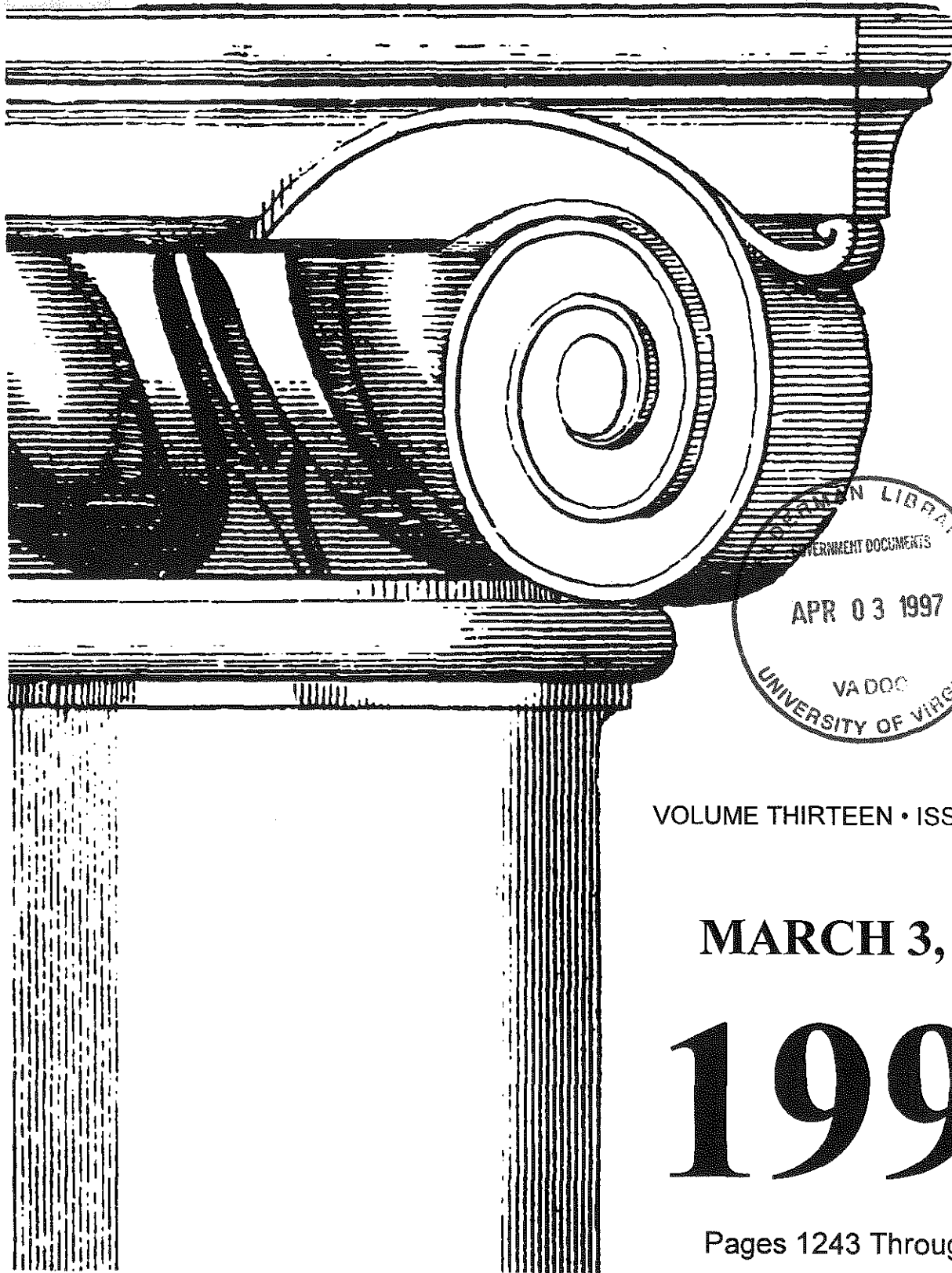


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# THE VIRGINIA REGISTER

VA  
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OF REGULATIONS



VOLUME THIRTEEN • ISSUE TWELVE

MARCH 3, 1997

# 1997

Pages 1243 Through 1440

# THE VIRGINIA REGISTER INFORMATION PAGE

**THE VIRGINIA REGISTER** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **THE VIRGINIA REGISTER** has several functions. The 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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By Noon Wednesday**

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April 23, 1997

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## STATE AIR POLLUTION CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. Applicability of and Compliance with Air Quality Standards.** The purpose of the proposed action is to develop a regulation for existing municipal solid waste landfills that meets the requirements of Section 111(d) of the federal Clean Air Act, and 40 CFR Part 60 Subpart Cc of federal regulations.

**Public Meeting:** A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 10 a.m. on April 3, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted in accordance with the procedures described under the above procedures.

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

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

MSW landfills emit many substances of concern to the atmosphere: methane, carbon dioxide, and more than 100 nonmethane organic compounds (NMOCs), such as vinyl chloride, toluene, and benzene. Studies indicate that MSW landfill emissions can at certain levels have adverse effects on both public health and welfare. Failure to develop an adequate program to control MSW landfill emissions would therefore have adverse impacts on public health and welfare. For example, NMOCs contribute to ozone formation; some NMOCs are known or suspected carcinogens, or cause other noncancer health effects; NMOCs can cause an odor nuisance; methane emissions present a well-documented

danger of fire and explosion, and contribute to global climate change as a major greenhouse gas.

Finally, failure to develop an adequate regulation will result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

**Alternatives:** Alternatives to the proposed regulation were considered by the department. The department determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation. The alternatives considered by the department are discussed below.

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

As provided in the public participation procedures of the State Air Pollution Control Board, the department will include, in the subsequent Notice of Intended Regulatory Action, a description of the above alternatives and a request for comments on other alternatives and the costs and benefits of the above alternatives or the other alternatives that the commenters may provide.

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

**Applicable Statutory Requirements:** The contemplated regulation is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

MSW landfill emissions are a "designated" pollutant under Section 111(d) of the Clean Air Act. Designated pollutants are pollutants which are not included on a list published under Section 108(a) of the Act ("criteria" pollutants), or Section 112(b)(1)(A) ("hazardous" pollutants), but for which standards of performance for new sources have been



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## Notices of Intended Regulatory Action

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established under Section 111(b). When the U.S. Environmental Protection Agency (EPA) establishes a new source performance standard, states are required to develop standards for existing facilities based on EPA emission guidelines. Designated pollutant controls are critical for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved.

EPA has determined that MSW landfills should be regulated under Section 111 (New Source Performance Standards) of the Clean Air Act because:

1. MSW landfill emissions may be reasonably anticipated to contribute to the endangerment of public health and welfare.
2. The range of health and welfare effects and the range and uncertainties of estimated cancer risks do not warrant listing MSW landfill emissions as a hazardous pollutant under Section 112 of the Act.
3. Section 112 of the Act could not be used to address particular constituents or subgroups of emissions.
4. Section 111(d) of the Act would permit a more thorough evaluation of existing MSW landfills at the state level than would be feasible in a general rulemaking at the federal level.

The 1990 Clean Air Act amendments and its associated standards were promulgated because EPA determined that MSW landfill emissions cause or contribute significantly to air pollution which may reasonably be expected to endanger public health and welfare. The intended effect of the standards and guidelines is to form a basis for state action to develop state regulations controlling MSW landfill emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

Regulating MSW landfill emissions for new sources under Section 111(b) of the Act (New Source Performance Standards) establishes MSW landfill emissions as a designated pollutant, and requires the EPA to promulgate guidelines under Section 111(d) for states to use in developing regulations to control pollutants from existing MSW landfills. Emissions guidelines for existing MSW landfills have been promulgated under Section 111(d) of the Act. In order for Section 111 to be effected, the specific guidelines are promulgated in the Code of Federal Regulations (CFR) (subpart Cc 40 CFR Part 60). State regulations must be at least as stringent as the guidelines.

The final rule published by EPA in the Federal Register of March 12, 1996 (61 FR 9905), applies to existing MSW landfills as follows. An existing MSW landfill is a landfill for which construction commenced prior to May 30, 1991. An existing MSW landfill may be active (currently accepting waste), or may be closed, (no longer accepting waste nor having available capacity for future waste deposition). The designated facility under the emissions guidelines is each

existing MSW landfill that has accepted waste since November 8, 1987.

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

Public comments may be submitted until 4:30 p.m., April 4, 1997, 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, toll-free 1-800-592-5492, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-296; Filed February 12, 1997, 10:38 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **9 VAC 5-510-10 et seq. General Permit for Nonmetallic Mineral Mining**. The purpose of the proposed action is to develop a general permit that will provide terms and conditions that form the legally enforceable basis for the implementation of all regulatory and statutory requirements applicable to new and existing emissions units in the nonmetallic mineral mining facilities.

Public Meeting: A public meeting will be held by the Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia, at 10 a.m. on March 20, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Technical Advisory Committee: The department will form a technical advisory committee to assist in the development of the regulation. If you desire to be on the committee, notify the agency contact in writing by 4:30 p.m. on March 21, 1997, and provide your name, address, phone number and the organization you represent, if any. Notification of the composition of the technical advisory committee will be sent to all applicants. If you wish to be on the committee, you are encouraged to attend the public meeting mentioned above. The primary function of the committee is to develop a recommended regulation for department consideration through the collaborative approach of regulatory negotiation and consensus.

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

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

Public comments may be submitted until 4:30 p.m. on March 21, 1997.

Contact: Robert A. Mann, Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419,

# Notices of Intended Regulatory Action

FAX (804) 698-4510, toll-free 1-800-592-5492, or (804) 698-4021.

VA.R. Doc. No. R97-258; Filed January 29, 1997, 11:36 a.m.

## BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

### 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 for Asbestos Licensing and Lead Certification intends to consider amending regulations entitled: **18 VAC 15-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed action is to evaluate the public participation guidelines for effectiveness. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-501 of the Code of Virginia.

Public comment may be submitted until March 7, 1997.

**Contact:** Kent Steinruck, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2176 or FAX (804) 367-2475.

VA.R. Doc. No. R97-227; Filed January 13, 1997, 11:58 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Asbestos Licensing and Lead Certification intends to consider amending regulations entitled: **18 VAC 15-20-10 et seq. Virginia Asbestos Licensing Regulations**. The purpose of the proposed action is to evaluate the regulations for effectiveness as required by the Public Participation Guidelines and to amend the Asbestos Licensing Regulations to implement changes created by an act of the 1996 General Assembly. Other changes to the regulation which may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public comment may be submitted until March 7, 1997.

**Contact:** Kent Steinruck, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2176 or FAX (804) 367-2475.

VA.R. Doc. No. R97-228; Filed January 13, 1997, 11:58 a.m.

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes 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 Safety and Health Codes Board intends to consider amending regulations entitled: **16 VAC 25-50-10 et seq. Boiler and Pressure Vessel Rules and Regulations**. The purpose of the proposed action is to amend the regulations to incorporate changes recommended during the review process and incorporate the 1995 revisions to the National Board Inspection Code issued by the National Board of Boiler and Pressure Vessel Inspectors. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 40.1-22 and 40.1-51.6 of the Code of Virginia.

Public comments may be submitted until March 5, 1997.

**Contact:** Fred Barton, Boiler Chief Inspector, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-2324, or (804) 786-2376.

VA.R. Doc. No. R97-232; Filed January 15, 1997, 10:58 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-120-400. Medallion II: Quality Control and Utilization Review**. The purpose of the proposed action is to promulgate federal requirements regarding monitoring HMOs under contract to Medicaid. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 19, 1997.

**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. R97-254; Filed January 29, 1997, 11:39 a.m.

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# Notices of Intended Regulatory Action

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## VIRGINIA RACING COMMISSION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-20-260 et seq. Part III: Pari-Mutuel Wagering**. The purpose of the proposed action is to amend the regulations pertaining to pari-mutuel wagering to incorporate a popular wager and include the latest language from the model rules of the Association of Racing Commissioners International. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 19, 1997.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-249; Filed January 28, 1997, 9:34 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-60-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Participants**. The purpose of the proposed action is to amend the regulations pertaining to participants to allow the commission to participate fully in the new multi-state licensing system. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 19, 1997.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-249; Filed January 28, 1997, 9:34 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 MEDICINE

**April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia.

**May 2, 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 Medicine intends to **repeal** regulations entitled: **18 VAC 85-30-10 et seq. Regulations for Practice of Physical Therapy**, and **adopt** regulations entitled: **18 VAC 85-31-10 et seq. Regulations for Practice of Physical Therapy**. Since revisions recommended as a result of the Executive Order 15(94) review were extensive, 18 VAC 85-30-10 et seq. is being repealed and replaced by new regulations which establish the criteria for licensure, a process for applicants to follow, requirements for renewal and fees, and practice standards appropriate to the type of licensure and statutory mandates for these professions. Regulations are clarified and simplified and the application fee has been reduced.

Statutory Authority: §§ 54.1-2400 and 54.1-2943 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

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**April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia.

**May 2, 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 Medicine intends to amend regulations entitled: **18 VAC 85-50-10 et seq.**

**Regulations for Practice of Physicians' Assistants.** The purpose of the proposed amendments is to clarify and simplify regulations; to reduce the burdensome requirements of reporting recordkeeping of invasive procedures; and to reduce the application and renewal fee for physicians' assistants who work in more than one setting.

Statutory Authority: §§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Board of Coal Mining Examiners

**April 8, 1997 - 10 a.m.** -- Public Hearing  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Big Stone Gap, Virginia.

**May 2, 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 Coal Mining Examiners intends to amend regulations entitled: **4 VAC 25-20-10 et seq. Board of Coal Mining Examiners Certification Requirements**. The Board of Coal Mining Examiners is promulgating amendments to its certification requirements to ensure that miners are certified to perform specialized tasks required to mine coal. The amendments incorporate new requirements under the Mine Safety Act, revise and clarify requirements for individual certifications, and add several certifications needed by industry.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, 45.1-161.34 and 45.1-161.35 of the Code of Virginia.

**Contact:** Frank Linkous, Chair, Board of Coal Mining Examiners, Buchanan-Smith Bldg., Big Stone Gap, VA,

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## Public Comment Periods - Proposed Regulations

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telephone (540) 523-8100, FAX (540) 523-8239, or 1-800-828-1120 (VA Relay Center).

### Virginia Gas and Oil Board

**April 15, 1997 - 9 a.m.** -- Public Hearing  
Southwest Virginia 4 H Center, Hillman Highway, Abingdon, Virginia.

**May 2, 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 Virginia Gas and Oil Board intends to amend regulations entitled: **4 VAC 25-160-10 et seq. Virginia Gas and Oil Board Regulations**. The purpose of the proposed amendments is to enhance the conservation and use of the Commonwealth's gas and oil resources and protect the correlative rights of gas and oil resource owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

**Contact:** B. Thomas Fulmer, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or 1-800-828-1120 (VA Relay Center).

### BOARD OF PSYCHOLOGY

**April 8, 1997 - 8:30 a.m.** -- Public Hearing  
Department of Health Professions, 5th Floor, Conference Room 3, Richmond, Virginia.

**May 12, 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 Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology**. The purpose of the proposed amendments is to replace emergency regulations which were necessary to conform regulations to 1996 statutory changes requiring the transfer of licensure of clinical psychologists to the Board of Psychology and establishment of three types of psychology licensure. Fees and renewal schedules have been amended to be less burdensome for licensees.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

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**March 14, 1997 - 10 a.m.** -- Public Hearing  
Department of Health Professions, 5th Floor, Conference Room 2, Richmond, Virginia.

**May 2, 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 Psychology intends to adopt regulations entitled: **18 VAC 125-30-10 et seq. Regulations Governing the Certification of Sex Offender Treatment Providers**. The purpose of the proposed regulations is to establish requirements for education and supervised training, endorsement, renewal of certification, standards of practice, and fees for the certification of sex offender treatment providers.

Statutory Authority: §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

**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 ☎

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## 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.

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## BOARD OF MEDICINE

Title of Regulation: **18 VAC 85-30-10 et seq. Regulations Governing the Practice of Physical Therapy (REPEALING).**

VA.R. Doc. No. R97-269; Filed February 4, 1997, 12:14 p.m.

Title of Regulation: **18 VAC 85-31-10 et seq. Regulations Governing the Practice of Physical Therapy.**

Statutory Authority: §§ 54.1-2400 and 54.1-2943 of the Code of Virginia.

Public Hearing Date: April 11, 1997 - 8 a.m.

Public comments may be submitted until May 2, 1997.

(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.) and 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia provide the basis for this regulation. Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations. Chapter 29 establishes the Board of Medicine and sets forth statutory standards for the licensure of the physical therapists and physical therapy assistants.

Purpose: The purpose of these regulations is to establish criteria for licensure including education, training and examination, a process for applicants to follow, requirements for renewal and fees, and practice standards appropriate to the type of licensure and the statutory mandates for these professions. The requirements for licensure and renewal are consistent with standards necessary to protect the health, safety, and welfare of the public who utilizes the services of physical therapy. Since proposed amendments resulting from the Executive Order 15 (94) review are substantial, new regulations are proposed to replace current regulations which are being repealed.

### Substance:

#### Part I. General Provisions.

18 VAC 85-31-10. Definitions. Defines words and terms which are substantially identical to current regulations but have been reorganized alphabetically.

18 VAC 85-31-20. Public Participation Guidelines. Cites the document which establishes the guidelines for public's participation in promulgation of regulations for the Board of Medicine.

#### Part II. Licensure Requirements.

18 VAC 85-31-30. General requirements. States that licensure is by examination or by endorsement.

18 VAC 85-31-40. Education requirements for graduates of approved programs. Requires submission of documented

evidence of such graduate with the application and required fee.

18 VAC 85-31-50. Education requirements for graduates of schools not approved. Establishes the credentials required including proof of proficiency in English, copy of diploma with English translation if applicable, verification of educational programs equivalent to that of an approved school, and verification of successful completion of a traineeship.

#### Part III. Licensure by Examination.

18 VAC 85-31-60. Examination requirements. Establishes the requirements for a licensure examination and for retaking the examination after failures.

18 VAC 85-31-70. Traineeship for unlicensed graduate. Establishes the requirements for employment of an unlicensed graduate scheduled to sit for the board's licensure examination.

#### Part IV. Licensure by Endorsement.

18 VAC 85-31-80. Endorsement requirements. Establishes the criteria for licensure by endorsement which include licensure in another jurisdiction, proof of passage of the examination and completion of educational requirements, and a traineeship for persons who have been inactive for more than four years.

#### Part V. Practice of Physical Therapists.

18 VAC 85-31-90. Individual responsibilities. Establishes the responsibilities of the physical therapist to the patient and the referring doctor.

18 VAC 85-31-100. Supervisory responsibilities. Establishes the responsibilities of the physical therapist for the actions of the physical therapy aide or assistant working under their supervision or direction.

#### Part VI. Practice of Physical Therapist Assistants.

18 VAC 85-31-110. General requirements. Sets forth the requirement that an assistant may perform physical therapy functions within his training and capabilities as directed by the physical therapist.

18 VAC 85-31-120. Individual responsibilities. Establishes the responsibilities of the physical therapist assistant to the patient in relation to the supervisory role of the physical therapist.

#### Part VII. Renewal of Licensure; Relicensure.

18 VAC 85-31-130. Biennial renewal. Establishes the biennial renewal schedule for renewal and the requirement for 320 hours of active practice within the preceding four years for continued renewal.

18 VAC 85-31-140. Traineeship required for relicensure. Sets forth the requirements for an inactive practice

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# Proposed Regulations

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traineeship for persons who are seeking relicensure after four or more years.

## Part VIII. Fees.

18 VAC 85-31-150. Establishes the fees for applying, renewing or reinstating licenses and requires the examination fee to be paid directly to the testing agency.

### Issues:

Issue #1: The educational and traineeship requirements for graduates of foreign institutions.

The board considered the alternative of certification of educational comparability by an independent accrediting agency if assurance of competency and reliability in evaluating educational programs could be obtained. In its review, the board determined that that no such certification is currently available and that regulations stipulating requirements for foreign trained applicants are still necessary. The board utilizes the services of an evaluation agency to review foreign documents, assess equivalency with requirements of approved schools and these regulations, and report on any areas of discrepancy or deficiency. It is then the judgment of the board as to the qualification of the applicant.

Alternatives which were considered by the board include:

1. A reduction in the number of hours required for a traineeship for a foreign-trained graduate (amendments are proposed to reduce the number of hours from 1,000 to 480 for the applicant in physical therapy and from 500 to 480 for physical therapists assistants. The amended regulation will greatly facilitate the ability of a person trained outside the U.S. and its territories to be licensed in Virginia by reducing the time spent in a traineeship in Virginia);
2. Elimination of the required interim progress report or clarification of the purpose and consequences of such report (proposed regulations would eliminate the report which was maintained by the board but was not utilized for the purpose of approving or denying licensure); and
3. Clarification of and amendment to regulation for additional traineeship for applicants who failed to successfully complete the six-month requirement (proposed regulations clarify the process to be followed if the first traineeship is not successfully completed);
4. More flexibility for physical therapists and assistants in meeting the general education requirements (proposed regulations change the hours required for the assistants from 68 to 65 with only 20 hours of specified courses versus the current requirement of 24. CLEP hours are also permitted to fulfill general education hours for either the therapist or the assistant);
5. Clarification of the sections on requirements for graduates of "American" or "foreign" institutions (proposed regulations refer to graduates of approved schools versus "American" or schools not approved versus "foreign" to clarify that some approved schools are not in the United States).

Issue #2: Requirements for the administration and composition of the examination.

In proposed regulations, specific requirements have been eliminated since the board now contracts with a testing service. However, the board has retained the right to establish the passing score on the examination.

Current regulations require a supervised traineeship following three failed attempts at passage of the licensure examination. Proposed regulations have eliminated that requirement but stipulate that a person who fails the examination six times is no longer eligible for licensure.

In addition, the current regulation requires the applicant who has not taken the examination within three years of graduation to take a full-time three-month traineeship. Proposed regulations would allow a person four years following graduation to take the examination.

Issue #3: Clarification of terms or some reduction in the numbers of hours required for licensure by endorsement.

To simplify the regulation and reduce the burden on persons seeking licensure by endorsement, the board has eliminated the need for a traineeship for persons who have had not been in active practice for less than four years. For those who are seeking endorsement and who have been inactive for four or more years, the requirements for a traineeship will be the same as for persons who have allowed their license to lapse in Virginia.

Issue #4: Amendments that would clarify and relax the supervisory responsibilities for physical therapists.

To ease the burden of the current requirement that a physical therapist supervise no more than three physical therapist assistants at any one time per practice setting, not to exceed a total of two settings, the board considered a various combination of numbers and concluded that, given the limitations on practice by an assistant and the regulation which places the responsibility on the physical therapist for any action of persons performing physical therapy functions under his supervision or direction, it was not essential to place any limitations in regulation.

To relax the rule on the number of trainees that may be supervised by a physical therapist, the advisory board recommended an amendment in the requirement from supervision of two trainees to three trainees. The board determined that the physical therapist could not safely supervise more than three trainees who, unlike the physical therapist assistants, are unlicensed persons.

Issue #5: A reduction in the burden of supervision of physical therapist assistant by physical therapist.

A change in the requirement for the initial visit of the physical therapist assistant to be made jointly with the supervising physical therapist was recommended by the advisory board and the board concurred since regulations continue to require that the initial patient visit be made by the physical therapists for the purpose of evaluation and establishment of a plan of care. Once that plan has been set, the assistant is able to perform the required functions under the direction of the physical therapist. Therefore, the board proposes elimination

of the requirement for a joint visit by the assistant and the therapist.

The board also proposes clarification of the type of supervision required for safe practice by a physical therapy assistant by specifying that patient visits by the physical therapist assistant are to be made under general supervision which is defined in regulation as meaning that the physical therapist is available for consultation. Direct supervision (on the premises and fully responsible) by a physical therapist or an assistant is required for an unlicensed aide. Current regulations do not make that distinction, so the proposed regulation is both less burdensome and clarified for ease of compliance.

### Issue #6: Continuing competency for renewal of licenses.

Members have attended national forums on the issue and have brought written and oral reports to the advisory board for consideration. With the advice of the Physical Therapy Association, the advisory board considered whether its requirements for updates on professional activities were necessary in order to establish that licensees have the qualifications to ensure continuing competence to practice. They looked at other alternatives which are under consideration by certifying bodies and other states such as hours of continuing education hours or recertification as evidence of continuing competence in lieu of evidence of active practice. While the discussion on the issue will continue throughout academic and regulatory circles, the board, with the concurrence of the advisory board and the association, recommended that some evidence of active practice to renew licensure was essential for public health and safety. The current requirement of 320 hours of practice for each biennium has been significantly reduced in proposed regulations to 320 hours in the preceding four years.

### Issue #7: Traineeships for inactive persons to return to active practice.

Current regulations establish that a person who has been inactive for two or more years has to have a supervised traineeship. The board has determined that after years of inactive practice, a traineeship is necessary for protection of the public and assurance of competent practice, but has recommended that the traineeship be required only after a period of four or more years of inactivity. Proposed regulations have also eliminated the differential in traineeships for different years of inactive practice and would require 480 hours for all inactive traineeships. Proposed regulations also stipulate and clarify the process to be followed if the first traineeship is not successfully completed. Beyond seven years of inactivity, the applicant will be required to sit for the licensure examination; current regulations require reexamination and a three-month traineeship after 10 years of inactive practice.

Issue #8: Reductions in the renewal fees and application fees for physical therapists and physical therapists assistants for licensure by examination and by endorsement. (See Fiscal Impact Analysis.)

Since the examinations are now developed, administered, and graded by an outside entity under contract to the board, the examination fee is set by that entity. Therefore, proposed regulations require that the examination fee be paid by the

applicant directly to the testing agency and not to the board. The board maintains some control over those costs by negotiation of the contract with organizations who provide professional testing services.

Advantages: Proposed amended regulations will be less complicated and more clearly written for applicants and licensees to follow. In addition, several of the proposed amendments will make it less burdensome and less expensive for applicants to qualify for licensure and for current licensees to practice:

- a. For persons educated in foreign schools (nonapproved), licensure will be less burdensome by a proposed reduction in the number of traineeship hours required, elimination of the interim report to the board, and more flexibility in meeting general education requirements.
- b. For all applicants, the application fee would be reduced by \$100; and for current licensees, the renewal fees would be reduced from \$125 for physical therapists and from \$80 to \$70 for physical therapist assistants per biennium.
- c. For persons seeking licensure by endorsement or relicensure following less than four years of inactivity, the proposed regulations will be less burdensome with the elimination of a required traineeship.
- d. For all licensees, the requirement of 320 hours of active practice for renewal per biennium has been reduced by half to 320 hours required in the preceding four years.
- e. For physical therapists who supervise physical therapist assistants and trainees, the proposed regulations would be less burdensome with the elimination of the current regulation which limits the number of assistants who may be supervised, the elimination of a requirement for the patient's first visit with the assistant to be made jointly with the therapist, and the relaxation on the number from two to three trainees who may be supervised by the therapist.

Disadvantage: There are no disadvantages of the proposed amendments to current licensees. With the elimination of the board-administered examination and the requirement that the examination fee be paid directly to the testing service, applicants will incur additional costs. Currently, they pay an application fee of \$200 of which \$185 is paid by the board directly to the testing service with only \$15 going toward the administrative costs of processing and approving applications. Proposed regulations would reduce the application fee to \$100 but require the \$185 for the examination to be paid directly by the applicant to the service for a net increase in costs.

Advantages and disadvantages to the public: There are no direct advantages or disadvantages to the public. Relaxation of requirements for supervision of physical therapist assistants and trainees may provide more employment opportunities for persons supervised by the physical therapists and could potentially reduce the costs of receiving physical therapy by allowing more patients to be seen by assistants.



# Proposed Regulations

## Estimated Impact:

A. Projected number of persons affected and their cost of compliance: There are approximately 3,000 physical therapists and 950 physical therapist assistants who would be affected by promulgation of amendments to regulation.

There will no increase in cost for compliance by regulated entities or their employers since no change in the current renewal fee schedule has been proposed. While the licensure by examination fee is being reduced from \$200 to \$100, there will be a net increase to the applicant. Proposed regulations require examination fees to be paid directly to the testing service, and that fee is currently \$185. Therefore, the approximately 275 persons who apply for licensure by examination will pay \$100 to the board for an application and initial licensure fee to \$185 to the testing service. With only \$15 of the \$200 application fee currently accruing to the board, it is not fulfilling its statutory requirement to cover expenses with fees charged to applicants.

There will be a considerable reduction in costs for persons applying for licensure by endorsement. Currently, the fee is \$225, and under proposed regulations, the fee will also be \$125 for an application and initial licensure.

B. Cost to the agency for implementation: The board will incur approximately \$1,000 in cost for printing and mailing final amended regulations to certificate holders and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled committee or board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against physical therapists for violations of these regulations.

If proposed regulations are adopted with the licensure fee lowered from \$200 to \$100 for licensure by examination and from \$225 to \$125 for licensure by endorsement, there will be a small net decrease in revenue of approximately \$5,625 per year. There will be a loss of \$100 for each of the 290 applicants for endorsement. Currently, however, the board pays \$185 of the \$200 fee to the testing service for administration of the examination, resulting in net income of \$15 per applicant. Therefore, since examination fees will be paid by the applicant to the testing service, there will actually be an increase in income from applicants for licensure by examination. An explanation of the reduction in yearly income is as follows:

	Examination	Endorsement
Applicants - Physical Therapy	200 @+\$85 = \$17,000	250 @-\$100 = - \$25,000
Applicants - Physical Therapists Assistants	75 @+\$85 = \$ 6,375	40 @-\$100 = - \$ 4,000
	\$ 23,375	- \$29,000
Total impact on annual revenue from licensure fees:	-\$29,000	
	+\$23,375	
	-\$ 5,625 or \$11,250 per biennium	

In addition, proposed regulations would lower the renewal fee for physical therapists from \$125 a biennium to \$100 and for

physical therapist assistants from \$80 to \$70. An explanation of the reduction in biennial income is as follows:

Physical Therapists	3000 @ -\$25 = - \$75,000
Physical Therapist Assistants	900 @ -\$10 = - \$ 9,000

Total impact on biennial revenue = - \$84,000

Within budgeted biennial revenue of approximately \$5.5 million for the Board of Medicine, the total reduction of approximately \$95,250 can be absorbed without any impact on the board's ability to perform its functions.

C. Cost to local governments: There will be no impact of these regulations on local government.

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 affects.

Summary of the Proposed Regulation. The proposed regulation amends current regulations governing the practice of physical therapy. The primary proposed amendments are as follows:

- A reduction in the education and traineeship requirements for graduates of schools that have not been approved by a crediting agency recognized by the Virginia Board of Medicine (board);
- Elimination of the supervised traineeship requirement for individuals who fail the licensure examination three times, with the stipulation that individuals who fail the exam six times are no longer eligible for licensure;
- A change in the requirements for individuals seeking licensure by endorsement;
- Elimination of the requirement that a physical therapist supervise no more than three physical therapist assistants;
- An increase from two to three in the number of trainees that a physical therapist may supervise;
- A reduction in the minimum number of hours of practice required for relicensure from 320 in the last two years to 320 in the last four years;
- A change in the traineeship requirements for relicensure of inactive practitioners;
- Fees for licensure by examination are effectively increased by \$85;

- Fees for licensure by endorsement are reduced by \$100; and
- Fees for license renewal of a physical therapist are reduced by \$25 and fees for license renewal of a physical therapist assistant are reduced by \$10.

Estimated Economic Impact. The economic consequences of the amendments contained in the proposed regulation can be divided into two general categories.

Quality of Care. Three of the proposed amendments reduce regulatory stringency in a manner that potentially could impact the quality of physical therapy services offered in the Commonwealth. There are several reasons to believe, however, that such impact would be negligible or nonexistent.

The reduction in the traineeship requirements for graduates of schools that have not been approved by a crediting agency recognized by the board from 1,000 to 480 hours for physical therapists and from 500 to 480 for physical therapist assistants simply: (i) brings these requirements into line with those for individuals who do not take the licensure examination within four years after graduation and inactive practitioners seeking relicensure; and (ii) reduces the discriminatory burden placed on foreign trained physical therapists by the current regulation.

Elimination of the requirement that a physical therapist supervise no more than three physical therapist assistants reflects the fact that both the current and the proposed regulation place full responsibility for the actions "of persons performing physical therapy functions under the physical therapist's supervision or direction" on the supervising physical therapist. This means that it would not be in a physical therapist's professional or financial self-interest to supervise more assistants than can be done safely. As a result, maintaining the current regulatory cap on the number of assistants a physical therapist can supervise represents an inefficient and unnecessary intrusion on the staffing policies of the regulated community.

The increase in the number of trainees that a physical therapist may supervise from two to three is based on a professional determination by the board that physical therapists can safely supervise up to three unlicensed physical therapist trainees.

Compliance Costs. There are two ways in which the proposed amendments affect regulatory compliance costs: changes in regulatory stringency and changes in fees.

With a few exceptions, most of the amendments contained in the proposed regulation will generate some reduction in regulatory stringency and, therefore, some reduction in regulatory compliance costs. Most notable among these are the reduction in required traineeship hours for graduates of schools that have not been approved by a crediting agency recognized by the board, and the increased staffing flexibility afforded by changes in the supervisory responsibilities of physical therapists. It would be cost prohibitive to provide a precise estimate of this likely reduction in regulatory compliance costs however.

Based on information provided by the board, the net effect of the proposed changes in licensing fees is likely to be a

\$48,000 annual reduction in regulatory compliance costs. This estimate is based on calculations which indicate that the effective increase in fees for licensure by examination will increase compliance costs by roughly \$23,000 per year,<sup>1</sup> while the reduction in fees for license renewal and licensure by endorsement will decrease regulatory compliance costs by roughly \$71,000 per year.<sup>2</sup>

Businesses and Entities Particularly Affected. The proposed regulation particularly affects the approximately 3,000 physical therapists and 950 physical therapist assistants licensed in Virginia, their patients, and all individuals seeking licensure in Virginia as physical therapists or physical therapist assistants.

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 governing the practice of physical therapy will generate a moderate decrease in the compliance costs imposed on the regulated community while not having a significant effect on the quality of physical therapist services offered in the Commonwealth.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the department.

#### Summary:

*In accordance with the recommendations of its Executive Order 15 (94) review and analysis of 18 VAC 85-30-10 et seq., the Board of Medicine has repealed existing regulations and adopted new regulations governing the practice of physical therapy. These regulations protect the health, safety and welfare of the citizens of the Commonwealth by establishing educational and examination requirements, renewal and reinstatement requirements, and practice standards. Proposed regulations are simplified, clarified, and less restrictive than current regulations.*

*The primary differences in the repealed and new regulations are:*

- *A reduction in the education and traineeship requirements for graduates of schools that have not been approved by a crediting agency recognized by the Virginia Board of Medicine (board);*

<sup>1</sup> This estimate is based on a projection of 275 individuals applying for licensure by examination each year times the \$85 effective increase in fee.

<sup>2</sup> This estimate is based on a projection of: 1) 290 individuals applying for licensure by endorsement each year times the \$100 reduction in fee; 2) 3,000 individuals applying for license renewal each year as physical therapists times the \$25 reduction in fee; and 3) 900 individuals applying for license renewal each year as physical therapist assistants times the \$10 reduction in fee.

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- Elimination of the supervised traineeship requirement for individuals who fail the licensure examination three times, with the stipulation that individuals who fail the exam six times are no longer eligible for licensure;
- A change in the requirements for individuals seeking licensure by endorsement;
- Elimination of the requirement that a physical therapist supervise no more than three physical therapist assistants;
- An increase from two to three in the number of trainees that a physical therapist may supervise;
- A reduction in the minimum number of hours of practice required for relicensure from 320 in the last two years to 320 in the last four years;
- A change in the traineeship requirements for relicensure of inactive practitioners;
- Fees for licensure by examination are effectively increased by \$85;
- Fees for licensure by endorsement are reduced by \$100; and
- Fees for license renewal of a physical therapist are reduced by \$25 and fees for license renewal of a physical therapist assistant are reduced by \$10.

## CHAPTER 31. REGULATIONS GOVERNING THE PRACTICE OF PHYSICAL THERAPY.

### PART I. GENERAL PROVISIONS.

#### 18 VAC 85-31-10. Definitions.

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

"Advisory board" means the Advisory Board on Physical Therapy.

"Board" means the Virginia Board of Medicine.

"CLEP" means the College Level Examination Program.

"Direct supervision" means a physical therapist is present and is fully responsible for the activities performed by the physical therapy personnel.

"Evaluation" means the carrying out by a physical therapist of the sequential process of assessing a patient, planning the patient's physical therapy treatment program, and appropriate documentation.

"General supervision" means a physical therapist shall be available for consultation.

"Physical therapist" means a person qualified by education and training to administer a physical therapy program under the direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

"Physical therapist assistant" means a person qualified by education and training to perform physical therapy functions under the supervision of and as directed by a physical therapist.

"Physical therapy aide" means any nonlicensed personnel performing patient care functions at the direction of a physical therapist or physical therapist assistant within the scope of this chapter.

"Referral and direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery to a physical therapist for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person undergoing a traineeship.

1. "Foreign educated trainee" means a physical therapist or physical therapist assistant who graduated from a school not approved by an accrediting agency recognized by the board, and who is seeking licensure to practice in Virginia.

2. "Inactive practice trainee" means a physical therapist or physical therapist assistant who has previously been licensed and has been inactive for four years or more and who is seeking licensure or relicensure in Virginia.

3. "Unlicensed graduate trainee" means a graduate of an approved physical therapist or physical therapist assistant program who has not taken the state licensure examination or who has taken the examination but not yet received a license from the board.

"Traineeship" means a period of full-time activity during which an unlicensed physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

#### 18 VAC 85-31-20. Public participation.

Board regulations, 18 VAC 85-10-10 et seq., provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

### PART II. LICENSURE: GENERAL REQUIREMENTS.

#### 18 VAC 85-31-30. General requirements.

Licensure as a physical therapist or physical therapist assistant shall be by examination or by endorsement.

18 VAC 85-31-40. Education requirements: graduates of approved programs.

An applicant for licensure who is a graduate of a program approved by an accrediting agency recognized by the board shall submit with the required application and fee documented evidence of his graduation from such a program.

18 VAC 85-31-50. Education requirements: graduates of schools not approved by an accrediting agency recognized by the board.

An applicant who is a graduate of a school not approved by the board shall submit with the required application and fee:

1. Proof of proficiency in the English language by passing with a grade of not less than 560 on the TOEFL, or an equivalent examination approved by the board. TOEFL may be waived upon evidence of English proficiency.

2. A photostatic copy of the original certificate or diploma verifying his graduation from a physical therapy curriculum which has been certified as a true copy of the original by a notary public.

If the certificate or diploma is not in the English language, submit either:

a. An English translation of such certificate or diploma by a qualified translator other than the applicant; or

b. An official certification in English from the school attesting to the applicant's attendance and graduation date.

3. Verification of the equivalency of the applicant's education to the following standards from a scholastic credentials service approved by the advisory board.

a. The minimum educational requirements for licensure as a physical therapist shall be 120 semester hours as follows:

(1) General education requirements. A minimum of 40 semester hours is required with credits in each of the following: humanities, social sciences, natural sciences, physical sciences, and electives.

(2) Professional education requirements. A minimum of 60 semester hours is required with credits in each of the following: basic health sciences, clinical sciences, and clinical education.

(3) CLEP semester hours or credits shall be accepted for general education hours only.

b. The minimum educational requirements for licensure as a physical therapist assistant shall be 65 semester hours as follows:

(1) General education requirements. A minimum of 20 semester hours is required with credits in each of the following: humanities, social sciences, natural sciences, physical sciences, and electives.

(2) Professional educational requirements. A minimum of 45 semester hours is required with credits in each of the following: basic health sciences, clinical sciences, and clinical education.

(3) CLEP semester hours or credits shall be accepted for general education hours only.

4. Verification of having successfully completed a full-time 480-hour traineeship as a "foreign educated trainee" under the direct supervision of a licensed physical

therapist. The traineeship shall be in a facility that serves as an education facility for students enrolled in an accredited program educating physical therapists in Virginia and is approved by the advisory board.

a. It shall be the responsibility of the foreign educated trainee to make the necessary arrangements for his training with the director of physical therapy or the director's designee at the facility selected by the trainee.

b. The physical therapist supervising the foreign educated trainee shall submit a progress report to the board at the end of the 480 hours. This report shall be submitted on forms supplied by the advisory board.

c. If the traineeship is not successfully completed at the end of 480 hours as determined by the supervising physical therapist, the chairman of the advisory board or his designee shall determine if a new traineeship shall commence. If the chairman of the advisory board determines that a new traineeship shall not commence, then the application for licensure shall be denied.

d. The second traineeship may be served under a different supervising physical therapist and may be served in a different organization than the initial traineeship. If the second traineeship is not successfully completed, as determined by the supervising physical therapist, then the application for licensure shall be denied.

e. The traineeship requirements of this part may be waived if the applicant for a license can verify, in writing, the successful completion of one year of clinical physical therapy practice as a licensed physical therapist or physical therapist assistant in the United States, its territories, the District of Columbia, or Canada, equivalent to the requirements of this chapter.

## PART III. LICENSURE BY EXAMINATION.

18 VAC 85-31-60. Examination requirements.

A. Every applicant for initial board licensure by examination shall:

1. Meet the educational requirements specified in 18 VAC 85-31-40 or 18 VAC 85-31-50; and

2. Submit the required application and credentials to the board not less than 35 days prior to the date of examination or traineeship.

B. Every applicant shall take the examination prescribed by the board.

C. The minimum passing scores shall be established by the advisory board.

D. An applicant who fails the examination after six attempts shall be denied licensure.

E. A person not taking the licensure examination within four years after graduation shall successfully complete a full-

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time 480-hour traineeship before taking the licensure examination.

18 VAC 85-31-70. Traineeship for unlicensed graduate scheduled to sit for the board's licensure examination.

A. Upon approval of the chairman of the advisory board or his designee, an unlicensed graduate trainee in Virginia may be employed under the direct supervision of a licensed physical therapist until the results of the licensure examination are received.

B. The traineeship shall terminate two working days following receipt by the candidate of the licensure examination results.

C. The unlicensed graduate may reapply for a new traineeship while awaiting to take the next examination.

## PART IV. LICENSURE BY ENDORSEMENT.

18 VAC 85-31-80. Endorsement requirements.

A. A physical therapist or physical therapist assistant who has been licensed in the United States, its territories, the District of Columbia, or Canada, by examination equivalent to the Virginia examination at the time of licensure and who has met all other requirements of the board may, upon recommendation of the advisory board to the board, be licensed in Virginia by endorsement.

B. An applicant for licensure by endorsement shall:

1. Meet the educational requirements prescribed in 18 VAC 85-31-40 or 18 VAC 85-31-50; and
2. Submit the required application, fees, and credentials to the board not less than 35 days prior to the date of endorsement or traineeship.

C. A physical therapist or physical therapist assistant seeking licensure by endorsement who has been inactive for a period of four years or more shall first successfully complete a 480-hour traineeship as required by 18 VAC 85-31-140.

## PART V. PRACTICE OF PHYSICAL THERAPISTS.

18 VAC 85-31-90. Individual responsibilities to patients and to referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

The physical therapist's responsibilities are to evaluate a patient, plan the treatment program, administer and document treatment within the limit of his professional knowledge, judgment and skills and communicate with the referring practitioner.

18 VAC 85-31-100. Supervisory responsibilities.

A. A physical therapist shall be responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.

B. Supervision of a physical therapy aide means that a licensed physical therapist or licensed physical therapist assistant must be within a facility to give direct supervision

and instruction when procedures or activities are performed. Such nonlicensed personnel shall not perform those patient care functions that require professional judgment or discretion.

C. For patients assigned to a physical therapist assistant, the physical therapist shall make on-site visits to such patients at the frequency prescribed in 18 VAC 85-31-120.

D. A physical therapist shall supervise no more than three individual trainees.

## PART VI. PRACTICE OF PHYSICAL THERAPIST ASSISTANTS.

18 VAC 85-31-110. General requirements.

A physical therapist assistant is permitted to perform all physical therapy functions within his capabilities and training as directed by a physical therapist. The scope of such functions excludes initial evaluation of the patient, initiation of new treatments, and alteration of the plan of care.

18 VAC 85-31-120. Individual responsibilities to patients and to physical therapists.

A. The initial patient visit shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.

B. The physical therapist assistant's first visit with the patient shall only be made after verbal or written communication with the physical therapist regarding patient status and plan of care. Documentation of the communication and supervised visits shall be made in the patient's record.

C. The physical therapist assistant's visits to the patient shall be made under general supervision.

D. The physical therapist assistant shall be provided direct supervision by a physical therapist who shall reevaluate the patient according to the following schedules:

1. Not less than once a week for inpatients in hospitals as defined in § 32.1-123 of the Code of Virginia.
2. Not less than one of 12 visits made to the patient during a 30-day period, or once every 30 days, whichever occurs first, in other settings.
3. Failure to abide by this subsection due to the absence of the physical therapist in case of illness, vacation, or professional meeting, for a period not to exceed five consecutive days, will not constitute a violation of these provisions.

## PART VII. RENEWAL OF LICENSURE: RELICENSURE.

18 VAC 85-31-130. Biennial renewal of license.

A. A physical therapist and physical therapist assistant who intends to continue practice shall renew his license biennially during his birth month in each odd numbered year and pay to the board the renewal fee prescribed in 18 VAC 85-31-160.

B. A licensee whose license has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

C. An additional fee to cover administrative costs for processing a late application shall be imposed by the board.

D. A minimum of 320 hours of practice in the preceding four years shall be required for licensure renewal.

18 VAC 85-31-140. Traineeship required for relicensure.

A. A physical therapist or physical therapist assistant seeking relicensure who has been inactive for a period of four years or more who wishes to resume practice shall first successfully complete 480 hours as an inactive practice trainee.

B. The 480 hours of traineeship shall be in a facility that (i) serves as a clinical education facility for students enrolled in an accredited program educating physical therapists in Virginia, (ii) is approved by the advisory board, and (iii) is under the direction of a licensed physical therapist.

1. The physical therapist supervising the inactive practice trainee shall submit a report to the board at the end of the 480 hours on forms supplied by the advisory board.

2. If the traineeship is not successfully completed at the end of the 480 hours, as determined by the supervising physical therapist, the chairman of the advisory board or his designee shall determine if a new traineeship shall commence. If the chairman of the advisory board determines that a new traineeship shall not commence, then the application for licensure shall be denied.

3. The second traineeship may be served under a different supervising physical therapist and may be served in a different organization than the initial traineeship. If the second traineeship is not successfully completed, as determined by the supervising physical therapist, then the application for licensure shall be denied.

C. Any physical therapist or physical therapist assistant seeking licensure who has been inactive for seven years or more shall take and pass the examination approved by the board. If a trainee fails the examination three times, the trainee must appear before the advisory board prior to additional attempts.

## PART VIII. FEES.

18 VAC 85-31-160. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Licensure by examination.

1. The application fee for a physical therapist or a physical therapist assistant shall be \$100.

2. The fees for taking all required examinations shall be paid directly to the examination services.

C. Licensure by endorsement. The fee for licensure by endorsement for a physical therapist or a physical therapist assistant shall be \$125.

D. Licensure renewal and reinstatement.

1. The fee for license renewal for a physical therapist shall be \$100 and for a physical therapist assistant shall be \$70 and shall be due in the licensee's birth month in each odd numbered year.

2. A fee of \$25 for processing a late renewal shall be paid in addition to the renewal fee.

3. The fee for reinstatement of a physical therapist or a physical therapist assistant license which has expired for four or more years shall be \$225 and shall be submitted with an application for licensure reinstatement.

**NOTICE:** The forms used in administering 18 VAC 85-31-10 et seq., Regulations Governing the Practice of Physical Therapy, 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 Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717, telephone (804) 662-9924, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Application for a License to Practice Physical Therapy (revised 4/96)

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an American Program) (revised 12/96)

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-American Program) (revised 4/96)

Quiz on the Virginia Code and Regulations

The Interstate Reporting Services, National Physical Therapy Examination (PT/PTA), Score Registration and Transfer Request Application (8/95)

Traineeship Application (revised 4/96)

Foreign Trained Approved Traineeship Facilities (8/94)

Verification of Physical Therapy Practice (7/93)

Verification of State Licensure (4/96)

Licensure Registration (4/96)

Renewal Notice and Application

VA.R. Doc. No. R97-270; Filed February 4, 1997, 12:17 p.m.

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# Proposed Regulations

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**Title of Regulation:** 18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physicians' Assistants (amending 18 VAC 85-50-10, 18 VAC 85-50-30, 18 VAC 85-50-50, 18 VAC 85-50-110, 18 VAC 85-50-150, and 18 VAC 85-50-170; repealing 18 VAC 85-50-20, 18 VAC 85-50-60 through 18 VAC 85-50-100, and 18 VAC 85-50-120; adding 18 VAC 85-50-55, 18 VAC 85-50-56, 18 VAC 85-50-57, and 18 VAC 85-50-115).

**Statutory Authority:** §§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

**Public Hearing Date:** April 11, 1997 - 8 a.m.

Public comments may be submitted until May 2, 1997.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 and §§ 54.1-2949 through 54.1-2953 of the Code of Virginia provide the basis for this regulation. Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations. Sections 54.1-2949 through 54.1-2953 establish the requirement for licensure of physicians' assistants, the requisite training and supervision, and the authority to prescribe certain prescription drugs.

**Purpose:** The purpose for the proposed amendments is to eliminate burdensome requirements for recordkeeping and reporting of invasive procedures, to reduce or eliminate fees for a secondary license, and to clarify and simplify these regulations. Proposed amendments are intended to reduce the regulatory burden while protecting the health, safety, and welfare of the public in their access to physicians' assistants.

**Substance:** 18 VAC 85-50-10 through 18 VAC 85-50-30. Amendments to these sections are editorial.

18 VAC 85-50-40. Requirements, general. No amendments are proposed.

18 VAC 85-50-50. Entry requirements and application. Amendments are proposed to clarify and simplify the regulations and to update the name of the accrediting body for educational programs. Educational and examination requirements from the current 18 VAC 85-50-60 and 18 VAC 85-50-70 have been incorporated into this section.

Provisions for maintenance of records and reporting to the board by the supervising physician on invasive procedures by the physician's assistant have been eliminated. The board determined in its review of regulations pursuant to Executive Order 15 (94) that the regulations were burdensome and unnecessary since there is no requirement to report to the board on other patient records maintained by the physician.

18 VAC 85-50-55. Provisional Licensure. Amendments are proposed to incorporate requirements from the current 18 VAC 85-50-80 into Part II on Entry Requirements to clarify that an applicant who has received a degree may practice as a physician's assistant until passage of the national examination.

18 VAC 85-50-56. Renewal of License. Provisions in this new section are identical to those in the current 18 VAC 85-50-100.

18 VAC 85-50-57. Discontinuation of employment. Provisions in this new section are identical to those in the current 18 VAC 85-50-50 D 3.

18 VAC 85-50-60 through 18 VAC 85-50-100. Repealed. These sections have been repealed with requirements simplified and restated elsewhere in regulation.

18 VAC 85-50-110. Responsibilities of the supervisor. Amendments are editorial only.

18 VAC 85-50-115. Responsibilities of the physician's assistant. A new section is proposed to set out the responsibilities of the assistant; amendments to current regulations are editorial only.

18 VAC 85-50-120. Repealed. This section is unnecessary as it restates the statutory language.

18 VAC 85-50-130 through 18 VAC 85-50-160. Proposed amendments are editorial only.

18 VAC 85-50-170. Fees. Statutory provisions require the physician's assistant to obtain a separate license for each supervising physician or podiatrist. Proposed amendments significantly reduce costs for physicians' assistants who work under more than one supervisor by reducing the fee for filing application for a secondary license from \$100 to \$50 and by eliminating the renewal fee for all secondary licenses.

**Issues:** Issue 1: The need to amend educational requirements to reflect a change in the name of the accrediting agency. The board proposes to add the term "or its successor agency" after the Committee on Allied Health Education and Accreditation to accommodate the current or any future change in terminology.

Issue 2: The need to reduce the burden on supervising physicians for recording and reporting all invasive procedures performed by the assistants. The board considered comments from the advisory board on reducing the requirements for supervision of physician's assistants and determined that provisions for a review of services rendered within 24 hours of care by the assistant and for seeing a patient who presents with the same complaint twice in a single episode of care are reasonable and essential for public health and safety. Further, it is the physician's responsibility to ensure that his assistant has been trained in the specific invasive procedure to be performed.

The board did determine that the requirements for the supervisor to record and report to the board on every invasive procedure performed was unnecessary and burdensome paperwork. Patient records are maintained by the physician and are accessible by the board in the event a complaint was filed against the physician's assistant and/or the supervisor. Elimination of additional recordkeeping will alleviate much of the burden of supervision of physician's assistants in practice settings where a number of invasive procedures are performed.

Issue 3: The need to adopt a less burdensome application and renewal fees for persons who work as physician's

assistants in more than one setting for more than one supervising physician or podiatrist.

The board is required by the § 54.1-2400 (5) to cover all expenses of administering a regulatory program for all health professions with the fees charged to the regulated entities. It is further required to examine its revenues and expenses at the end of each biennium and to amend its fees if the differential is greater than 10%. At the end of the '92-'94 biennium, an analysis of revenues and expenses for the Board of Medicine was performed, and it was determined that its fees were sufficient but not excessive.

However, licensees and members of the advisory committee commented during regulatory review about the burden of paying for multiple licenses and recommended a reduction in the initial fee for secondary licensure and renewal. The board has proposed lowering the application fee for the secondary license from \$100 to \$50 and eliminating the renewal fee for such licenses.

Advantages to the physician's assistants and supervising physicians: Clarification of these regulations will answer questions by applicants about approved educational programs. Lowering the application fee and elimination of the renewal fee for secondary licenses will be an advantage to physician's assistants who work in multiple settings.

In addition, the elimination of recordkeeping and reporting requirements on all invasive procedures will reduce costs for the employer-supervisors of physician assistants who will not incur the time and expense of copying files and sending records to the department.

Disadvantages to the licensees: There are no disadvantages of proposed amendments to physicians' assistants or supervising physicians.

Advantages or disadvantages to the public: There are no advantages or disadvantages to the public, unless it could be argued that lowering the application and renewal fees could potentially increase the supply of physician's assistants in the Commonwealth.

#### Estimated Impact:

A. Projected number of persons affected and their cost of compliance: There are approximately 360 licenses for physician's assistants who would be affected by amendments to regulation.

There will be no cost for compliance by regulated entities or their employers. Persons who apply for licensure or work under more than one supervising physician (approximately one third of current licenses) will have a cost benefit due to a proposed reduction in the application and renewal fees to the board.

For example, physician's assistant "Jones" might work in three practice settings and would hold three separate licenses. Under the proposed regulation, physician's assistant "Jones" would pay \$100 for his primary license and \$50 for each secondary license for a total of \$200 (under current regulations, the fees would be \$300). Under the proposed regulation, biennial renewals of all primary and secondary licenses would be achieved with a single fee of

\$80 (under current regulations, renewal fees for physician's assistant "Jones" would be \$240).

B. Cost to the agency for implementation: The board will incur approximately \$1,000 in cost for printing and mailing final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing which will be held in conjunction with a scheduled committee or board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against physician's assistants for violations of these regulations.

There will be a small loss of biennial revenue as a result of a fee reduction or elimination for an estimated one third of all licenses which are multiple licenses for physician's assistants. Of the new applications for licenses (approximately 80 per biennium), one third or approximately 26 would be secondary licenses and would pay \$50 rather than \$100 for a loss of \$1,300. Of the 360 licenses currently held, approximately one third or 120 would pay no renewal fee for an estimated biennial loss of \$9,600. Within budgeted biennial revenue of approximately \$5.5 million for the Board of Medicine, the reduction can be absorbed without any appreciable impact on the board's ability to perform its functions.

C. Cost to local governments: There will be no impact of these regulations on local government.

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 affects.

Summary of the Proposed Regulation. The proposed regulation amends current regulations governing the practice of physician's assistants. Most of the amendments contained in the proposed regulation are editorial in nature and are unlikely to have any impact on Virginia's economy. Two of the proposed amendments are likely to have economic consequences however. These are:

- Elimination of the requirement that physicians record and report to the Board of Medicine every invasive procedure performed by a physician's assistant; and
- Reduction of the initial fee for secondary physician's assistant licenses from \$100 to \$50 and elimination of renewal fees for such licenses.

Estimated Economic Impact. Physicians are required to maintain patient records and such records are available to the Board of Medicine in the event of a complaint against a



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physician's assistant. As a result, the requirement that physicians report to the Board of Medicine every invasive procedure performed by a physician's assistant is unnecessary and overly burdensome. The primary economic effect of eliminating this requirement will be a modest reduction in the clerical costs faced by physicians in achieving regulatory compliance.

The sole economic consequence of the proposed reduction in fees will be a reduction in the regulatory compliance costs faced by physician's assistants.

**Businesses and Entities Particularly Affected.** The proposed regulation particularly affects approximately 360 physician's assistants licensed to practice in Virginia, their employers, and their patients.

**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 primary economic effect of the proposed regulation will be a modest reduction in the regulatory compliance costs faced by physician's assistants and their employers.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** The board concurs with the analysis of the Department.

## Summary:

*The proposed amendments to these regulations simplify and clarify requirements; eliminate burdensome requirements for recordkeeping and reporting of invasive procedures; and reduce or eliminate fees for a secondary license. Amendments proposed were recommended by the board in its review of regulations pursuant to Executive Order 15 (94).*

## PART I. GENERAL PROVISIONS.

### 18 VAC 85-50-10. Definitions.

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

~~"Assistant to a doctor of medicine, osteopathy, or podiatry," or "physician's assistant," means an individual who is qualified as an auxiliary paramedical person by academic and clinical training and is functioning in a dependent-employee relationship with a doctor of medicine, osteopathy, or podiatry licensed by the board.~~

"Board" means the Virginia Board of Medicine.

"Committee" means the Advisory Committee on Physician's Assistants appointed by the president of the board to advise the board on matters relating to physician's assistants. The committee is composed of four members of

the board, one supervising physician, and two four physician's assistants.

"Formulary" means the listing of categories of drugs which may be prescribed by the physician's assistant according to this chapter.

"Group practice" means the practice of a group of two or more doctors of medicine, osteopathy, or podiatry licensed by the board who practice as a partnership or professional corporation.

"Institution" means a hospital, nursing home or other health care facility, community health center, public health center, industrial medicine or corporation clinic, a medical service facility, student health center, or other setting approved by the board.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Physician assistant" means an individual who is qualified as an auxiliary paramedical person by academic and clinical training and is functioning in a dependent-employee relationship with a doctor of medicine, osteopathy, or podiatry licensed by the board.

"Protocol" means a set of directions developed by the supervising physician that defines the supervisory relationship between the physician assistant and the physician and the circumstances under which the physician will see and evaluate the patient.

"Supervision" means:

1. "Alternate supervising physician" means a member of the same group or professional corporation or partnership of any licensee, any hospital or any commercial enterprise with the supervising physician. Such alternating supervising physician shall be a physician licensed in the Commonwealth who has registered with the board and who has accepted responsibility for the supervision of the service that a physician's assistant renders.
2. "Direct supervision" means the physician is in the room in which a procedure is being performed.
3. "General supervision" means the supervising physician is easily available and can be physically present within one hour.
4. "Personal supervision" means the supervising physician is within the facility in which the physician's assistant is functioning.
5. "Supervising physician" means the supervising physician who makes application to the board for licensure of the assistant.
6. "Substitute supervising physician" means a doctor of medicine, osteopathy, or podiatry licensed in the Commonwealth who has accepted responsibility for the supervision of the service that a physician's assistant renders in the absence of such assistant's supervising physician.

**18 VAC 85-50-20. Applicability. (Repealed.)**

~~These regulations apply to physician's assistants and the supervising physicians as defined in 18 VAC 85-50-10.~~

**18 VAC 85-50-30. Public participation guidelines.**

~~A separate board regulation, 18 VAC 85-10-10 et seq., which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in this chapter.~~

**18 VAC 85-50-50. Licensure: entry requirements and application.**

~~A. A license to practice as a physician's assistant shall be obtained from the board before such assistant begins to practice with a supervising doctor of medicine, osteopathy, or pediatry.~~

~~B. Entry requirements.~~

~~An applicant for licensure shall:~~

- ~~1. Possess the educational qualifications prescribed in 18 VAC 85-50-60 of this chapter; and~~
- ~~2. Meet the requirements for examination prescribed in 18 VAC 85-50-70 through 18 VAC 85-50-90 of this chapter.~~

~~C. A. Application for board approval of a physician's assistant shall be submitted to the board by the supervising physician under whom the assistant will work, and who will assume the responsibility for the assistant's performance. By submitting the application, the supervising physician attests to the general competence of the assistant. In a group or institutional practice setting, the supervising physician shall be the contact for the board regardless of whether the supervision has been delegated to an alternate or substitute supervising physician.~~

~~D. B. The application applicant shall submit:~~

- ~~1. Be made on forms supplied by the board and completed in every detail. A completed application and fee as prescribed by the board.~~
- ~~2. Spell out the roles and functions of the assistant with a written protocol acceptable to the board and any, which spells out the roles and functions of the assistant. Any such protocols shall take into account such factors as the number of patients, the types of illness treated by the physician, the nature of the treatment, special procedures, and the nature of the physician's availability in ensuring direct physician involvement at an early stage and regularly thereafter.~~
  - ~~a. The board may require, at its discretion, in a supplement to the application, information regarding the level of supervision, "direct," "personal" or "general," with which the supervising physician plans to supervise the physician's assistant for selected tasks. The board may also require the supervising physician to document the assistant's competence in performing such tasks.~~

~~b. The supervising physician shall maintain records of all approved invasive procedures performed by the physician's assistant.~~

~~c. The supervising physician shall report to the board the number of invasive procedures performed by the physician's assistant and complications resulting from the procedures, on forms provided by the board.~~

~~d. Failure to maintain records of invasive procedures performed by the physician's assistant, or provide a report to the board, shall be considered unprofessional conduct.~~

~~3. Provide that if, for any reason, the assistant discontinues working in the employment and under the supervision of the licensed practitioner who submitted the application:~~

~~a. Such assistant and the employing practitioner shall so inform the board and the assistant's approval shall terminate.~~

~~b. A new application shall be submitted to the board and approved by the board in order for the assistant either to be reemployed by the same practitioner or to accept new employment with another supervising physician.~~

~~4. If the role of the assistant includes prescribing for Schedule VI drugs and devices, the written protocol shall include those categories of drugs and devices within the approved formulary as found in 18 VAC 85-50-140 of this chapter and that are within the scope of practice and proficiency of the supervising physician.~~

~~E. The application fee prescribed in 18 VAC 85-50-170 of this chapter shall be paid at the time the application is filed.~~

~~b. If the role of the assistant includes prescribing for Schedule VI drugs and devices, the written protocol shall include those categories of drugs and devices within the approved formulary of this chapter and that are within the scope of practice and proficiency of the supervising physician.~~

~~3. Documentation of successful completion of a prescribed curriculum of academic study for physician's assistants in a school or institution accredited by the Committee on Allied Health Education and Accreditation or its successor agency of the American Medical Association and accredited by the American Academy of Physician's Assistant.~~

~~4. Documentation of eligibility for the NCCPA examination or completed licensure requirements.~~

~~C. The proficiency examination of the NCCPA constitutes the board examination required of all applicants for licensure.~~

**18 VAC 85-50-55. Provisional licensure.**

~~An applicant who has met the requirements of the board at the time his initial application is submitted may be granted provisional licensure by the board if he meets the provisions of § 54.1-2950 of the Code of Virginia and 18 VAC 85-50-50 of this chapter. Such provisional licensure shall be subject to the following conditions:~~

# Proposed Regulations

1. The provisional licensure shall be valid until the applicant takes the next subsequent NCCPA examination and its results are reported, but this period of validity shall not exceed 30 days following the reporting of the examination scores.

2. An applicant who fails the examination may be granted individual consideration by the board and granted an extension of the provisional licensure upon evidence that he is eligible for admission to the next scheduled board examination.

3. An applicant who fails the examination three consecutive times shall surrender his license to practice until proof has been provided to the board that the standards of NCCPA have been met.

## 18 VAC 85-50-56. Renewal of license.

A. Every licensed physician's assistant intending to continue to practice shall biennially renew the license in each odd numbered year in the licensee's birth month by:

1. Returning the renewal form and fee as prescribed by the board, and
2. Presenting documented evidence of compliance with continuing medical education standards established by the NCCPA.

B. Any physician's assistant who allows his NCCPA certification to lapse shall be considered not licensed by the board. Any such assistant who proposes to resume his practice shall make a new application for licensure.

## 18 VAC 85-50-57. Discontinuation of employment.

If for any reason the assistant discontinues working in the employment and under the supervision of the licensed practitioner who submitted the application, such assistant and the employing practitioner shall so inform the board and the assistant's approval shall terminate. A new application shall be submitted to the board and approved by the board in order for the assistant either to be reemployed by the same practitioner or to accept new employment with another supervising physician.

## 18 VAC 85-50-60. Educational requirements. (Repealed.)

An applicant for licensure shall:

1. Have successfully completed a prescribed curriculum of academic study for physicians' assistants in a school or institution accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association and accredited by the American Academy of Physician Assistants; and
2. Present documented evidence of eligibility for the NCCPA examination or completed licensure requirements.

## PART III. EXAMINATION. (Repealed.)

### 18 VAC 85-50-70. Examination requirement. (Repealed.)

The proficiency examination of the NCCPA constitutes the board examination required of all applicants for licensure.

### 18 VAC 85-50-80. Provisional registration. (Repealed.)

An applicant who has met the requirements of the board at the time his initial application is submitted may be granted provisional registration by the board if he meets the provisions of § 54.1-2950 of the Code of Virginia and 18 VAC 85-50-80 of this chapter. Such provisional licensure shall be subject to the following conditions:

1. The provisional licensure shall be valid until the applicant takes the next subsequent NCCPA examination and its results are reported, but this period of validity shall not exceed 30 days following the reporting of the examination scores.
2. An applicant who fails the examination may be granted individual consideration by the board and granted an extension of the provisional licensure upon evidence that he is eligible for admission to the next scheduled board examination.

### 18 VAC 85-50-90. Examination. (Repealed.)

A. Every applicant shall take the NCCPA examination at the time scheduled by the NCCPA.

B. An applicant who fails the examination three consecutive times shall surrender his license to practice until proof has been provided to the board that the standards of NCCPA have been met.

### 18 VAC 85-50-100. Renewal of license. (Repealed.)

A. Every licensed physician's assistant intending to continue to practice shall biennially renew the license in each odd-numbered year in the licensee's birth month:

1. Register with the board for renewal of his license;
2. Present documented evidence of compliance with continuing medical education standards established by the NCCPA; and
3. Pay the renewal fee as prescribed in subsection B of 18 VAC 85-50-170 at the time of filing the license renewal.

B. Any physician's assistant who allows his NCCPA certification to lapse shall be considered not licensed by the board. Any such assistant who proposes to resume his practice shall make a new application for licensure.

## PART IV. INDIVIDUAL RESPONSIBILITIES.

### 18 VAC 85-50-110. Individual Responsibilities of the supervisor.

A supervising physician and the physician's assistants working with him shall observe the following division of responsibilities in the care of patients:

A. The supervising physician shall:

1. See and evaluate any patient who presents the same complaint twice in a single episode of care and has failed to improve significantly. Such physician involvement shall occur not less frequently than every fourth visit for a continuing illness.
2. Review the record of services rendered the patient by the physician's assistant and sign such records within 24 hours after any such care was rendered by the assistant.
3. Be responsible for all invasive procedures.
  - a. Under general supervision, a physician's assistant may insert a nasogastric tube, bladder catheter, needle, or peripheral intravenous catheter, but not a flow-directed catheter, and may perform minor suturing, venipuncture, and subcutaneous intramuscular or intravenous injection.
  - b. All other invasive procedures not listed above must be performed under direct supervision unless, after directly supervising the performance of a specific invasive procedure three times or more, the supervising physician attests to the competence of the physician's assistant to perform the specific procedure without direct supervision by certifying to the board in writing the number of times the specific procedure has been performed and that the physician's assistant is competent to perform the specific procedure. After such certification has been accepted and approved by the board, the physician's assistant may perform the procedure under general supervision.
4. Be responsible for all prescriptions issued by the assistant. ~~He shall:~~
  - a. ~~and attest to the competence of the assistant to prescribe drugs and devices; and~~
  - b. ~~Attest that the assistant understands the indications, dosages and side effects of such treatment.~~

**B. 18 VAC 85-50-115. Responsibilities of the physician's assistant.**

A. The physician's assistant shall not render independent health care. ~~Such assistant and shall:~~

1. Shall Perform only those medical care services that are within the scope of the practice and proficiency of the supervising physician as prescribed in the physician's assistants protocol. When a physician's assistant is to be supervised by an alternate supervising physician outside the scope of specialty of the supervising physician, then the physician's assistant's functions shall be limited to those areas not requiring specialized clinical judgment, unless a separate protocol for that alternate supervising physician is approved and on file with the board.
2. Shall Prescribe only those drugs and devices as allowed in ~~Parts~~ Part V (18 VAC 85-50-130 et seq.) and VI of this chapter.
3. ~~Shall, during the course of performing his duties, Wear during the course of performing his duties~~

identification showing clearly that he is a physician's assistant.

~~C. B.~~ If the assistant is to perform duties away from the supervising physician, such supervising physician shall obtain board approval in advance for any such arrangement and shall establish written policies to protect the patient.

~~D. C.~~ If, due to illness, vacation, or unexpected absence, the supervising physician is unable to supervise personally the activities of his assistant, such supervising physician may temporarily delegate the responsibility to another doctor of medicine, osteopathy, or podiatry. The employing supervising physician so delegating his responsibility shall report such arrangement for coverage, with the reason therefor, to the board office in writing, subject to the following provisions:

1. For planned absence, such notification shall be received at the board office at least one month prior to the supervising physician's absence;
2. For sudden illness or other unexpected absence, the board office shall be notified as promptly as possible, but in no event later than one week;
3. Temporary coverage may not exceed four weeks unless special permission is granted by the board.

~~E. D.~~ With respect to assistants employed by institutions, the following additional regulations shall apply:

1. No assistant may render care to a patient unless the physician responsible for that patient has signed an application to act as supervising physician for that assistant. The board shall make available appropriate forms for physicians to join the application for an assistant employed by an institution.
2. Any such application as described in subdivision 1 ~~above of this subsection~~ shall delineate the duties which said physician authorizes the assistant to perform.
3. The assistant shall as soon as circumstances may dictate but, within an hour, with an acute or significant finding or change in clinical status, report to the supervising physician concerning the examination of the patient. The assistant shall also record his findings in appropriate institutional records.
4. No ~~physician~~ physician's assistant shall perform the initial evaluation, or institute treatment of a patient who presents to the emergency room or is admitted to the hospital for a life threatening illness or injury. In noncritical care areas, the physician assistant may perform the initial evaluation in an inpatient setting provided the supervising physician evaluates the patient within eight hours of the physician assistant's initial evaluation.

PART V.

APPROVAL FOR PRESCRIPTIVE AUTHORITY.

**18 VAC 85-50-120. Authority to prescribe; general. (Repealed.)**

~~A. The licensed physician's assistant shall have the authority to prescribe certain controlled substances and~~

# Proposed Regulations

~~devices in the Commonwealth in accordance with this chapter and as authorized by the Board of Medicine.~~

*Renewal Notice and Application.*

~~B. The board shall approve prescriptive authority for applicants who meet the qualifications set forth in 18 VAC 85-50-130 of this chapter.~~

## ~~PART VI.~~

### ~~PRACTICE REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY.~~

**18 VAC 85-50-150. Protocol regarding prescriptive authority.**

A. A physician's assistant with prescriptive authority may prescribe only within the scope of the written protocol as specified in 18 VAC 85-50-50 D 2.

B. A new protocol must be submitted with the: ~~1.~~ initial application for prescriptive authority. ~~2.~~ and with the application for each biennial renewal, if there have been any changes in supervision, authorization or scope of practice.

## ~~PART VII. VI.~~ ~~FEES.~~

**18 VAC 85-50-170. Fees.**

~~The following fees are required:~~

A. The *initial* application fee for a *primary license*, payable at the time application is filed, shall be \$100.

B. The fee for filing an application for a *secondary license* shall be \$50.

B. C. The biennial fee for renewal of the *primary license* shall be \$80 payable in each odd-numbered year in the birth month of the licensee. *Any secondary licenses held by the physician's assistant shall be renewed with the primary license without an additional fee.*

G. D. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$10 for each renewal cycle.

**NOTICE:** The forms used in administering the Regulations Governing the Practice of Physicians' Assistants (18 VAC 85-50-10 et seq.) are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

~~Instructions for Completing Physician Assistant Application.~~

~~Application for a License as a Physician's Assistant (eff. 3/94) with instructions (rev. 11/95).~~

~~Protocol of Physician's Assistant's Duties, #1 (eff. 7/93).~~

~~Physician's Assistant Invasive Procedures Protocol, #2 (eff. 7/93).~~

~~Employment Form, HRB 30-056-B. Verification (rev. 7/93).~~

~~State Questionnaire, HRB 30-056-C (eff. 7/93).~~

~~Licensure Registration. Verification (rev. 7/93).~~



13. Physician Practice Information

Supervising Physician's Name \_\_\_\_\_ Telephone # (\_\_\_\_) \_\_\_\_\_

Specialty \_\_\_\_\_ VA License # \_\_\_\_\_

Name of Practice \_\_\_\_\_

Address of Practice \_\_\_\_\_ (city) \_\_\_\_\_ (zip) \_\_\_\_\_

Type of Practice (family practice, surgery, etc.) \_\_\_\_\_

Do you have primary responsibility for the supervision of other physician's assistants?  Yes  No.

If Yes, please list name(s): \_\_\_\_\_

\_\_\_\_\_

Names and addresses of all physicians who will serve as supervising physicians (if more than three, provide information on a separate sheet).

Name # 1 \_\_\_\_\_

Office Address: \_\_\_\_\_ VA License # \_\_\_\_\_

Specialty: \_\_\_\_\_

Name # 2 \_\_\_\_\_

Office Address: \_\_\_\_\_

Specialty: \_\_\_\_\_ VA License # \_\_\_\_\_

Name # 3 \_\_\_\_\_

Office Address: \_\_\_\_\_

Specialty: \_\_\_\_\_ VA License # \_\_\_\_\_

14. Will PA perform medical acts when the supervising physician is not in the office/medical facility? If Yes, describe situations in which this might occur and the arrangements made to ensure communication is maintained with either the supervising physician or an alternate supervising physician on a separate sheet of paper.  Yes  No.

If for any reason the assistant discontinues working in the employment and under the supervision of the licensed practitioner who submitted the application, such assistant and the employing practitioner shall so inform the Board and the assistant's approval shall terminate, and a new application must be submitted to the Board and approved by the Board in order for the assistant either to be re-employed by the same practitioner or to accept new employment with another supervising physician.

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered Yes, explain and substantiate with available documentation. Letters must be submitted by any treating professionals regarding treatment. These shall include diagnosis, treatment and prognosis.

3. PA program attended (name and date of graduation) \_\_\_\_\_

4. NCCPA # \_\_\_\_\_ Expiration date \_\_\_\_\_ (Attach a copy of NCCPA Certificate and most recent certification certificate.)

5. List all the states in which you have been or are certified or licensed as a PA: \_\_\_\_\_

6. Have you ever been denied certification or licensure in any state? 

Yes	No
_____	_____

(a) Has any state ever denied, suspended, or revoked your certification or licensure? \_\_\_\_\_

(b) Has your license or certification to practice ever been limited in any way either by a licensing agency, supervising physician, or hospital in which you have been allowed to practice? \_\_\_\_\_

7. Have you ever been convicted of a violation and/or pled nolo contendere to any federal, state, or local statute relating to a felony or misdemeanor (excluding traffic violations)? \_\_\_\_\_

8. Have you ever been convicted of a violation of any state or federal controlled substance law? \_\_\_\_\_

9. Do you have a physical disease, a mental disorder, or any condition which could affect your performance of professional duties? If so, provide a letter from your treating professional to include diagnosis, treatment, prognosis and fitness to practice. \_\_\_\_\_

10. Have you been physically, or emotionally dependent upon the use of alcohol/drugs or treated by, consulted with, or been under the care of a physician as a habitual chronic abuser within the last two years? \_\_\_\_\_

11. Have you read carefully and do you understand the rules and regulations for an assistant to a physician adopted by the Virginia Board of Medicine? \_\_\_\_\_

12. Work Setting: (check appropriate area)

Out patient setting

Hospital (if employer, complete hospital information section)

Nursing Home

Other (specify in complete detail) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. Hospital Employed Physician's Assistant:

Name of Hospital: \_\_\_\_\_

Address of Hospital: \_\_\_\_\_ (street) \_\_\_\_\_ (City) \_\_\_\_\_ (zip)

In what department will the PA assist the Supervising Physician or Alternate Supervising Physician(s): \_\_\_\_\_

Explain on a separate sheet of paper, the guidelines established by the hospital to ensure proper supervision of the PA in the hospital setting.

Are there other features pertaining to the hospital function of the PA which should be called to the Board's attention? If so, describe on a separate sheet.

16. Summary

Each of the undersigned has read this application and certifies that the information therein is correct to the best of his/her knowledge and belief. Each further certifies that he/she has read carefully and understands the rules and regulations for an assistant to a physician adopted by the Virginia Board of Medicine. Such regulations will be fully complied with by the undersigned, and each undersigned physician accepts the responsibility of the applicant's conduct as an assistant to the physician.

Date: \_\_\_\_\_ M.D.  
Supervising Physician

Date: \_\_\_\_\_ M.D.  
Alternate Supervising Physician

Date: \_\_\_\_\_ M.D.  
Alternate Supervising Physician

Date: \_\_\_\_\_ M.D.  
Alternate Supervising Physician

Date: \_\_\_\_\_ M.D.  
Alternate Supervising Physician

Date: \_\_\_\_\_ M.D.  
Alternate Supervising Physician

Date: \_\_\_\_\_ M.D.  
Hospital Administrator (if applicable)

17. Release of Information:

I hereby authorize all past and present hospitals, institutions, or organizations, my references, personal physicians, employers, business and professional associates, and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have read carefully the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for denial, suspension or revocation of my license to practice as a Physician's Assistant in the Commonwealth of Virginia.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Applicant)

CERTIFICATE OF PHYSICIAN'S ASSISTANT EDUCATION

It is hereby certified that \_\_\_\_\_ of \_\_\_\_\_  
(name) (city/state)

matriculated in \_\_\_\_\_ at \_\_\_\_\_  
(course of study) (school)

date \_\_\_\_\_ and attended \_\_\_\_\_ courses of lectures of \_\_\_\_\_ months each and received a diploma  
(beginning) (number) (number)

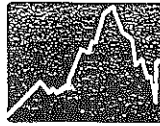
from \_\_\_\_\_ conferring the degree of \_\_\_\_\_ on \_\_\_\_\_  
(school) (degree) (date)

SCHOOL SEAL

\_\_\_\_\_  
(President, Secretary or Dean)



REV. 7/93  
# B  
Exam \_\_\_\_\_  
End PA  
Ren \_\_\_\_\_



**COMMONWEALTH OF VIRGINIA**  
**Board of Medicine**  
Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717 (804) 662-9929

NAME \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING PHYSICIAN'S ASSISTANT APPLICATION**

Completed application must be returned to this office along with the statutory fee of \$100.00. APPLICATIONS WILL NOT BE PROCESSED UNLESS THE FEE IS ATTACHED.

**INFORMATION REQUIRED TO COMPLETE YOUR APPLICATION:**

1. Resume of assistant's duties as prescribed by the supervising physician on enclosed form #1. The completion of this form is necessary. Attachments may be added but they must be signed and dated by the supervising physician. Form #2 is for all invasive procedures to be performed under general supervision pursuant to Section 4.1(A)(3). Please keep on file.
2. Proof from the NCCPA that you are currently certified. NOTE: YOU WILL NOT BE ELIGIBLE FOR LICENSURE IN THE STATE OF VIRGINIA IF THIS CERTIFICATE HAS EXPIRED.
3. If you are not NCCPA certified, have a letter submitted directly from the NCCPA stating that you are eligible and scheduled to sit for the next examination.
4. Forward enclosed employment form #B to all places of employment listed on the chronological page of your application.

Your application will not be considered complete until all of your required form #Bs are returned to this office. You may copy these forms if needed.

**NOTE: APPLICATIONS ARE REVIEWED WITHIN TWO TO THREE DAYS OF RECEIPT. ACKNOWLEDGEMENTS ARE SENT TO THE APPLICANT C/O THE SUPERVISING PHYSICIAN. COMPLETED APPLICATIONS ARE REVIEWED IN OFFICE BY THE EXECUTIVE DIRECTOR. HE MAY AT THAT TIME REQUEST ADDITIONAL INFORMATION OR CLARIFICATION. IF APPROVED, A LICENSE NUMBER WILL BE ISSUED AND A LETTER SENT. THE CERTIFICATE WILL BE SENT TO THE ADDRESS OF THE SUPERVISING PHYSICIAN.**

**NO FAXED INFORMATION OR COPIES ACCEPTED**

0/000001.mcd

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Please print or type name of hospital or place of employment that is responding to this questionnaire)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Name of Applicant  
(Please print or type)

The Virginia Board of Medicine, in its consideration of a candidate for certification, depends on information from persons and institutions regarding the candidate's employment, training, affiliations, and staff privileges. Please complete this form to the best of your ability and return it to the Board so the information you provide can be given consideration in the processing of this candidate's application in a timely manner. I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and governmental agencies and instrumentalities (local, state, federal or foreign) to release to the Virginia Board of Medicine any information, files or records requested by the Board in connection with the processing of my application.

Signature of Applicant \_\_\_\_\_

1. Date and type of service: This individual served with us as \_\_\_\_\_  
from \_\_\_\_\_ (Mo/Yr) to \_\_\_\_\_ (Mo/Yr)

2. Please evaluate: (Please indicate with check mark)

	Poor	Fair	Good	Superior
Professional knowledge _____				
Clinical judgement _____				
Relationship with patients _____				
Ethical/professional conduct _____				
Interest in work _____				
Ability to communicate _____				

3. Recommendation: (Please indicate with check mark)

1. Recommend highly and without reservation \_\_\_\_\_
2. Recommend as qualified and competent \_\_\_\_\_
3. Recommend with some reservation (explain) \_\_\_\_\_
4. Do not recommend (explain) \_\_\_\_\_

4. Of particular value to us in evaluating any candidate are comments regarding any notable strengths and weaknesses (including personal demeanor). We would appreciate such comments from you.  
\_\_\_\_\_  
\_\_\_\_\_

5. The above report is based on: (Please indicate with check mark)

1. Close personal observation \_\_\_\_\_
2. General impression \_\_\_\_\_
3. A composite of evaluations \_\_\_\_\_
4. Other \_\_\_\_\_

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

\_\_\_\_\_  
Please print or type name Title  
(This report will become a part of the applicant's file and may be reviewed by the applicant upon demand.)

COMMONWEALTH OF VIRGINIA

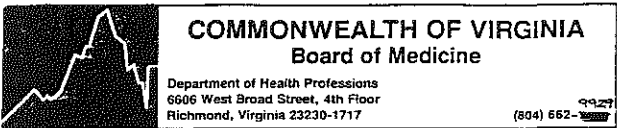
**RENEWAL NOTICE AND APPLICATION**

RD 11/10/1978

1. Complete items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
2. Use any 2001 or later form which is approved by the Board of Medicine.
3. Retain a copy of this form for your records.
4. Retain a copy of this form for your records.
5. Retain a copy of this form for your records.

Board of Medicine Telephone (703) 691-7000	EXPIRES DATE	RENEWAL PERIOD FROM DATE	CURRENT AMOUNT DUE \$ _____ LATE PAYMENT PENALTY \$ _____ Signature
---	-----------------	--------------------------------	---

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"



REV. 7/93  
Form # C(PA)

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717

(804) 662-9927

Dear Sirs:

The person listed below is applying for licensure as a Physician's Assistant in the State of Virginia. The State Board of Medicine requests that this form be completed by each jurisdiction in which he/she holds or has held a license/certificate. Please complete the form and return it to the address below. Thank you.

Commonwealth of Virginia \_\_\_\_\_  
 Department of Health Professions \_\_\_\_\_  
 Board of Medicine \_\_\_\_\_  
 6606 West Broad Street, 4th Floor \_\_\_\_\_  
 Richmond, Virginia 23230-1717 \_\_\_\_\_

Name (please print or type) \_\_\_\_\_  
 License # \_\_\_\_\_

State of \_\_\_\_\_ Name of Licensee \_\_\_\_\_

Graduate of \_\_\_\_\_

License number \_\_\_\_\_ Issued effective \_\_\_\_\_

By reciprocity/endorsement \_\_\_\_\_ by examination \_\_\_\_\_

License is: Current \_\_\_\_\_ Lapsed \_\_\_\_\_

Has the applicant's license ever been suspended or revoked?  Yes  No.

If yes, for what reason? \_\_\_\_\_

Derogatory information, if any \_\_\_\_\_

Comments, if any \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed \_\_\_\_\_

Title \_\_\_\_\_

BOARD SEAL \_\_\_\_\_

State Board \_\_\_\_\_

NOTE - TO APPLICANT - PLEASE PROVIDE LICENSE NUMBER AND FORWARD TO STATE INDICATED.

C-27128

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# Proposed Regulations

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## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Coal Mining Examiners

**Title of Regulation:** 4 VAC 25-20-10 et seq. Board of Coal Mining Examiners Certification Requirements (amending 4 VAC 25-20-10 through 4 VAC 25-20-250; repealing 4 VAC 25-20-260 through 4 VAC 25-20-330; adding 4 VAC 25-20-45, 4 VAC 25-20-125, 4 VAC 25-20-129, 4 VAC 25-20-255, 4 VAC 25-20-259, and 4 VAC 25-20-340 through 4 VAC 25-20-430).

**Statutory Authority:** §§ 45.1-161.28, 45.1-161.29, 45.1-161.34 and 45.1-161.35 of the Code of Virginia.

**Public Hearing Date:** April 8, 1997 - 10 a.m.

Public comments may be submitted until May 2, 1997.

(See Calendar of Events section for additional information)

**Basis:** The Board of Coal Mining Examiners (BCME) derives its authority to promulgate certification regulations from subsections B, C, and D of § 45.1-161.28 of the Code of Virginia. This lists certifications the BCME may issue and states that certification shall also be required for such additional tasks as the board may require by regulation. It also states that the board shall have the power to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this title and that regulations shall be promulgated in accordance with the Administrative Process Act. The board is authorized to promulgate regulations establishing guidelines for on-site examinations of mine foremen conducted by mine inspectors pursuant to § 45.1-161.35.

The board is mandated to develop these regulations as prescribed in several sections of the Code of Virginia: Section 45.1-161.29 A says that except as specifically provided by this Act, the board shall prescribe the qualifications for any certification and the examination shall be conducted under such rules, conditions and regulations as the board shall promulgate. Section 45.1-161.34 A states the Board of Coal Mining Examiners shall promulgate regulations establishing requirements for programs of continuing education for holders of certifications and describes each component of the program. Section 45.1-161.35 A says the board shall also revoke the first class mine foreman certificate of any mine foreman who fails to display a thorough understanding of the roof control plan and ventilation for the area of the mine for which he is responsible for implementing, when examined on-site by a mine inspector in accordance with guidelines promulgated by the board.

**Purpose:** The proposed amendments to the certification requirements are needed for the protection of coal miners and those persons in the vicinity of the mine, and the protection of the mine site and property adjacent to the mine. Specifically, the certification requirements provide for safety by ensuring that miners are certified to perform specialized tasks required to mine coal. Improper actions by coal miners are a significant cause of accidents and fatalities. Certification ensures that coal miners have the knowledge and experience necessary to complete their tasks properly and safely.

The amendments implement requirements of the Mine Safety Act and incorporate recommendations resulting from the Executive Order 15 review.

**Substance:** The proposed amendments include new requirements under the Mine Safety Act provide for:

- continuing education programs and sponsors;
- continuing education for each certification;
- examinations for on-site mine foreman and action taken for noncompliance;
- guidelines for on-site examination of a mine foreman;
- hearing and post-hearing procedures; and
- general coal miner certification.

The first major requirement implemented in the regulation is the establishment of continuing education programs and sponsors. The regulation allows a variety of organizations to provide training if they meet the requirements outlined in the regulation. In addition, specific continuing education requirements are included in the description of each certification.

The regulation also includes an examination for the on-site mine foreman when a closure order or violation related to a hazardous roof or ventilation condition is found. The areas of questioning are listed in the regulation along with the actions that will be taken if he refuses to take the exam. Guidelines for giving the exam are also included in the regulation. Hearing and post-hearing procedures are outlined as well.

The most substantial change in the certification requirements is the addition of the requirements for the general coal miner certification established by law. This ensures miners have a basic understanding of safety laws and regulations related to coal mining. The board also proposes that electrical maintenance foreman and chief electrician be broken out into surface, and surface and underground designations so that they will be consistent with the certification requirements of the Mine Safety and Health Administration (MSHA). In addition, the board is amending the regulation to include a requirement that instructors be certified in the area in which they are teaching to ensure qualified training. Now included in the description of the requirements for each certification are the exams each applicant must take, the consequences of not completing the continuing education requirement, and in some cases, whether the applicant must complete his certification requirements under the direction of a certified person and whether appropriately related work experience will be accepted.

Major changes to the advanced first aid requirements include reducing the number of hours of training required and adding toxic and hazardous materials to the list of topics covered. Applicants who have substantial training in first aid do not have to take a class or pass the exam. Other less substantial changes were made in wording and administrative procedures to make the regulation more clear and concise and to accommodate the new law requirements.

**Issues:** The proposed amendments are advantageous to the public because they increase safety on and around the mine site and protect property. Instead of miners being certified for

life in an area where technology has changed work dramatically, the continuing education requirements ensure that miners will be up-to-date in their field. The regulation is also beneficial to industry because it proposes to offer the sponsorship of continuing education training to private sector organizations which are approved by the chief of mines. This gives them maximum flexibility in meeting the requirements. The requirements themselves cover only basic aspects of their job-related responsibilities, mine safety law, regulations, and procedures, so the least amount of time off the job is needed for miners to complete the training.

Similarly, the requirements for the general coal miner certification, only include the most fundamental safety and health training, and knowledge of the most important aspects of Virginia's mine safety law and regulations related to coal mining. This certification provides a qualified pool of workers for industry. This new certification and the one for instructors both increase safety and health on and around the mine site.

The changes in the electrical certifications are beneficial in that they will now be similar to those set forth by MSHA and there will be less confusion among applicants as to the certifications for which they are qualified.

The primary disadvantages of this regulation are that some workers will not be eligible to be hired. The agency will have additional responsibilities associated with processing applications, developing new exam questions, collecting data and keeping records, and training inspectors in the on-site examination of mine foremen when a closure order or serious violation occurs. Other than these additional expenses, there are no disadvantages to the agency or to the Commonwealth.

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 affects.

Summary of the Proposed Regulation. Prior to legislation enacted by the 1994 General Assembly, coal and mineral miners were both certified by the Board of Examiners. The new legislation created separate certification processes for mineral and coal miners, and placed responsibility for these certification processes under distinct boards -- the Board of Mineral Mining Examiners and the Board of Coal Mining Examiners. The proposed regulation sets forth requirements for the certification of coal miners. The primary amendments contained in the proposed regulation are: new requirements for continuing education, increased stringency regarding certification examinations, and new provisions for the on-site examination of mine foremen.

Estimated Economic Impact. There are three primary economic impacts of the proposed coal mining certification requirements. The first is the cost that such requirements impose on coal miners and their employers. With regard to the proposed regulation, these costs are fairly trivial and would largely be borne by employers.

The second economic impact of the proposed mineral mining certification requirements is the increased benefit associated with improved protection of the health, safety, and welfare of coal miners and persons in the vicinity of mine sites. Although the exact magnitude of this benefit would be costly to quantify, it is the opinion of DPB that it certainly outweighs the minimal costs imposed by the proposed regulation.

The third economic impact of the proposed mineral mining certification requirements is the cost associated with administering the program. These costs will be paid for largely out of the existing appropriation to the agency, and also by the \$10 examination fee.

Businesses and Entities Particularly Affected. The proposed regulation particularly those currently employed in the coal mining industry, their employers, and the roughly 150 individuals who seek certification as coal miners each year.

Localities Particularly Affected. Because Virginia's coal mining industry is largely located in the western part of the state, localities in that region of the state would be 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 impose minor additional compliance costs on the coal mining industry. These costs will be largely borne by employers. The proposed regulation will also have a positive impact on the health, safety, and welfare of coal miners and persons in the vicinity of mine sites. Although the exact magnitude of this benefit would be costly to quantify, it is the opinion of DPB that it certainly outweighs the minimal additional compliance costs that are likely to be associated with the proposed regulation.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Mines, Minerals and Energy has no objection to the economic impact statement prepared by the Department of Planning and Budget.

Summary:

*The Board of Coal Mining Examiners is promulgating amendments to its certification requirements to ensure that miners are certified to perform specialized tasks required to mine coal.*

*The amendments include new requirements under the Mine Safety Act, revise and clarify requirements for individual certifications, and add several certifications needed by industry. The amendments include new requirements relating to continuing education programs*

# Proposed Regulations

*and sponsors, continuing education for each certification, on-site examination of mine foremen, hearing procedures, and the general coal miner certification.*

## CHAPTER 20. BOARD OF COAL MINING EXAMINERS CERTIFICATION REGULATIONS REQUIREMENTS.

### PART I. GENERAL AND SPECIFIC REQUIREMENTS FOR CERTIFICATION.

4 VAC 25-20-10. Administration of certification and continuing education programs.

The Board of Mineral Coal Mining Examiners and Board of Coal Mining Examiners have (BCME) has established standards for miners applicants seeking certification. The certification programs are administered by the Division of Mines and the Division of Mineral Mining in the Department of Mines, Minerals and Energy. Requirements for coal and mineral miners are set forth in 4 VAC 25-20-20 through 4 VAC 25-20-40.

4 VAC 25-20-20. General requirements for applicants.

A. Applicants shall complete and submit the Application for Certification Examination, Form BOE-1-A or BOE-1-B DM-BCME-1.

B. Applicants shall complete and submit the Certification Verification of Work Experience Form BOE-2-A or BOE-2-B DM-BCME-2 and documentation of appropriately related work experience for approval by the Division of Mines or the Division of Mineral Mining chief if required for the certification. This information shall be signed by a company official knowledgeable of the experience of the applicant and shall be notarized.

C. Applicants shall submit a valid standard or advanced first aid certificate or card, first responder card, Mine Safety and Health Administration (MSHA) Form 5000-23, or Emergency Medical Technician Certification except where noted.

D. Applicants shall submit a copy documentation of a degrees required or evidence of successfully having completed the, continuing education, and other training if required training for certification.

E. Applicants shall submit a \$10 fee for to take each examination in the form of a cashier's check, certified check or money order. Cash will be accepted if paying in person or to retake all or part of an examination. Refer to § 45.1-161.31 of the Code of Virginia for acceptable forms of payment.

F. The Application for Certification Examination and the fee applicable fees shall be submitted at least five working days prior to the examination.

G. Applicants shall fulfill the requirements of this section and accumulate the required years of experience within no later than five years of taking after passing the examination.

H. Those applicants not meeting the requirements of subsection G of this section shall begin the application process again, submitting a new application and work

experience forms, taking the examination again, and paying the fee. A work experience form shall only be submitted if the applicant needs to update information.

I. Certificate holders shall notify the Division of Mines office within 90 days of a change in their name, their mailing address, or the status of any certification required by this chapter. Failure to do so may prevent the division from notifying the certificate holder of the certification requirements. The last known address reported to the division will be used to mail notices and information.

J. The Division of Mines shall mail notices to certificate holders which states the deadline for completion of requirements and the conditions under which the certificate may be suspended or revoked.

K. For the purposes of this chapter, "appropriately related work experience" means work experience which demonstrates the applicant's skill and level of responsibility in performing tasks, and prepares and equips him to perform in the capacity of a certified person.

4 VAC 25-20-30. Examination requirements for applicants.

A. Applicants for first class mine foreman (coal), surface foreman (coal or minerals), surface foreman, open pit (minerals), underground foreman (minerals), surface blaster (coal or minerals), and underground shot firer (coal), and underground blaster (minerals) certifications shall score at least 85% on each section of the written examination to pass. Applicants for all other certifications shall score at least 80% on each section of the written examination.

B. If all or part of an examination is failed and the applicant wishes to retake the test, then the applicant shall wait at least 10 working days after the initial examination notification letter has been sent before retaking the failed section or sections.

C. If a section of the examination is failed a second time, then the applicant shall retake the entire examination, and shall wait at least 10 working days after the second examination notification letter has been sent before retaking the entire examination.

D. If the examination is failed on the third try, then the applicant shall wait the greater of one year from the date of the first examination or 10 working days from the last examination to after the notification letter has been sent before he may begin the examination cycle again.

E. If one year passes prior to the third take of the examination, the certification cycle shall start over with a new application, work experience forms, fee, and examination. A work experience form shall only be submitted if the applicant needs to update information.

F. An examination may not be taken more than three times in one year.

G. Applicants for coal certifications shall also pass the gas detection examination unless already certified in the area or otherwise gas detection except as noted in the position qualifications certification requirements in Part II (4 VAC 25-20-50 et seq.) of this chapter.

## 4 VAC 25-20-40. Requirements for reciprocity.

A. Reciprocity shall be available for persons certified by states which accept the corresponding Virginia certifications and whose certification requirements are substantially equivalent to Virginia's.

B. If reciprocity is requested by a person certified in another state which accepts the corresponding Virginia certification, a current copy of the pocket card or certificate, grades, and documentation from the other state shall be submitted in addition to fulfilling the requirements in 4 VAC 25-20-20.

~~C. Applicants shall pass the examination on Virginia mining laws and regulations with a score of at least 85%.~~

~~D. C. Applicants for a surface blaster certification shall pass any other examinations required by the Division of Mines, the Division of Mineral Mining and the Division of Mined Land Reclamation with a score of at least 85% and meet any corresponding Division of Mined Land Reclamation requirements.~~

## 4 VAC 25-20-45. Approval of continuing education programs and sponsors.

A. Colleges, universities, training companies, manufacturers, operators, other organizations and persons who wish to sponsor a continuing education program shall submit information to the chief which explains how their program will meet the requirements outlined in this chapter. The request shall include a description of the proposed training, the instructor's name and certification numbers, and the tentative schedule and location. Persons approved to provide training shall notify the division of the final schedule as soon as is practical.

B. Persons who wish to have continuing education approved for credit shall submit information to the chief which explains how the training they attended meets the requirements outlined in this chapter. The request shall include a description of the training, the instructors name and certification numbers, and the date, time and location of the training.

C. The chief shall notify the applicant in writing of his decision to approve or disapprove the training.

## PART II.

### CERTIFICATION REQUIREMENTS FOR COAL MINING.

## 4 VAC 25-20-50. First class mine foreman.

~~A. Applicants shall possess five years mining experience, three of which shall be underground, or appropriately related work experience approved by the Division of Mines and shall pass the first class mine foreman, map, and gas detection examinations.~~

~~B. Applicants may shall be given three years credit for a degree in mining engineering from an approved four-year college or two years credit for a degree in mining technology.~~

C. Applicants shall be at least 23 years of age.

~~D. Beginning January 1, 1997, certified mine foremen shall complete the continuing education requirements in this~~

~~section within two years from the date of their certification and every two years thereafter. Foremen certified prior to January 1, 1997, shall complete the continuing education requirements in this section within two years of this date and every two years thereafter. The holder of the certificate shall submit documentation to the Division of Mines indicating the required continuing education has been completed prior to these deadlines.~~

~~E. The holder of the certificate, in order to receive continuing education credit, shall satisfactorily complete a first class mine foreman continuing education course approved by the chief and taught by a certified instructor or other instructor approved by the chief.~~

~~F. The first class mine foreman shall complete at least four hours of continuing education every two years.~~

~~G. The content of the continuing education course shall include, but is not limited to, the:~~

- ~~1. Virginia Mine Safety Act, Chapter 14.2 (§ 45.1-161.7 et seq.) of Title 45.1 of the Code of Virginia;~~
- ~~2. Virginia coal mine safety regulations;~~
- ~~3. Responsibilities of first class mine foreman;~~
- ~~4. Virginia coal mine safety policies and Division of Mines operators' memos; and~~
- ~~5. Review of fatalities and accident trends in Virginia underground coal mines.~~

~~H. A maximum of four hours in excess of the required hours may be carried over to the next continuing education period.~~

~~I. Failure to complete continuing education requirements shall result in suspension of a person's certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, the certification shall be revoked by the Board of Coal Mining Examiners.~~

~~J. The Division of Mines shall send notice of any suspension to the last address the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last employer address reported to the division.~~

## 4 VAC 25-20-60. First class shaft or slope foreman.

A. Applicants shall possess five years mining work experience at a shaft or slope or appropriately related work experience approved by the ~~Division of Mines~~ chief.

B. Applicants shall pass the first class shaft or slope foreman and gas detection examinations.

~~B. C. Applicants may be given three years credit for a degree in mining engineering or two years credit for a degree in mining technology.~~

## 4 VAC 25-20-70. Surface foreman.

A. Applicants shall possess five years of surface coal mining experience or ~~appropriately related work experience approved by the Division of Mines.~~

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~~B. Applicants may be given three years credit for a degree in mining engineering or two years credit for a degree in mining technology. Applicants shall pass the surface foreman, first aid, and gas detection examinations.~~

C. Beginning January 1, 1997, certified persons shall complete the continuing education requirements in this section within two years from the date of their certification and every two years thereafter. Foremen certified prior to January 1, 1997, shall complete the continuing education requirements in this section within two years of this date and every two years thereafter. The holder of the certificate shall submit documentation to the Division of Mines indicating the required continuing education has been completed prior to these deadlines.

D. The holder of the certificate, in order to receive continuing education credit, shall satisfactorily complete a surface foreman continuing education course approved by the chief and taught by a certified instructor or other instructor approved by the chief.

E. The surface foreman shall complete at least four hours of continuing education every two years.

F. The content of the continuing education course shall include, but is not limited to, the:

1. Virginia Mine Safety Act, Chapter 14.2 (§ 45.1-161.7 et seq.) of Title 45.1 of the Code of Virginia;
2. Virginia coal mine safety regulations;
3. Responsibilities of surface foreman;
4. Virginia coal mine safety policies and Division of Mines operators' memos; and
5. Review of fatalities and accident trends in Virginia surface coal mines.

G. A maximum of four hours in excess of the required hours may be carried over to the next continuing education period.

H. Failure to complete continuing education requirements shall result in suspension of a person's certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, the certification shall be revoked by the Board of Coal Mining Examiners.

I. The Division of Mines shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last employer address reported to the division.

4 VAC 25-20-80. Surface blaster.

A. Applicants shall possess one year blasting experience on a surface coal mine under the direction of a certified surface blaster or appropriately related work experience approved by the Division of Mines chief.

B. Applicants shall also pass the surface blaster examination and the endorsement section of the examination required by the Division of Mined Land Reclamation (DMLR) and meet any corresponding Division of Mined Land

Reclamation DMLR requirements in 4 VAC 25-130-850.14. The gas detection examination is not required.

~~C. Gas examination not required. Certified surface blasters must be recertified in accordance with the DMLR requirements in 4 VAC 25-130-850.15. To remain certified, a blaster shall be recertified every five years by:~~

1. Presenting written proof that he has demonstrated blasting competency in his work during two of the last three years immediately preceding the expiration date; or
2. Retaking and passing the mined land reclamation portion of the blaster exam.

~~D. An applicant who fails the exam shall complete the training required by DMLR regulations in 4 VAC 25-130-850.13 and pass the coal surface blaster's exam prior to recertification.~~

4 VAC 25-20-90. Underground shot firer.

A. Applicants shall possess two years coal mining experience underground, one year of the two years shall have included handling and using explosives underground under the direction of a certified underground shot firer, or appropriately related work experience approved by the Division of Mines chief.

~~B. Applicants shall pass the underground shot firer and gas detection examinations.~~

4 VAC 25-20-100. Underground electrical repairman.

A. Applicants shall possess one year of electrical experience in underground coal mining under the direction of a certified underground electrical repairman or appropriately related work experience approved by the Division of Mines chief.

~~B. Applicants shall pass the underground electrical repairman and gas detection examinations.~~

~~B. C. Applicants may be given six months credit for electrical educational training from a college, technical school, or vocational school.~~

~~D. Applicants who are certified may perform electrical work at underground and surface locations.~~

~~E. Continuing education requirements.~~

~~1. An underground electrical repairman certification shall remain valid if the certified person meets the Mine Safety and Health Administration (MSHA) annual retraining requirements (30 CFR 48.8).~~

~~2. Submission of a copy of documentation sent to MSHA shall be acceptable to meet this requirement.~~

~~3. If a certificate expires because the certificate holder fails to complete the retraining requirements, then the holder of the expired certificate shall meet requirements of Part I (4 VAC 25-20-10 et seq.) of this chapter and pass the electrical repairman examination prior to reinstatement of certification by the board.~~

## 4 VAC 25-20-110. Surface electrical repairman.

A. Applicants shall possess one year of electrical experience in surface coal mining *under the direction of a certified surface electrical repairman* or appropriately related work experience approved by the ~~Division of Mines chief~~.

B. Applicants shall pass the surface electrical repairman and gas detection examinations.

~~B.~~ C. Applicants may be given six months credit for electrical educational training from a college, technical school, or vocational school.

D. Applicants who are certified may perform electrical work at surface locations only.

E. Continuing education requirements.

1. A surface electrical repairman certification shall remain valid if the certified person meets the MSHA annual retraining requirements (30 CFR 48.8).

2. Submission of a copy of documentation sent to MSHA shall be acceptable to meet this requirement.

3. If a certificate expires because the certificate holder fails to complete the retraining requirements, then the holder of the expired certificate shall meet requirements of Part I (4 VAC 25-20-10 et seq.) of this chapter and pass the surface electrical repairman examination prior to reinstatement of certification by the board.

## 4 VAC 25-20-120. Electrical maintenance foreman (surface and underground).

A. Applicants shall hold a valid electrical repairman certification prior to being eligible to take the appropriate electrical maintenance foreman examination and shall pass the electrical maintenance foreman examination.

B. Applicants shall possess three years electrical experience as applied to underground mining or appropriately related work experience approved by the ~~Division of Mines chief~~.

C. Applicants may be given one year credit for an electrical engineering degree, or six months credit for electrical education training from a technical or vocational school.

~~D. Gas examination not required.~~ Applicants who become certified may perform electrical work at surface and underground locations.

E. Applicants must meet continuing education requirements in subsection E of 4 VAC 25-20-100 for an electrical repairman.

## 4 VAC 25-20-125. Electrical maintenance foreman (surface).

A. Applicants shall hold a valid electrical repairman certification prior to being eligible to take the appropriate electrical maintenance foreman examination and shall pass the electrical maintenance foreman examination.

B. Applicants shall possess three years electrical experience as applied to surface mining or appropriately related work experience approved by the chief.

C. Applicants may be given one year credit for an electrical engineering degree, or six months credit for electrical education training from a technical or vocational school.

D. Applicants who become certified may perform electrical work at surface locations only.

E. Applicants must meet continuing education requirements in subsection E of 4 VAC 25-20-100 for an electrical repairman.

## 4 VAC 25-20-129. Chief electrician (surface and underground).

A. Applicants shall hold a valid electrical repairman and electrical maintenance foreman certification prior to being eligible to take the chief electrician examination and shall pass the appropriate chief electrician examination.

B. Applicants shall possess five years electrical experience or appropriately related work experience approved by the chief and shall meet continuing education requirements in subsection E of 4 VAC 25-20-100 for an electrical repairman.

C. Applicants who become certified may perform electrical work at surface and underground locations.

## 4 VAC 25-20-130. Chief electrician (surface).

A. Applicants shall hold a valid electrical repairman and electrical maintenance foreman certification prior to being eligible to take the chief electrician examination and shall pass the appropriate chief electrician examination.

B. Applicants shall possess five years electrical experience ~~as applied to underground mining~~ or appropriately related work experience approved by the ~~Division of Mines chief~~ and shall meet continuing education requirements in subsection E of 4 VAC 25-20-100 for an electrical repairman.

~~C. Applicants may be given two years credit for an electrical engineering degree, or six months credit for electrical educational training from a technical or vocational school.~~ Applicants who become certified may perform electrical work at surface locations only.

~~D. Gas examination not required.~~

## 4 VAC 25-20-140. Hoisting engineer.

A. Applicants shall possess two years of practical mining experience and one year of hoisting experience *under the direction of a certified hoisting engineer* or appropriately related work experience approved by the ~~Division of Mines chief~~. A certified hoisting engineer shall verify the hoisting experience.

B. The applicant shall pass the hoisting engineer and gas detection examinations.

~~B.~~ C. After the examination has been successfully completed, the applicant shall obtain written permission from a mine official to have a representative from the Division of Mines observe the applicant's operation of hoisting equipment at the mine. Permission shall be on company



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stationery, signed by the company official, and submitted to the Division of Mines.

D. A certified hoisting engineer may act as an automatic elevator operator after completing the on-site demonstration required by 4 VAC 25-20-240 C.

4 VAC 25-20-150. Top person.

A. Applicants shall possess one year of practical mining experience with at least 30 days under the direction of a certified top person or appropriately related work experience approved by the ~~Division of Mines~~ chief.

B. Applicants shall pass the top person, first aid, and gas detection examinations.

C. This certification shall not be used in lieu of any other certification.

4 VAC 25-20-160. Preparation plant foreman.

A. Applicants shall possess five years coal mining experience, at least one year shall be at a preparation plant, or appropriately related work experience approved by the ~~Division of Mines~~ chief.

B. Applicants shall pass the preparation plant foreman and gas detection examinations.

B. C. Applicants may be given three years credit for a degree in mining engineering or two years credit for a degree in mining technology.

4 VAC 25-20-170. Dock foreman.

A. Applicants shall possess ~~two years~~ one year experience at a dock or appropriately related work experience approved by the ~~Division of Mines~~ chief.

B. Applicants shall pass the dock foreman and gas detection examinations.

C. This certification shall not be used in lieu of any other certification.

4 VAC 25-20-180. Mine inspector.

A. Applicants shall possess ~~seven years~~ underground mining experience as described in § 45.1-161.20 of the Code of Virginia.

B. Applicants may ~~shall~~ be given three years credit for a degree in mining engineering ~~from an approved four-year college~~.

C. Applicants shall hold a valid First Class Mine Foreman ~~Certification Certificate~~.

D. ~~Gas examination not required.~~ Applicants shall meet the continuing education requirements of 4 VAC 25-20-50 for first class mine foreman.

E. A certificate will not be issued until an applicant is employed by the Department of Mines, Minerals and Energy and shall only remain valid while the person is employed by the department.

4 VAC 25-20-190. Underground diesel engine mechanic.

A. All maintenance work performed on diesel engines used to power equipment in underground coal mines ~~must~~ shall be performed by, or under the direct supervision of, a person possessing a Diesel Engine Mechanic Certificate issued by the Board of Coal Mining Examiners. In addition, no operator of an underground coal mine in the Commonwealth of Virginia may use diesel-powered equipment in the mine without first employing a diesel engine mechanic who is certified by the Board of Coal Mining Examiners.

B. "Maintenance" means *shall include* all of the tasks required to be performed routinely to ensure that the engine exhaust emissions conform with the requirements of the laws and regulations of Virginia, and with the maintenance recommendations of the manufacturer of the engine.

C. Applicants shall possess six months experience as a diesel engine mechanic, complete a diesel engine mechanic course approved by the Division of Mines, or possess appropriately related work experience approved by the ~~Division of Mines~~ chief. A one-year diesel engine mechanic program approved by the ~~division of Mines~~ may be substituted for the diesel engine mechanic experience.

D. Applicants shall pass the underground diesel engine mechanic and gas detection examinations.

D. E. The initial training course for diesel engine mechanics shall include at least 32 hours of classroom instruction and be taught by ~~instructors certified by the Division of Mines~~ a certified instructor.

E. F. To qualify for ~~consideration and approval~~ by the chief, the content of the initial training course for diesel engine mechanics shall include, but ~~is not~~ be limited to:

1. Diesel engine principles;
2. Diesel fuel and fuel systems;
3. Engine exhaust systems;
4. Diesel laws and regulations;
5. Safe use of equipment;
6. Emission controls and, testing procedures and record keeping; and
7. Protection of health of workers exposed to diesel equipment.

F. G. The annual ~~retraining~~ continuing education course for diesel engine mechanics shall include at least four hours of classroom instruction and be taught by ~~instructors certified by the Division of Mines~~ a certified instructor.

G. H. The content of the ~~retraining~~ continuing education course shall include, but not be limited to:

1. Diesel technology;
2. Diesel laws and regulations;
3. Safe use of equipment; and

4. Protection of the health of workers exposed to diesel equipment; and

5. Required emission test procedures and record keeping.

~~H. Gas examination not required.~~

I. A Diesel Engine Mechanic Certificate shall remain valid until December 31 following the anniversary date of the initial training, providing the certification requirements are met, unless the certificate is revoked by the Board of Coal Mining Examiners.

J. The holder of the certificate shall renew the certificate by satisfactorily completing a diesel engine mechanic ~~retraining continuing education~~ course approved by the ~~Division of Mines chief~~ and taught by an ~~a certified~~ instructor approved by the ~~Division of Mines~~.

K. The holder of the certificate shall submit documentation to the Division of Mines indicating the required ~~retraining continuing education~~ has been completed before the expiration of the card.

~~L. If a certificate expires because the certificate holder fails to complete the retraining requirements, then the holder of the expired certificate shall complete the retraining requirements and pass the Diesel Engine Mechanic Examination prior to the reinstatement of certification, unless otherwise approved by the Chairman of the Board of Coal Mining Examiners. Failure to complete the required education shall result in suspension of certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, then the certification shall be revoked by the Board of Coal Mining Examiners.~~

M. The Division of Mines shall send notice of any suspension to the last known address that the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last known employer address.

4 VAC 25-20-200. Diesel engine mechanic instructor.

A. Applicants shall have teaching experience and be a certified diesel engine mechanic or possess appropriately related work experience approved by the ~~Division of Mines chief~~.

~~B. Gas examination not required.~~

~~C. B.~~ Applicants shall maintain the certificate by teaching at least one approved diesel engine mechanic course every two years or at least one approved diesel engine mechanic ~~retraining continuing education~~ course every year.

~~D. The holder of the certificate shall submit documentation C. Documentation shall be submitted to the Division of Mines indicating the required teaching has been completed before the expiration of the card.~~

~~E. The Board of Coal Mining Examiners may revoke the certification, in accordance with § 46.1-161.35 of the Code of Virginia, when the certificate holder fails to meet these validation requirements.~~

~~F. If a certificate expires because the certificate holder fails to complete the teaching requirements, then the holder of the expired certificate shall pass the Diesel Engine Mechanic Instructor Examination prior to the reinstatement of certification.~~

D. Failure to complete the required teaching shall result in suspension of the certification. Applicants may meet the teaching requirement by teaching under the supervision of a certified diesel mechanic engine instructor. If the teaching requirement is not met one year from suspension, then the certification shall be revoked by the Board of Coal Mining Examiners.

E. The Division of Mines shall send notice of any suspension to the last known address that the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last known employer address.

4 VAC 25-20-210. Advanced first aid.

A. Applicants shall complete a 40-hour 24-hour advanced first aid class taught by an approved a certified advanced first aid instructor or possess appropriately related work experience approved by the Division of Mines chief and pass the advanced first aid examination.

B. Approved advanced first aid classes shall cover the following subjects:

1. Introduction to first aid;
2. Respiratory emergencies and artificial respiration cardiopulmonary resuscitation; i.e., heart saver or other four-hour equivalent;
3. Removal of foreign bodies from the throat (the Heimlich Maneuver) and cardiopulmonary resuscitation (GPR);
4. Wounds;
5. Shock;
6. Specific injuries including head and chest;
7. Contamination, infection, and prevention;
8. Burns;
9. Cold exposure and frost bite;
10. Bone and joint injuries;
11. Dressings and bandages;
12. Sudden illness;
13. Emergency underground rescue and transfer;
14. Unusual rescue situations related to mining;
15. Poisoning, toxic and hazardous materials;
16. Transportation of victims; and
17. Heat exposure.

C. Certified persons shall complete eight hours training continuing education biannually, which is taught by an a certified advanced first aid instructor approved by the Division of Mines, to maintain their advanced first aid card.

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D. The holder of the certificate shall submit documentation to the Division of Mines indicating the required ~~training~~ continuing education has been completed before ~~the expiration of the card.~~

E. Applicants holding a valid Emergency Medical Technician (EMT) or first responder card, shall be deemed eligible to receive advanced first aid certification without having to complete the initial advanced first aid class or without passing the advanced first aid examination. All applicants shall complete eight hours of continuing education. The advanced first aid certification shall start on the day the applicant's EMT or first responder certification expires.

F. Failure to complete required continuing education shall result in suspension of the certification pending completion of the continuing education. Applicants may meet the teaching requirement by teaching under the supervision of an advanced first aid instructor. If the continuing education requirement is not met within one year from the suspension date, then the certification shall be revoked by the Board of Coal Mining Examiners.

G. The Division of Mines shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last known employer address.

4 VAC 25-20-220. First aid instructor.

A. Applicants shall be certified as a first aid instructor by the American Red Cross, National Safety Council, Virginia Emergency Medical Services, or ~~other certified instructor~~ as otherwise approved by the Division of Mines chief.

~~B. The first aid instructor card shall be good for two years.~~

~~C. B.~~ The holder of the certificate shall submit documentation to the Division of Mines indicating that they have continued their certification as required by subsection A of this section ~~before the expiration of the card or by teaching one initial or refresher first aid training course for DMME within a two-year period.~~

C. Failure to maintain a certified first aid instructor's certification will result in suspension of their Board of Coal Mining Examiners certification. Applicants may meet the teaching requirement by teaching under the supervision of a first aid instructor. If the certification is not renewed within one year from the suspension date, then the certification shall be revoked by the Board of Coal Mining Examiners.

D. The Division of Mines shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4 VAC 25-20-20 I and the last known address of the employer.

4 VAC 25-20-230. Surface facilities foreman for shops, labs and warehouses.

A. Applicants shall possess one year work experience at a shop, lab or warehouse or appropriately related work experience approved by the Division of Mines chief.

~~B. This certification shall not be used in lieu of the surface foreman, prep plant foreman or dock foreman certifications.~~

~~B. Applicants shall pass the surface facilities foreman and gas detection examinations.~~

~~C. This certification shall not be used in lieu of any other certification.~~

4 VAC 25-20-240. Automatic elevator operator.

A. Applicants shall possess one year actual mining experience ~~working in and around a mine~~ or appropriately related work experience approved by the Division of Mines chief.

~~B. Applicants shall pass the automatic elevator operator and gas detection examinations.~~

~~B. C.~~ The applicant shall obtain written permission from a mine official to have a representative from the Division of Mines observe the applicant's operation of an automatic elevator at the mine. Permission shall be presented on company stationery, signed by the company official, and submitted to the Division of Mines prior to the visit scheduled observation. The applicant shall demonstrate proper use of the equipment.

4 VAC 25-20-250. Gas detection qualification for ~~coal~~ mining.

A. The applicant shall demonstrate the proper use of gas detection equipment ~~at the time of the examination or at the mine and shall pass the gas detection examination.~~

~~B. No~~ The general requirements of 4 VAC 25-20-20 shall not apply ~~except the applicants shall complete Form DM-BCME-1.~~

4 VAC 25-20-255. General coal miner.

A. Applicants employed in Virginia coal mines prior to January 1, 1996, who wish to become certified shall:

1. Meet the requirements of Part I (4 VAC 25-20-10 et seq.) of this chapter;
2. Submit a notarized work experience form verifying mining experience prior to January 1, 1996; and
3. Pass the gas detection examination if they are not already gas detection qualified.

~~B.~~ Applicants seeking certification after January 1, 1996, shall:

1. Meet the requirements of Part I (4 VAC 25-20-10 et seq.) of this chapter.
2. Submit documentation to the Division of Mines verifying completion of new miner training, newly employed experienced miner training, or annual refresher training. The training shall include highlights of the coal mine safety laws of Virginia and the coal mine safety and health regulations of the Division of Mines and the Board of Coal Mining Examiners. The training shall include a demonstration of knowledge or passing of a written examination on Virginia's coal mine safety laws and regulations.
3. Submit Form DM-BCME-3, Verification of Training Completed for General Coal Miner Certification, prior to

commencing work in a coal mine. The form shall be signed by the employee and the instructor and the date they sign will be the effective date of the General Coal Miner certification.

4. Pass the gas detection examination.

4 VAC 25-20-259. BCME instructor.

A. Instructors conducting training used to meet requirements of the Board of Coal Mining Examiners shall be certified unless otherwise approved in this chapter.

B. To become a certified instructor, the person shall:

1. Submit an application showing applicable mining or instructor experience.

2. Agree to monitoring and evaluation by division instructors and demonstrate the knowledge, skill and ability to conduct training.

C. Final approval for certification shall be based on an evaluation of performance.

D. Applicants shall maintain the certificate by teaching at least one approved certification course every two years.

E. The holder of the certificate shall submit documentation to the Division of Mines indicating the required teaching has been completed.

F. Failure to recertify shall result in suspension of the certification pending completion of the required teaching. Applicants may meet the teaching requirement by teaching under the supervision of a certified instructor. If the teaching requirement is not met within one year from the suspension date, then the certification shall be revoked by the Board of Coal Mining Examiners.

G. The Division of Mines shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4 VAC 25-20-20 I and to the last known employer address.

## PART III.

### CERTIFICATION REQUIREMENTS FOR MINERAL MINING. (Repealed.)

4 VAC 25-20-260. Underground foreman. (Repealed.)

A. Applicants shall possess five years mining experience at an underground mineral mine or appropriately related work experience approved by the Division of Mineral Mining.

B. Applicants may be given three years credit for a degree in mining engineering or civil engineering or two years credit for a degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of a first aid course with a minimum of eight hours training.

4 VAC 25-20-270. Surface foreman. (Repealed.)

A. Applicants shall possess five years mining experience, at least one year at a surface mineral mine, or appropriately related work experience approved by the Division of Mineral Mining.

B. Applicants may be given three years credit for a degree in mining engineering or civil engineering or two years credit for a degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of a first aid course with a minimum of eight hours training.

4 VAC 25-20-280. Surface foreman, open pit (not applicable to mines with on-site blasting). (Repealed.)

A. Applicants shall possess five years mining experience, with at least one year at a surface mineral mine or appropriately related work experience approved by the Division of Mineral Mining.

B. Applicants may be given three years credit for a degree in mining engineering or civil engineering or two years credit for a degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of a first aid course with a minimum of eight hours training.

4 VAC 25-20-290. Surface blaster. (Repealed.)

Applicants shall possess one year blasting experience on a surface mineral mine under the supervision of a certified blaster or possess appropriately related work experience approved by the Division of Mineral Mining.

4 VAC 25-20-300. Underground blaster. (Repealed.)

Applicants shall possess two years of work experience in an underground mine with at least one year handling and using explosives underground or possess appropriately related work experience approved by the Division of Mineral Mining.

4 VAC 25-20-310. Mineral mining electrician. (Repealed.)

A. Applicants shall hold a valid journeyman electrical certification issued under Department of Housing and Community Development criteria or possess appropriately related work experience approved by the Division of Mineral Mining.

B. Applicants shall complete training as required by 30 CFR 48 and submit documentation of such training to the Division of Mineral Mining.

C. Employees of licensed electrical contractors having completed hazard training under 30 CFR 48 shall be allowed to complete electrical work at the mine.

4 VAC 25-20-320. Advanced first aid. (Repealed.)

A. Applicants shall complete a 40-hour advanced first aid class taught by an approved advanced first aid instructor or possess appropriately related work experience approved by the Division of Mineral Mining.

B. Subjects which shall be covered in the advanced first aid class are listed in 4 VAC 25-20-240.

4 VAC 25-20-330. First aid instructor. (Repealed.)

Applicants shall be certified as a first aid instructor by the American Red Cross or other certified instructor as approved by the Division of Mineral Mining.

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## PART IV.

### ON-SITE EXAMINATION OF MINE FOREMAN.

#### 4 VAC 25-20-340. Examinations.

A. When a mine is issued a closure order or violation related to a hazardous roof or ventilation condition, the mine foreman may be examined to determine his knowledge of the roof control plan and ventilation requirements in the area of his responsibility at the mine. The examination shall be conducted on-site with consideration given to the duties and responsibilities of the foreman.

B. The chief shall develop a pool of no more than 50 questions addressing the areas listed in subsection D of this section, which shall be approved by the Board of Coal Mining Examiners.

C. A Division of Mines inspector shall administer a written examination using 10 questions from the approved pool. The foreman shall answer eight out of 10 questions correctly to demonstrate thorough understanding of the mine's roof or ventilation plans.

D. The mine foreman may refer to roof control, ventilation, bleeder, or other plans available to him when examined at the surface of an underground mine. He may refer to plans or other information available to him underground when he is examined underground. Any mine foreman performing tasks requiring certification or otherwise directing work in ventilation or roof support shall be able to provide the following information:

1. Describe the roof control requirements set out in the mine's roof control plan in the area of the foreman's responsibility.
2. Describe the frequency and methods of any required testing of roof, face and ribs in the area of the foreman's responsibility.
3. Show how the roof control practices in the area of the foreman's responsibility comply with the requirements of the roof control plan.
4. Describe the frequency and contents of any pre-shift, on-shift, and when applicable, weekly examinations of mine ventilation required in the area of the foreman's responsibility.
5. Describe the requirements for action under the mine's fan stoppage plan in the area of the foreman's responsibility.
6. Describe any requirements for face ventilation controls used in the area of the foreman's responsibility.
7. Describe any requirements under the mine bleeder plan in the area of the foreman's responsibility.
8. Describe the requirements for mine ventilation controls such as regulators, ventilation doors, and other similar controls in the area of the foreman's responsibility.
9. Describe the minimum volume of air required in the area of the foreman's responsibility.

10. Describe the minimum requirements for quality of air (oxygen, carbon dioxide, and methane) in the area of the foreman's responsibility.

11. Describe the procedure to follow in the area of the foreman's responsibility upon an accumulation of methane at:

- a. 1.0% or greater not less than 12 inches from the roof, face, ribs, or floor;
- b. Greater than 1.0% in a split that ventilates any group of active areas;
- c. 1.5% (or 2.0% as applicable) in a split of air returning from areas where coal is being extracted or is capable of being extracted; or
- d. 5.0% or greater in any area of the mine.

E. The Division of Mines inspector completing an examination of a foreman under this part shall discuss the results of the exam with the foreman before leaving the mine.

#### 4 VAC 25-20-350. Actions brought before the Board of Coal Mining Examiners.

A. The examination shall be the basis of any enforcement action brought before the board for failure to display a thorough understanding of the roof control plan and ventilation for the area of the mine for which he is responsible.

B. Refusal of the foreman to submit to examination will constitute just cause to be brought before the board and may result in suspension of certification and revocation of certification by the board.

## PART V.

### GUIDELINES FOR ON-SITE EXAMINATION OF A MINE FOREMAN.

#### 4 VAC 25-20-360. Purpose and scope.

A. Section 45.1-161.35 A of the Code of Virginia provides for on-site examination of a mine foreman by a mine inspector to determine that the foreman has a thorough understanding of the roof control plan and ventilation for the area of the mine for which he is responsible. The procedures followed by the inspector in conducting an on-site examination of a mine foreman must be consistent with requirements in Part IV (4 VAC 25-20-340 et seq.) of this chapter. This includes the use of questions approved by the board which are administered in accordance with this chapter.

B. The purpose of examining a mine foreman is to measure and evaluate his knowledge and understanding of mine roof control and ventilation for the areas of his responsibility. Mine foremen are required to demonstrate this and other elements of mine safety when they become certified to act as mine foremen in the Commonwealth of Virginia.

C. An on-site examination by the mine inspector will only be initiated when there is just cause that the foreman has failed to maintain safe roof control and ventilation for his area

of responsibility at the mine. Just cause for an on-site examination of a mine foreman by a mine inspector must be based on issuance of an order of closure or violation related to a hazardous condition pertaining to roof control or ventilation.

4 VAC 25-20-370. Determination by the inspector to conduct an on-site examination.

A. An order of closure issued in accordance with § 45.1-161.91 of the Code of Virginia, or notice of violation issued in accordance with § 45.1-161.90 of the Code of Virginia that relate to roof control or ventilation hazards, shall be reviewed at the time it is issued for evidence of mine foreman negligence, which could require on-site examination of the mine foreman by the mine inspector. In making the determination whether or not to conduct an on-site examination, the mine inspector must establish the following:

1. The roof or ventilation hazards cited resulted from performing his duties with less than ordinary care. Ordinary care means the use of such care as a reasonably prudent and careful mine foreman could use under similar circumstances.
2. The mine foreman knew or should have known of the existence of the hazardous condition.

B. When these criteria have been established, the mine inspector will undertake an on-site examination of the mine foreman.

4 VAC 25-20-380. Notification of intent to conduct an on-site examination.

A. The mine inspector will notify the mine foreman of an order of closure or notice of violation for a hazardous condition related to roof control or ventilation in the area of the foreman's responsibility. The inspector will let him know that he intends to invoke the provision of the law for an on-site examination of the foreman.

B. The following approach will be taken by the mine inspector in giving notice to the mine foreman:

1. The notification will be given by the inspector in private.
2. The inspector will be courteous and professional in explaining the reason for the on-site examination.
3. The inspector will explain the procedures he will follow in conducting the on-site examination.

4 VAC 25-20-390. Procedures for conducting on-site examination.

A. The on-site examination of the mine foreman will be handled in such a way as to not prevent the foreman from performing his duties. The on-site examination must be conducted, to the extent possible, by the end of the shift or immediately on arrival outside on the surface on the day the order of closure or notice of violation is issued.

B. These procedures will be followed in conducting the on-site examination:

1. The examination will be administered in a written format.

2. Ten questions selected by the mine inspector will be written out by the mine inspector on paper for use in the on-site examination.

3. The mine inspector will choose the 10 questions from the approved pool.

4. The mine inspector will choose the 10 questions related to the condition or practice being cited by the order of closure or notice of violation.

5. The mine foreman will be provided sufficient time to write out his answers to the questions. He may refer to plans or other information available to him. However, no other person may assist him in answering the questions. The mine inspector will remain with the mine foreman during the written examination.

6. The examination may be administered underground at the dinner hole or other suitable location. If necessary, it can be conducted on the surface promptly upon the mine foreman's arrival outside.

7. The mine inspector will read the questions being asked to the mine foreman if requested and should answer any questions from the mine foreman which could help to clarify his understanding of the questions.

8. The mine foreman may respond to the questions orally. In this case, the mine inspector will record the response of the mine foreman to each question on the examination form, have the foreman sign the form as accurately representing the response, and provide the mine foreman a copy promptly upon completion.

4 VAC 25-20-400. Results of the on-site examination.

A. The mine inspector will promptly check the responses given by the mine foreman for each of the 10 questions asked. At least eight of the 10 questions must be answered correctly to successfully complete the on-site examination. The results of the on-site examination will be reviewed promptly with the mine foreman. A copy of the written on-site examination completed by the mine foreman will be provided to him promptly by the mine inspector.

B. The circumstances related to the on-site examination of the mine foreman, including pass or fail results, will be described in the inspector's report, and will be reviewed as part of the closeout of the scheduled inspection activity for the mine.

C. The chief will notify the mine foreman and mine operator in writing of the petition to the BCME for a formal hearing. Should a petition for a hearing be requested, the hearing would be conducted in accordance with Part VI (4 VAC 25-20-410 et seq.) of this chapter.

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## PART VI. HEARING PROCEDURES.

### 4 VAC 25-20-410. Prehearing procedures.

A. Any person wishing to bring any matter before the board shall use these procedures except for good cause shown before the board.

B. Petitions for action by the board shall be in writing, shall state the grounds for the petition before the board, shall state the relief sought, and shall include any applicable supporting material, as set out below:

1. For certification to be revoked in accordance with § 45.1-161.35 B of the Code of Virginia, the petitioner or petitioners shall submit specific charges which set forth the reasons why the certification should be revoked.

2. To request a reexamination for a certificate revoked pursuant to § 45.1-161.35 of the Code of Virginia, the holder of the revoked certificate shall submit a request for reexamination with evidence that the cause for revocation of his certificate has ceased to exist.

3. For other petitions before the board, the petitioner shall submit a written petition explaining the request being made and the relief being sought.

C. The Division of Mines shall assign a docket number to all petitions before the board. The division shall provide written notice to all parties to any proceeding in accordance with § 45.1-161.35 D of the Code of Virginia and the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

D. Persons wishing to address the board, except those making a petition for board action, will be provided an opportunity at the conclusion of the board meeting.

E. Persons shall make any request for change to the board's regulations in accordance with the Department of Mines, Minerals and Energy and the board's Public Participation Guidelines, 4 VAC 25-10-10 et seq.

### 4 VAC 25-20-420. Conduct of formal hearings.

A. All hearings shall be heard during scheduled meetings of the board, on a case-by-case basis, in the order the petitions appear on the docket.

B. Hearings shall be held in the Department of Mines, Minerals and Energy, Big Stone Gap office, unless a different location is agreed to by mutual consent of the parties to the hearing and the Chairman of the Board of Coal Mining Examiners.

C. Hearings requiring case decisions shall be recorded.

D. Each party may be represented by an individual of choice or legal counsel.

E. The chairman, with the concurrence of the majority of the board present at a hearing, shall have the authority to limit evidence to that relevant to the issues. Any proofs, rebuttal, and cross examination which are immaterial, insubstantial, privileged, or repetitive may be excluded.

F. The chairman may continue, adjourn and reconvene the hearing as necessary.

G. Decisions of the board shall be made based on a preponderance of the evidence placed before it.

### 4 VAC 25-20-430. Post-hearing procedures.

A. The board may require submittal of briefs from the parties to a hearing concerning the issues of record before the board. The board shall schedule submittal of briefs at the time of the hearing.

B. Transcripts of the proceeding shall be provided on request to any party to the hearing at cost. Motions to correct any transcript shall be filed within 10 working days after delivery of the transcript, and shall be ruled on by the chief within 10 working days after his receipt of the motion. Any corrections shall be sent to all parties to the hearing who have received a copy of the transcript.

C. Decisions shall be rendered in writing and communicated to parties to the proceeding in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

VA.R. Doc. No. R97-295; Filed February 12, 1997, 10:44 a.m.

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## Virginia Gas and Oil Board

**Title of Regulation:** 4 VAC 25-160-10 et seq. Virginia Gas and Oil Board Regulations (amending 4 VAC 25-160-10 through 4 VAC 25-160-70, 4 VAC 25-160-100 through 4 VAC 25-160-150, and 4 VAC 25-160-200; repealing 4 VAC 25-160-160, 4 VAC 25-160-170, 4 VAC 25-160-180, and 4 VAC 25-160-210 through 4 VAC 25-160-230).

**Statutory Authority:** § 45.1-361.15 of the Code of Virginia.

**Public Hearing Date:** April 8, 1997 - 10 a.m.

Public comments may be submitted until May 2, 1997.  
(See Calendar of Events section  
for additional information)

**Basis:** The Virginia Gas and Oil Board has the authority to promulgate this regulation under § 45.1-361.15 of the Code of Virginia. This section states that the board will foster, encourage and promote the safe and efficient exploration for and development, production and conservation of the gas and oil resources located in the state and administer procedures for the recognition and protection of the rights of gas or oil owners with interests in gas or oil resources contained within a pool. Section 45.1-361.15 B states that the board has the authority to issue rules, regulations and orders to prevent waste through the design spacing, or unitization of wells, pools, or fields and to protect correlative rights.

**Purpose:** The recommended amendments will streamline the regulatory process, eliminate unnecessary requirements, clarify language, and implement changes based on the board's, the Department of Mines, Minerals and Energy's,

gas and oil operators', and citizens' experiences with the regulation since it was promulgated in 1991.

**Substance:** The Virginia Gas and Oil Board is proposing amendments to the Virginia Gas and Oil Board Regulation to incorporate recommendations resulting from the Executive Order 15 review and to reflect legislative changes to the Virginia Gas and Oil Act.

These amendments include:

- Specifying information to be included with notices of hearings before the board instead of requiring the full application be included with the notices;
- Changing the notification for amendments to pooling orders to require only affected persons be notified;
- Clarifying the requirement for use of the State Plane Coordinate System in descriptions of pool and unit boundaries instead of using a metes and bounds description;
- Adding the requirement to account for pending permit applications as well as existing permits in requests for exceptions to statewide spacing;
- Extending the deadline for operators to file the results of people's elections under forced pooling orders from 20 to 45 days after the close of the election period;
- Removing the requirement for operators to file drilling and operating costs reports if no one elects to share in the operation of a well under a forced pooling order;
- Adding information on payments to escrow agents to recordkeeping requirements;
- Simplifying the requirements to transfer operation of a unit under a forced pooling order to a new company; and
- Extending the sunset date for board orders from one to two years if there is no commencement of activity in the unit.

**Issues:** The proposed changes are advantageous to the public because they will promote more efficient operation of the board by streamlining the regulatory process and eliminating unnecessary requirements. The amended regulation will be easier for the public to understand because of language clarifications.

The board does not believe the proposed changes present any disadvantages to the public.

**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 impacts.

**Summary of the proposed regulation.** This regulatory change consists primarily of small procedural changes that streamline the regulatory process by fine-tuning some of the permitting procedures. Most of the changes either clarify existing language or eliminate duplicative or unnecessary notice and permitting steps. One substantive change is to extend the life of board orders from one to two years.

**Estimated Economic Impact.** These regulatory changes should have a small but positive impact on Virginia's economy. The savings will arise from reduced administrative costs associated with oil and gas permits and pooling orders. This will reduce costs for private firms and individuals and will reduce the amount of DMME staff time required to administer these regulations.

There do not appear to be any significant costs associated with these changes. Individuals with economic interests in oil and gas operations do not have a reduced access to information or regulatory relief. The changes do not increase enforcement costs.

The magnitude of the benefits associated with these changes would be quite difficult to measure accurately. Since there do not appear to be any costs associated with these small procedural changes, it is not necessary for us to measure the magnitude of the benefits in order to conclude that these changes to Virginia oil and gas regulations will have a small but positive impact on Virginia's economy.

**Businesses and entities affected.** The immediate impact of these changes will be felt by those firms and individuals with interests in active gas, oil or geophysical resources permitted or pooled under these regulations. The number of these entities is not available at this time. In principle, these changes will affect all persons with an ownership interest in property with potentially exploitable oil, gas or geophysical resources. The number of such entities is not known.

**Localities particularly affected.** The impact of these changes will be felt primarily in Buchanan, Dickenson, Russell, Scott, Lee, Tazewell and Wise counties, areas with significant, active gas and oil operations.

**Projected impact on employment.** It is not expected that this regulation will have any impact on employment in Virginia.

**Effects on the use and value of private property.** By reducing the costs associated with field unitization, these changes should increase, albeit slightly, profits from extracting oil and gas. This in turn should increase the value of the property on which these reserves are located. The magnitude of this change will be too small to measure but does represent a net increase in property values.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** DMME concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Virginia Gas and Oil Board regulation.



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# Proposed Regulations

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## Summary:

The proposed amendments incorporate recommendations resulting from the Executive Order 15 (94) review and reflect legislative changes to the Virginia Gas and Oil Act.

The proposed amendments include:

- Specifying information to be included with notices of hearings before the board instead of requiring the full application be included with the notices;
- Changing the notification for amendments to pooling orders to require only affected persons be notified;
- Clarifying the requirement for use of the State Plane Coordinate System in descriptions of pool and unit boundaries instead of using a metes and bounds description;
- Adding the requirement to account for pending permit applications as well as existing permits in requests for exceptions to statewide spacing;
- Extending the deadline for operators to file the results of people's elections under forced pooling orders from 20 to 45 days after the close of the election period;
- Removing the requirement for operators to file drilling and operating costs reports if no one elects to share in the operation of a well under a forced pooling order;
- Adding information on payments to escrow agents to recordkeeping requirements;
- Simplifying the requirements to transfer operation of a unit under a forced pooling order to a new company; and
- Extending the sunset date for board orders from one to two years if there is no commencement of activity in the unit.

## 4 VAC 25-160-10. Definitions.

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

"Act" means the Virginia Gas and Oil Act of 1990, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia.

"Applicant" or "petitioner" means a person who files an application, petition, appeal or other request for board action.

"Complete application" means all the materials required to be filed by the applicant under this chapter.

"Department" means the Department of Mines, Minerals and Energy.

"Director" means the Director of the Department of Mines, Minerals and Energy or his authorized agent.

"Directional survey" means a well survey that measures the degree of departure of a hole, or distance, from the vertical and the direction of departure.

"Division" means the Division of Gas and Oil of the Department of Mines, Minerals and Energy.

"Election" means the performance of an act within the time established or required by statute, order or regulation. An election required to be made by board order or regulation must be in writing and (i) be personally delivered to the person or agent of the person described in the order or regulation by the date established or required, or (ii) be mailed to the person or agent of the person described in the order or regulation at the address stated therein and be postmarked by the United States Postal Service before midnight on the date established or required.

"Field" means the general area underlain by one or more pools.

"Gas/oil ratio" means the product of the number of Mcf of natural gas produced from a well divided by the number of barrels of oil produced from the well as determined by a gas/oil ratio test.

"Gas well" means any well which produces or appears capable of producing a ratio of 6,000 cubic feet (6 Mcf) of gas or more to each barrel of oil, on the basis of a gas-oil ratio test.

"Inclination survey" means a well survey to determine the deviation, using the surface location of the well as the apex, of a well bore from the true vertical beneath the apex on the same horizontal subsurface plane.

"Mcf" means, when used with reference to natural gas, 1,000 cubic feet of gas at a pressure base of 14.73 pounds per square inch gauge and a temperature base of 60°F.

"Metes and bounds" means the boundary lines of land, with their terminal points, angles and distances.

"~~Mine development plan~~" or "~~Registered operations plan~~" means a ~~plan permit or license application~~ filed with the Division of Mines or the ~~Division of Mined Land Reclamation~~ as part of the ~~licensing or permitting~~ for the legal permission to engage in extraction of coal resources.

"Oil well" means any well which produces or appears capable of producing a ratio of less than 6,000 cubic feet (6 Mcf) of gas to each barrel of oil, on the basis of a gas-oil ratio test.

"Pooling" means the combining of all interests or estates in a gas, oil or coalbed methane drilling unit for the development and operations thereof. Pooling may be accomplished either through voluntary agreement or through a compulsory order of the board.

"Respondent" means a person named in an application, petition, appeal or other request for board action and against whom relief is sought by the applicant, or a person who under the terms of a board order, is required to make an election.

"Unit operator" means the gas or oil owner designated by the board to operate in or on a pooled unit.

## 4 VAC 25-160-20. Authority and applicability.

A. This chapter is promulgated by the Virginia Gas and Oil board pursuant to § 45.1-361.15 of the Code of Virginia.

~~B. This chapter replaces the emergency Conservation Regulations for Gas and Oil, 4 VAC 25-160-10 et seq.~~

C. B. As provided for in the Virginia Acts of Assembly, 1990, Chapter 92, all field rules and orders issued pursuant to the provisions of the Oil and Gas Act of 1982, Chapter 22 (§ 45.1-286 et seq.) of Title 45.1 of the Code of Virginia shall remain in force and effect until modified or revoked pursuant to the provisions of the Gas and Oil Act of 1990, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia. The requirements of this chapter are in addition to requirements of field rules and orders.

**4 VAC 25-160-30. Administrative provisions.**

A. The Virginia Gas and Oil Board shall meet on the third Tuesday of each calendar month unless no action is required by the board or unless otherwise scheduled by the board. All hearings shall be scheduled in accordance with the requirements for notice by publication in § 45.1-361.19 of the Code of Virginia. Except where otherwise established by the Act, the board may establish deadlines for filing materials for meetings or hearings scheduled on other than the third Tuesday of each month.

B. Applications to the board must be filed by the following deadlines:

1. All applications, petitions, appeals or other requests for board action must be received by the division at least 30 calendar days prior to the regularly scheduled meeting of the board. *If the 30th day falls on a weekend or a legal holiday, the deadline shall be the prior business day.*

2. When required, *two copies* of the following material must be filed with the division at least seven calendar days prior to the regularly scheduled meeting of the board in order for the application to be considered a complete application:

a. The affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and 4 VAC 25-160-40 of this chapter; and

b. Proof of notice by publication in accordance with 4 VAC 25-160-40 D of this chapter.

C. A complete application that is not filed by the deadlines of this subsection shall be carried over to the next scheduled meeting of the board. A submission that does not contain a complete application shall not be considered by the board until the application is complete.

D. The division shall assign a docket number to each application or petition ~~at the time of filing, and shall notify the applicant of the docket number.~~ The docket number shall be referenced when submitting material regarding the application or petition.

E. In addition to the other requirements of this chapter, applications to the board shall meet the following standards:

1. Each application for a hearing before the board shall be headed by a caption which shall contain a heading including:

- a. "Before the Virginia Gas and Oil board";
- b. The name of the applicant;
- c. The relief sought; and
- d. The docket number assigned by the division.

2. Each application shall be signed by the applicant, an authorized agent of the applicant, or an attorney for the applicant, certifying that, "The foregoing application to the best of my knowledge, information, and belief is true and correct."

3. Exhibits shall be identified by the docket number and an exhibit number and may be introduced as part of a person's presentation.

4. Persons shall submit 10 sets of each application and exhibit. Each person offering exhibits into evidence shall also have available a reasonably sufficient number of exhibits for other persons who are subject to the provisions of §§ 45.1-361.19 and 45.1-361.23 of the Code of Virginia and are expected to be in attendance at the hearing.

F. Applications for the establishment of units, spacing or pooling shall be accompanied by a \$100 nonrefundable fee, payable to the Treasurer of Virginia.

G. All parties in any proceeding before the board are entitled to appear in person or *be represented* by counsel or other qualified representative, as provided for in the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

**4 VAC 25-160-40. Notice of hearings.**

~~A. Each applicant for a hearing to establish field rules, drilling units or who seeks to pool interests in a drilling unit under §§ 45.1-361.20, 45.1-361.21 or 45.1-361.22 of the Code of Virginia shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia.~~

B. A. Each applicant for a hearing to establish an exception to statewide spacing under § 45.1-361.17 of the Code of Virginia shall provide notice by certified mail, return receipt requested, to all gas, oil, coal or mineral owners having an interest underlying any tract located within the distances provided in § 45.1-361.17 of the Code of Virginia or the distance to the nearest well completed in the same pool, whichever is less. Each applicant for a hearing to establish an exception to a well location provided for in a drilling unit established by an order of the board shall provide notice by certified mail, return receipt requested, to all gas, oil, coal or mineral owners having an interest underlying the unit where the exception is requested.

C. B. Each applicant shall include, *in or with* the mailed notice of the hearing, ~~a copy of his application or petition to the board.~~ *required under § 45.1-361.19 of the Code of Virginia, the following information:*

- 1. *The name and address of the applicant and the applicant's counsel, if any;*

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2. In the case of an application to vacate or amend an order, identification of the order to be vacated or amended;

3. A statement of the relief sought and proposed provisions of the order or proposed order;

4. Citations of statutes, rules, orders and decided cases supporting the relief sought;

5. A statement of the type of well or wells (gas, oil or coalbed methane gas);

6. a. For a pooling order, the notice should include: a plat showing the size and shape of the proposed unit and boundaries of tracts within the unit. The location of the proposed unit shall be shown in accordance with the Virginia Coordinate System of 1927, as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System. The proposed unit shall also be located by taking the measured distance in feet from the unit to the nearest 2.5 minute longitude line to the east and the nearest 2.5 minute latitude line to the north on the 7.5 minute (1:24,000) topographic map, with a notation of the 7.5 minute topographic map name and series. The plat containing the percentage of acreage in each tract shall be certified by a licensed land surveyor or a licensed professional engineer and attested by the applicant as to its conformity to existing orders issued by the board;

b. For a field rule, the notice should include: a description of the pool or pools in the field, the boundaries of the field, information on the acreage and boundaries of the units proposed to be in the field and any proposed allowable production rates; or

c. For a location exception, the notice should include: a description of the proposed well location in relation to other wells within statewide spacing limits or in relation to the allowable area for drilling within a unit;

7. A description of the interest or claim of the respondent being notified;

8. A description of the formation or formations to be produced;

9. An estimate of the amount of reserves of the unit;

10. An estimate of the allowable costs in accordance with 4 VAC 25-160-100; and

11. How interested persons may obtain additional information or a complete copy of the application.

D. C. When the identity or location of any person to whom notice is required to be given in accordance with subsection A or B of this section is unknown at the time the applicant applies for a hearing before the board, the applicant for the hearing shall cause a notice to be published in a newspaper of general circulation in the county, counties, city, or cities where the land or the major portion thereof which is the subject of the application is located. The notice shall include:

1. The name and address of the applicant;

2. A description of the action to be considered by the board;

3. A map showing the general location of the area which would be affected by the proposed action or a description which clearly describes the location or boundaries of the area which would be affected by the proposed action sufficient to enable local residents to identify the area;

4. The date, time and location of the hearing at which the application is scheduled to be heard; and

5. Where How interested persons may obtain additional information or a complete copy of the application.

E. D. Notice of a hearing made in accordance with § 45.1-361.19 of the Code of Virginia or this section shall be sufficient, and no additional notice is required to be made by the applicant upon a postponement or continuance of the hearing.

F. E. Each applicant for a hearing to modify an order established under § 45.1-361.20 of the Code of Virginia shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia to each person having an interest underlying the tract or tracts in the area to be affected by the proposed modification.

G. F. An applicant filing a petition to modify a forced pooling order established under § 45.1-361.21 or § 45.1-361.22 of the Code of Virginia to change the unit operator based on a change of in the corporate name of the unit operator; a change of in the corporate structure of the unit operator; or a transfer of the unit operator's interests to any single subsidiary, parent or successor by merger or consolidation is not required to provide notice. ~~Each other applicant~~ Other applicants for a hearing to modify a forced pooling order shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia to each ~~person having an interest in the unit which~~ respondent named in the order to be modified whose interest may be affected by the proposed modification.

#### 4 VAC 25-160-50. Applications for field rules.

A. Each application filed under § 45.1-361.20 of the Code of Virginia to establish or modify a field rule, a drilling unit or drilling units shall contain:

1. The name and address of the applicant and the applicant's counsel, if any;

2. In the case of an application to vacate or amend an order, identification of the order to be vacated or amended;

3. A statement of the relief sought and the proposed provisions of the order or a proposed order;

4. Citations of statutes, rules, orders, and decided cases supporting the relief sought;

5. In the case where a field rule is proposed to be established or modified:

a. A statement of the type of field (gas, oil or coalbed methane gas);

- b. A description of the proposed formation or formations subject to the petition; and
- c. A description of the pool or pools included in the field, based on geological and technical data, including ~~a metes and bounds description of the boundaries of the pool or pools and field, referenced to and located on a United States Geological Survey, 7.5 minute topographic map or maps. Effective October 1, 1992, the Virginia Coordinate System of 1927 as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System, shall be used to describe and locate the boundaries of the pool or pools. Applicants are encouraged to use the State Plane Coordinate System prior to October 1, 1992; shown in accordance with the Virginia Coordinate System of 1927, as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System. The boundaries of the pool or pools and field shall also be located by taking the measured distance in feet from the unit to the nearest 2.5 minute longitude line to the east and the nearest 2.5 minute latitude line to the north on the 7.5 minute (1:24,000) topographic map, with a notation of the 7.5 minute topographic map name and series;~~
6. In the case where a drilling unit or units are proposed to be established or modified:
- a. A statement of the acreage to be embraced within each drilling unit;
- b. A description of the formation or formations to be produced by the well or wells in the unit or units; and
- c. ~~A metes and bounds description of the boundaries of the drilling unit or units, referenced to and located on a United States Geological Survey, 7.5 minute topographic map or maps in accordance with the standards for use of the State Plane Coordinate System of shown in accordance with subdivision A 5 c of this section;~~ *The boundaries of the drilling unit or units, referenced to and located on a United States Geological Survey, 7.5 minute topographic map or maps in accordance with the standards for use of the State Plane Coordinate System of shown in accordance with subdivision A 5 c of this section;*
7. A statement of the amount of acreage to be included in the order;
8. A statement of the proposed allowable production rate or rates and supporting documentation, if applicable;
9. Evidence that any proposal to establish or modify a unit or units for coalbed methane gas will meet the requirements of § 45.1-361.20 C of the Code of Virginia;
10. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and 4 VAC 25-160-40 of this chapter; *and*
11. When required, proof of notice by publication in accordance with 4 VAC 25-160-40 D of this chapter; *and*
- ~~12. Copies of proposed exhibits.~~

#### **4 VAC 25-160-60. Applications for exceptions to minimum well spacing requirements.**

A. Applications for an exception to statewide spacing under § 45.1-361.17 of the Code of Virginia or under a field rule issued by the board shall contain the following:

1. The name and address of the applicant and the applicant's counsel, if any;
2. In the case of an application for an exception to spacing established in a field rule, identification of the order governing spacing in the field;
3. A statement of the proposed location of the well in relation to permitted wells *permitted or for which a permit application is pending before the Division of Gas and Oil at the time of filing* within the distances prescribed in § 45.1-361.17 of the Code of Virginia;
4. A description of the formation or formations to be produced by the well proposed for alternative spacing and the formation or formations produced by neighboring wells *identified in subdivision 3 of this section;*
- ~~5. A description of the spacing of other wells producing from the formation or formations to be produced by the well;~~
- ~~6. 5. A description of the conditions justifying the alternative spacing;~~
- ~~7. 6. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with 4 VAC 25-160-40 of this chapter; and~~
- ~~8. 7. When required, proof of notice by publication in accordance with 4 VAC 25-160-40 D of this chapter; and~~
- ~~9. Copies of proposed exhibits.~~

#### **4 VAC 25-160-70. Applications to pool interests in a drilling unit: conventional gas or oil or no conflicting claims to coalbed methane gas ownership.**

A. Applications filed under § 45.1-361.21 of the Code of Virginia to pool interests in a drilling unit for conventional gas or oil or for coalbed methane gas where there are no conflicting claims to ownership of the coalbed methane gas, except as provided for in subsection B of this section, shall contain the following:

1. The name and address of the applicant and the applicant's counsel, if any;
2. In the case of an application to vacate or amend an order, identification of the order to be vacated or amended;
3. A statement of the relief sought and proposed provisions of the order or a proposed order;
4. Citations of statutes, rules, orders, and decided cases supporting the relief sought;
5. A statement of the type of well or wells (gas, oil or coalbed methane gas);
6. The permit number or numbers, if any have been issued;

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~~7. A metes and bounds description of area to be pooled;~~

~~8. 7. A map plat showing the size and shape of the proposed unit and boundaries of tracts within the unit, which effective October 1, 1992, shall be referenced to the State Plane Coordinate System, shown in accordance with the Virginia Coordinate System of 1927, as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System. The proposed unit shall also be located by taking the measured distance in feet from the unit to the nearest 2.5 minute longitude line to the east and the nearest 2.5 minute latitude line to the north on the 7.5 minute (1:24,000) topographic map, with a notation of the 7.5 minute topographic map name and series. Also included shall be the names of owners of record of the tracts, and the percentage of acreage in each tract to the total acreage of the unit, certified by a licensed land surveyor or a licensed professional engineer and attested by the applicant as to its conformity to existing orders issued by the board;~~

~~9. 8. A description of the status of interests to be pooled in the unit at the time the application is filed;~~

~~10. 9. For an application to pool a coalbed methane gas unit, a statement of the percentage of the total interest held by the applicant in the proposed unit at the time the application for the hearing is filed;~~

~~11. 10. A statement of the names of owners and the percentage of interests to be escrowed under § 45.1-361.21 D of the Code of Virginia for each owner whose location is unknown at the time the application for the hearing is filed;~~

~~12. 11. A description of the formation or formations to be produced;~~

~~13. 12. An estimate of production over the life of well or wells, and, if different, an estimate of the recoverable reserves of the unit;~~

~~14. An estimate of the amount of reserves of the unit;~~

~~15. 13. An estimate of the allowable costs in accordance with 4 VAC 25-160-100 of this chapter;~~

~~16. 14. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and 4 VAC 25-160-40 of this chapter; and~~

~~17. 15. When required, proof of notice by publication in accordance with 4 VAC 25-160-40 D of this chapter; and~~

~~18. Copies of proposed exhibits.~~

B. Applications to amend an order pooling interests in a drilling unit may be filed by written stipulation of all persons affected. The application is not required to contain the information specified in subsection A of this section, but shall contain the proposed amended language to the order, shown by interlineation.

C. After the time for election provided in any pooling order has expired, the unit operator shall file an affidavit with the board stating whether or not any elections were made. If any

elections were made, the affidavit shall name each respondent making an election and describe the election made. ~~If The affidavit shall state if no elections were made or if any response was untimely, the affidavit shall so state.~~ The affidavit shall be accompanied by a proposed supplemental order to be made and recorded to complete the record regarding elections. The affidavit and proposed supplemental order shall be filed by the unit operator within ~~20~~ 45 days after of the last day on which a timely election could have been delivered or mailed, or within ~~20~~ 45 days after of the last date for payment set forth in the pooling order, whichever occurs last. The applicant shall mail a true and correct copy of any supplemental order to all persons identified in the supplemental order.

## 4 VAC 25-160-100. Allowable cost which may be shared in pooled gas or oil operations.

A. The unit operator of a pooled unit may share all reasonable costs of operating the unit, including a reasonable supervision fee, with other participating and nonparticipating operators, as provided for in § 45.1-361.21 of the Code of Virginia, which may include:

### 1. Direct costs:

- a. Ecological and environmental;
- b. Rentals and royalties;
- c. Labor;
- d. Employee benefits;
- e. Material;
- f. Transportation;
- g. Services;
- h. Equipment and facilities furnished by the unit operator;
- i. Damages and losses to joint property;
- j. Legal expenses;
- k. Taxes;
- l. Insurance;
- m. Abandonment and reclamation;
- n. Communications; and
- o. Other expenditures.

### 2. Indirect charges:

- a. Drilling and production operations;
- b. Major construction; and
- c. Catastrophe.

B. Where there are conflicting royalty claims to coalbed methane gas, the unit operator of a forced pooled coalbed methane gas unit shall deposit proceeds in accordance with § 45.1-361.22 of the Code of Virginia, to be determined at the wellhead.

C. Where there are conflicting claims and one or more persons have elected to become participating or nonparticipating operators, the unit operator of a forced pooled coalbed methane gas unit shall escrow net proceeds after deduction for royalty and other costs consistent with the terms of this chapter and the board's order regarding the unit.

D. In any dispute which may arise regarding a unit operator's costs, the unit operator shall be entitled to the benefit of a presumption of reasonableness where it is shown that the types of costs being disputed are, by custom and practice, customary and usual within the industry. The unit operator shall not be entitled to a presumption of reasonableness of the amount of the costs being disputed.

E. *Unless one or more respondents elect to participate or elect to be a nonparticipating operator on a carried basis, the unit operator shall have no obligation to report costs after the expiration of the election period.*

**4 VAC 25-160-110. Recordkeeping.**

A. Each unit operator shall maintain records of production, income, payments made to lessors and escrow agents, any suspended payments, and other information prescribed by the board, until the later of:

1. When the permits for all wells in the unit have been released by the department;
2. Twenty-four months after all escrowed funds for competing claims to ownership of coalbed methane gas in the unit have been paid out under order of the board; or
3. When so ordered by the board.

B. Each unit operator shall maintain records of all costs charged to participating or nonparticipating operators until the later of:

1. Twenty-four months after all costs attributable to participating or nonparticipating operators have been settled and paid; or
2. When so ordered by the board.

C. Upon transfer of the right to conduct operations in a pooled drilling unit to a new unit operator, the old unit operator shall transfer all records required to be maintained in accordance with this section to the new unit operator. The old unit operator will not be released from responsibility as the unit operator until he has submitted, to the board, evidence that the records have been received by the new unit operator.

D. In the event a unit operator wishes to terminate its legal existence and the unit is not transferred to a new unit operator, or when the permit for any well in the unit has been revoked and the bond forfeited by the department, the unit operator shall transfer, to the board, all records required to be maintained in accordance with this section.

**4 VAC 25-160-120. Applications to change the unit operator for a unit established by order of the board.**

A. ~~The approval of the board is not required to sell, assign or otherwise convey an operator's ownership interest in a unit~~

~~or group of units unless the operator was appointed by board order as the unit operator.~~

~~B. Voluntary transfer~~ A. *Transfer of the right to operate a unit established by the board may must be requested upon approved by the board prior to the transfer of unit operations to a new operator.*

1. For a voluntary transfer, the proposed new unit operator shall file written notification of the *proposed* transfer of operations and ~~request the board to amend the order to reflect the transfer.~~ The notification shall include, ~~but not be limited to:~~

- ~~1. The name and address of the existing unit operator;~~
- ~~2. The name and address of the proposed new unit operator;~~
- ~~3. Written approval from the existing unit operator;~~
- ~~4. Identification of the order to be amended;~~
- ~~5. A description of any changes in the percentage of interests in each tract pooled in the unit, including a statement of the percentage of interest held by the proposed new unit operator if the unit is for coalbed methane gas;~~
- ~~6. A description of any other changes to unit operations to be implemented by the proposed new unit operator;~~
- ~~7. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with 4 VAC 25-160-40 of this chapter; and~~
- ~~8. Copies of proposed exhibits.~~

~~C. Involuntary~~ 2. *An involuntary transfer of the right to operate a unit established by board order may be requested by an applicant or considered by the board on its own motion if the unit operator has not continued gas or oil operations of the unit with due diligence, or the permit for any well in the unit has been revoked by the department. For an involuntary transfer, the proposed new unit operator shall file a written application to transfer the operations, including, but not limited to:*

B. *The request for a transfer shall include:*

1. The name and address of the existing unit operator;
2. The name and address of the proposed new unit operator;
- ~~3. Identification of the order which is sought to be amended;~~
- ~~4. A detailed statement of the facts supporting the removal of the existing operator;~~
- ~~5. A description of any changes in the percentage of interests in each tract pooled in the unit, including a statement of the percentage of interest held by the proposed new unit operator if the unit is for coalbed methane gas;~~
- ~~6. A description of any other changes to unit operations to be implemented by the proposed new unit operator;~~

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~~7. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with 4 VAC 25-160-40 of this chapter; and~~

~~8. Copies of proposed exhibits.~~

3. *Written approval from the existing unit operator, or a detailed statement of the facts supporting the removal of the existing operator; and*

4. *Identification of the order to be amended.*

C. *The notice of the board hearing shall be provided under § 45.1-361.19 B of the Code of Virginia.*

#### 4 VAC 25-160-130. Appeals of the director's decisions.

A. Appeals of the director's decisions shall be filed in writing, at the office of the division, in accordance with §§ 45.1-361.23 and 45.1-361.36 of the Code of Virginia.

B. A petition to appeal a decision of the director shall contain:

1. The name and address of the petitioner and the petitioner's counsel, if any;

2. Identification of the decision being appealed, and the date the decision was issued;

3. A statement identifying the standing of the petitioner to appeal;

4. A statement setting forth the reasons for the appeal, including errors alleged in the director's decision and the reasons why the decision is deemed contrary to law or regulation;

5. A statement that the issues on appeal were in fact raised as required by § 45.1-361.36 B of the Code of Virginia;

6. A statement setting forth the specific relief requested; *and*

7. When a stay to any proposed activity allowed as a result of the director's decision is desired, a request for the stay and the basis for granting the stay; *and*.

~~8. Other information, relevant to the petition, the petitioner wishes to provide.~~

C. Upon receipt of an appeal containing a request for a stay, the director shall decide on the request in accordance with § 45.1-361.23 D of the Code of Virginia.

#### 4 VAC 25-160-140. Miscellaneous petitions to the board.

A. Any petition to the board not otherwise provided for in this chapter shall be made in writing, and shall contain:

1. The name and address of the petitioner and the petitioner's counsel, if any;

2. The names and addresses of any persons who are named as respondents in the petition;

3. An affidavit that notice has been given to each respondent, if any, named in the petition;

4. A statement of the issues of the petition; *and*

5. A statement setting forth the specific relief requested; *and*.

~~6. Other information, relevant to the petition, the petitioner wishes to provide.~~

B. If a petitioner for a unit under § 45.1-361.21 or § 45.1-361.22 fails to provide notification to an owner of interest of any part of a unit subject to a petition before the board, then such party may file a written objection to the proceedings in the form of a petition as set out in subsection A of this section. Such petition does not require the submission of an application fee as required in 4 VAC 25-160-30 F of this chapter.

#### 4 VAC 25-160-150. Effective dates for *and* enforcement of board orders.

A. All orders issued by the board under § 45.1-361.20 of the Code of Virginia shall remain in effect until vacated or amended by the board on its own motion or on application from an owner or operator in the field or unit subject to the order.

B. *All Unless otherwise provided in the board order, all orders issued by the board under §§ 45.1-361.21 and 45.1-361.22 of the Code of Virginia shall remain in effect:*

1. For a period of ~~one year~~ *two years* from the date of issuance, ~~if gas or oil operations have not commenced on the well or wells in the unit or units established by the order of the board order;~~

2. *If a permit has been issued for a well in a unit subject to the order, until the permit or permits have expired or been released on the well or wells, if gas or oil operations have commenced on the well or wells within the unit or units established by the order;* or

3. Until vacated or amended by the board on its own motion or on application ~~from a gas or oil owner or the unit operator in the unit subject to the order.~~

~~C. Conditional orders issued by the board under §§ 45.1-361.21 and 45.1-361.22 of the Code of Virginia shall remain in effect in accordance with the terms and conditions of the order, unless vacated or amended by an order of the board.~~

*C. In the event that an appeal is taken from any order of the board, the time between the filing of the petition for appeal and the final order of the circuit court shall be excluded in calculating the time period as contained in subsection B of this section.*

*D. All orders of the board shall be enforced by the director pursuant to the process set out in this chapter and § 45.1-361.24 of the Code of Virginia.*

#### 4 VAC 25-160-160. Enforcement. (Repealed.)

~~A. The director shall enforce the provisions of the Act, this chapter or order of the board, and may use the following methods:~~

~~1. Notices of violation in accordance with 4 VAC 25-160-170 of this chapter;~~

~~2. Closure orders in accordance with 4 VAC 25-160-180 of this chapter;~~

- 3. ~~Petitions to the board to revoke any rights granted to operators by the board;~~
- 4. ~~Emergency orders in accordance with § 45.1-361.27 D of the Code of Virginia; or~~
- 5. ~~Any other action in accordance with the Code of Virginia.~~

~~B. A notice or order shall be served on the person to whom it is issued promptly after issuance, as follows:~~

- 1. ~~By delivering a copy, by hand, to the person to whom the notice or order is issued or other employee or agent of the person; or~~
- 2. ~~By sending a copy of the notice or order by certified mail, return receipt requested, to the person to whom the notice or order is issued or his designated agent.~~

~~C. Service shall be complete upon delivery of the notice or order, or of the mail, and shall not be deemed incomplete because of refusal to accept.~~

~~D. Nothing in this chapter shall prevent the director from taking any action or from making efforts to obtain voluntary compliance through conference, warning or other means prior to issuing any enforcement notice or order.~~

~~E. The purpose of taking enforcement actions is to obtain compliance with the provisions of the Act, this chapter or order of the board.~~

**4 VAC 25-160-170. Notices of violation. (Repealed.)**

~~A. The director may issue a notice of violation if he finds a violation of Chapter 22.1 of Title 45.1 of the Code of Virginia, this chapter, or any order of the board.~~

~~B. A notice of violation shall be in writing, signed, and set forth with reasonable specificity:~~

- 1. ~~The nature of the violation;~~
- 2. ~~A reasonable description of the activity or condition to which it applies;~~
- 3. ~~The remedial action required, which may include interim steps; and~~
- 4. ~~A reasonable deadline for abatement, which may include interim deadlines for accomplishment of interim steps.~~

~~C. The director may extend the deadline for abatement or for accomplishment of an interim step if the failure to meet the deadline previously set was not caused by the person's lack of diligence. The total time for abatement under a notice of violation, including all extensions, shall not exceed 20 days from the date of issuance, except upon a showing by the person and acceptance by the director that it is not feasible to abate the violation within 20 days, or if the deadline is extended during an appeal. An extension of the deadline for abatement may not be granted when the person's failure to abate within 20 days has been caused by a lack of diligence or intentional delay by the person.~~

~~D. The director shall terminate a notice of violation by written notice when he determines that all violations listed in the notice of violation have been abated.~~

~~E. Any person issued a notice of violation may, before the deadline established for abatement for the violation, request, in writing to the director, an informal fact finding hearing to review the issuance of the notice. The person is relieved of the duty to abate, during an appeal of the notice of violation to the director or board, any violation of Article 2 of the Act, this chapter or board order, except as otherwise provided by regulation.~~

~~F. The director shall conduct an informal fact finding hearing, in accordance with the Administrative Process Act, § 9-6.14:11 of the Code of Virginia, no later than 10 days after receipt of the hearing request. The director shall affirm, modify, or vacate the notice in writing, to the person who requested the hearing, no later than five days after the date of the hearing.~~

**4 VAC 25-160-180. Closure orders. (Repealed.)**

~~A. The director may immediately order a cessation of operations or of the relevant portion thereof, when:~~

- 1. ~~A gas or oil operator continues to produce in excess of an allowable production limit established by the board after having been ordered by the director or board to stop production in excess of the allowable limit; or~~
- 2. ~~Repeated notices of violations have been issued for the same condition or practice.~~

~~B. A closure order shall be in writing, signed and shall set forth with reasonable specificity:~~

- 1. ~~The nature of the condition, practice or violation;~~
- 2. ~~A reasonable description of the activity or condition to which it applies;~~
- 3. ~~The remedial action required, if any, which may include interim steps; and~~
- 4. ~~A reasonable deadline for abatement, which may include interim deadlines for accomplishment of interim steps.~~

~~C. A closure order shall require the person to take all steps the director deems necessary to abate the violations covered by the order in the most expeditious manner possible.~~

~~D. The director shall terminate a closure order by written notice when he determines that all conditions, practices or violations listed in the order have been abated.~~

~~E. Any person issued a closure order may request an informal fact finding hearing to review the issuance of the order, in writing to the director, within 10 days from receipt of the order. The person may request an expedited hearing, in writing to the director, within three days of receipt of the order.~~

~~F. A person is not relieved of the duty to abate any condition under, or comply with, any requirement of a closure order during an appeal of the order.~~

~~G. The director shall conduct an informal fact finding hearing, in accordance with the Administrative Process Act, § 9-6.14:11 of the Code of Virginia, no later than 15 days after~~



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~~the order was issued, or in the case of an expedited hearing, no later than five days after the order was issued.~~

~~H. The director shall affirm, modify, or vacate the closure order in writing, to the person who requested the hearing, no later than five days after the date of the hearing.~~

## 4 VAC 25-160-200. Surveys and tests.

### A. Deviation tests.

1. An inclination survey shall be made on all rotary drilled wells located in accordance with a field rule established by the board. An inclination survey is not required for wells drilled in accordance with the distance limitations of § 45.1-361.17 of the Code of Virginia.

2. The first shot point shall be at a depth not greater than the bottom of the surface casing or, for a well drilled through a coal seam, at a depth not greater than that of the bottom of the coal protection string. Succeeding shot points shall be no more than 1,000 feet apart, or as otherwise ordered by the director.

3. Inclination surveys conforming to these requirements may be made either during the normal course of drilling or after the well has reached total depth. Survey data shall be certified in writing as being true and correct by the designated agent or person in charge of a permittee's Virginia operations, or the drilling contractor, and shall indicate the resultant lateral deviation as the maximum calculated lateral displacement determined at any inclination survey point in a horizon approved for production, by an order of the board or a permit approved by the director, assuming that all displacement occurs in the direction of the nearest boundary of the unit. The resultant lateral deviation shall be recorded on the drilling or completion report filed by the permittee.

~~However, if 4. If a directional survey determining the location of the bottom of the hole is filed upon completion of the well, it shall not be necessary to file the inclination survey data.~~

2- 5. A directional survey shall be made when:

a. A well is directionally controlled and is thereby intentionally deflected from vertical;

b. The resultant lateral deviation of any well, calculated from inclination survey data, is greater than the distance from the center of the surface location of the well bore to the nearest boundary of the area where drilling is allowed in a unit established by the board; or

c. A well is drilled as an exception location and a directional survey is ordered by the board.

3- 6. The board or the director, on their own initiative or at the request of a gas or oil owner on a contiguous unit or tract, may require the permittee drilling any well to make a directional survey of the well if there is reasonable cause therefor. Whenever a survey is required by the board or the director at the request of a contiguous owner and the permittee of the well and contiguous owner are unable to agree as to the terms

and conditions for making the directional survey, the permittee shall pay for the survey if the bottom hole location is found to be outside of the area approved for drilling, and the contiguous owner shall pay for the survey if the bottom hole location is found to be inside of the area approved for drilling.

4. 7. Directional surveys shall be run from total depth to the base of the surface casing or coal protection string, unless otherwise approved by the board or the director. In the event that the proposed or final location of the producing interval or intervals of any well is not in accordance with this section or a board order, the unit operator shall apply to the board for an exception to spacing. However, directional surveys to total depth shall not be required in cases where the interval below the latest survey is less than 500 feet, and in such an instance, a projection of the latest survey shall be deemed to satisfy board requirements.

5- 8. The results of each inclination or directional survey made in accordance with this section shall be filed by the permittee with the first drilling or completion report required by the department.

B. Flow potential and gas/oil ratio tests: conventional gas or oil wells.

1. If a gas or oil well appears capable of producing gas or oil, the permittee shall conduct a potential flow test and a gas/oil ratio test within 10 days after the well is completed and capable of producing gas or oil. The permittee shall file the test results, in writing, with the director. The director shall hold the test results confidential in accordance with § 45.1-361.6 of the Code of Virginia.

2. If a permittee deepens or stimulates a well after the initial potential flow test and gas/oil ratio test have been conducted, when determined to be necessary by the permittee or when requested by the board, the permittee shall conduct another potential flow test and gas/oil ratio test and, within 30 days after completing the test, file the results, in writing, with the director.

3. A back-flow method of determining open flow shall be used, such as provided for in the Interstate Oil and Gas Compact Commission, "Manual of Back-Pressure Testing of Gas Wells," 1979. However, when a back-flow method is believed not to be feasible, the permittee shall obtain prior approval from the director, and test the well in accordance with, an alternate method approved by the director that does not entail excessive physical waste of gas.

C. Testing of coalbed methane gas wells. 4- If a permittee cannot test the potential flow of a coalbed methane gas well by a back-flow method or complete the test within the time period required in subdivision B 1 of this section, the permittee may request approval from the director to perform a coalbed methane gas production test. Such a test shall only be made when the water production and the gas flow rates are stabilized for a period of not less than 10 days prior to the test. The test shall be conducted for a minimum of 24 hours in the manner approved by the director. The permittee shall file the test results, in writing, with the director. The director

shall hold the test results confidential in accordance with § 45.1-361.6 of the Code of Virginia.

D. The board may, by order and after notice and hearing, require a permittee to complete other tests on any well.

#### **4 VAC 25-160-210. Allowable production. (Repealed.)**

~~A. The board, on its own motion, on motion from the director or on motion from any gas or oil owner, and after notice and hearing, may establish the maximum allowable production rate for any well or number of wells in a pool. The setting of maximum allowable production rates shall be only for the purpose of preventing waste and protecting correlative rights, and not for prorationing production between pools or geographic areas of the Commonwealth. However, no maximum allowable production rate shall be set for a coalbed methane gas well.~~

#### ~~B. Proration of gas lift wells.~~

~~1. No flowing or gas lift oil well may produce with an excessive gas/oil ratio except with prior approval of the board. Oil wells that are gas lifted with gas from gas wells shall be prorated in the same manner as high ratio, naturally flowing oil wells. The gas/oil ratio, for oil wells that are gas lifted with gas from gas wells, is defined as the total gas output less the total gas input divided by the number of barrels of oil produced. The uneconomic or unreasonable use of gas for gas lift is prohibited.~~

#### **4 VAC 25-160-220. Enhanced recovery. (Repealed.)**

~~The board may, upon application, notice and hearing, authorize enhanced recovery projects on a case by case basis. No enhanced recovery project shall be authorized unless at least 51% of all of the gas or oil interests in the area to be covered by the proposed enhanced recovery project consent to the project. The board may, on a case by case basis, establish a minimum percentage greater than 51% for any area of the Commonwealth.~~

#### **4 VAC 25-160-230. Underground storage of natural gas. (Repealed.)**

~~No person may conduct any operation involving storage of natural gas in an underground gas storage field until the board has adopted an order governing the underground gas storage field.~~

VA.R. Doc. No. R97-294; Filed February 12, 1997, 10:46 a.m.

## BOARD OF PSYCHOLOGY

**Title of Regulation:** 18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology (amending 18 VAC 125-20-10, 18 VAC 125-20-30, 18 VAC 125-20-40, 18 VAC 125-20-50, 18 VAC 125-20-120, 18 VAC 125-20-130, and 18 VAC 125-20-150; repealing 18 VAC 125-20-20 and 18 VAC 125-20-110; adding 18 VAC 125-20-51, 18 VAC 125-20-52, and 18 VAC 125-20-53).

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

**Public Hearing Date:** April 8, 1997 - 10 a.m.

Public comments may be submitted until May 12, 1997.  
(See Calendar of Events section  
for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations. Chapter 36 establishes the Board of Psychology and authorizes that board to administer the licensure of psychologists.

**Purpose:** Regulation of the psychology profession has been established in accordance with § 54.1-100 on the basis that the unregulated practice can harm and endanger the health, safety or welfare of the public. As set forth in § 9-6.14:4.1 C 5, emergency regulations are limited to 12 months in duration. If the board does not promulgate replacement regulations as required in this section, the board will be unable to accept applications for licensure, renew licenses and regulate the profession according to its standards of practice. If the board is unable to accept applications and renew licenses, individuals will be unable to engage in their profession for which licensure is required under § 54.1-3606.

**Substance:** The proposed amendments are identical to those made during promulgation of the emergency regulation currently in effect. These amendments are summarized as follows:

1. To remove words from 18 VAC 125-20-10 that are already defined in statute, and reference the section of the Code of Virginia where these words are defined.
2. To repeal 18 VAC 125-20-20 which contains licensure classifications which no longer exist under the current statute.
3. To eliminate references to separate fees for each licensure classification in 18 VAC 125-20-30, as the clinical psychologist classification is now regulated by the Board of Psychology and will have the same application fee as the other classifications.
4. To eliminate the prorated initial licensure fee, and the additional application fee for graduates of foreign institutions in 18 VAC 125-20-30.
5. To remove references to examination fees in 18 VAC 125-20-30 which are now paid directly to the examination vendor, rather than to the board.
6. To change the annual renewal schedule and fee set forth in 18 VAC 125-20-30 and referenced in 18 VAC 125-20-120 and 18 VAC 125-20-130 to the biennial schedule and fee which had been set forth in the Board of Medicine's regulation prior to the transfer of clinical psychologist regulation to the Board of Psychology.
7. To remove any references to the Board of Medicine in 18 VAC 125-20-20, 18 VAC 125-20-40, 18 VAC 125-20-110 and 18 VAC 125-20-150 which no longer has statutory authority to regulate clinical psychologists.

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8. To repeal language in 18 VAC 125-20-110 which refers to the prorated licensure fee and the Board of Medicine and move subsection C of repealed 18 VAC 125-20-110 to 18 VAC 125-20-40.

9. To change the licensure classifications referenced in the regulation to reflect the classifications set forth in the current statute.

## Issues:

**A. Definitions and Licensure Classifications.** By action of the 1996 General Assembly all categories of licensed psychologists are now regulated by the Board of Psychology. As a consequence of this legislation, titles and definitions of practice for licensed psychologists in the regulation differ from those in statute. Formerly, psychologists with the requisite education and experience in clinical psychology had the option of applying for licensure as "Clinical Psychologists" with the Board of Medicine or as "Psychologists" with the Board of Psychology. Under the new legislation, all psychologists with a clinical specialty are licensed as "Clinical Psychologists" under the Board of Psychology. Psychologists with a nonclinical specialty are designated "Applied Psychologists." The third license designation of "School Psychologist" has not been changed.

The board is authorized to issue licenses only under the titles established by law. Practice definitions set forth in statute provide the basis for regulations developed by the board. The board must issue licenses and regulate professions in accordance with applicable law; therefore, titles and definitions in its regulations must reflect those in statute. The board promulgated emergency regulations, effective September 13, 1996, to amend or delete any references to obsolete titles in the regulation, and to replace title and practice definitions from the regulation with a reference to the Code of Virginia section that sets forth the new definitions.

**Advantages:** Removing definitions that are set forth in statute eliminates redundancy, abridges the regulation, and averts the possibility of conflict between statute and regulation should the definitions be amended.

**Disadvantage:** Applicants and other individuals interested in the board's regulations will need to reference the Code of Virginia for title and practice definitions. All licensure information submitted from the board office includes applicable statutes from the Code of Virginia.

**B. Fees and Renewal Schedule.** The emergency regulations currently in effect instituted a biennial renewal fee schedule to allow for the transfer of clinical psychologists from the Board of Medicine with minimal disruption and no additional fees. Maintaining different renewal schedules for applied and school psychologists would complicate the regulation, confuse applicants and licensees and confound the budgeting process. The board is proposing one renewal schedule for all of its licensees.

The board is also proposing a uniform application fee for all categories of applicants. When regulated by the Board of Medicine, clinical psychologists applicants paid an additional \$300 to the Board of Psychology for review and approval of their applications, which offset the loss of future renewal fees after they became licensed. With all categories now

regulated by the Board of Psychology, there is no longer any need to charge a different fee for any one category. Furthermore, the board has determined that the additional application fee for graduates of foreign institutions and the prorated initial licensure fee present unnecessary barriers to licensure, and delay the issuance of licenses.

Finally, the board is recommending removal of references to examination fees which are now established by and paid directly to an examination service.

**Advantage:** Adopting a biennial renewal schedule is the least disruptive alternative to the greatest number of licensees. In making the transition to the biennial renewal schedule under the emergency regulations, individuals licensed by the Board of Psychology received automatic extensions to their new renewal dates for no additional fee. Due to lower mailing and printing costs, biennial renewals are less costly for boards to administer than annual renewals.

Elimination of the prorated initial licensure fee under the emergency regulation has eliminated delays in issuing licenses to individuals who have passed the required examinations.

Elimination of the additional \$150 application fee will reduce the financial burden for foreign graduates who are applying for licensure.

Removal of references to examination fees will prevent inconsistencies between the regulations and the vendor's established fees for taking the examination.

**Disadvantage:** A biennial renewal schedule has no disadvantages to the agency, licensees or the general public.

Elimination of the prorated licensure fee and additional fee for graduates of foreign institutions will result in less revenue for the board. However, these fees account for less than 2.0% of the board's budget, and should be offset by decreased administrative time corresponding with candidates and process extra fees.

There will be no disadvantage to removing references to examination fees. Applicants are notified of these fees at the time of approval to take the examination.

## Estimated fiscal impact:

**A. Projected number of persons affected and their cost of compliance:**

Number of licensees affected by these regulations (as of November 27, 1996)	
Licensed Clinical Psychologists	1,600
Licensed Applied Psychologists	74
Licensed School Psychologists	90
New licensees	≈ 120 per year
Foreign graduates	≈ 1 per year

Approximately 1,400 licensed clinical psychologists who were transferred to the Board of Psychology will continue to pay the \$125 biennial renewal that they paid under the Board of Medicine. As a result of the new legislation, the psychologist (clinical) category was eliminated, resulting in a savings of \$95 per year for the 273 individuals who held dual licensure with the Boards of Medicine and Psychology.

Licensed applied psychologists and licensed school psychologists who had been paying a \$95 renewal fee will now pay a \$125 biennial renewal fee for a savings of \$65 per biennium.

New licensees will no longer pay the prorated initial licensure fee which ranged from \$37.50 to \$95 under the annual renewal schedule. Approximately 100 individuals each year who apply for clinical psychologist licensure will save \$300 on their application fee.

B. Costs to the agency for implementation. The board is not proposing any additional rules or changes to existing rules that will result in increased administrative costs. Any changes to the board's projected budget will occur as a result of the legislative amendment which increased the number of the board's licensees by roughly 150%. The agency is anticipating that costs relating to data processing, discipline and general administration will increase by approximately \$77,000 per biennium.

The change to the biennial renewal fee has resulted in decreased revenue of approximately \$47,450 (730 licensees paying \$65 less for renewal) per biennium. Elimination of the pro-rated licensure fee will result in ca. \$6,000 decreased revenue. Effects of the elimination of the additional application fee for foreign graduates is negligible, since these occur less than once per year. The change in application fee for clinical psychologist application will result in decreased revenue of 6,000 per biennium.

The transfer of ca. 1,400 licensees from the Board of Medicine paying a \$125 biennial renewal results in revenue of \$175,000 per biennium. However, 273 of those licensees who held dual licensure with the Board of Psychology are no longer paying the \$95 annual renewal fee; therefore, the net gain from the transfer of licensees is actually \$123,130 per biennium ( $\$175,000 - (273 \times \$95 \times 2)$ ).

In compliance with § 54.1-113, the board is reviewing its fees due to a deficit greater than 10% in the 1994-96 biennium. The projected deficit for 1998 estimated by the agency's finance office is approximately \$145,000. The board has published a NOIRA regarding the need to increase fees, but delayed proposal of fee changes while in the process of establishing emergency and replacement regulations for the transfer of clinical psychologists from the Board of Medicine.

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 affects.

Summary of the Proposed Regulation. Chapter 937 of the 1996 Acts of the General Assembly transferred the authority to regulate clinical psychologists from the Board of Medicine to the Board of Psychology. Prior to this legislation, psychologists with the required education and experience in clinical psychology could either apply for licensure as "Clinical Psychologists" with the Board of Medicine or as "Psychologists" with the Board of Psychologists. Under the new legislation all psychologists with a clinical specialty are licensed as "Clinical Psychologists" under the Board of Psychology.

The proposed regulation has been amended to reflect this statutory change by removing all references to the Board of Medicine. In addition, the proposed regulation has been amended to make other "housekeeping" changes (e.g., provide references to Code sections rather than repeat Code language, delete license classifications which are no longer statutorily valid, etc.), eliminate the separate application fee charged to clinical psychologists, remove references to examination fees that are now paid directly to the examination vendor, and bring the Board of Psychology's annual renewal fee and schedule into line with the biennial renewal fee and schedule used by the Board of Medicine for clinical psychologists.

Estimated Economic Impact. The proposed regulation is likely to have two economic effects. The first is that the fee changes contained in the proposed regulation will generate a modest reduction in regulatory compliance costs on the part of psychologists seeking licensure. Under the proposed regulation application the Board of Psychology's application processing fee for clinical psychologists will be reduced from \$450 to \$150. Adopting the biennial license renewal fee used by the Board of Medicine will mean that approximately 730 clinical psychologists previously licensed by the Board of Psychology will have their license renewal fees reduced by \$65 per biennium. In addition, some number of individuals who held dual licenses from the Board of Medicine and the Board of Psychology will have their renewal fees reduced by \$170 per biennium.

The second likely economic effect of the proposed regulation will be an increase in agency costs for the Board of Psychology. According to information provided by the board this increase is estimated to be \$77,000 per biennium. Presumably, this increase will be offset by a similar decline in agency costs for the Board of Medicine.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects the approximately 1,600 clinical psychologists, 74 applied psychologists, and 90 school psychologists licensed in Virginia, as well as their patients.

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 governing the practice

# Proposed Regulations

of psychology are likely to have two primary economic effects: (i) a modest decrease in regulatory compliance costs and (ii) a modest increase in agency costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency is in agreement with the Economic Impact Analysis prepared by the Department of Planning and Budget.

## Summary:

*The proposed amendments comply with statutory requirements to replace emergency regulations which were established pursuant to 1996 statutory changes which transfer the regulation of clinical psychologists from the Board of Medicine to the Board of Psychology. The board proposes to retain the amendments made in promulgation of the emergency regulation which included deletion of obsolete references to the Board of Medicine, replacement of obsolete licensure titles with the new titles as set forth in statute, elimination of definitions from the regulation that are already set forth in statute, elimination of unnecessary fees and references to obsolete fees and adoption of the same biennial renewal schedule and fee established for clinical psychologists by the Board of Medicine.*

## 18 VAC 125-20-10. Definitions.

The following words and terms, in addition to the words and terms defined in § 54.1-3600 of the Code of Virginia, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"*Applicant*" means a person who submits a complete application for licensure with the appropriate fees.

"*Board*" means the Virginia Board of Psychology.

"*Candidate for licensure*" means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

~~"*Clinical psychologist*" means a psychologist who is competent in the diagnosis, prevention, treatment, and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental conditions, by the application of psychological principles, psychological methods, or psychological procedures including but not limited to psychological assessment and evaluation and psychotherapy, which does not amount to the practice of medicine. The definition shall not be construed to limit or restrict any person licensed by a health regulatory board as defined in § 54.1-2500 of the Code of Virginia from rendering services which they are licensed to provide.~~

~~"*Practice of clinical psychology*" means the offering by an individual of services to the public as a clinical psychologist.~~

"*Demonstrable areas of competence*" means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

"*Internship*" means a supervised and planned practical experience obtained in an integrated training program in a setting included as an integral and required part of the applicant's program of study.

~~"*Nonclinical services*" means such psychological services as consultation and evaluation for agencies, industry and other professionals, and shall not mean the assessment, diagnosis, or treatment of behavioral, emotional or nervous disorders.~~

"*Professional psychology program*" means an integrated program of doctoral study designed to train professional psychologists to deliver services in psychology.

~~"*Psychologist*" means a person trained in the application of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment.~~

~~"*Practice of psychology*" means the rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the science and profession of psychology, and which includes, but is not limited to:~~

~~1. "*Measuring and testing*," which consists of the psychological assessment and evaluation of abilities, attitudes, aptitudes, achievements, adjustments, motives, personality dynamics or other psychological attributes of individuals, or groups of individuals, by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology;~~

~~2. "*Counseling and psychotherapy*," which consists of the application of principles of learning and motivation in an interpersonal situation with the objectives of modification of perception and adjustment, consisting of highly developed skills, techniques, and methods of altering through learning processes, attitudes, feelings, values, self concept, personal goals and adaptive patterns; and~~

~~3. "*Psychological consulting*," which consists of interpreting or reporting upon scientific fact or theory in psychology, rendering expert psychological opinion, psychological evaluation, or engaging in applied psychological research.~~

"*Regional accrediting agency*" means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

~~"*School psychologist*" means a person who specializes in problems manifested in and associated with educational systems and who utilizes psychological concepts and methods in programs or actions which attempt to improve learning conditions for students or who is employed in this capacity by a public or nonprofit educational institution or who offers to render such services to the public whether or not employed by such an institution.~~

~~"*Practice of school psychology*" means the rendering or offering to render to individuals, groups, organizations,~~

government agencies or the public any of the following services:

1. ~~"Testing and measuring," which consists of psychological assessment, evaluation, and diagnosis relative to the assessment of intellectual ability, aptitudes, achievement, adjustment, motivation, personality, or any other psychological attribute of persons as individuals or in groups that directly relates to learning or behavioral problems in an educational setting;~~

2. ~~"Counseling," which consists of professional advisement and interpretive services with children or adults for amelioration or prevention of educationally related problems.~~

~~Counseling services relative to the practice of school psychology include, but are not limited to, the procedures of verbal interaction, interviewing, behavior modification, environmental manipulation, and group processes.~~

~~Counseling services relative to the practice of school psychology are short term and are situation oriented;~~

3. ~~"Consultation," which consists of educational or vocational consultation or direct educational services to schools, agencies, organizations, or individuals.~~

~~Consultation as herein defined is directly related to learning problems and related adjustments; and~~

4. ~~Development of programs such as designing more efficient and psychologically sound classroom situations and acting as a catalyst for teacher involvement in adaptations and innovations.~~

*"Supervision"* means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

*"Supervisor"* means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

**18 VAC 125-20-20. Classification of licensees. (Repealed.)**

~~In compliance with Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia, the board classifies licensees as psychologists, school psychologists, or clinical psychologists.~~

1. ~~Psychologist. This license covers the practice of psychology, as defined in Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia which is divided into two designated specialties requiring different sets of skills and knowledge: (i) for providers of clinical services and (ii) for providers of nonclinical services. The psychologist license is designated accordingly as either psychologist (clinical) or psychologist (nonclinical). The licensee's scope of practice is delimited by the designation of the license and further by licensee's demonstrable areas of competence.~~

2. ~~Clinical psychologist. This license pertains only to the practice of clinical psychology as defined in Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia. The candidate for this license, after further investigation and examination by the board, is recommended to the Virginia Board of Medicine for licensure and subsequent regulation.~~

3. ~~School psychologist. This license pertains only to the practice of school psychology as defined in Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.~~

**18 VAC 125-20-30. Fees required by the board.**

A. The board has established fees for the following:

1. Registration of residency (per residency request) \$100
2. Application processing fee: \$150
  - (a) Graduates of American institutions for licensure as:
    - (1) Psychologist (clinical or nonclinical) \$150
    - (2) School psychologist \$150
    - (3) Clinical psychologist \$450
  - (b) Graduates of foreign institutions (in addition to application processing fee) \$150
3. Examinations:
  - (a) Nationally normed standardized examination \$325
  - (b) State written examination \$225
  - (c) National and state written examinations \$490
4. Initial license pro-rated portion of \$95 annual renewal fee
5. Annual ~~3.~~ *Biennial* renewal of license \$95 ~~\$125~~
6. 4. Late renewal \$10
7. 5. Endorsement to another jurisdiction \$10
8. 6. Additional or replacement wall certificate \$15
9. 7. Returned check \$15
10. 8. Rereview fee \$25

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. *Examination fees shall be paid directly to the examination service according to its requirements.*

**18 VAC 125-20-40. General requirements for licensure.**

A. No person shall practice psychology or school psychology in the Commonwealth of Virginia except as provided in the Code of Virginia and this chapter.

B. No person shall practice clinical psychology in the Commonwealth of Virginia except when licensed by the Virginia State Board of Medicine upon recommendation by the Board of Psychology.

# Proposed Regulations

~~C. B. Licensure of all applicants under subsections A and B of this section shall be by examination by this board.~~

C. A psychologist, clinical psychologist or school psychologist who desires to practice in other areas of psychology shall obtain a license from this board for the additional area in which the licensee seeks to practice.

D. Every applicant for examination by the board shall:

1. Meet the education and experience requirements prescribed in 18 VAC 125-20-50 or 18 VAC 125-20-60 of this chapter, whichever is applicable for the particular license sought; and

2. Submit to the executive director of the board, not less than 90 days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. Documentation of having fulfilled the experience requirements of 18 VAC 125-20-50 or 18 VAC 125-20-60 where applicable.

c. The application processing fee prescribed by the board; and

3. Have the institution that awarded the graduate degrees submit directly to the executive director of the board, at least 90 days prior to the date of the written examination, official transcripts documenting:

a. The graduate work completed; and

b. The degrees awarded.

**18 VAC 125-20-50. Education and experience requirements: Graduates of American institutions.**

A. A graduate of an American higher education institution who applies for examination for licensure shall meet the requirements of subsection A, B, or C of this section 18 VAC 125-20-51, 18 VAC 125-20-52, or 18 VAC 125-20-53, whichever is applicable.

B. Applicants for additional licenses. To obtain additional licenses, all requirements shall be met as prescribed by the board. Applicants shall complete a new application and submit new application fees. A complete new application process may be initiated at the board's discretion.

~~A. Psychologists.~~

~~1. Psychologist (nonclinical).~~

**18 VAC 125-20-51. Education and experience requirements for applied psychologists.**

a. A. Program of study. The applicant shall hold a doctorate in psychology from an institution accredited by a regional accrediting agency. Further, the applicant's program must conform to the following criteria for doctoral programs in psychology:

(+) 1. The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(2) 2. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(3) 3. There shall be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(4) 4. The program must be an integrated, organized sequence of study.

(5) 5. There shall be an identifiable psychology faculty and a psychologist responsible for the program.

(6) 6. The program shall have an identifiable body of students who are matriculated in that program for a degree.

b. B. Education. The applicant's program shall have included at least one three-semester-credit hour course in each of the following areas of study:

(+) 1. Statistics and research design;

(2) 2. Physiological psychology or sensation and perception;

(3) 3. Learning/cognition;

(4) 4. Social psychology;

(5) 5. Study of the individual;

(6) 6. History and systems; and

(7) 7. Scientific and professional ethics and standards.

c. C. Experience. No supervised experience is required for licensure as a *an applied* psychologist ~~(nonclinical)~~.

~~2. Psychologist (clinical).~~

**18 VAC 125-50-52. Education and experience requirements for clinical psychologists.**

a. A. The applicant shall hold a doctorate from a professional psychology program in a regionally accredited university, which:

(+) 1. Was accredited by the American Psychological Association (APA) prior to the applicant's graduation from the program; or

(2) 2. Was accredited by the APA within four years after the applicant graduated from the program; or

(3) 3. If not APA accredited, was a program which met the criteria outlined in ~~18 VAC 125-20-50 A 1 a~~ 18 VAC 125-20-51 A. Further, the program must have required successful completion by the applicant of all the following:

(a) a. At least one three-semester-credit hour course in each of the areas of study prescribed in subdivision A-1 ~~b of this section~~ 18 VAC 125-20-51 B for a *an applied* psychologist ~~(nonclinical)~~;

(b) b. At least one three-semester-credit hour course in each of the following additional areas of study:

(+) (1) Personality theory;

(ii) (2) Diagnostic interviewing and behavioral assessment;

(iii) (3) Psychometric, psychodiagnostic, and projective testing;

(iv) (4) Psychopathology;

(v) (5) Psychotherapy, both individual and group; and

(vi) (6) Practicum: Supervision and assessment/diagnosis and psychotherapy; and

(e) c. A one-year, full-time internship approved by the American Psychological Association (APA) or consistent with the requirements for APA approval and approved by the applicant's doctoral program.

b. B. Experience. Applicants shall possess post-doctoral experience as defined in this subparagraph subsection and shall inform the board, when they apply, how they propose to meet this experience requirement. This requirement may be met in one of two ways:

(1) 1. By waiver based on lengthy experience. Applicants possessing many years of relevant post-doctoral experience in another jurisdiction may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in subdivision A-2-b-(2) 2 described below of this subsection; or

(2) 2. Residency requirements. The applicant under this provision shall show documentation of the successful completion of a one-year, full-time post-doctoral residency, or its equivalent in part-time experience for a period not to exceed three years, consisting of supervised experience in the delivery of clinical services acceptable to the board; or the applicant may request approval to begin a residency with the following conditions:

(a) a. Applicants shall apply for licensure and residency concurrently.

(b) b. Prior to initiating the proposed residency training, the applicant shall:

(1) Register with the board;

(2) Pay the registration fee;

(3) Submit an agreement signed by the applicant and proposed Virginia licensed supervisor(s) stating the nature of the services to be rendered, the number of hours of supervision, and the nature of the supervision; and

(4) Receive approval from the board to begin the residency training. (Applicants who do not apply before beginning residency training, cannot be guaranteed the residency will be approved.)

(c) c. Supervision shall be provided by a licensed psychologist, clinical psychologist, or school psychologist.

(d) d. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training.

(e) e. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.

(f) f. Residents may not call themselves psychologists, clinical psychologists, or school psychologists; solicit clients; bill for services; or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in Psychology."

(g) g. At the end of the residency training period, the supervisors shall submit to the board, a written evaluation of the applicant's performance.

~~B. Clinical psychologist. The applicant for examination for licensure as a clinical psychologist shall possess the same educational qualifications and shall have met the same experience requirements as those prescribed for a psychologist (clinical) in subdivisions A-2-a and A-2-b respectively of this section.~~

~~C. School psychologist.~~

**18 VAC 125-20-53. Education and experience requirements for school psychologists.**

4. A. Education. The applicant shall hold at least a master's degree in school psychology, with a minimum of at least 60 semester credit hours, from a college or university accredited by a regional accrediting agency. The program requirements shall:

a. 1. Reflect a planned, integrated, and supervised program of graduate study as outlined for programs approved by the American Psychological Association (APA) or by the National Council for the Accreditation of Teacher Education (NCATE); and

b. 2. Include an internship approved by the applicant's training program.

2. B. Experience. Applicants shall possess post-master's degree experience as defined in this section and shall inform the board when they apply as to how they propose to meet this experience requirement. This requirement may be met in one of two ways:

a. 1. By waiver based on lengthy experience. Applicants possessing many years of relevant post-master's degree experience in another jurisdiction may obtain a waiver of requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in subdivision C-2-b described below 2 of this subsection; or



# Proposed Regulations

b- 2. By residency. The applicant shall show documentation of a previous full-time residency of at least one school year, or the equivalent in part-time experience or request approval to begin a current residency with the following conditions:

(1) a. Applicants shall apply for licensure and residency concurrently.

(2) b. Prior to the proposed residency training, the applicant shall:

(a) (1) Register with the board;

(b) (2) Pay the registration fee;

(c) (3) Submit an agreement signed by the applicant and proposed Virginia licensed supervisor(s) stating the nature of the services to be rendered, the number of hours of supervision, and the nature of the supervision; and

(d) (4) Receive approval from the board to begin the residency training. (Applicants who do not apply before beginning residency training cannot be guaranteed the residency will be approved).

(3) c. Supervision shall be provided by a licensed school psychologist, licensed psychologist, or licensed clinical psychologist.

(4) d. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training.

(5) e. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.

(6) f. Residents may not call themselves psychologists, clinical psychologists, or school psychologists; solicit clients; bill for services; or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in School Psychology."

(7) g. At the end of the residency training period, the supervisor(s) shall submit to the board a written evaluation of the applicant's performance.

(8) h. The applicant shall not continue in residency status for more than three years.

~~D. Applicants for additional licenses. To obtain additional licenses, all requirements shall be met as prescribed by the board. Applicants shall complete a new application and submit new application fees. A complete new application process may be initiated at the board's discretion.~~

## 18 VAC 125-20-110. Licensure. (Repealed.)

~~A. Upon payment of the prorated portion of the biennial licensure fee prescribed by the board, the board will issue to each successful candidate a license to practice as a psychologist or school psychologist.~~

~~B. The board will recommend to the Board of Medicine each successful candidate the Board of Psychology examines for licensure as a clinical psychologist.~~

~~C. A psychologist, clinical psychologist or a school psychologist who desires to practice in other areas of psychology shall obtain a license from this board for the additional area in which the licensee seeks to practice.~~

## 18 VAC 125-20-120. Annual Biennial renewal of licensure.

Every license issued by the board shall expire on June 30 of each the last day of the licensee's birth month of each even-numbered year.

1. Every licensee who intends to continue to practice shall, by June 30 of each year on or before the expiration date of the license, submit to the board:

a. A license renewal application on forms supplied by the board; and

b. The renewal fees prescribed in 18 VAC 125-20-30.

2. Failure of a licensee to receive a renewal notice and application forms from the board shall not excuse the licensee from the renewal requirement.

## 18 VAC 125-20-130. Late renewal; reinstatement.

A. A person whose license has expired may renew it within two years after its expiration date by paying the penalty fee prescribed in 18 VAC 125-20-30 and the license renewal fee for each year the biennium the license was not renewed.

B. A person whose license has not been renewed for two years or more and who wishes to resume practice shall:

1. Present evidence satisfactory to the board regarding continued competency to perform the duties regulated by the board; and

2. Upon approval for reinstatement, pay the penalty fee and the license fee for each the renewal period the license was not renewed, as prescribed by the board and pay a rereview fee as prescribed in 18 VAC 125-20-30.

## 18 VAC 125-20-150. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed by the board shall:

1. Provide only services and use only techniques for which they are qualified by training and experience;

2. When advertising services to the public, ensure that such advertising is neither fraudulent nor misleading;

3. Represent accurately their competency, education, training and experience;
4. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;
5. Make advance financial arrangements that safeguard the best interests of and are clearly understood by their clients;
6. Refrain from undertaking any activity in which their personal problems are likely to lead to inadequate or harmful services;
7. Avoid dual relationships with clients that could impair professional judgment or compromise the client's well being (to include but not limited to treatment of close friends, relatives, employees and sexual intimacies with clients; bartering services; romantic or sexualized relationships with any current supervisee;
8. Avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action;
9. Keep confidential their professional relationships with clients, including their records and reports, except when a client is a danger to self or others, or when the licensee is under a court order to disclose such information;
10. Terminate a professional psychological relationship when it is clear that services are not benefiting the client;
11. Ensure that the welfare of clients is not compromised in any experimentation or research involving those clients;
12. Report to the board known violations of the laws and regulations governing the practice of psychology;
13. Represent oneself as a licensed psychologist only when licensed by the board as a psychologist;
14. ~~Represent oneself as a licensed school psychologist only when licensed by the board as a school psychologist;~~
15. ~~Represent oneself as a licensed clinical psychologist or otherwise use variations of the description clinical psychology to describe one's practice only when licensed by the Board of Medicine as a clinical psychologist;~~
16. 14. Not represent oneself as "board certified" without specifying the complete name of the specialty board; and
17. 15. Keep pertinent, confidential records for at least seven years with adults and organizations and 10 years with minors after termination of services to any consumer.

**NOTICE:** The forms used in administering 18 VAC 125-20-10 et seq., Regulations Governing the Practice of Psychology, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

~~Application for Examination or Licensure.~~

~~Post-Doctorate Degree or Post-Master's Degree Residency Training Experience for the Board of Psychology.~~

~~Post-Doctorate Degree or Post-Master's Degree Verification of Supervision.~~

~~Internship Verification.~~

~~Licensure Verification.~~

~~Areas of Graduate Study (or non-APA or non-NCATE) Approval Program.~~

*Psychologist Licensure Application, Form 1, rev. 2/97.*

*Registration of Residency - Post-Graduate Degree Supervised Experience, Form 2, rev. 7/96.*

*Verification of Supervision, Form 3, rev. 7/96.*

*Internship Verification, Form 4, rev. 7/96.*

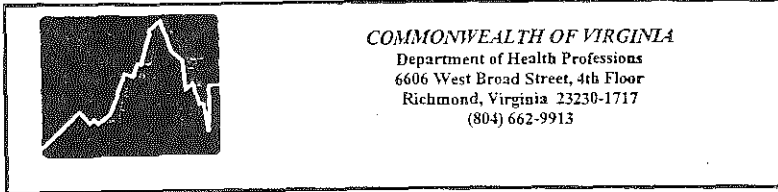
*Doctoral Program Approval of Internship, Form 5, rev. 7/96.*

*Licensure Verification, Form 6, rev. 7/96.*

*Areas of Graduate Study, Form 7, rev. 7/96.*

Renewal Notice and Application.

FORM 1



**PSYCHOLOGIST  
LICENSURE APPLICATION**

I hereby make application for licensure to practice as a

- Clinical Psychologist \$150.00
- School Psychologist \$150.00
- Applied Psychologist \$150.00

in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the appropriate amount made payable to the Treasurer of Virginia. The application fee is non-refundable.

INSTRUCTIONS	PLEASE TYPE OR PRINT	USE BLACK INK
1. Applicants must complete all sections. 2. Completed application should be mailed to the above address. 3. Application and supporting documents must be received no less than 90 days prior to the date of the written examination.		
<b>I. GENERAL INFORMATION</b>		
Name (Last, First, M.I., Suffix, Maiden Name)	Degree	Social Security Number
Date of Birth		
Print Your Name As You Would Like It To Appear On Your Wall Certificate		
Mailing Address (Street and/or Box Number, City, State, ZIP Code)		Home Telephone Number
Business Name and Address (if different from above)		Business Telephone Number
<b>LICENSURE/CERTIFICATION</b> - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a psychologist or other mental health care practitioner.		
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE

ANSWER THE FOLLOWING QUESTIONS:

1. What do you consider to be your specialty in psychology? _____	YES	NO
2. Do you hold a diploma from the American Board of Professional Psychology? If yes, please provide documentation of your diplomate status.	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Have you ever taken the National (EPPP) Examination?	<input type="checkbox"/>	<input type="checkbox"/>
5. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? *If yes, see below.	<input type="checkbox"/>	<input type="checkbox"/>
6. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) *If yes, see below.	<input type="checkbox"/>	<input type="checkbox"/>
7. Have you ever been censured, warned, or requested to withdraw from your employment, terminated from any health care facility, agency, or practice? *If yes, see below.	<input type="checkbox"/>	<input type="checkbox"/>

\*If you answered "YES" to this question, please provide an explanation on a separate sheet of paper.

**II. EDUCATION:** List in chronological order the name and location of each academic institution beyond high school you have attended. PLEASE NOTE: All transcripts submitted from graduate programs must be official.

Institution	Dates of Attendance		Major or Concentration	Degree Received	Date Degree Conferred	APA Approved	
	From	To				Yes	No

**III. INTERNSHIP:** To be answered by Clinical Psychologist, Psychologist (Clinical) and School Psychologist applicants only. Have you completed a one-year, full-time internship approved by your psychology program: Yes(  ) No(  ) If yes, please complete and submit to the Board Forms 4 and 5.

Institution	Dates of Attendance		APA Approved	
	From	To	Yes	No

**IV. POST-GRADUATE SUPERVISED EXPERIENCE:** To be answered by Clinical Psychologist or School Psychologist applicants only. Have you completed one year of post-graduate clinical experience under the supervision of a  Clinical Psychologist, or  School Psychologist? Yes  No   
If yes, please provide the following information:

Supervisor's Name		
Institution or Business Name and Address		
Current Address (if different from above)		
Dates Applicant Supervised From:                      To:	Hours per Week of Individual Supervision	Hours per Week of Group Supervision
Description of Supervision:		
Description of Applicant's Professional Work During the Supervision:		
Supervisor's Name		
Institution or Business Name and Address		
Current Address (if different from above)		
Dates Applicant Supervised From:                      To:	Hours per Week of Individual Supervision	Hours per Week of Group Supervision
Description of Supervision:		
Description of Applicant's Professional Work During the Supervision:		

**V. OTHER PROFESSIONAL EXPERIENCE (Practicum, Externship, Employment)**  
List in chronological order the entire professional employment experience you have had (use additional sheets if necessary).

Dates of Employment		Employer	Address	Hours per week	Supervisor	Duties
From	To					

**VI. ADDITIONAL INFORMATION:** State any additional information about your education and experience which you feel would be useful to the Board in determining your qualification for licensure.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
(To be completed before a notary public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_, being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a psychologist in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

\_\_\_\_\_  
Signature of Applicant

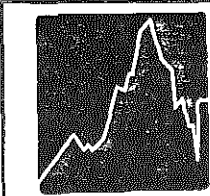
Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires on \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

SEAL

FORM 2



**COMMONWEALTH OF VIRGINIA**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9913

**REGISTRATION OF RESIDENCY  
 POST-GRADUATE DEGREE SUPERVISED EXPERIENCE**

**FEE'S:** \$100.00 Initial Registration (one supervisor)  
 \$100.00 Each Additional Registration  
 Make all checks payable to THE TREASURER OF VIRGINIA - Registration fees are NON-REFUNDABLE

THIS FORM IS TO BE COMPLETED BY THE RESIDENT AND THE SUPERVISOR

CHECK ONE:  Initial Registration  Add Supervisor  Change Supervisor\*

\*Indicate Name of Former Supervisor and Submit Verification of Supervision:

**RESIDENT INFORMATION (Please type or print)**

Name (Last, First, M.I., Suffix, Maiden Name)	Social Security Number
Mailing Address (Street and/or Box Number, City, State, ZIP Code)	Home Telephone Number
Business Name and Address	Business Telephone Number

**SUPERVISOR INFORMATION**

Name (Last, First, M.I., Suffix, Maiden Name)		
Business Name and Address		Telephone Number
Type/Title of License	License Number	Expiration Date

**SUPERVISION TO BE PROVIDED RESIDENT** - A one-year, full-time residency is defined as a minimum of two hours of individual, face-to-face supervision per week. Part-time supervision must include at least one hour per week of face-to-face supervision. Two hours of group supervision may be substituted for one of the hours of individual face-to-face supervision.

Number of hours per week of individual, face-to-face supervision to be rendered: \_\_\_\_\_

Number of hours per week of group supervision to be rendered: \_\_\_\_\_

**SERVICES TO BE RENDERED BY THE RESIDENT WHILE IN SUPERVISION** - Include population of clients to receive service, assessments to be used, and techniques to be used.

\_\_\_\_\_

I, \_\_\_\_\_, declare under penalty of perjury under the laws of the Commonwealth  
 (Supervisor)

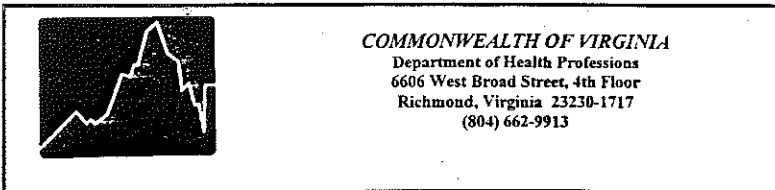
of Virginia that I will not provide supervision to \_\_\_\_\_ in areas outside of the  
 (Resident)  
 competencies of my license to practice as a \_\_\_\_\_. As supervisor, I assume responsibility  
 (License of Supervisor)  
 for the clinical activities of the individual registered under my supervision. We hereby agree to this supervision contract which  
 is being registered with the Board of Psychology. I further attest that I have read and understand the regulations pertaining to  
 residents in Virginia.

Signature of Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Resident: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Authorized Representative of Sponsoring Agency  
 (if applicable) \_\_\_\_\_ Date: \_\_\_\_\_

rev. 7/96



**VERIFICATION OF SUPERVISION**

This form is to be filled out when supervision is completed.

Applicant's Name	Social Security Number
------------------	------------------------

<b>THE FOLLOWING SECTION IS TO BE COMPLETED BY THE SUPERVISOR</b>	
Supervisor's Name	Professional Title
Is supervisor licensed as a mental health professional? Yes [ ] No [ ]	If yes, in which jurisdiction(s)?
License Title(s)	License number(s) and expiration date(s)
Clinical experience? Yes [ ] No [ ]	If yes, number of years
Business Name and Address	
Employment Position	
Applicant's position under your supervision	Length of time under your supervision: _____ Month/Year to _____ Month/year
Number of hours per week of individual, face-to-face supervision this applicant received in clinical practice:	
Total number of hours of individual, face-to-face supervision received by this applicant:	
Number of hours per week of group supervision this applicant received in clinical practice:	
Total number of hours of group supervision received by this applicant:	

Duties performed by applicant under your supervision:

In your opinion, is the applicant competent to practice under the license for which he or she has applied? Yes [ ] No [ ]

If no, please explain:

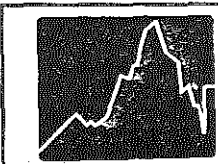
Additional comments:

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

rev. 7/96

FORM 4



COMMONWEALTH OF VIRGINIA  
Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9913

INTERNSHIP VERIFICATION

Applicant's Name	Social Security Number
------------------	------------------------

The following information is required in order to determine the eligibility of the above-named applicant for licensure as a Clinical Psychologist Applied Psychologist or School Psychologist

Internship Supervisor's Name	Professional Title
------------------------------	--------------------

Is supervisor licensed as a mental health professional? Yes [ ] No [ ]	If yes, in which jurisdiction(s)?
--	-----------------------------------

License Title(s)	License number(s) and expiration date(s)
------------------	--

Clinical experience? Yes [ ] No [ ]	If yes, number of years
-------------------------------------	-------------------------

Business Name and Address

Employment Position

Length of time under your supervision: \_\_\_\_\_ to \_\_\_\_\_  
Month Year Month Year

Number of hours per week of clinical supervision this applicant received in clinical practice:

Total number of hours of clinical supervision received by this applicant:

Describe the nature of the internship program:

Duties performed by applicant under your supervision:

[Empty space for listing duties performed by applicant under supervision]

Did the applicant successfully complete the internship? Yes [ ] No [ ]

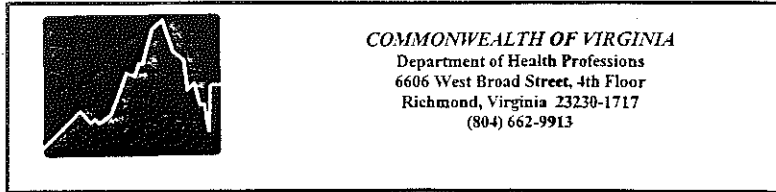
If no, please explain:

Additional comments:

Supervisor's Signature

Date

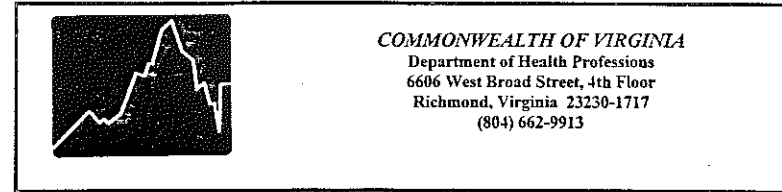
rev. 7/96



**DOCTORAL PROGRAM APPROVAL OF INTERNSHIP**

Applicant's Name _____		Social Security Number _____	
<p><b>TO THE DIRECTOR/CHAIR OF THE APPLICANT'S DOCTORAL PROGRAM:</b> The following information is required in order to determine the eligibility of the above-named applicant for licensure as a Clinical Psychologist, Applied Psychologist, or School Psychologist</p>			
Name and location of internship program: _____			
Was the internship program attended by the applicant approved by the doctoral program? Yes [ ] No [ ]			
If no, please explain: _____			
Was the internship program attended by the applicant approved by the American Psychological Association? Yes [ ] No [ ]			
If no, is the internship program consistent with the requirements for APA approval? Yes [ ] No [ ]			
Please provide any additional information which would assist in assessing the credentials of the internship: _____			
I attest that the information provided above is correct.			
_____ Signature		_____ Name of Institution	
_____ Name and Title (please print)		_____ Date	

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**LICENSURE VERIFICATION**

**APPLICANTS FOR PSYCHOLOGY LICENSURE IN THE COMMONWEALTH OF VIRGINIA ARE REQUIRED TO SEND A LICENSURE VERIFICATION FORM TO EVERY JURISDICTION IN WHICH THEY CURRENTLY HOLD, OR HAVE HELD, A LICENSE/CERTIFICATION TO PRACTICE AS A PSYCHOLOGIST OR OTHER HEALTH PRACTITIONER.**

Name: \_\_\_\_\_ License Number: \_\_\_\_\_  
 Address: \_\_\_\_\_

**TO BE COMPLETED BY STATE LICENSING BOARD**  
 Please complete this form and return it directly to the Virginia Board of Psychology at the above address. Thank you.

Title of License: \_\_\_\_\_ License Number: \_\_\_\_\_  
 Issue Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
 By Examination \_\_\_\_\_ By Endorsement \_\_\_\_\_ By Waiver \_\_\_\_\_ By Reciprocity \_\_\_\_\_  
 Type of Examination: EPPP \_\_\_\_\_ Other (please specify) \_\_\_\_\_  
 Date of Examination: \_\_\_\_\_ Cut-Off Score \_\_\_\_\_ Applicant's Score \_\_\_\_\_

Has there ever been any disciplinary action taken against the license? [ ] Yes [ ] No

If yes, please give full particulars on a separate sheet.

Certification by the authorized Licensure Official of the State Board of \_\_\_\_\_  
 State of \_\_\_\_\_

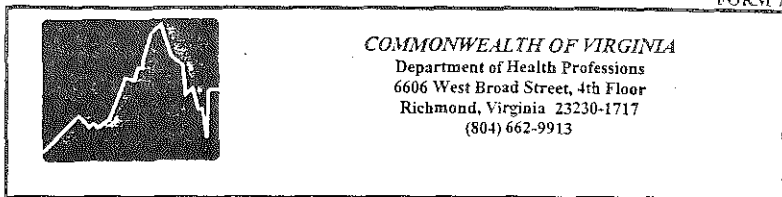
I certify that the information is correct.

\_\_\_\_\_  
 Authorized Licensure Official

SEAL \_\_\_\_\_  
 Title \_\_\_\_\_  
 Jurisdiction/State \_\_\_\_\_  
 Date \_\_\_\_\_

rev. 7/96





**COMMONWEALTH OF VIRGINIA**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9913

**AREAS OF GRADUATE STUDY**

This form is to be completed by graduates of non-APA or non-NCATE approved programs only.

Applicant's Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

Please list in the spaces provided below graduate coursework completed which corresponds to the courses listed below. Indicate course title, course number and number of credit hours received as shown on your graduate transcript. Also indicate on this form any area of study where you cannot specify that coursework was completed, or where it may be unclear from the title of a course that the course content was covered. Catalogue descriptions may be submitted for clarification. If more space is needed, please attach additional sheets.

You are only required to complete the numbers listed below, as applies to the licensure you are seeking:

- Applied Psychologist applicants complete items 1 - 7 only
- Clinical Psychologist applicants complete items 1 - 13 only
- School Psychologist applicants complete items 14 - 18 only

Required Course	Course Title and Number	Number of Credits	Name of Institution
1. Statistics and Research Design			
2. Physiological Psychology or Sensation and Perception			
3. Learning/Cognition			
4. Social Psychology			
5. Study of the Individual			
6. History and Systems			
7. Scientific and Professional Ethics and Standards			

Required Course	Course Title and Number	Number of Credits	Name of Institution
8. Personality Theory			
9. Diagnostic Interviewing and Behavioral Assessment			
10. Psychometric, Psychodiagnostic and Projective Testing			
11. Psychopathology			
12. Psychotherapy, both Individual and Group			
13. Practicum: Supervision in Assessment/Diagnosis and Psychotherapy			
14. Psychological Foundations			
15. Educational Foundations			
16. Assessment and Intervention			
17. Statistics and Research Design			
18. Professional School Psychology			

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VA.R. Doc. No. R97-287; Filed February 11, 1997, 9:02 a.m.

Virginia Register of Regulations

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Department of Health Professions  
 COMMONWEALTH OF VIRGINIA

**RENEWAL NOTICE AND APPLICATION**

Board of \_\_\_\_\_

Telephone \_\_\_\_\_

TYPE OF LICENSE \_\_\_\_\_

CURRENT EXPIRATION	RENEWAL PERIOD FROM _____ TO _____
CURRENT AMOUNT DUE \$ _____	LATE PAYMENT PAY _____, E. AFTER _____

- INSTRUCTIONS**
1. Complete item 1 below if you do not wish to renew.
  2. Make any address changes on this application when renewing.
  3. Make any other changes on this application and enclose a copy of your marriage license or court order.
  4. Add name and license number on all enclosures.
  5. Return this application in the enclosed envelope.

1.  Check here if you do not wish to renew, and sign below.

\_\_\_\_\_  
 Signature

NUMBER: \_\_\_\_\_  
 MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

821230

\*\*\*\*\*

**Title of Regulation:** 18 VAC 125-30-10 et seq. Regulations Governing the Certification of Sex Offender Treatment Providers.

**Statutory Authority:** §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

**Public Hearing Date:** March 14, 1997 - 10 a.m.  
Public comments may be submitted until May 2, 1997.  
(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations. Chapter 36 establishes the Board of Psychology and authorizes that board to administer the certification of sex offender treatment providers. In addition, § 54.1-103 authorizes the board to promulgate regulations recognizing licenses or certificates issued by other states as full or partial fulfillment of qualifications for licensure or certification.

**Purpose:** The purposes of the amendments are to:

1. Comply with statutory requirements that the board promulgate regulations for the certification of its licensees as sex offender treatment providers.
2. Comply with statutory requirements that the board administer the mandatory certification of sex offender treatment providers for those professions who are otherwise exempt from licensure and to promulgate regulations governing such mandatory certification.
3. Comply with statutory requirements that the board establish qualifications for certification as necessary to ensure competence and integrity of certified individuals.
4. Comply with statutory requirements that the board establish reasonable fees to cover the expenses of administering the certification program.
5. Set appropriate standards of conduct to enable the board to take action for misconduct in violation of those standards in order to protect the health, safety and welfare of the public.
6. Establish criteria for reinstatement of a certificate that has lapsed or been revoked.

**Substance:** The key provisions of each proposed regulation are summarized as follows:

**A. Part I. General Provisions.**

18 VAC 125-30-10 includes definitions pertaining to specific language in the proposed regulation.

18 VAC 125-30-20 establishes fees for application, registration of supervision, certification renewal, duplicate certificates, wall diplomas, reinstatement of a lapsed certificate, and a returned check penalty.

**B. Part II. Requirements for Certification.**

18 VAC 125-30-30 sets forth the prerequisites for certification and the materials that must be submitted to document satisfaction of those prerequisites. This section also provides for certification by endorsement of individuals certified in other states through requirements substantially equivalent to the board's.

18 VAC 125-30-40 sets forth the educational requirement for certification.

18 VAC 125-30-50 sets forth the experience requirement for certification.

18 VAC 125-30-60 sets forth the supervision requirement, including the number of hours of individual instruction between the trainee and supervisor, the qualifications required of supervisors, and the process for registering a supervisor with the board. This section also contains a waiver of the registration requirement for individuals who have five years work experience in sex offender treatment.

18 VAC 125-30-70 sets forth a requirement for oversight of noncertified individuals providing ancillary services as part of identified sex offender treatment programs by individuals who hold the certification.

**C. Part III. Renewal and Reinstatement.**

18 VAC 125-30-80 sets forth the process and schedule for certification renewal.

18 VAC 125-30-90 sets forth a procedure for renewal and reinstatement of an expired certificate.

**D. Part IV. Standards of Practice; Disciplinary Action; Reinstatement.**

18 VAC 125-30-100 sets forth the standards of professional conduct for certified sex offender treatment providers.

18 VAC 125-30-110 outlines violations that constitute grounds for disciplinary action or denial of certification by the board.

18 VAC 125-30-120 sets forth the procedure for reinstatement of a certificate that has been revoked or denied renewal.

**Issues:**

**A. Definitions.** The proposed amendments to the regulation include many new terms that may be unfamiliar or unclear to applicants, supervisors and the general public. The Advisory Committee on Certified Practices which was appointed to recommend regulations to the Board of Psychology began its task by developing definitions for sex offense, sex offender, assessment and treatment as used in the regulation but not defined in statute.

The advisory committee determined that the definition for sex offense should reflect crimes and offenses of a sexual nature as defined by Virginia law, and developed that definition accordingly. Unable to find a suitable definition elsewhere, the advisory committee developed its own definition for sex offender based on conviction of a sex offense, a finding of sexual abuse by the Department of Social Services (DSS), or admission or acknowledgment of behavior that would result in adjudication, conviction or founded abuse status by DSS.

# Proposed Regulations

The committee developed its own definition for assessment. The definition for treatment was adapted from the definition developed by the National Task Force on Juvenile Sexual Offending (Juvenile and Family Court Journal 44:4).

The definition of certified sex offender treatment provider was taken directly from statute. The definitions of supervision and supervisor were derived from existing definitions in behavioral sciences regulation and made more specific for this certification.

A board-appointed ad hoc committee developed a definition of ancillary services to distinguish psycho-educational components of sex offender treatment programs from activities that involved counseling or therapy.

**Advantages:** The definitions developed by the advisory committee define terms that are very specific to this type of offense (specific to Virginia law) and practice and provide essential meaning to the regulation. Definitions are also valuable enforcement tools when scope of practice issues arise.

**Disadvantages:** Definitions in the proposed regulation present no disadvantages to the general public, applicants, licensees, the board or the agency.

**B. Proposed Fees.** The Code of Virginia (§ 54.1-2400 and § 54.1-3605) provides statutory authority for establishment of fees for the administration and operation of the regulatory program. In addition § 54.1-113 mandates that the board collect sufficient fees to cover all expenses.

The agency's finance office has prepared an analysis of projected expenditures for implementation of the regulatory program as follows:

	FY96	FY97	FY98
Data Processing	3000	5000	5000
Administration & Finance	2500	4000	4000
Human Resources	1000	1000	1000
Enforcement	500	2000	3000
Admin Proceedings	300	1000	1000
Attorney General	1500	1000	1000
Bd of Health Professions	1000	1000	1000
Professional Services	18000	21000	22000
Contractual Services	25000	20000	20000
Supplies	500	500	500
Continuous Charges	1000	1000	1000
Equipment	200	200	200
<b>TOTAL</b>	<b>54500</b>	<b>57700</b>	<b>59700</b>

The board considered two alternative fee structures developed by the agency's finance office to cover projected expenses:

	PROPOSAL #1			PROPOSAL #2	
	Estimated # Certified	Proposed Fee	Annual Revenue	Proposed Fee	Annual Revenue
Application	200	\$100	\$20,000	\$90	\$18,000
Renewal	500	\$65	\$32,500	\$75	\$37,500
Supervision	50	\$50	\$2,500	\$50	\$2,500
Miscellaneous			\$500		\$500
<b>TOTAL</b>			<b>\$55,500</b>		<b>\$58,500</b>

\* It is estimated that approximately 400 individuals will apply for certification within the first year, decreasing to 50

applicants per year in succeeding years. In order to avoid over projecting revenue after the first year, "200" was used for projection purposes rather than "400."

The board adopted Proposal 2, which is within 2.0% of projected expenditures for FY97 and FY98.

**Advantages:** Assessing fees for certification will enable the board to comply with statutory mandates to collect fees sufficient to meet expenses. The board has already expended funds from psychologist licensure fees in 1994 and 1995 to cover costs of staff time and advisory committee meetings in developing the proposed regulation. Collecting fees from individuals seeking certification will prevent the necessity of additional fee increases for psychologist licensure to cover expenses of the certification program.

**Disadvantages:** Obtaining this certification may involve a personal financial expense to individuals seeking certification. However, this is a voluntary certification for individuals licensed by the Boards of Psychology, Social Work, or Professional Counselors and Marriage and Family Therapists who wish to use the title sex offender treatment provider.

Individuals who are exempt from licensure by the above-named boards are mandated to hold the certification in order to use the title or hold themselves out as sex offender treatment providers. Because Virginia law prohibits unlicensed practitioners from providing counseling or therapy services for a fee in private work settings, unlicensed practitioners are found only in public settings. The Department of Corrections does not expect to incur additional costs to certify providers at this time, as sex offender treatment programs are no longer conducted by that agency. Treatment of patients housed in institutions administered by the Department of Mental Health, Mental Retardation and Substance Abuse Services are not treated for sex offending behavior, but for mental illnesses that may result in that behavior. Community services boards do not expect to be impacted by these fees as most of their providers are licensed and therefore exempt from the certification requirement. The Department of Juvenile Justice expects to incur costs for 20 of its employees to obtain and maintain certification.

As no examination requirement is imposed, applicants will not have to expend any additional funds for examination fees.

**C. Education and experience requirements.** The board is mandated under § 54.1-2400 to establish qualifications for certification which are necessary to ensure competence and integrity to engage in regulated professions. In addition, the board is mandated under § 54.1-3605 to promulgate regulations for the certification of sex offender treatment providers, and to administer such certification. Presently, there are no qualifications for certification set forth in regulation, and no process to become certified.

In compliance with legislation enacted by the 1994 General Assembly, a 10-member Advisory Committee on Certified Practices was appointed to recommend regulatory criteria for certification to the board. Seven of the advisory committee members had experience in working with sex offenders. Public comment was solicited at all meetings of the advisory committee and subcommittees were established to work on specific areas of the regulations.

In addition to public comment, the advisory committee considered the state of Washington's criteria for sex offender treatment provider certification, criteria for membership in the Association for the Treatment of Sexual Abusers, registration criteria of the Texas Interagency Council on Sex Offender Treatment, certification criteria of the Iowa Board for the Treatment of Sexual Abusers, certification criteria of the Juvenile Sex Offender Counselor Certification Program at the University of Louisville, and the 1993 report of the National Task Force on Juvenile Sexual Offending.

The advisory committee recommended the requirement for full sex offender certification offered by the agencies and associations listed above, which is a masters degree plus 2,000 hours of work experience in direct clinical treatment of sexual abusers. The committee felt strongly that any lesser requirement would not adequately protect the public due to the danger presented by this client population. Due to the unique and evolving nature of treatment methods for sex offenders that are not currently available through formal education, the advisory committee recommended 50 clock hours of training in issues related to sexual offending, and one year of work experience in the provision of sex offender treatment services.

At its regular meeting following the close of the public comment period published in the Notice of Intended Regulatory Action, the board invited public comment. No written or verbal comment was received at the meeting or during the public comment period.

Following review of the proposed regulation by the agency's regulatory analyst, the board appointed an ad hoc committee to simplify the reinstatement procedure and the standards of practice in the advisory committee's recommended regulation, and to address language providing for supervision of practitioners ineligible for certification, which conflicted with the statutory mandate. The ad hoc committee developed a definition of ancillary services to clarify the role that public sector employees ineligible for certification may play in the sex offender programs. The board adopted the amended regulation on August 6, 1996.

**Advantages:** In response to Senate Joint Resolution 41, the Department of Health Professions studied the feasibility and need of establishing a certification program for sex offender treatment providers. The study acknowledged the public protection issues inherent in working with sex offenders, and identified the need to better prepare mental health and counseling professionals working in practices which include significant numbers of sexual assault victims and offenders. The 1994 General Assembly affirmed these findings by enacting legislation which established certification for sex offender treatment providers.

Individuals who assess and treat sex offenders will benefit from obtaining additional training and experience under supervision of licensed professionals with sex offender treatment experience. The general public will be better protected when providers are trained to assess and treat sex offender clients.

**Disadvantages:** No disadvantages to the proposed education and experience requirements were identified by the Departments of Corrections, Juvenile Justice, or Mental

Health, Mental Retardation and Substance Abuse Services. Employees of these agencies who do not meet the requirements for certification can be assigned to nonsex offender clients. The agencies reported sufficient staffing of licensed and certification-eligible individuals to handle the present treatment workload. The requirements for certification proposed by the board do not exceed the state of Washington's criteria for sex offender treatment provider full certification, the criteria for clinical registration in the Association for the Treatment of Sexual Abusers, or the registration criteria of Texas Interagency Council on Sex Offender Treatment.

**D. Standards of practice.** State law requires that the board establish regulations that include provisions for disciplinary action. Standards of practice provide the basis for disciplinary action for misconduct, and provide guidelines for professional behavior in the provision of services. An issue peculiar to the treatment of sex offenders is the use of specialized testing and treatment materials that must be safeguarded and properly used. The board addressed the use of these materials in the proposed standards. Standards were also included to ensure that providers are aware of confidentiality issues specific to sexual offenders and of any involvement of corrections/probation/parole officers for effective supervision and monitoring of the offender's behavior.

While developing standards of practice to recommend to the board, the advisory committee considered standards generic to other health professions regulation, Virginia law specific to sex offenses, and the standards of ethics for sex offender treatment providers in Washington state law and the Association for the Treatment of Sexual Abusers. The standards proposed by the board are a synthesis of these other standards, but much less extensive.

**Advantages:** Standards of practice provide practitioners with a framework for professional conduct, and provide the basis for board action against unscrupulous or unqualified providers, thereby protecting the public.

**Disadvantages:** The proposed standards of practice present no disadvantage to practitioners, sex offender clients, state or private facilities, or the general public.

**Estimated Fiscal Impact:**

**A. Projected number of persons affected and their cost of compliance:** It is estimated that approximately 400 individuals will apply for certification within the first year, decreasing to 50 applicants in succeeding years. Individuals who have already met the experience requirement (approximately 100) will pay a \$90 application/initial certification fee, and a \$75 annual renewal fee. Individuals who have not met the experience requirement will pay \$50 for each supervisor registered.

The Department of Corrections does not expect to incur additional costs to certify providers at this time as sex offender treatment programs are no longer conducted by that agency. Treatment of patients housed in institutions administered by the Department of Mental Health, Mental Retardation and Substance Abuse Services are not treated for sex offending behavior, but for mental illnesses that may result in that behavior. The Department of Juvenile Justice

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## Proposed Regulations

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expects to incur costs for 20 of its employees to obtain and maintain certification.

B. Costs to the agency for implementation: A projected expenditure impact for the regulatory program prepared by the agency's finance office is outlined in the Issues section of this statement.

An estimated \$17,900 has already been expended from funds collected for psychologist licensure fees for advisory committee meetings and staff time dedicated to those meetings in fiscal years 1994 and 1995.

C. Costs to local governments: Community services boards do not expect to be impacted by these fees as most of their providers are licensed and exempt from the certification requirement.

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 affects.

Summary of the Proposed Regulation. Section 54.1-3611 of the Code of Virginia, as enacted by the 1994 General Assembly, stipulates that "no person, including licensees of the Boards of Medicine, Nursing, Professional Counselors, Psychology, or Social Work, shall claim to be a certified sex offender treatment provider unless he has been so certified." Section 54.1-3605 of the Code of Virginia, as enacted by the 1994 General Assembly, gives the power to promulgate regulations governing the certification of sex offender treatment providers to the Board of Psychology. As authorized by Section 54.1-3605, the proposed regulation establishes certification criteria, certification fees, and professional standards of practice for sex offender treatment providers.

Estimated Economic Impact. The proposed regulation is anticipated to have two economic effects: (i) it will likely enhance the quality of sex offender treatment provider services in Virginia by guaranteeing that individuals presenting themselves to the public as sex offender treatment providers have training and experience in that field and (ii) it will likely increase the entry costs associated with becoming a sex offender treatment provider in Virginia.

Quality of Sex Offender Treatment Provider Services. Prior to the legislation that engendered this proposed regulation, licensees of the Boards of Medicine, Nursing, Professional Counselors, Psychology, and Social Work theoretically could present themselves to the public as qualified sex offender treatment providers regardless of whether they had specific training or experience in this field. The primary benefit of the

proposed regulation is that it establishes the Board of Psychology as a third party guarantor of the professional credentials of individuals presenting themselves to the public as certified sex offender treatment providers. This reduces the uncertainty and risk confronted by the public when purchasing such services. It would be cost prohibitive for DPB to quantify the exact magnitude of this benefit however.

Increased Entry Costs. The other economic effect of the proposed regulation is that it will increase the minimum costs associated with becoming a sex offender treatment provider in Virginia. In the wake of the proposed certification requirements, the cost of entry into this field will also include fees required by the Board of Psychology for certification. Information provided by the Board of Psychology indicates that the total cost imposed on the regulated community by these certification fees would be roughly \$58,500 annually.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects all individuals providing sex offender treatment in the Commonwealth as well as their patients.

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 governing certification of sex offender treatment providers will have two primary economic effects: (i) a possible enhancement in the quality of sex offender treatment services provided in Virginia; and (ii) an increase of roughly \$58,500 per year in the costs imposed on the regulated community.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency is in agreement with the economic impact analysis prepared by the Department of Planning and Budget.

### Summary:

*Regulations are proposed by the Board of Psychology to comply with statutory requirements to establish standards of ethics, fees, and criteria for certification of sex offender treatment providers.*

### CHAPTER 30.

### REGULATIONS GOVERNING THE CERTIFICATION OF SEX OFFENDER TREATMENT PROVIDERS.

#### PART I.

#### GENERAL PROVISIONS.

#### 18 VAC 125-30-10. Definitions.

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

*"Ancillary services" means training in anger management, stress management, assertiveness, social skills, substance*

abuse avoidance and sex education as part of an identified sex offender treatment provider program.

"Applicant" means an individual who has submitted a completed application with documentation and the appropriate fees to be examined for certification as a sex offender treatment provider.

"Assessment" means using specific techniques of evaluation and measurement to collect facts related to sexually abusive thoughts and behaviors contributing to sexual offense.

"Board" means the Virginia Board of Psychology.

"Certified sex offender treatment provider" means a person who is certified to provide treatment to sex offenders and who provides such services in accordance with the provisions of §§ 54.1-2924.1, 54.1-3005, 54.1-3505, 54.1-3609, 54.1-3610, 54.1-3611, and 54.1-3705 of the Code of Virginia and the regulations promulgated pursuant to these provisions.

"Competency area" means an area in which a person possesses knowledge and skills and the ability to apply them in the clinical setting.

"Sex offender" means (i) any person who has been adjudicated or convicted of a sex offense or has a founded child sexual abuse status by the Department of Social Services; (ii) any person for whom any court has found sufficient evidence without specific finding of guilt of committing a felony or misdemeanor which may be reasonably inferred to be sexually motivated; or (iii) any person who admits to or acknowledges behavior which would result in adjudication, conviction, or a founded child sexual abuse status.

"Sex offense" means behavior in violation of any of the following statutes in the Code of Virginia: § 18.2-48 in part (abduction of any person with intent to defile such person), § 18.2-60.3 in part (includes only those instances in which sexual motivation can be reasonably inferred), § 18.2-61, § 18.2-63, § 18.2-64.1, § 18.2-67.1, § 18.2-67.2, § 18.2-67.2:1, § 18.2-67.3, § 18.2-67.4, § 18.2-67.5, § 18.2-130 in part (includes only those instances in which sexual motivation can be reasonable inferred), subsection A of § 18.2-361 in part "If any person carnally knows in any manner any brute animal" and subsection B § 18.2-361 in its entirety, § 18.2-366, § 18.2-370, § 18.2-370.1, § 18.2-374.1 (not to include plethysmographic testing materials in the possession of qualified mental health professionals or technicians), § 18.2-387.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular documented individual consultation, guidance and instruction with respect to the skills and competencies of the person providing sex offender treatment services.

"Supervisor" means an individual who assumes full responsibility for the education and training activities of a person as it relates to sex offender treatment and provides the supervision required by such a person. The supervisor must be a certified sex offender treatment provider and licensed by the Board of Medicine, Nursing, Professional

Counselors and Marriage and Family Therapists, Psychology or Social Work.

"Treatment" means therapeutic intervention to change sexually abusive thoughts and behaviors which specifically addresses the occurrence and dynamics of sexual behavior and utilizes specific strategies to promote change.

18 VAC 125-30-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of sex offender treatment providers:

Registration of supervision	\$50
Application processing	\$90
Certification renewal	\$75
Duplicate certificate	\$10
Reinstatement fee	\$50
Replacement of or additional wall certificate	\$15
Returned check	\$15

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the Board of Psychology.

PART II.

REQUIREMENTS FOR CERTIFICATION.

18 VAC 125-30-30. Prerequisites to certification.

A. A candidate for certification as a sex offender treatment provider shall meet all the requirements of this chapter.

B. Every applicant for certification by the board shall:

1. Meet the educational requirements prescribed in 18 VAC 125-30-40;
2. Meet the experience requirements prescribed in 18 VAC 125-30-50 and 18 VAC 125-30-60;
3. Submit to the executive director of the board:
  - a. A completed application form;
  - b. Documented evidence of having fulfilled the education, experience and supervision set forth in 18 VAC 125-30-40, 18 VAC 125-30-50, and 18 VAC 125-30-60; and
  - c. Reference letters from three health care professionals familiar with and attesting to the applicant's skills and experience.

C. The board may certify by endorsement an individual who can document current certification as a sex offender treatment provider in good standing obtained by standards substantially equivalent to those outlined in this chapter as verified by an out-of-state certifying agency on a board-approved form.

18 VAC 125-30-40. Educational requirements.

An applicant for certification as a sex offender treatment provider shall:

1. Document completion of one of the following degrees:

# Proposed Regulations

- a. A master's or doctoral degree in social work, psychology, counseling, or nursing from a regionally accredited university;
- b. The degree of Doctor of Medicine or Doctor of Osteopathic Medicine from an institution that is approved by an accrediting agency recognized by the Virginia Board of Medicine; or
- c. A comparable degree acceptable to the board.

Graduates of institutions which are not accredited by an acceptable accrediting agency shall establish the equivalency of their education to the educational requirements of the Virginia Board of Social Work, Psychology, Professional Counselors and Marriage and Family Therapists, Nursing or Medicine.

2. Provide documentation of 50 clock hours of training acceptable to the board in the following areas, with at least 10 hours in each area:

- a. Etiology/developmental issues of sex offense behavior;
- b. Sex offender assessment;
- c. Sex offender treatment interventions;
- d. Criminal justice and legal issues related to sexual offending; and
- e. Program evaluation, treatment efficacy and issues related to recidivism.

18 VAC 125-30-50. Experience requirements; supervision.

An applicant for certification as a sex offender treatment provider shall provide documentation of having 2,000 hours of post-degree clinical experience in the delivery of clinical assessment/treatment services. At least 200 hours of this experience must be face-to-face treatment and assessment with sex offender clients.

18 VAC 125-30-60. Supervision requirement.

A. Hours. One year after the effective date of these regulations [date to be inserted], the experience set forth in 18 VAC 125-30-50 shall also include a minimum of 100 hours of face-to-face supervision within the 2,000 hours experience with a minimum of six hours per month. A maximum of 50 hours of this face-to-face supervision may be obtained in a group setting including up to six trainees in a group.

B. The supervisor.

1. The supervisor shall assume responsibility for the professional activities of the applicant.
2. The supervisor shall not provide supervision for activities for which the prospective applicant has not had appropriate education.
3. The supervisor shall provide supervision only for those sex offender treatment services which he is qualified to render.
4. At the time of formal application for certification, the board approved supervisor shall document for the board

the applicant's total hours of supervision, length of work experience, competence in sex offender treatment and any needs for additional supervision or training.

C. Registration of supervision.

1. Individuals who wish to register supervision with the board shall submit in one package:

- a. A completed supervisory contract;
- b. The registration fee prescribed in 18 VAC 125-30-20; and
- c. Official graduate transcript.

2. The board may waive the registration requirement for individuals who have obtained at least five years documented work experience in sex offender treatment in another jurisdiction.

18 VAC 125-30-70. Supervision of unlicensed persons.

Those persons providing ancillary services as part of an identified sex offender treatment program in an exempt practice situation and not meeting the educational and experience requirements to become an applicant shall practice under the supervision of a certified sex offender treatment provider.

## PART III. RENEWAL AND REINSTATEMENT.

18 VAC 125-30-80. Annual renewal of certificate.

A. Every certificate issued by the board shall expire on June 30 of each year.

B. Along with the renewal application, the certified sex offender treatment provider shall submit the renewal fee prescribed in 18 VAC 125-30-20.

C. Failure to receive a renewal notice and application form(s) shall not excuse the certified sex offender treatment provider from the renewal requirement.

18 VAC 125-30-90. Reinstatement.

A. A person whose certificate has expired may renew it within two years after its expiration date by paying the renewal fee and the reinstatement fee prescribed in 18 VAC 125-30-20.

B. A person whose certificate has expired beyond two years shall submit a reinstatement application along with the renewal and reinstatement fees and provide evidence satisfactory to the board of current ability to practice.

## PART IV. STANDARDS OF PRACTICE; DISCIPLINARY ACTION; REINSTATEMENT.

18 VAC 125-30-100. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all certified practitioners who provide services to sex offenders.

B. Persons certified by the board shall:

1. Practice in a manner that ensures community protection and safety.
  2. Treat all sex offender clients with dignity and respect, regardless of the nature of their crimes or offenses.
  3. Provide only services and use only techniques for which they are qualified by training and experience.
  4. Disclose to sex offender clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment.
  5. Inform sex offender clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the sex offender client to reveal personal information or allowing such information to be divulged.
  6. Inform sex offender clients of circumstances which may allow an exception to the agreed upon confidentiality, including (i) as obligated under dual-client situations, especially in criminal justice or related settings; (ii) when the client is a danger to self or others; (iii) when under court order to disclose information; (iv) in cases of suspected child abuse; (v) as otherwise required by law.
  7. Not require or seek waivers of privacy or confidentiality beyond the requirements of treatment, training, or community safety.
  8. Explain to juvenile sex offender clients the rights of their parents or guardians, or both, to obtain information relating to the sex offender client.
  9. Maintain sex offender client records securely, inform all employees of the rules applicable to the applicable level of confidentiality and provide for the destruction of records which are no longer useful.
  10. Retain sex offender client records for a minimum of five years from the date of termination services.
  11. Stay abreast of new developments, concepts and practices which are important to providing appropriate professional services.
  12. Never engage in dual relationships with sex offender clients or former clients, or current trainees that could impair professional judgment or compromise the sex offender client's or trainee's well-being, impair the trainee's judgment, or increase the risk of sex offender client or trainee exploitation.
- Engaging in sexual intimacies with sex offender clients or former clients, or with current trainees is strictly prohibited.
13. Report to the board known or suspected violations of the laws and regulations governing the practice of sex offender treatment providers, as well as any information that a sex offender treatment provider is unable to practice with reasonable skill and safety because of illness or substance abuse or otherwise poses a danger to himself, the public or clients.

14. Provide clients with accurate information concerning tests, reports, billing, acceptable means of payment, therapeutic regime and schedules before rendering services.

15. Maintain cooperative and collaborative relationships with corrections/probation/parole officers or any responsible agency for purposes of the effective supervision and monitoring of a sex offender client's behavior in order to assure public safety.

16. Consider the validity, reliability and appropriateness of assessments selected for use with sex offender clients. Where questions exist about the appropriateness of utilizing a particular assessment with a sex offender client, expert guidance from a knowledgeable, certified sex offender treatment provider shall be sought.

17. Recognize the sensitivity of sexual arousal assessment testing and treatment materials, safeguard the use of such materials in compliance with § 18.2-374.1:1 of the Code of Virginia, and use them only for the purpose for which they are intended in a controlled penile plethysmographic laboratory assessment.

18. Be aware of the limitations of plethysmograph and that plethysmographic data is only meaningful within the context of a comprehensive evaluation or treatment process or both.

19. Be knowledgeable of the limitations of the polygraph and take into account its appropriateness with each individual client and special client population.

20. Comply with all laws of the Code of Virginia applicable to the practice of sex offender treatment providers.

#### 18 VAC 125-30-110. Grounds for disciplinary action.

The board may revoke, suspend, restrict or refuse to issue a certificate, or reprimand or fine a practitioner in accord with the following:

1. Violation of the standards of practice.
2. Conviction of a felony or a misdemeanor involving moral turpitude.
3. Misuse of drugs or alcohol which interferes with professional functioning.
4. Mental or physical illness which interferes with professional functioning.
5. The denial, revocation, suspension, or restriction of a registration, license or certificate to practice in another state, or a United States possession or territory or the surrender of any such registration, license or certificate while an active investigation is pending.

#### 18 VAC 125-30-120. Reinstatement following disciplinary action.

A. Any person whose certificate has been revoked or denied renewal by the board under the provisions of 18 VAC 125-30-110 may, two years subsequent to such board action,

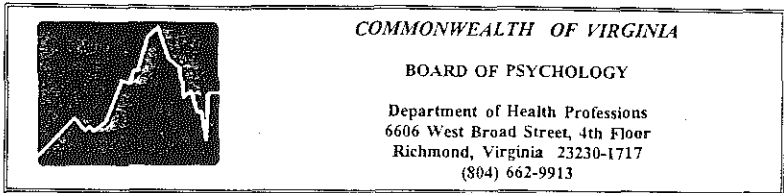


# Proposed Regulations

submit a new application to the board for certification to the board.

B. The board in its discretion may, after a hearing, grant reinstatement.

C. The applicant for reinstatement, if approved, shall be certified upon payment of the appropriate fees applicable at the time of reinstatement.



## APPLICATION FOR CERTIFICATION AS A SEX OFFENDER TREATMENT PROVIDER

I hereby make application for certification to practice as a sex offender treatment provider in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$50.00 made payable to the Treasurer of Virginia. The application fee is non-refundable.

INSTRUCTIONS	PLEASE TYPE OR PRINT	USE BLACK INK			
1. Applicants must complete all sections. 2. Completed application should be mailed to the above address.					
<b>I. GENERAL INFORMATION</b>					
Name (Last, First, M.I., Suffix, Maiden Name)		Date of Birth			
Social Security Number		Home Telephone Number			
Mailing Address (Street and/or Box Number, City, State, ZIP Code)		Business Telephone Number			
Business Name and Address (if different from above)					
<b>II. EDUCATION:</b> List in chronological order the name and location of each graduate school where graduate course work has been completed.					
Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

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**III. LICENSURE/CERTIFICATION** - List all the states in which you now hold or have ever held an occupational license or certificate to provide sex offender treatment or other counseling services in order of attainment.

STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE

**IV. TRAINING**  
A minimum of ten (10) hours of training in each of the following areas must be documented. Please provide copies of certificates of training, or supervisor's signature if the training was received on the job.

Tasks	Number of Hours Completed	School/Facility/Agency	Title of Workshop/Seminar/Inservice Training or Supervisor's Signature	Date
1. Etiology/developmental issues of sex offense behavior				
2. Sex offender assessment				
3. Sex offender treatment interventions				
4. Criminal justice and legal issues related to sexual offending				
5. Program evaluation, treatment efficacy and issues related to recidivism				

**ANSWER THE FOLLOWING QUESTIONS:**

1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where:	YES [ ]	NO [ ]
_____		
_____		
2. Do you currently hold, or have you ever held, an occupational license or certification to practice as a sex offender treatment provider in any other state or jurisdiction? If yes, please list below:	[ ]	[ ]
State	Number	Issue Date Title
_____	_____	_____
State	Number	Issue Date Title
_____	_____	_____
3. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary):	[ ]	[ ]
_____		
_____		
4. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail:	[ ]	[ ]
_____		
_____		
5. Have you ever been terminated or asked to withdraw from any health care facility, agency, or practice? If yes, provide an explanation on a separate sheet of paper.	[ ]	[ ]

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
(To be completed before a notary public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_ being duly sworn, says that he/she is the person who is referred to in the foregoing application for certification to practice as a sex offender treatment provider in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law, and that he/she has read and understands this affidavit.

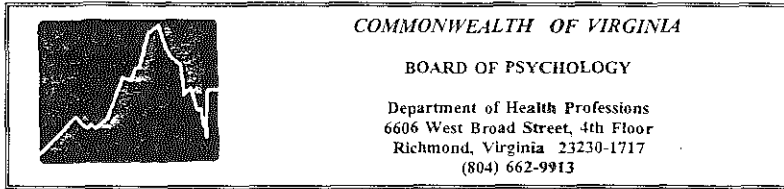
\_\_\_\_\_  
Signature of Applicant

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

My commission expires on \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

SEAL



**LICENSURE or CERTIFICATION VERIFICATION**

APPLICANTS FOR SEX OFFENDER TREATMENT PROVIDER CERTIFICATION IN THE COMMONWEALTH OF VIRGINIA ARE REQUIRED TO SEND A LICENSURE VERIFICATION FORM TO EVERY JURISDICTION IN WHICH THEY CURRENTLY HOLD, OR HAVE HELD, A LICENSE OR CERTIFICATION AS A HEALTH PRACTITIONER.

Name: \_\_\_\_\_ License Number: \_\_\_\_\_  
Address: \_\_\_\_\_

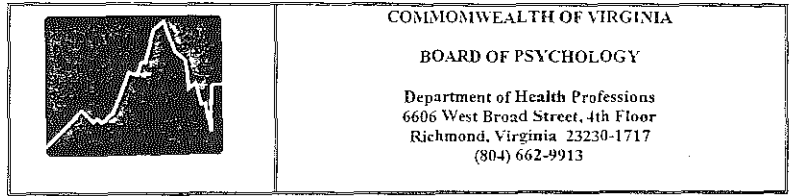
**TO BE COMPLETED BY STATE LICENSING BOARD**

Please complete this form and return it directly to the Virginia Board of Psychology at the above address. Thank you.

Title of License/Certification: \_\_\_\_\_ License/Certificate Number: \_\_\_\_\_  
Issue Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
By Examination \_\_\_\_\_ By Endorsement \_\_\_\_\_ By Waiver \_\_\_\_\_ By Reciprocity \_\_\_\_\_  
Type of Examination (please specify): \_\_\_\_\_  
Date of Examination: \_\_\_\_\_ Cut-Off Score \_\_\_\_\_ Applicant's Score \_\_\_\_\_  
Has there ever been any disciplinary action taken against the license? [ ] Yes [ ] No  
If yes, please give full particulars on a separate sheet.

Certification by the authorized Licensure Official of the State Board of \_\_\_\_\_  
State of \_\_\_\_\_ I certify that the information is correct.  
  
\_\_\_\_\_  
Authorized Licensure Official  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Jurisdiction/State  
  
\_\_\_\_\_  
Date

SEAL



**REGISTRATION OF SUPERVISION  
POST-GRADUATE DEGREE SUPERVISED EXPERIENCE**

**FEES:** \$25.00 Initial Registration (one supervisor)  
\$25.00 Each Additional Registration  
Make all checks payable to THE TREASURER OF VIRGINIA - Registration fees are NON-REFUNDABLE

THIS FORM IS TO BE COMPLETED BY THE TRAINEE AND THE SUPERVISOR

CHECK ONE: [ ] Initial Registration [ ] Add Supervisor [ ] Change Supervisor

**TRAINEE INFORMATION (Please type or print)**

Name (Last, First, M.I., Suffix, Maiden Name)		Social Security Number	Date of Birth
Mailing Address (Street and/or Box Number, City, State, ZIP Code)			Home Telephone Number
Business Name and Address			Business Telephone Number

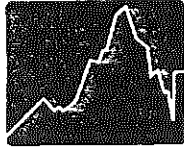
**EDUCATION:** List in chronological order the name and location of each graduate school where graduate course work has been completed. GRADUATE TRANSCRIPTS MUST BE SUBMITTED TO THE BOARD OFFICE IN THE REGISTRAR'S SEALED (UNOPENED) ENVELOPE PRIOR TO APPROVAL OF SUPERVISION.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

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**REGISTRATION OF SUPERVISION (continued)**

SUPERVISOR INFORMATION		
Name (Last, First, M.I., Suffix, Maiden Name)		Social Security Number
Business Address		Telephone Number
License	License Number	Sex Offender Treatment Provider Certification Number
SUPERVISION CONTRACT		
<p><b>SUPERVISION TO BE PROVIDED TRAINEE</b> - Supervision agreement should include at least six hours per month of face-to-face supervision for a total of at least 100 hours within the 2,000 hours of experience. Group supervision involving up to six members in a group will be acceptable for a maximum of 50 hours. Provide detailed information of supervision to be given.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		
<p><b>SERVICES TO BE RENDERED BY THE TRAINEE WHILE IN SUPERVISION</b> - Include population of clients to receive service, assessments to be used, and counseling techniques to be used.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		
DECLARATION OF SUPERVISOR:		
<p>I attest that I have received education and training in the provision of sex offender treatment services commensurate with Virginia Administrative Code 18 VAC 125-30-60.</p> <p>As supervisor, I assume responsibility for the clinical activities of the individual while under my supervision. We hereby agree to this supervision contract which is being registered with the Board of Psychology.</p> <p>Signature of Supervisor: _____ Date: _____</p> <p>Signature of Trainee: _____ Date: _____</p>		

	<p><b>COMMONWEALTH OF VIRGINIA</b></p> <p><b>BOARD OF PSYCHOLOGY</b></p> <p>Department of Health Professions 6606 West Broad Street, 4th Floor Richmond, Virginia 23230-1717 (804) 662-9913</p>
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**SEX OFFENDER TREATMENT PROVIDER VERIFICATION OF SUPERVISION**

The Virginia Board of Psychology has received an application for certification as a sex offender treatment provider from the applicant named below. Your name has been submitted by the applicant as a person who has supervised the applicant's professional experience in the delivery of sex offender treatment services. Please provide the Board with information requested on this form and return this form to the applicant in a sealed, signed envelope. Thank you.

Supervisee's Name: \_\_\_\_\_

Supervisee's Business Address: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Supervisor's Business Address: \_\_\_\_\_

Type of License: \_\_\_\_\_ License Number: \_\_\_\_\_ State of License: \_\_\_\_\_

Sex Offender Treatment Provider Certification Number: \_\_\_\_\_

Dates the applicant was under your supervision:

From: \_\_\_\_\_ (month/day/year) To: \_\_\_\_\_ (month/day/year)

a. Hours applicant worked	Per Week _____	Total _____
b. Hours of face-to-face sex offender client treatment and assessment	Per Month _____	Total _____
b. Hours of individual, face-to-face supervision	Per Month _____	Total _____
c. Hours of group supervision	Per Month _____	Total _____

Duties performed by the applicant under your supervision:

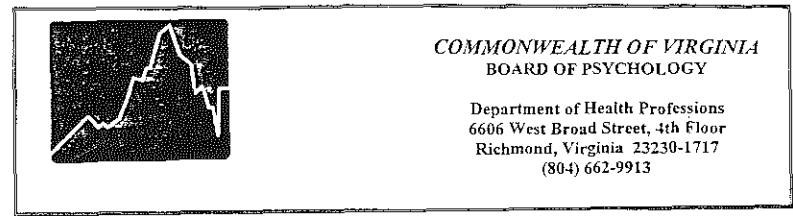
EVALUATION OF APPLICANT: To complete the supervision requirements, applicants must demonstrate competency in the areas listed below. Please check your evaluation of the applicant in each area listed below.

- 1. Etiology/Developmental Issues of Sex Offense Behavior
2. Sex Offender Assessment
3. Sex Offender Treatment Interventions
4. Criminal Justice and Legal Issues Related to Sexual Offending
5. Program Evaluation, Treatment Efficacy and Issues Related to Recidivism

In your opinion, has the supervisee demonstrated competency in providing sex offender treatment services sufficient for certification?

Comments by supervisor:

This evaluation has been discussed with the supervisee and a copy has been provided to the supervisee.
Signature of Supervisor
Date:
Signature of Supervisee
Date:



COMMONWEALTH OF VIRGINIA BOARD OF PSYCHOLOGY

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717
(804) 662-9913

APPLICATION FOR REINSTATEMENT OF CERTIFICATION AS A SEX OFFENDER TREATMENT PROVIDER

I hereby make application to reinstate my certificate to practice as a sex offender treatment provider in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$50.00 made payable to the Treasurer of Virginia. The reinstatement fee is non-refundable.

Form with sections: INSTRUCTIONS, I. GENERAL INFORMATION, III. LICENSURE/CERTIFICATION. Includes fields for Name, Social Security Number, Date of Birth, Mailing Address, Home Telephone Number, Business Name and Address, Business Telephone Number, Virginia License #, Name at Time of Original Licensure, and a table for Licensure/Certification history.

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

**RENEWAL NOTICE AND APPLICATION**

Board of \_\_\_\_\_

Telephone \_\_\_\_\_

TYPE OF RENEWAL \_\_\_\_\_

CURRENT EXPIRATION	RENEWAL PERIOD FROM	TO
CURRENT AMOUNT DUE \$	LATE PAYMENT FEE	IF LATE AFTER

**INSTRUCTIONS**

1. Copy into items 1 through 4, you do not need to answer.
2. Make any address changes on this page first, when not making.
3. Make any name changes on the application and on form 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
4. Make sure that the number on all the letters.
5. Return this application in the enclosed envelope.

Check here if you do not wish to renew, and so hereby \_\_\_\_\_

NUMBER: \_\_\_\_\_

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

REG-2

**DESCRIBE ANY EMPLOYMENT OR EDUCATION YOU HAVE RECEIVED IN TREATING SEXUAL OFFENDERS SINCE THE EXPIRATION DATE OF YOUR CERTIFICATION.** Include with your reinstatement application documentation of coursework (official transcripts, copies of continuing education certificates) or verification of employment by someone responsible for oversight of your work.

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
(To be completed before a notary public)

I, \_\_\_\_\_, being duly sworn, says that he/she is the person who is referred to in the foregoing application for certification to practice as a sex offender treatment provider in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

My commission expires on \_\_\_\_\_

Signature of Notary Public \_\_\_\_\_

SEAL

VA.R. Doc. No. R97-282; Filed February 11, 1997, 9:02 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 AGRICULTURE AND CONSUMER SERVICES

**REGISTRAR'S NOTICE:** The following regulation is exempt from the Administrative Process Act pursuant to subdivision A 17 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Commissioner and Board of Agriculture and Consumer Services when promulgating regulations pursuant to subsection A of § 3.1-884.21:1. The Board of Agriculture and Consumer Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this regulation.

**Title of Regulation:** 2 VAC 5-210-10 et seq. Rules and Regulations Pertaining to Meat and Poultry Inspection under the Virginia Meat and Poultry Products Inspection Act (amending 2 VAC 5-210-10 through 2 VAC 5-210-50).

**Statutory Authority:** § 3.1-884.21:1 of the Code of Virginia.

**Effective Date:** February 5, 1997.

### Summary:

*The Virginia Rules and Regulations Pertaining to Meat and Poultry Inspection under the Virginia Meat and Poultry Products Inspection Act adopt by reference regulations of the United States Department of Agriculture. These amendments to Virginia's regulations update references to federal regulations, including incorporation of new regulations of the Food Safety and Inspection Service (a unit within USDA), which establishes requirements applicable to meat and poultry operations designed to reduce the occurrence and numbers of pathogenic microorganisms on meat and poultry products, reduce the incidence of food borne illness associated with the consumption of those products, and provide a new framework for modernization of the current system of meat and poultry inspection. The new regulations (i) require that each establishment develop and implement written sanitation standard operating procedures (Sanitation SOP's); (ii) require regular microbial testing by slaughter establishments to verify the adequacy of the establishment's process controls for the prevention and removal of fecal contamination and associated bacteria; (iii) establish pathogen reduction performance standards for Salmonella that slaughter establishments and establishments producing raw ground products must meet; and (iv) require that all meat and poultry establishments develop and implement a system of preventive controls designed to improve the safety of their products, known as HACCP (Hazard Analysis and Critical Control Points).*

**Agency Contact:** Copies of the regulation may be obtained from Linda Atkisson, Department of Agriculture and

Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, VA 23219, telephone (804) 786-4569.

### 2 VAC 5-210-10. Adoption by reference.

The following rules and regulations governing the meat and poultry inspection of the United States Department of Agriculture specified in this part, as contained in Title 9, Chapter III, Subchapters A, B and C, CFR, dated January 1, 1992 1997, with amendments and with administrative changes therein as needed to make them appropriate and applicable to intrastate operations and transactions subject to the Virginia Meat and Poultry Products Inspection Act, are hereby adopted by reference.

### 2 VAC 5-210-20. Definitions.

The following words and terms, when used in ~~2 VAC 5-210-10 et seq.~~ *this part*, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Virginia Meat and Poultry Products Inspection Act (§ 3.1-884.17 et seq. of the Code of Virginia).

"Administrator" means the Director of the Division of ~~Animal Health Consumer Protection~~, or any other officer or employee of the department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

"Commerce" means commerce within the Commonwealth of Virginia.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Federal" means "Virginia."

"Federally inspected and passed" means Virginia inspected and passed.

"Interstate" means intrastate.

"Program" means the ~~Virginia Office of Meat and Poultry Inspection Program Services~~, Virginia Department of Agriculture and Consumer Services.

"Secretary" means the Commissioner of Agriculture and Consumer Services.

"Food Safety Inspection Service" means the Virginia meat and poultry inspection ~~Service program~~.

"United States" or "U.S." means "Virginia."

"U.S. Brands and Legends" means "Virginia Brands and Legends."

### 2 VAC 5-210-30. Mandatory meat inspection.

Subchapter A - Mandatory meat inspection.

Part 302. Application of inspection and other requirements.

Part 303. Exemptions.

Any establishment, firm, person or corporation operating under Section 303.1(a)(2) of this subchapter is required to apply for and receive a permit of exemption in accordance with requirements set forth by the Commissioner of Agriculture and Consumer Services or his delegate.

Part 304. Application for inspection; grant or refusal of inspection.

Part 305. Official numbers; inauguration of inspection; withdrawal of inspection; reports of violation.

Part 306. Assignment and authorities of program employees.

Part 307. Facilities for inspection.

Part 308. Sanitation.

Part 309. Ante-mortem inspection.

Part 310. Post-mortem inspection.

Part 311. Disposal of diseased or otherwise adulterated carcasses and parts.

Part 312. Official marks, devices and certificates.

Part 313. Humane slaughter of livestock.

Part 314. Handling and disposal of condemned or other inedible products at official establishments.

Part 315. Rendering or other disposal of carcasses and parts passed for cooking.

Part 316. Marking products and their containers.

Part 317. Labeling, marking devices, and containers.

Part 318. Entry into official establishments; reinspection and preparation of products.

Part 319. Definitions and standards of identity or composition.

Part 320. Records, registration, and reports.

Part 325. Transportation.

Part 329. Detention; seizure and condemnation; criminal offenses.

*Part 335. Rules of practice governing proceedings under the federal Meat Inspection Act.*

**2 VAC 5-210-40. Voluntary Adopted inspection and certification standards.**

Subchapter B - Voluntary inspection and certification service.

Part 350. Special services relating to meat and other products.

Part 352. Exotic animals; voluntary inspection.

Part 354. Voluntary inspection of rabbits and edible products thereof.

Part 355. Certified products for dogs, cats, and other carnivora; inspection, certification, and identification as to class, quality, quantity, and condition.

Part 362. Voluntary poultry inspection regulations.

**2 VAC 5-210-50. Mandatory Adopted poultry products inspection standards.**

Subchapter C - Mandatory poultry products inspection.

Part 381. Poultry products inspection regulations.

Subpart B. Administration; application of inspection and other requirements. Deleting Section 381.5-Publications.

Subpart C. Exemptions.

Subpart D. Application for inspection; grant or refusal of inspection.

Subpart E. Inauguration of inspection; official establishment numbers; separation of establishments and other requirements; withdrawal of inspection.

Subpart F. Assignment and authorities of program employees; appeals.

Subpart G. Facilities for inspection; overtime and holiday service; billing establishments.

Subpart H. Sanitation.

Subpart I. Operating procedures.

Subpart J. Ante-mortem inspection.

Subpart K. Post-mortem inspection; disposition of carcasses and parts.

Subpart L. Handling and disposal of condemned or other inedible products at official establishments.

Subpart M. Official marks, devices, and certificates; export certificates; certification procedures.

Except as otherwise required in this subchapter all referrals and instructions relative to export or import are deleted from adoption.

Subpart N. Labeling and containers.

Subpart O. Entry of articles into official establishments; processing inspection and other reinspections; processing requirements.

Subpart P. Definitions and standards of identity or

Subpart Q. Records, registration, and reports. composition.

Subpart S. Transportation; exportation; or sale of poultry or poultry products.

Subpart U. Detention; seizure and condemnation; criminal offenses.

*Subpart W. Rules of practice governing proceedings under the Poultry Products Inspection Act.*

*Subpart X. Canning and canned products.*

*Subpart Y. Nutrition labeling.*



# Final Regulations

Part 416. Sanitation.

Part 417. Hazard Analysis and Critical Control Point (HACCP) Systems.

VA.R. Doc. No. R97-272; Filed February 5, 1997, 9:22 a.m.

## STATE AIR POLLUTION CONTROL BOARD

**EDITOR'S NOTE:** On October 9, 1996, the State Air Pollution Control Board adopted a final regulation entitled "Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area," specifically section numbers 9 VAC 5-91-10 through 9 VAC 5-91-580 and 9 VAC 5-91-640 through 9 VAC 5-91-810. The regulation become effective on January 24, 1997. At that time, the board deferred action on Part IX of the regulation, 9 VAC 5-91-590 through 9 VAC 5-91-630. On January 8, 1997, the board adopted Part IX as part of that regulation.

**Title of Regulation:** 9 VAC 5-91-10 et seq. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (adding Part IX, 9 VAC 5-91-590 through 9 VAC 5-91-630).

**Statutory Authority:** §§ 46.2-1178.1, 46.2-1179, 46.2-1180, and 46.2-1187.2 of the Code of Virginia.

**Effective Date:** April 2, 1997.

### Summary:

On January 8, 1997, the State Air Pollution Control Board adopted Part IX of the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia area (9 VAC 5-91-590 through 9 VAC 5-91-630). These sections establish procedures for enforcing the provisions of the Regulation for Control of Motor Vehicle Emissions in the Northern Virginia area. Specifically, the new sections, among other things, set forth a general enforcement process; establish penalties for violations of the Virginia Motor Vehicle Control Law, the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia area, permits, licenses, certifications and orders; and set forth specific violations as major violations.

**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 David J. Kinsey, Office of Nonattainment and Mobile Source Planning, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4432.

### PART IX. ENFORCEMENT PROCEDURES.

9 VAC 5-91-590. Enforcement of regulations, permits, licenses, certifications and orders.

A. Licensees, permittees, certified emissions repair technicians and certified emissions repair facilities shall be subject to the provisions of this chapter, be responsible for

their own actions and be responsible for the actions of persons employed by them.

B. A violation of the Virginia Motor Vehicle Emissions Control Law, any provision of this chapter or any permit, license, certification or order shall be cause for a notice of violation to be served on the alleged violator, citing the applicable provisions of the Virginia Motor Vehicle Emissions Control Law, this chapter, the permit, license, certification requirement or order, or any combination thereof involved, and the facts on which the alleged violation is based.

C. Owners are responsible for the overall operation of the emissions inspection station or emissions repair facilities including the actions of its employees and any licensed emissions inspector or certified emissions repair technician working at that station or facility and may be issued a notice of violation for any violation of this chapter by such persons.

D. A notice of violation may be addressed through a consent order or through the informal fact finding or formal hearing process.

E. The director or a designated representative shall issue and sign consent orders, conduct informal fact findings and formal hearings and make all case decisions.

F. Nothing in this chapter shall prevent the department from negotiating a consent order in lieu of a penalty in any case.

9 VAC 5-91-600. General enforcement process.

A. Upon issuance of a notice of violation, attempts shall be made to negotiate a consent order. The negotiation process may take the form of two tiers, the first involving negotiations with the department field staff. The second tier involves subsequent negotiations with the department's management personnel for regional compliance, mobile sources operations, or enforcement if the first tier negotiations are unsuccessful and the alleged violator wishes to continue negotiations.

B. If the parties cannot agree on a consent order, an informal fact finding shall be held after reasonable notice in accordance with § 9-6.14:11 of the Virginia Administrative Process Act. Upon consent of all parties, the informal fact finding may be waived and a formal hearing shall be held after reasonable notice in accordance with § 9-6.14:12 of the Virginia Administrative Process Act. During these proceedings, the department and the alleged violator may present facts and circumstances surrounding the alleged violation in accordance with the Virginia Administrative Process Act.

C. A formal hearing shall be held to suspend emissions inspection station permits, unless the parties agree to hold an informal fact finding and waive a formal hearing and agree that the decision from the informal fact finding is the final decision appealable to court. An emissions inspection station permit may be suspended pursuant to an informal fact finding, provided the department holds a formal hearing within 10 days from the date of suspension in accordance with § 46.2-1185 of the Virginia Motor Vehicle Emissions Control Law.

D. As provided in § 46.2-1185 of the Virginia Motor Vehicle Emissions Control Law, the director can summarily suspend an emissions inspection station permit without a formal hearing and require the permit holder to immediately cease performing emissions inspections. Within 10 days of such action, the director shall hold a formal hearing to affirm, modify, amend, or cancel the suspension unless the affected party agrees to waive the formal hearing and allow the suspension to remain in effect.

E. For all formal hearings, the department shall issue a prehearing order which shall indicate the manner in which the hearing will be conducted and shall address [ issues regarding ] witnesses, the prefilling of exhibits, and proposed findings of fact and conclusions of law.

F. With respect to appeals of penalties imposed pursuant to an informal fact finding, the presiding officer shall be a designee of the director other than the regional emissions inspection program manager or any emissions inspection program staff member.

G. Any case decision made pursuant to an informal fact finding must be in writing, must inform the alleged violator of the penalty being imposed and the basis for any adverse decision, and must inform the named party of his right to appeal.

1. Any affected party has the right to request a formal hearing to appeal an adverse decision from an informal fact finding unless the parties agree before the decision is rendered to waive the formal hearing and that the decision shall be considered a final decision appealable to court.

2. A written informal fact finding decision shall contain a statement that the affected party has the right to request a formal hearing in order to appeal the decision within 10 days of notification of the decision or, if previously agreed by the parties, that the decision is final and the affected party has the right to appeal the decision to court.

3. Any request for a formal hearing shall be made within 10 days of notification of the decision by the affected party, in writing, to the department representative who made the informal fact finding decision.

H. Case decisions made pursuant to a formal hearing shall be made by the director [ or a designated representative ]. They must be in writing and contain findings of fact and conclusions of law that set forth the basis for any adverse decision, inform the alleged violator of the penalty being imposed and inform the named party of his right to appeal that decision to court.

I. All permits, licenses and certifications shall be surrendered to the department upon notice of revocation. Emissions inspection stations and emissions repair facilities shall also surrender to the department all forms, data media and documents issued by or purchased from the department.

J. If the case decision is a final decision appealable to court, the department need not act further except to enforce any penalty or order issued pursuant to the decision.

K. If the director determines that a permittee, licensee, or holder of a certification is not complying with the Virginia Motor Vehicle Emissions Control Law, this chapter, any case decision, penalty or consent order issued pursuant to this chapter, the director may seek appropriate criminal or civil judicial enforcement, or both, in accordance with § 46.2-1187 and § 46.2-1187.2 of the Code of Virginia.

9 VAC 5-91-610. Consent orders and penalties for violations.

A. Penalties for violations of the Virginia Motor Vehicle Control Law, this chapter, permits, licenses, certifications and orders include letters of reprimand, probation, suspension, and revocation.

B. Penalties may be imposed as a result of an informal fact finding or formal hearing, and may be negotiated by the parties for inclusion in consent orders.

C. A consent order shall contain an agreed-to penalty in the form of a letter of reprimand, probationary period, or suspension, or a civil charge, a combination thereof, or other agreed upon actions.

D. For any minor violation, as described in 9 VAC 5-91-630, the director may negotiate or impose pursuant to an informal fact finding or formal [ proceeding hearing ]:

1. A letter of reprimand.

2. For the second minor violation within 24 months, a letter of reprimand and a probationary period not to exceed [ 24 12 ] months.

E. For any major violation, as described in 9 VAC 5-91-620, the director may negotiate or impose pursuant to an informal fact finding or formal [ proceeding hearing ]:

1. A letter of reprimand.

2. A letter of reprimand and a probationary period not to exceed [ 24 12 ] months.

3. A suspension [ or revocation ] of a permit, license or certification [ followed by a probationary period not to exceed 12 months ].

[ 4. A revocation of a permit, license or certification. ]

F. Suspensions shall be for a period not to exceed one year.

G. In the case of multiple violations, suspensions may run concurrently.

[ H. No application for a permit, license, or certification from a person whose permit, license, or certification has been revoked shall be considered by the director until (i) 12 months have elapsed from the date of revocation and (ii) until the conditions of 9 VAC 5-91-240 D, 9 VAC 5-91-390 D, or 9 VAC 5-91-560 G have been satisfied. ]

[ H. I. ] Emissions inspectors and emissions repair technicians are subject to the same penalties that may be imposed on emissions inspection station permit holders. Such penalties shall be imposed separately on each affected party only as part of a consent order or through an informal fact finding or formal hearing. The director shall consider a party's level of responsibility for the violation in negotiating a

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consent order or in imposing a particular level of penalty pursuant to an informal fact finding or a formal hearing.

[ J. Any intentional falsification of an emissions inspection shall result in a revocation; or in a suspension of the inspector's license, or the station permit for not less than six months, or an equivalent civil charge, or both.

K. As a condition of probation, terms may be imposed during the probationary period that must be complied with by the violator. The terms may include a requirement that the permittee, licensee, or certified repair technician perform additional or periodic demonstrations of competency or obtain additional training. Completion of such terms to the satisfaction of the department may serve as a basis for reducing the probationary period. ]

## 9 VAC 5-91-620. Major violations.

A. Major violations are considered the most serious of offenses resulting from unacceptable performances in the conduct of emissions inspections, the operation of emissions analyzer systems, and the conduct of emissions related repairs. Such violations are of a nature that would directly affect the integrity, credibility, and emissions reduction effectiveness of the vehicle emissions inspection program.

B. A violation of the following provisions of this chapter shall constitute a major violation:

Permittee:	Licensee:	Emissions Repair Facility:
9 VAC 5-91-220 B, C	9 VAC 5-91-290 B	9 VAC 5-91-510 C,
9 VAC 5-91-260 B, D	9 VAC 5-91-330	H
9 VAC 5-91-280	9 VAC 5-91-340	9 VAC 5-91-520 H
9 VAC 5-91-290 B,	9 VAC 5-91-360 C, E	9 VAC 5-91-530 A
G, H	9 VAC 5-91-370	through G
9 VAC 5-91-300 B,	9 VAC 5-91-380 F, I	
C, D, F	9 VAC 5-91-400	
9 VAC 5-91-320 A, D	9 VAC 5-91-410,	
[ 1, 2, 4, 6, 8, 11 ]	420, 430, 440,	
9 VAC 5-91-330	450, 460	
9 VAC 5-91-340	9 VAC 5-91-480, 490	
9 VAC 5-91-360 B,		
C, E		
9 VAC 5-91-370		
9 VAC 5-91-410,		
420, 430, 440,		
450, 460		
9 VAC 5-91-480, 490		
		<b>Emissions Repair Technician:</b>
		9 VAC 5-91-560 C
		9 VAC 5-91-570 F
		9 VAC 5-91-580 A,
		D, E

C. Obtaining a permit, license or certification by false statement or misrepresentation [ or operating under a permit, license or certification while not in compliance with the

conditions for such permit, license, or certification ] is a major violation and shall be grounds for revocation.

D. Use of alcohol or illegal drugs while performing emissions inspections or emissions-related repair shall be considered a major violation.

E. Any third and subsequent minor violation within 24 months shall be considered a major violation.

F. Any violation of the Virginia Motor Vehicle Emissions Control Law and this chapter that is not specifically identified in this section may be treated as a major violation if the director determines on a case-by-case basis that the violation fits the criteria for major violations set forth in subsection A of this section.

## 9 VAC 5-91-630. Minor violations.

A. Although they may not necessarily directly affect emissions reduction effectiveness, minor violations are considered to be serious enough to influence the overall effectiveness of the Motor Vehicle Emissions Control Program, and pertain to station operations, quality assurance, quality control, unacceptable security of documents and records, maintenance of certain required equipment and systems, emissions repair efficiency and such other items as are necessary to maintain program uniformity, and to ensure the ability to function as a permittee, licensee or certified emissions repair technician or facility.

B. A violation of any provision of this chapter not previously listed under subsections B, C and D of 9 VAC 5-91-620 shall constitute a minor violation, as they pertain to a permittee, licensee, or certified emissions repair technician or facility, unless the director determines that the violation is a major violation in accordance with subsection F of 9 VAC 5-91-620.

VA.R. Doc. No. R97-297; Filed February 12, 1997, 10:37 a.m.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

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

VA.R. Doc. No. R97-300; Filed February 12, 1997, 4:28 p.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.

**Effective Date:** April 15, 1997.

### Summary:

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

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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

## 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~~ Certificates of competence ] and training requirements [ relating to the USBC ].

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 systems ] 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

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USBC relating to reviewing plans and specifications for buildings and structures for compliance with plumbing system 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 Certificates of competence~~] and training requirements [~~relating to the SFPC~~].

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.) Certificate~~] and training requirements [~~relating to the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.)~~].

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 examination~~]. Application forms are available from DHCD.

VA.R. Doc. No. R97-285; Filed February 11, 1997, 4:16 p.m.

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

VA.R. Doc. No. R97-301; Filed February 12, 1997, 4:28 p.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.

**Effective Date:** April 15, 1997.

**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 regulation replaces the existing amusement device standards, which are concurrently repealed. The regulation eliminates unnecessary text and references the latest technical standards.

**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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

## 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.

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.

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"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 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



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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 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.

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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. R97-286; Filed February 11, 1997, 4:16 p.m.

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

VA.R. Doc. No. R97-302; Filed February 12, 1997, 4:28 p.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.

Effective Date: April 15, 1997.

Summary:

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

1. The regulation has been updated to reflect current nationally approved safety standards;

2. The regulation has been amended to require the fire code official to enforce certain fire safety retrofit requirements of the building code;
3. Clarification has been made to the exception regarding routine inspections of dwelling units and farm structures;
4. An authorization and procedures sections for warrants has been added to the regulation;
5. The investigation of fires section has been deleted;
6. Blaster certification requirements have been deleted from the Virginia Certification Standards and incorporated into this regulation; and
7. The format of the regulation has been changed to make it more understandable to the regulated community.

Summary of Public Comments 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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

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 [ ~~er and~~ ] blasting agents. [ ~~To the extent that any provisions of this code are not within this scope, those provisions are considered to be invalid.~~ ]

[ The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6 ( § 36-97 et seq.) of Title 36 of the Code of Virginia. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision. When any provision of this code is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid. Wherever the words "building code" appear they shall mean the applicable USBC. ]

[ ~~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 structures~~ ] other than state-owned [ ~~buildings structures~~ ] under construction and the review and approval of [ ~~building plans construction documents~~ ] 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~~ ]

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~~complied with. The code official shall report any findings of noncompliance to the appropriate building code official require that buildings subject to the requirements of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.7, 3402.10 and 3402.12 comply with the provisions of those subsections ].~~

## 13 VAC 5-51-30. BNFP 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 any ] 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. BNFP 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 periodic training courses as designated and provided by the DHCD.

13 VAC 5-51-50. BNFP 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 available from ] the Library of Virginia.

13 VAC 5-51-60. BNFP 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 and sale~~ ] of explosives. Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, [ ~~or sales and sale~~ ] of explosives in localities not enforcing this code. Annual permits for the manufacturing, storage, handling, use, [ ~~or sales and sale~~ ] 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 and~~ ] dispose of explosives [ ~~or and~~ ] blasting agents.
2. \$75 per year [ ~~per county, city or town~~ ] to use explosives [ ~~or and~~ ] 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. BNFP Section F-108.0 Inspection.

[ A. ] 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.~~ ]

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the code official from inspecting for hazardous materials pursuant to § 27-98.2 of the Code of Virginia.

B. Change subsection F-108.3 to read:

F-108.3 Right to entry: The code official is authorized to enter any structure or premises at any reasonable time to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

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 shall be taken into consideration. ]

13 VAC 5-51-80. [ ~~BNFP Section F-109.0 Fire Investigations Reserved~~ ].

[ ~~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~~

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~~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. BNFFPC Section F-110.0 Unsafe Conditions.

Delete subsection F-110.3.1 Special equipment.

13 VAC 5-51-100. BNFFPC 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. BNFFPC Section F-112.0 Violations.

A. Change subsection F-112.1 to read:

F-112.1 Notice of violation: [ ~~Whenever~~ When ] the code official ~~[ observes an apparent or actual~~ discovers a ] 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.

[ D. Add subsection F-112.5 as follows:

F-112.5 Issuing summons for violation. When certified in accordance with § 27-34.2 of the Code of Virginia, the code official may issue a summons in lieu of a notice of violation. ]

13 VAC 5-51-120. BNFFPC 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.

[ A. ] 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.

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.)

[ B. Change the following definition to read:

Code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code the term "code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia. ]

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



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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 [ and the code official ] 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 where ] there is local enforcement of this code and to the State Fire Marshal.

[ F. Add subsection F-3009.12 to read:

F-3009.12 Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;
2. Location and time of blast;
3. Name of certified blaster in charge;
4. Type of material blasted;
5. Number of holes bored and spacing;
6. Diameter and depth of holes;
7. Type and amount of explosives;
8. Amount of explosive per delay of 8 milliseconds or greater;
9. Method of firing and type of circuit;
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;
11. Weather conditions;
12. Whether or not mats or other precautions were used;
13. Type of defonator and delay period;
14. Type and height of stemming; and
15. Seismograph record where indicated.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters. ]

13 VAC 5-51-180. BNFFPC 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, Pharaoh'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.~~

Change subsection F-3101.1 to read:

F-3101.1 Scope: The manufacture, display, sale and discharge of fireworks shall comply with the provisions of this chapter and § 59.1-148 of the Code of Virginia. ]

VA.R. Doc. No. R97-287; Filed February 11, 1997, 4:18 p.m.

## DOCUMENT INCORPORATED BY REFERENCE

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

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

VA.R. Doc. No. R97-303; Filed February 12, 1997, 4:28 p.m.

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

VA.R. Doc. No. R97-304; Filed February 12, 1997, 4:28 p.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.

Effective Date: April 15, 1997.

### 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.

The following amendments have been adopted since publication of the proposed regulations:

1. 13 VAC 5-61-80 A 4 was amended to only apply to Use Group R-3 or R-4 buildings.
2. 13 VAC 5-61-140 A was amended to extend the time a code official is required to issue a notice of violation.
3. 13 VAC 5-61-190 A was amended to increase from 30 days to 45 days for submission of an appeal.

4. 13 VAC 5-61-210 was amended to include group homes licensed by the Virginia Department of Social Services.

5. 13 VAC 5-61-220 C 14 was amended to retain the current handrail grip size in Use Group R-4 buildings and to not require protection against radon in Use Group R-4 buildings.

6. 13 VAC 5-61-440 K was amended to remove the specific authority for the code official to require upgrading existing domestic water systems.

This regulation replaces the two regulations which are being repealed concurrently with this action. This regulatory action also updates the latest construction and maintenance model codes and standards.

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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

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:

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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 site preparation,~~ ] 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 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. F. ] Change subsection [ ~~404.7~~ 104.5 ] to read:

[ ~~404.7~~ 104.5 ] Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.

[ G. Delete subsection 104.7 ]

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 [ available ] from the Library of Virginia.

13 VAC 5-61-70. [ Change BNBC subsection ~~106.2~~ to read: BNBC Section 106.2 Modifications. ]

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 m<sup>2</sup>) of building area [ ~~er and~~ ] 102 inches (2591 mm) in wall height and [ ~~not classified as~~ when accessory to any use group building except ] Use Group F or H.

3. [ ~~Tent and membrane~~ Tents and air-supported ] structures that cover an area of 900 square feet (84 m<sup>2</sup>) 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 and with an occupant load ] 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.~~ Replacement of mechanical and plumbing equipment, appliances and fixtures, electrical fixtures, reroofing, residing, windows and doors with that of similar or greater capacity in the same location in Use Group R-3 or R-4 buildings.

Note: The intent of subdivision 4 of this subsection is to require permits when changes to the duct systems, plumbing DWV or water piping, electrical circuits, appliance vent systems, or gas piping are made except for reconnection to replacement equipment, appliances or fixtures. ]

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. [ The code official shall accept and process permit applications through the mail. ]

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:

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**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 [ building ] permit allowing a building for which an initial [ building ] 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 [ Asbestos ] 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 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 of 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 to the~~ ] 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 party as determined by Section 116.1 if the~~ ] violation has not been remedied within a reasonable time. [ ~~Such order~~ The notice ] shall reference the [ code ] section [ ~~of this code~~ ] that serves as the basis [ ~~of for~~ ] the violation and direct the discontinuance [ ~~of the illegal action or condition~~ ] and [ the ] abatement of the violation. [ The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. ] 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. Add subsection 116.2.1 to read:

116.2.1 Violations discovered after occupancy: A notice of violation shall be issued for a violation discovered after initial occupancy of a building or structure when the violation has not been remedied within a reasonable time.

Exception: A notice of violation shall not be issued for a violation discovered after two years beyond the statute of limitation provided by § 19.2-8 of the Code of Virginia for prosecuting a building code violation. Nothing in this exception shall extend the time limit established by § 19.2-8 of the Code of Virginia for prosecuting a building code violation. ]

[ ~~B. C.~~ ] 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.

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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 [ ~~permitted:~~ ]

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 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~~ 45 ] 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. [ Whenever a county or a municipality does not have a board of building code appeals, the local governing body shall enter into an 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 appeals. ]

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 [ charged 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 [ charged 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), frestles, 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 [ ef or ]



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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.

[ **Industrialized building:** 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 shall not be considered industrialized buildings for the purpose of this code. ]

**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.

[ **Manufactured home:** 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. ]

**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 [ and the Virginia Department of Social 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:

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. 2. ] 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. 3. ] 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. 4. ] 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. 5. ] 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~~ expressed ] 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. 6. ] 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. 7. ] 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. Approval. Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health. ]~~

[ 9. 8. ] Change CABO subsection 310.4 to read:

310.4 Type of lock or latch. All egress [ ~~door~~ doors ] shall be readily openable from the [ ~~side which egress is to be made inside~~ ] 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 inside~~ ].

[ 10. 9. ] 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. 10. ] 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. 11. ] 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.

[ 12. Change subsection 315.2 to read:

315.2 Handrail grip size. The handgrip portion of the handrails shall not be more than 2-5/8 inches (66.7mm) in cross-sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners. ]

13. Delete CABO subsection 316.1.1.

[ 14. Delete CABO Section 324 Protection Against Radon.

14. 15. ] 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.

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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 Section 420.0 title to "Site Work for Manufactured Homes and Industrialized Buildings."

[ A. B. ] 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.~~ The provisions of this section shall apply to the installation of manufactured homes and industrialized buildings. ]

[ B. C. ] Change subsection 420.2 to read:

420.2 *Construction*: Construction work associated with the installation of a [ ~~mobile-unit manufactured home or industrialized building~~ ] 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, manufactured homes~~ ] are not available, the NCSBCS/ANSI A225.1 standard, [ ~~4987 1994~~ ] edition, may be substituted for the manufacturer's installation instructions. [ Appendix A of the one- and two-family dwelling code listed in Chapter 35 shall be an acceptable alternative to this code for construction work associated with the installation of a manufactured home and for additions, alterations or repair to such homes. ]

[ C. D. ] 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 manufactured home~~ ] 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. E. ] 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 m<sup>2</sup>) 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. F. ] Delete subsection 420.3.

[ F. G. ] 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 covered walkway that is open to the atmosphere and traverses ] through a building [ connecting two exterior stairways complying with Section 1014.12 ] (See Section 1011.6).~~

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). Exit access breezeways: A breezeway shall be permitted to serve as a means of egress element in Use Group R-2 buildings up to four stories above grade when meeting all of the following criteria:~~

1. Every level of a building containing an exit from a dwelling unit shall have a breezeway that is connected to and open to a stairway at each end. The breezeway shall not exceed 100 feet (30.480 mm) in length between stairways. The stairways shall be considered interior

stairways. The breezeway shall not contain dead-end passageways or corridors, shall be a minimum of six feet (1829 mm) in width and shall be separated from any other breezeway on that floor level. Beams or soffits shall be permitted to project below the ceiling level at the connecting point of a breezeway and stairway provided a clear height from the finished floor to the lowest projection of seven feet six inches (2286 mm) is maintained.

2. The building, including any breezeways and connecting stairways, shall be sprinklered in accordance with Section 906.2.1 or Section 906.2.2 and the sprinkler system shall be supervised in accordance with Section 924.1, method 1.

3. The breezeway shall conform to the requirements of this section for corridors except that walls separating the breezeway and any connecting stairways from adjacent parts of the building shall have fire-resistance ratings of not less than one hour and be rated for exposure to fire from both sides. Openings in such walls shall be protected with an assembly having a fire protection rating of not less than 3/4 hour.

4. At least one of the exterior walls of each stairway shall be open to and facing an outer court, yard or public way. The exterior wall opening may be reduced by 12 inches (305 mm) at each side, by 42 inches (1067 mm) above adjacent floors or landings, and by 12 inches (305 mm) below adjacent ceilings or landings such that no less than 35 square feet (3.25 m<sup>2</sup>) of opening is provided at any adjacent floor level or landing.

5. Where the floor of a breezeway changes direction more than 10 degrees, an opening facing a court, yard or public way shall be provided in a wall of the breezeway at the change in direction. The opening shall be a minimum of 35 square feet (3.25 m<sup>2</sup>) with the top of the opening not more than 12 inches (305 mm) below the ceiling level.

6. The breezeway construction in buildings of Type 3, 4 or 5 construction shall be permitted to be of Type 5 unprotected construction, provided the floor and ceiling are designed to limit the passage of smoke.

7. The breezeway shall be protected to prevent the accumulation of snow and ice in climates subject to those elements.]

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~~

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~~prevent accumulation of same. Exterior stairways shall not be accepted as an exit in the following cases:~~

~~1. Occupancies in the Use Groups 1-2 and 1-3 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.~~

A. Add exception to subsection 1014.11 to read:

7. Stairways connected to exit access breezeways complying with Section 1011.6 are not required to be enclosed. ]

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. When the open exterior side or sides of the stairs are at an angle of or greater than 180 degrees from the exterior wall of the building, protection shall not be required for the exterior wall.~~ ]

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 it from ] 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 buildings ] shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

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.  $A_v/S$  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.  $A_v/S$  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 Fireretardant-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:

(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 . 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~~ expressed ] or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room [ ~~temperatures~~ temperature ] 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

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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~~ temperature ] 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 Change~~ ] subsection 2901.1 to read:

[ 2901.1 Scope: The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings, shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35. ]

[ ~~Exception: The requirements of this code relating to water~~ Water supply sources [ , and ] sewage disposal [ ~~and required plumbing fixtures may be modified to the extent approved systems are regulated and approved~~ ] by the Virginia Department of Health [ ~~, except that if.~~ ] Plumbing fixtures [ ~~are provided, they~~ ] shall be connected to an approved water supply [ source ] and to [ ~~a an approved~~ ] sanitary sewer or [ ~~to an approved~~ ] private sewage disposal system. [ ~~Approval of pumping and electrical equipment shall be the responsibility of the code official.~~ ]

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

Change subsection 3107.8 to read:

3107.8 [ ~~Mobile units~~ Manufactured homes ]: New or replacement [ ~~mobile units~~ manufactured homes ] 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. A.] 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, [ to the extent ] which were provided when constructed [ , shall be maintained ]. 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. B.] 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 and~~ ] university buildings containing dormitories for sleeping purposes shall be provided with [ ~~battery~~ battery-powered ] 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, [ by July 1, 1986, ] in accordance with the provisions of this code [ that were ] 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~~ detector ] 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.**

**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



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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 and ] 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.~~

K. Change subsection 3404.2 to read:

3404.2 Requirements: An alteration to any structure shall conform to the code requirements for a new structure and shall not result in an increase in hazard to the occupants. Portions of the structure not altered and not affected by the alteration are not required to comply with the code requirements for a new structure. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. ]

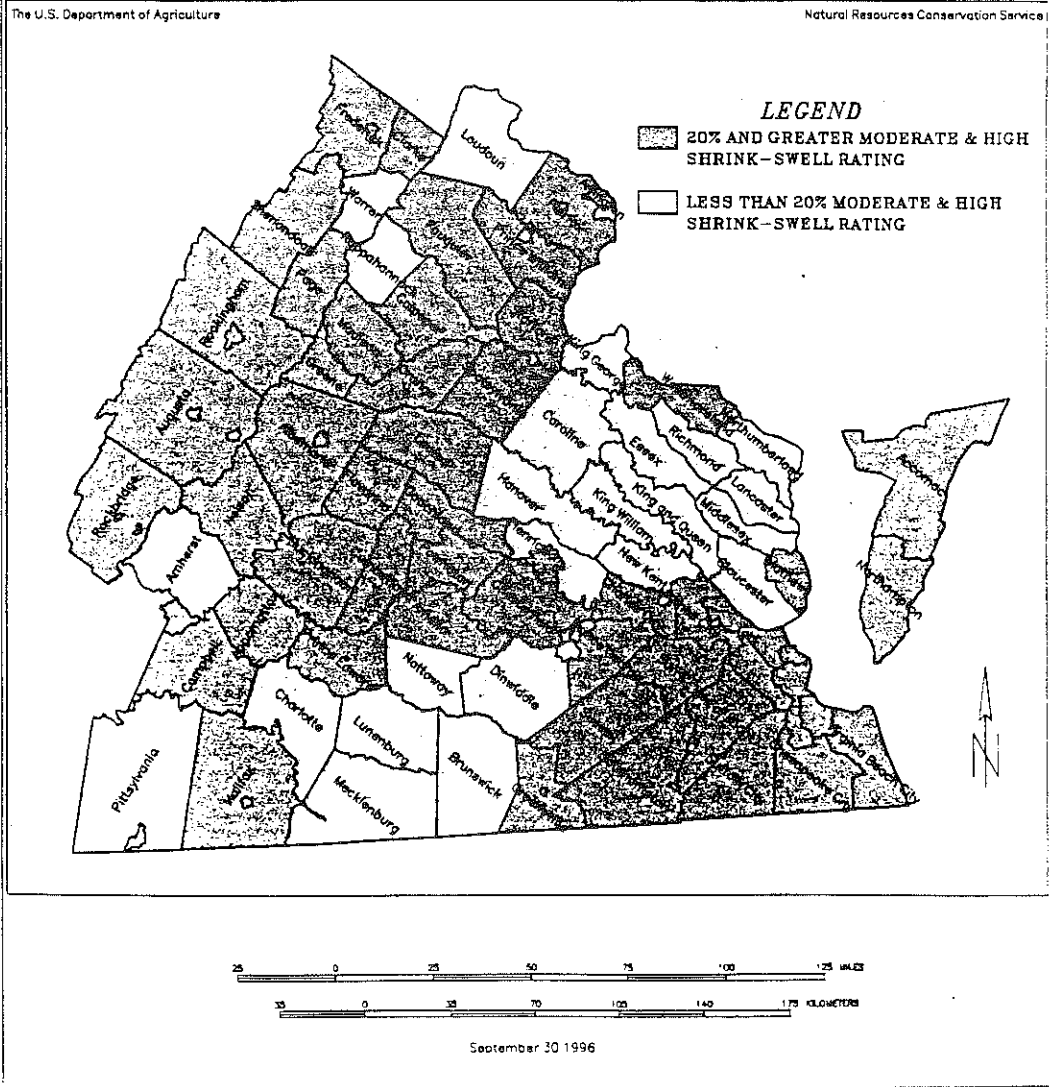
13 VAC 5-61-450. BNBC Section 3408.0 Compliance Alternatives.

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.

FIGURE 401.4b

MODERATE & HIGH SHRINK-SWELL RATINGS  
BY COUNTY IN THE STATE OF VIRGINIA





**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.

ANSI A225.1, Manufactured Home Installations, 1994 National Conference of States on Building Codes and Standards, 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.

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

VA.R. Doc. No. R97-305; Filed February 12, 1997, 4:28 p.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.

**Effective Date:** April 15, 1997.

**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*

*defeats 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.*

**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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

**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*

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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 code* ] 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 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 anchorage ], 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 anchorage ], 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.

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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:

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



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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. R97-289; Filed February 11, 1997, 4:19 p.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.

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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.

Effective Date: April 15, 1997.

## 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.

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 George W. Rickman, Jr., Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, 4th Floor, Richmond, VA 23219-1321, telephone (804) 371-7170.

## 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.

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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.

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. R97-290; Filed February 11, 1997, 4:17 p.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 10-180-10 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.

**Effective Date:** February 12, 1997.

### Summary:

The amendments (i) require applicants seeking rehabilitation credits to spend at least \$5,000 per unit in construction costs; (ii) clarify requirements for admission into the nonprofit pool; (iii) 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; (iv) permit the \$500,000 tax credit cap for projects in the nonprofit pool to be exceeded if the nonprofit pool is under subscribed; (v) increase the minimum scoring threshold for new construction projects to 525 points; and (vi) make other technical and clarification changes.

**Agency Contact:** Copies of the regulation may be obtained from J. Judson McKellar, Jr., General Counsel, Virginia

Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

### 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

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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.*

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 § 460(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

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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 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 receive~~ ] a reservation or allocation of annual credits in an amount greater than \$500,000 [ ~~unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits~~ ]. 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. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning [ or *special use permit* ] for such site or (ii) that no zoning requirements [ or *special use permits* ] 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. [ *Any of the following: (i)* ] 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 [ *(ii)* ] 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 clause (iii) evidence from Rural Development that the development will remain subject to*~~ ] *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)* (iii) above, if the applicant is, or has any common interests with, the current owner, directly or indirectly ], the application will only qualify for these points if the [ *sponsor applicant* ] waives all rights to any developer's fee [ and any other fees ] associated with the acquisition and rehabilitation (or rehabilitation only) of the [ *property development* ]. (The amount of such financing will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

## 3. Development characteristics.

a. ~~The average unit size per bedroom (100 points multiplied by the quotient calculated by (i) the actual gross square footage per bedroom minus the estimated lowest gross square footage per bedroom divided (ii) the estimated highest gross square footage per bedroom minus the estimated lowest gross square footage per bedroom.)~~ *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, [ (i) ] 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,*



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times [ (ii) ] 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 [ , as determined by the executive director, ] equal or exceed \$15,000 [ up to \$24,999 ] per unit; [ 40 15 ] points if [ such ] 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)
- (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.)~~ in a geographic market (as defined by the executive director) that minimizes the overlap with the markets of existing tax credit developments. (0 to 60 points, as determined by the executive director on the basis of such factors as he deems relevant, which may include, but not be limited to, distance from other tax credit developments, population density, jurisdictional boundaries, the size of existing tax credit developments in the geographic area and the size of the proposed development.)*

#### 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

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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 [ *points for rehabilitation developments, or* ] 525 points [ *for new construction developments, or, if both rehabilitation and new construction, the weighted average of the foregoing threshold amount of points based upon the number of units to be rehabilitated and*

*the number of units to be newly constructed* ] 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 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 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

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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 credit 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 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. R97-283; Filed February 11, 1997, 11:57 a.m.

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## VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

**EDITOR'S NOTICE:** The following regulations filed by Virginia Polytechnic Institute and State University are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

**Title of Regulation:** 8 VAC 105-10-10 et seq. Traffic and Parking Regulations (amending 8 VAC 105-10-10, 8 VAC 105-10-20, 8 VAC 105-10-40 through 8 VAC 105-10-70, 8 VAC 105-10-85, 8 VAC 105-10-90, 8 VAC 105-10-110 through 8 VAC 105-10-130, 8 VAC 105-10-145 through 8 VAC 105-10-180, 8 VAC 105-10-190, 8 VAC 105-10-200, 8 VAC 105-10-210, 8 VAC 105-10-230, 8 VAC 105-10-240, 8 VAC 105-10-260, 8 VAC 105-10-280, 8 VAC 105-10-290, 8 VAC 105-10-310, 8 VAC 105-10-320, 8 VAC 105-10-330, 8 VAC 105-10-370, 8 VAC 105-10-390 through 8 VAC 105-10-430, 8 VAC 105-10-450, 8 VAC 105-10-490, 8 VAC 105-10-520; adding 8 VAC 105-10-325 and 8 VAC 105-10-345; repealing 8 VAC 105-10-560 through 8 VAC 105-10-600).

**Statutory Authority:** § 23-9.2:3 of the Code of Virginia.

**Effective Date:** February 6, 1997.

### Summary:

*These regulations are established to promote safety and control student, employee and visitor vehicle registration, parking and operation on the campus of Virginia Polytechnic Institute and State University.*

**Agency Contact:** Copies of the regulation may be obtained from Curtis Lynch, Parking Services Manager, Visitor Information Center, Virginia Polytechnic Institute and State University, Blacksburg, VA 24061-0540, telephone (540) 231-3200.

### 8 VAC 105-10-10. Students, faculty, staff, visitors.

A. The mission of the Parking Services Office is to provide safe, and convenient, and secure parking areas and to facilitate travel to, from, and within the campus for members of the university community and guests.

B. The university president has appointed an advisory committee so that members of individuals in the university community can comment on parking and transportation problems and make suggestions as to their solution. The Parking and Transportation Advisory Board makes recommendations on general policies relating to traffic and parking matters on campus. Students, faculty members, and staff members are represented on this committee.

### 8 VAC 105-10-20. General information.

A. Traffic and parking regulations, as published by the university and in the Virginia Register of Regulations, will be administered by the Parking Services Office and the University Police Department. These regulations, pursuant to authority granted by Virginia state statute to the board of visitors, are enforceable as laws of the Commonwealth.

B. Regulations are needed to aid in safety and orderly conduct of university business, as well as to provide parking facilities within the limits of available space. Students are to obey these regulations as a condition of attendance and faculty and staff members are to obey them as a condition of employment.

C. Changes in these regulations and notices about parking regulations for special events are official when published in the Spectrum and Collegiate Times and when listed on the university's administrative display system on the mainframe computer (PROFS or CMS information screens).

D. If you have any questions, comments, or suggestions, please call the Parking Services Office at (540) 231-3200 or visit the Visitor Information Center on Southgate Drive.

E. The university shall have no responsibility for loss or damage to any vehicle, or its contents, operated or parked on the Virginia Tech campus.

### 8 VAC 105-10-40. Who must register.

A. All vehicles, motorcycles, and motor scooters on campus requiring state license plates are required to be registered with the Parking Services Office. Vehicles operated by the faculty, staff, and students in connection with their employment or attendance at Virginia Tech are required to display a parking permit before parking on campus or on specified university-leased property. For more information call Parking Services at (540) 231-3200.

B. Visitors, vendors, contractors, and university employees who are employed at university remote sites (greater than 25 miles from the main campus) and visiting the university on a short-term basis (30-day maximum) should register for a complimentary visitor permit.

C. Vehicle registration is valid until the registrant is no longer affiliated with the university as a student, faculty, or staff member, or until the permit expires. All parking permits are the property of the university and must be surrendered to Parking Services when university affiliation either changes or ceases.

### 8 VAC 105-10-50. How to register.

#### A. General.

1. An individual may register more than one vehicle since the *clintag hangtag* style permit can be moved from one vehicle to another. Individuals having two vehicles parked on campus at the same time must have each vehicle registered and displaying a permit.

2. A vehicle can be registered to only one person. Only one permit type per vehicle is allowed. Sharing of permits and other unauthorized use may result in a \$100 fine. If a vehicle is shared by two persons needing different permit types, the Parking Services Office needs to be notified before the vehicle can be registered.

#### B. Student registration.

1. Bring your vehicle information from the Department of Motor Vehicles and Virginia Tech ID to the Visitor Information Center on Southgate Drive to purchase a

parking permit. The vehicle must be owned by the student or an immediate family member.

2. Vehicles are to be registered no later than the end of the first week of the semester. Students must be parked in designated student areas at all times. This applies when *whenever* the university is open for business, including when classes are not in session and during semester breaks.

### C. Faculty/staff registration.

1. ~~Employees must show Faculty and salaried employees are required to submit a Faculty/Staff ID card obtained from the Hokie Passport Office to purchase a permit. Wage employees need to get are required to submit an ID card obtained from the Personnel Office at Southgate Center to purchase a permit.~~

2. ~~Vehicles are to be registered no later than the expiration date of the permit. Employees must register their vehicle(s) before parking on campus. Employees reregistering their vehicle(s) must do so no later than the expiration date on the previous year's permit.~~

3. Full-time salaried employees are eligible to purchase a full-year faculty/staff permit through payroll deduction. Wage employees are not eligible for payroll deduction at this time.

### 8 VAC 105-10-60. How to display.

A. The registration procedure is not complete until the permit is properly displayed on the vehicle (e.g., ~~inside the vehicle on lower four inches of back window, driver's side on the rearview mirror facing the windshield~~). The permit must be displayed so that it is readable through the window by enforcement officers.

B. Motorcycle permits are to be displayed on the front fork.

C. Bumper stickers are also available for vehicles that cannot be locked *where the permit cannot be secured inside* (e.g., convertibles and soft-tops such as Jeep CJ, Suzuki Samurai, etc.) and are to be affixed to the driver's side rear bumper.

C. D. A vehicle displaying two different types of permits (e.g., displaying a faculty/staff permit and a commuter student permit at the same time) may be cited receive a \$100 unauthorized use fine.

### 8 VAC 105-10-70. New vehicles.

Original permits (other than bumper style) can be transferred to a new vehicle if by notifying Parking Services is notified of the new vehicle information. If the permit is bumper style, the original permit must be returned to the Parking Services Office to receive a free replacement permit for the new vehicle.

### 8 VAC 105-10-85. Return check policy.

If a check for a parking permit is returned for insufficient funds, the parking permit will be considered null and void. Parking citations will be written each time ~~you~~ the vehicle is parked on campus. Parking Services reserves reserves the right to tow the vehicle when three or more unpaid citations

have accumulated. The Office of the University Bursar will assess a return check fee on each returned check.

### 8 VAC 105-10-90. Refunds policy.

As a general rule, refunds for parking permits and citations are not granted. ~~Under special circumstances however, Parking Services may use its discretion in granting certain refunds.~~

To be considered for a refund, the permit or permits must be returned and a refund application form must be completed. Applications for a full refund must be submitted within five working days of the permit purchase date or by the end of the first week of fall semester classes.

Applications for semester refunds must be submitted by the end of the first week of classes of the semester.

### 8 VAC 105-10-110. Resident (on campus).

The resident (on campus) permit allows parking only on the right side of the Resident I-Lot (fenced lot at west end of Washington Street), the west end of ~~Lot D (the Stadium D-Lot, (between Lane Stadium and Southgate Drive), and the overflow lot beyond the golf course. Parking is not permitted in Lot D (Stadium Lot) the Stadium D-Lot from 11 p.m. the night before any home football game until the game has ended started as noted in 8 VAC 105-10-390.~~

### 8 VAC 105-10-120. Commuter (off campus).

A. The commuter (off campus) permit allows parking in the Commuter ~~Lot section of B-Lot (between Perry Street and Prices Fork Road); the left side of the Resident I-Lot (nearest the Vet-Med School on Duck Pond Drive at the west end of Washington Street); the commuter section of the C-Lot (Wallace/Litton Reeves) Lot; and the overflow lot beyond the golf course at the end of the Duck Pond, and the Caldwell House Lot (off Turner Street).~~ Commuter permit holders may also park in designated portions of the Coliseum Parking Lot and along Stadium Road (in marked parking spaces), except at specific times as noted in 8 VAC 105-10-390.

B. Parking in commuter lots is prohibited from 2 a.m. to 6 a.m. unless prior arrangements have been made with the Parking Services Office (7:30 a.m. to 5 p.m., Monday through Friday) or the University Police Department all other times. *Students cannot use campus parking as residence or nonuniversity business parking or both.*

### 8 VAC 105-10-125. Graduate.

A. The graduate permit allows parking in all areas listed above in the commuter section. In addition to this, graduate students who qualify for a Teaching Assistant (TA) permit (see the Graduate School at 202 Sandy Hall for details) are allowed to park in the TA spaces designated by signs in the B-lot and the ~~lot between Wallace/Litton Reeves and Hillcrest C-Lot.~~

B. Students please note: If student status changes to faculty/staff status before the expiration date on the permit, the student permit must be exchanged for a faculty/staff permit within five working days. *Students with wage jobs at Virginia Tech over the summer are not eligible to purchase a faculty/staff permit.*



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## 8 VAC 105-10-130. Faculty/staff permit.

A. The faculty/staff permit allows parking in any legal parking area on campus not restricted by signs (e.g., ~~visitors~~ visitor spaces, service vehicles ~~vehicle~~ areas, admissions areas, the right side of the Donaldson Brown Hotel (DBH) Lot, CEG, teaching assistants ~~assistant~~ spaces, etc.). New employees, see 8 VAC 105-10-150.

B. Faculty/staff permits are issued to salaried (full or part-time) and wage employees of the university. Graduate teaching assistants, graduate research assistants, and part-time salaried or wage employees who are students (taking more than six hours during fall or spring semesters) are not authorized to purchase a faculty/staff permit. Students enrolled in summer classes or returning fall semester with wage jobs at Virginia Tech over the summer are not eligible to purchase a faculty/staff permit.

C. If faculty/staff status changes to student status before the expiration date on the permit, the faculty/staff permit must be exchanged for a student permit within five working days. Failure to do so will result in a \$100 unauthorized-use fine.

D. Parking in faculty/staff lots is prohibited from 2 a.m. to 6 a.m. unless prior arrangements have been made with the Parking Services Office (7:30 a.m. to 5 p.m. Monday through Friday) or the University Police Department all other times. Faculty, staff, and students cannot use campus parking as residence or nonuniversity business parking or both.

E. Employees with 30 years of service are eligible for a free faculty/staff permit. Contact the Personnel Services Office for details.

## 8 VAC 105-10-145. Clingtag Hangtag permits.

Clingtag Hangtag permits are available for the majority of vehicles on campus and can be purchased for the full year or the semester.

## 8 VAC 105-10-147. Bumper permits.

Bumper permits are available for motorcycles and vehicles that cannot be locked where the permit cannot be secured inside (e.g., convertibles and soft-tops such as Jeep CJ, Suzuki, Samurai, etc.). These permits can be purchased for the full year or the semester. Only one complimentary permit will be given out with the purchase of a regular permit at the regular price.

## 8 VAC 105-10-150. New employee (temporary) parking permits.

A. All first-time new wage employees of the university can receive a temporary parking permit. The new employee temporary permit will be valid for not more than 30 calendar days, beginning with the first day of paid employment.

B. The new employee must bring an employment validation form from the hiring department to the Parking Services Office.

C. It is recommended that this process be completed the first day of employment. Unauthorized use of these permits carries a \$100 fine to the person displaying such a permit.

D. Full-time Virginia Tech students (taking more than six hours during fall or spring semesters) who are employed by the university are not eligible for ~~temporary employment permits~~ a new employee permit. Students enrolled in summer classes or returning fall semester with wage jobs at Virginia Tech over the summer are not eligible for new employee permits.

~~E. Virginia Tech students taking classes are not eligible for temporary employment permits.~~

## 8 VAC 105-10-160. Visitor permits.

A. Visitors (nonstudents or nonfaculty/staff) may park in any faculty, staff, visitor, or student parking space if they have a valid visitor parking permit and if space is not restricted by signs. Some areas restricted by signs include the Owens and Dietrick Dining Hall Lots, service vehicle areas, admissions areas, the right side (as you enter the lot) of the Donaldson Brown Lot, and teaching assistant spaces. Visitor parking permits are available through the Visitor Information Center on off Southgate Drive (7:30 a.m. to 5 p.m., Monday through Friday) or at the University Police Department in the Maintenance Complex on Southgate Drive all other times. Visitor permits must be signed and dated by an authorized parking services or police official and displayed 7 a.m. to 5 p.m., Monday through Friday, unless otherwise signed.

B. University employees who are employed at university remote sites (greater than 25 miles from the main campus) and are visiting the university on a short-term basis (30-day maximum) may register for a visitor permit.

C. Metered parking spaces are also available for short-term visitors on campus. Visitors with parking permits may not park free at parking meters.

D. Visitors may also park in the faculty/staff section (as you enter the lot, left side) of the Donaldson Brown Hotel and Conference Center (DBH) Parking Lot at the corner of College Avenue and Otey Street across from the DBH with a valid visitor permit. DBH guests may park on the right side of the lot (as you enter the lot) and must display a special parking permit issued by the Donaldson Brown Hotel.

## 8 VAC 105-10-170. Vendors and contractors.

A. Vendors, contractors, and others who visit the campus frequently can apply for a long-term ~~visitors pass~~ permit if they present a letter from their company or supervisor or organization. These letters should include the name, social security number, and license plate number of each person who needs a pass permit, as well as a contact person and contact phone number.

B. Students are not eligible for vendor or contractor, or long-term visitor permits. Students must park in designated student areas 7 a.m. to 5 p.m., Monday through Friday.

C. These permits are only valid when used by visitors (nonstudent or nonfaculty/staff). If the holder of the permit becomes a Virginia Tech employee or student, then the permit must be returned to Parking Services at the time of the status change.

## 8 VAC 105-10-180. Turf permits.

Turf permits are available for ~~individuals needing to park state vehicles or contractor vehicles requiring temporary parking~~ on the grass. This permit does not allow parking on sidewalks. ~~These permits are issued by the Parking Services Office.~~

## 8 VAC 105-10-190. Special assistance.

Note: If an individual requires special assistance, the ~~parking manager~~ Parking Services Manager should be notified at (540) 231-3200 for special arrangements.

## 8 VAC 105-10-200. Handicap parking.

A. Handicap parking spaces on campus are exclusively for those persons displaying state-authorized DMV handicap license plates or permits. These permits are available to any individual who has a disability of six weeks or longer duration. The Virginia Department of Motor Vehicles office nearest Virginia Tech is located at Route 114 (Peppers Ferry Road) and Walters Drive in Christiansburg (telephone (540) 382-5000). Only state DMV handicap permits allow parking in handicap spaces. State DMV handicap permits also allow free parking at metered spaces.

B. Faculty members, staff members, and students with handicap passes or plates are required to obtain a Virginia Tech parking permit to park on campus.

C. Unauthorized vehicles parked in handicap spaces will be ticketed and towed at the owner's expense. See ~~Part XI~~ 8 VAC 105-10-450 on towing for details on recovering a car.

D. Handicapped individuals may also use the Blacksburg Transit Para-Transit system, which has lift-equipped vehicles for on- and off-campus transportation needs. Call (540) 961-1803 for more information.

## 8 VAC 105-10-210. Temporary medical disability permits (TMD).

A. A Virginia Tech temporary medical disability permit (TMD) is available for students having mobility impairments lasting six weeks or less. If the disability qualifies for a handicap permit, it should be obtained from the Virginia Department of Motor Vehicles. ~~Because of Virginia state laws, prohibit the use of TMD permits are not valid at~~ handicap spaces at any time.

B. TMD permits allow students to park in faculty/staff area, and are valid only with a Virginia Tech commuter, graduate or resident parking permit. Persons with TMD passes may park in metered spaces as long as the meter is kept current with the proper amount of coins.

C. A temporary medical disability permit can be obtained at the office of Parking Services by presenting a request slip from the Student Health Services or a doctor's statement. This documentation must include how long the disability requires special parking.

D. Unauthorized use of a TMD permit carries a \$100 fine to the person displaying such a permit.

## 8 VAC 105-10-230. Loading/unloading.

A. Long-term parking is prohibited at loading docks and other areas used for loading. Thirty minutes is the maximum time allowed for loading and unloading. A current Virginia Tech parking permit and prior authorization are required from 7 a.m. to 5 p.m. weekdays to use this service. Authorization can be obtained by calling Parking Services 7:30 a.m. to 5 p.m. Monday through Friday, or the University Police Department all other times. Please have available your license plate number and permit number. *After the vehicle has been loaded or unloaded, it should be moved to a legal parking space. Vehicles in violation of this policy will be ticketed or towed at the owner's expense or both. The policy is enforced 24 hours a day, 7 days a week.*

B. ~~To load vehicles for the weekend, only~~ Resident permit holders may park in most faculty/staff areas near residence halls after 2:30 p.m. on Fridays. ~~You are allowed~~ A maximum of 30 minutes is allowed and a call to the Parking Services Office is not necessary. However, Owens and Dietrick Dining Hall lots are reserved exclusively for faculty and staff parking 6 a.m. to 4 p.m., seven days a week.

## 8 VAC 105-10-240. Disabled vehicles.

A. The Parking Services Office and the University Police Department should be notified immediately if an automobile is disabled. Emergency flashers or signs on the windshield indicating the vehicle is disabled are not sufficient. Any disabled vehicle in a roadway, blocking traffic, creating a hazard, or illegally parked in a handicap space will be towed immediately at the owner's expense. *If the disabled vehicle is parked in a legal parking space, a disabled vehicle it is to be removed within 24 hours.*

B. The parking lots are not designed or intended for automobile repairs. If repairs become necessary, permission must be secured from the Parking Services Office or the University Police Department. Permission will be granted only for minor repairs and never for more than 24 hours.

## 8 VAC 105-10-260. Residence hall move-in/move-out.

A. Special parking arrangements are in effect for these periods. One hour is the maximum time allowed for move-in/move-out. Unless otherwise directed, there will be no parking on the grass or on sidewalks. Call the Parking Services Office for more information.

B. *Faculty/staff areas affected by move-in and move-out are Washington Street, Kent Street, Owens Dining Hall Lot, Shultz Dining Hall Lot, and the south side of the Drillfield (War Memorial Gym area). Faculty/staff are asked to find alternative parking in C-Lot (Wallace/Litton Reaves), Stanger Lot, B-Lot (behind Whittemore and Dering) and the gravel overflow lot beyond the golf course at the end of the Duck Pond. Faculty/staff should watch for additional information on signs posted in parking lots and in campus publications.*

## 8 VAC 105-10-280. Expired meter.

A. Virginia Tech has parking meters available to meet short-term parking needs of visitors, faculty, staff, and students. Most meters take nickels, dimes, and quarters. The 10 meters nearest the War Memorial Gym are reserved

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for faculty, staff and visitors only. Parking permits (including visitor permits) never allow free parking at meters without paying the meter. State DMV handicap permits do allow free parking at meters.

B. Any parking meter covered with a white cover indicates "general parking," a yellow cover indicates "no parking," and a red cover indicates "reserved parking only." A parking space that has a post with no meter head may be used by anyone authorized to park in that area.

C. Meters are enforced from 7 a.m. to 5 p.m., Monday through Friday, with the exception of the meters in the Bookstore lot which are enforced from 7 a.m. to 7:53 p.m., seven days a week. Vehicles parking at meters for an excessive amount of time can be ticketed more than once.

D. Please notify the Parking Services Office before moving a vehicle from a defective meter so that the meter may be checked immediately. Additionally, failure to completely turn the handle on a meter after inserting coins also constitutes an expired meter violation.

## 8 VAC 105-10-290. Parking in an unauthorized area.

A. Resident, commuter, and graduate student permit parking is prohibited on campus streets and in faculty/staff parking areas (except where signs designate otherwise) from 7 a.m. to 5 p.m., Monday through Friday. Parking at other times may also be prohibited as announced and/or posted in all parking areas.

B. Overnight parking (2 a.m. to 6 a.m.) commuter/graduate student parking on campus is prohibited unless prior arrangements have been made with Parking Services (7:30 a.m. to 5 p.m., Monday through Friday) or the University Police Department all other times. Faculty, staff and students cannot use campus parking as residence or nonuniversity business parking.

~~B. To load vehicles for the weekend, only resident permit holders may park in most faculty/staff areas near residence halls after 2:30 p.m. on Fridays for a maximum of 30 minutes. However, Owens and Dietrick Dining Hall lots are reserved exclusively for faculty and staff parking from 6 a.m. to 4 p.m., seven days a week. C. The policy for loading and unloading vehicles is outlined in 8 VAC 105-10-230.~~

~~G. D.~~ The parking lot across from the Donaldson Brown Hotel and Conference Center (DBH) and in front of Squires Student Center is divided into two sections. The left side (closest to Squires) is reserved for faculty/staff from 7 a.m. to 5 p.m., Monday through Friday. Students may park on this side after hours and on weekends, unless otherwise signed. The right side of the DBH lot is reserved for visitors DBH guests (nonstudents or nonfaculty/staff) 24 hours a day, seven days a week. Only visitors and DBH guests (nonstudents or nonfaculty/staff) are allowed to park in this half of the lot and must display a visitor or DBH parking pass permit.

~~D. E.~~ Persons receiving registered with Parking Services who receive an "Unauthorized Area" citation but whose vehicle is registered with the Parking Services Office because of not displaying a hangtag and parked in an authorized area may request that their citation be voided. To make this

request you ~~must complete~~ a void form *must be completed* within 10 calendar days of citation issuance. Forms are available at the Parking Services Office and are to be filled out in person. These forms are necessary to comply with audit procedures. This request may be made a maximum of three times within an academic year.

F. Parking in designated service vehicle spaces (between white-painted control lines) is allowed after hours (5 p.m. to 7 a.m.) and on weekends unless signed otherwise. ~~Service drives at the Field House, Cochrane, Ambler, Johnston, Miles, Pritchard, etc. Some service vehicle areas are no parking zones 24 hours a day, seven days a week. These include the Field House, Cochrane, Ambler, Johnston, Miles, Pritchard, Litton Reaves, and Saunders. Service drives and loading docks are also restricted 24 hours a day, seven days a week.~~

~~E. G.~~ Note: If you forget your hangtag on any given day, stop by the Parking Services Office to verify your registration and obtain a temporary one-day permit before parking on campus. There is no charge for this permit.

~~F. H.~~ Vehicles not registered with Parking Services prior to parking on campus will receive an "Unauthorized Area" citation.

## 8 VAC 105-10-310. Parking in a no parking zone.

Parking is permitted in authorized, clearly identified parking spaces only. Parking is not allowed in or on lawns, grass, loading zones, bus stops, pedestrian crosswalks, handicap spaces, handicap access ramps, yellow lines or curbs, service drives, service vehicle spaces, and unmarked areas, and fire lanes without specific authorization. Parking on any sidewalk is prohibited at all times. Bagged or covered signs indicate special purpose or no parking.

## 8 VAC 105-10-320. Other (miscellaneous no parking situations).

A. Vehicles are not permitted to occupy multiple spaces (double parking), park facing in the wrong direction, etc. This violation may also include any of the no parking zones mentioned in 8 VAC 105-10-315.

B. Motorcycles are allowed to park in designated motorcycle areas denoted by "P" signs ("P" means "any university parking permit"). If parked in a regular vehicle space, the motorcycle must display the permit type required in that lot (e.g., a faculty/staff permit is necessary in any non-motorcycle space within a faculty/staff lot). Vehicles are not to be parked in areas designated for motorcycles.

## 8 VAC 105-10-325. Emergency snow route policy.

When there is an accumulation of three or more inches of snow, emergency snow routes (Washington Street, Kent Street, Drillfield, and most other campus streets) and parking lots will have to be cleared of parked vehicles for the process of snow removal. Parking on emergency snow routes and most other areas of campus will be prohibited until the snow has been removed. Any vehicle parked so that it obstructs or interferes with the process of snow removal may be ticketed and towed at the vehicle owner's expense. During time of

inclement weather, please call (540) 231-3200 for specific information on available campus parking.

## 8 VAC 105-10-330. Overtime parking.

Timed parking areas (e.g., in front of Burruss, drop-off spaces by the library, ATM spaces at the bookstore, etc.) are strictly enforced to provide limited, short-term parking for the purposes of brief business in certain areas by faculty, staff and students. *Vehicles parked in excess of time restrictions indicated on courtesy permits will also be in violation of overtime parking.*

## 8 VAC 105-10-345. Parking in a fire lane, bus lane or air intake.

*Vehicles parked in fire lanes (usually designated by yellow curbs, striping or signs), bus lanes (designated by BT signs), or air intake areas (behind Pamplin, Southgate, by the Power House, or as designated by signs) will be ticketed or towed, or both, at the owner's expense.*

## 8 VAC 105-10-370. Bicycles.

See Part XIV, Bicycle Information (8 VAC 105-10-500 et seq.).

## 8 VAC 105-10-390. Football and basketball parking restrictions.

Parking in the Coliseum Lot, C-Lot (Wallace/Litton Reaves), Cochrane/Engle Lot and along Spring and Stadium Roads is strictly forbidden *when posted by signs* at the following times:

1. After 5:45 p.m. on the day before a home varsity football game or weekend home varsity basketball game until the game has started.
2. After 5:15 p.m. on the day of a weekday home varsity men's basketball game until the game has started.
3. The Lane Stadium lot is also restricted from parking after 11 p.m. the night before all home football games until the game has started.
4. Parking in the lots mentioned above is restricted during any other special event when prior notice is given by the posting of signs the morning of the event. Failure to comply with these restrictions will result in the vehicle being ticketed and/or towed at the owner's expense.

## 8 VAC 105-10-400. Special Purpose and Graduate Housing parking.

~~A. Parking at the Special Purpose Housing complex is limited and only available to residents with special permits. Residents of the Special Purpose Housing complex are required to register their vehicles with the Parking Services Office as well. Visitors who wish to park in these areas should:~~

- ~~1. Park in the gravel parking lot adjacent to the Duck Pond on Oak Lane.~~
- ~~2. Ride the "Heathwood" BT bus from campus and get off at the Special Purpose Housing stop at the Anaerobe Lab on Prices Fork Road. Parking is available in the~~

~~Commuter "B" lot adjacent to the bus stop on West Campus Drive (except between 2 a.m. and 6 a.m.).~~

~~3. Park in I Lot and ride the BT shuttle bus provided. Contact the Office of Residential and Dining Programs or the Blacksburg Transit Office for a schedule.~~

~~B. Special Purpose Housing parking is not permitted at the Anaerobe Lab on Prices Fork Road at any time. Unauthorized vehicles in the lab parking lot may be towed at owner's expense.~~

~~C. A. All residents of Special Purpose Housing, Hillcrest Graduate Housing, and Main Campbell Graduate Housing qualify for commuter or graduate parking permits. Special passes permits are required to be used in conjunction with their the Virginia Tech commuter/ or graduate parking permits. These permits will be issued to students designated by the Housing Office.~~

~~4. B. Residents of Special Purpose Housing are only allowed to park overnight in the Special Purpose Housing Lot. They must display both a student Virginia Tech parking permit and the red white Special Purpose Housing permit issued by the Housing Office. Visitors to the complex should park in the gravel overflow lot adjacent to the Duck Pond on Oak Lane.~~

~~2. C. Residents of Main Campbell and Hillcrest are only allowed to park overnight in the Litton Reaves/Wallace Lot (C-Lot). They must display both a student parking permit and the white blue RGP permit issued by the Housing Office.~~

## 8 VAC 105-10-410. Golf Course, Tennis, and Rec Field Parking.

~~A. Individuals may park in the specially designated parking areas at the Golf Course and Tennis Pavilion only while registered to engage in either activity at the clubhouse and playing golf. In addition to the above restriction, A Virginia Tech parking permit is required to park in these areas this area. Parking for participants at the Tennis Pavilion, Rec Field, and Field House is available in the General Parking Lot below Lane Stadium. Parking behind the Field House is only permitted for handicap parking and service vehicles 24 hours a day, seven days a week. Handicap and Service Vehicle passes are required to park there.~~

~~B. While playing tennis, players must be registered at the Tennis Pavilion. A Virginia Tech parking permit is required to park in the area adjacent to the pavilion.~~

~~C. Parking behind the Field House is only permitted for handicapped patrons and service vehicles 24 hours a day, seven days a week. Handicap and service vehicle permits are required to park there.~~

~~D. Additional parking for participants at the Tennis Pavilion, Rec Field, and Field House is available in the general parking lot below Lane Stadium. A Virginia Tech parking permit is required to park in this lot.~~

## 8 VAC 105-10-420. Escort service.

~~The University Police Department provides a dusk-to-dawn escort service for individuals who need to walk at night from~~

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~~their dorm or office to their vehicle.~~ Please call (540) 231-SAFE (231-7233) for details.

## 8 VAC 105-10-430. Fines and violations.

A. ~~All citations need to be paid or appealed within 10 calendar days. Failure to formally appeal or pay a citation negates any right to further address the violation.~~

B. Fines for parking violations are as follows:

1. ~~Most parking and bicycle violations are \$10 each.~~
2. ~~Unauthorized parking in a designated handicap space is a \$50 violation.~~
2. ~~Expired meter and bicycle violations are \$10.~~
3. ~~Parking in a handicap space, handicap access, fire lane, bus lane or air intake area is a \$50 violation.~~
3. 4. ~~Unauthorized or fraudulent use of a Virginia Tech parking permit is a \$100 violation.~~

~~B.~~ C. Parking fines not received at the Office of the University Bursar within 10 days from the date of citation issuance, or postmarked within seven days of issuance shall result in an additional \$10 late fee unless the citation is under appeal. Payments sent through campus mail must be received by the 10th day of citation issuance. Lost, stolen, or misplaced citations do not excuse the late fee.

All student accounts with citations 30 days past due will be blocked regardless of amount. All accounts that are over \$100 will be blocked immediately. Accounts must be paid in full for block to be removed.

G. D. Fines may be handled as a payroll deduction as an offset against Commonwealth of Virginia Vendor Debt Setoff Program or assessed against any other ~~moneys~~ money due from the university, or both. Nonpayment of fines may result in blocked class registration and/or withheld grade transcripts. Outstanding fines may also be given to a collection agency. Accounts sent to collections will be assessed an additional collection cost.

~~D. All parking fines will be assessed against either the person who purchased the parking permit or the registered DMV owner of the vehicle.~~ E. When a vehicle is found to be in violation, fines are assessed to:

1. The person who purchased the university permit displayed on the vehicle.
2. (If no parking permit has been issued for the vehicle) the person, company, corporation, or firm in whose name the vehicle is registered with the Virginia Department of Motor Vehicles the corresponding agency of another state or nation;
3. The son, daughter, spouse, or ward of the registered owner enrolled in or employed at Virginia Tech.

## 8 VAC 105-10-450. Vehicle towing.

A. Vehicles may be ticketed, immobilized or towed, or any combination of these at the owner's expense under the following circumstances:

1. For vehicles displaying lost, stolen, or fraudulent Virginia Tech parking permits.

2. When a vehicle is illegally parked in a handicap zone area, handicap access, or fire lane (such towing is required by state law).

3. When a vehicle is illegally parked, restricting traffic, or creating a traffic hazard.

4. When three or more unpaid citations have accumulated. *Please note: any individual who accumulates 10 or more unpaid citations in an academic year is considered to be abusing parking privileges and may lose parking privileges on campus for the remainder of that period. Parking Services reserves the right to confiscate the parking permit attached to such a vehicle and there will be no refund to the owner of that permit.*

5. When vehicles are parked on designated snow routes. *Most streets and roads on campus are considered snow routes. (Washington Street, Kent Street, Drillfield and most campus streets and parking lots. For more details see 8 VAC 105-10-325.)*

6. When vehicles are parked in violation of football and basketball game restrictions.

7. If notified by the Parking Services Office or the University Police Department to move a vehicle, and the owner or user does not accomplish this move within the specified time.

8. *When a vehicle is parked illegally at a loading dock, air intake, or bus lane.*

B. *According to state law, if the tow truck is called and the vehicle owner arrives on the scene to move the vehicle, the tow order may be canceled. If the tow truck has already left the towing company premises, the person responsible for the vehicle may still be required to pay towing costs before being permitted to move the vehicle. A citation for illegal parking will also be issued.*

~~C. If the tow truck is already on route, the person responsible for the vehicle may still be required to pay towing costs before being permitted to move the vehicle. A citation for illegal parking will also be issued.~~

~~D.~~ C. The Parking Services Office and University Police Department are not responsible for damage resulting from towing or immobilization of vehicles.

## 8 VAC 105-10-490. Appealing a violation.

A. The appeals hearing officer for the university will review all written appeals involving nonmoving traffic violations. Traffic citations for moving violations are issued by the University Police Department on campus and referred to the local courts for a decision.

B. Citations received for parking in fire lanes, on a yellow line or curb, in roadways, handicap zone area, handicap access, bus lanes, air intake areas, or metered space will not be viewed favorably in the appeals process except in genuine emergency situations as determined by the appeals hearing officer.

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C. If a person wishes to appeal a parking or bicycle citation, the procedure below should be followed:

1. All appeals must be filed within 10 calendar days of issuance of the citation. All rights to appeal a citation are waived after this 10-day period. *Failure to formally appeal or pay a citation negates any right to further address the violation.*

2. The appeal must be written on an official appeals form available in the Parking Services Office. This is necessary to ensure the Parking Services Office has all the necessary information to process the appeal and satisfy audit procedures.

3. Please make sure the address and phone numbers you list *listed* are complete, accurate, and legible. The Parking Services Office cannot be responsible if you fail *for failure* to receive *your* an appeal notice under these circumstances. Remember to notify the Parking Services Office of any address changes.

4. The issue on appeal is whether or not the cited rule was violated. It is no defense to "not mean" to violate a rule, to "see others" violate it, to "not realize" it was violated, or to have "violated it in the past without penalty."

5. All appeals should be finalized by the last day of classes.

6. The decision of the appeals hearing officer is final.

## 8 VAC 105-10-520. Parking enforcement.

A. Bicycles may be parked only at bicycle racks, except when permission has been granted to keep a bicycle inside a campus building. ~~(Housing must approve keeping a bike in a dormitory room. (Bicycles may be kept in a residence hall room with the agreement of the roommate. Bicycles may not be kept in any other areas of a residence hall. A department head must grant permission to keep a bike in a faculty office.)~~

B. Mopeds may be parked only at bicycle parking racks.

C. No person is allowed to park a bicycle or moped as follows:

1. On a sidewalk, at a tree or post, on a lawn, next to a building, in a roadway, at a utility pole, light post, banister, parking meter, or other available structure. Always use a bicycle rack.

2. So that it blocks or obstructs any entrance, exit, ramp or breezeway.

3. In any campus building (except as permitted in dormitory rooms and faculty offices).

4. In a parking area designated for motor vehicles.

5. In other than an upright position.

D. Bicycles or mopeds found parked and/or locked in areas other than those allowed may be impounded or immobilized by the Parking Services Office or the University Police Department. The person responsible for the bike will receive a bicycle parking citation.

E. Motorcycles may not be parked in bicycle racks. Students' motorcycles are to be parked in designated student motorcycle areas.

## PART XV. AVOIDING PARKING CITATIONS AND TOWING CHARGES.

### 8 VAC 105-10-560. How to avoid parking citations and towing charges. (Repealed.)

~~A. Properly display a Virginia Tech parking permit from 7 a.m. to 5 p.m. Monday through Friday. Remember that the parking rules and regulations are in effect whenever the university is open for business, including when classes are not in session and during semester breaks.~~

~~B. Park in a clearly identified parking space appropriate for your permit.~~

~~C. Do not loan your permit to others. Shared permits may result in a \$100 "Unauthorized Use of Permit" citation assessed against the permit owner.~~

~~D. Have visiting family and friends obtain a visitor parking permit before parking on campus.~~

~~E. Observe special parking restrictions such as:~~

~~1. Parking lots at the Owens Dining Hall, and Dietrick Dining Hall are reserved for faculty and staff members from 6 a.m. to 4 p.m., seven days a week. The right side of the Donaldson Brown Hotel and Conference Center (DBH) is reserved for visitors (nonstudents or nonfaculty/staff) 24 hours a day, seven days a week. The Bookstore Lot parking meters are enforced from 7 a.m. to 7 p.m., seven days a week.~~

~~2. All dining hall loading docks prohibit parking at all times.~~

~~3. Parking is prohibited in the Coliseum Lot and along Stadium and Spring Roads after 5:15 p.m. on the day before a home varsity football game or weekend home varsity basketball game, or after 5:15 p.m. on the day of a weekday home varsity men's basketball game until the game has started.~~

~~4. Parking is prohibited in the parking lot below Lane Stadium from 11 p.m. the night before any home football games until the game has started.~~

~~5. Other special restrictions, as posted.~~

### 8 VAC 105-10-570. Ticket payment. (Repealed.)

~~Avoid a \$10 late fee per citation by making sure payment is made to the Office of the University Bursar in Burruss Hall within 10 calendar days of citation issuance; if payment is mailed, the payment envelope must be postmarked within seven days of citation issuance. Payments sent through campus mail must be received by the 10th day of citation issuance. Do not send cash through the mail or deposit cash in the payment box at the Visitor Information Center. Checks should be made payable to Treasurer, Virginia Tech.~~

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## PART XVI. FEES:

### 8 VAC 105-10-580. Faculty/staff permits. (Repealed.)

The following fees apply for faculty/staff permits:

1. Full-Year	\$50
2. Semester	\$25
3. Summer	\$12
4. Daily	\$1

### 8 VAC 105-10-590. Student permits. (Repealed.)

The following fees apply for student permits:

1. Full-year	\$40
2. Semester	\$23
3. Summer	\$10
4. Daily	\$1

### 8 VAC 105-10-600. Citation fines. (Repealed.)

The following fees apply for citations:

1. Expired Meter	\$10
2. Parking in an Unauthorized Area	\$10
3. Parking on Yellow Line or Curb	\$10
4. Parking in a No Parking Zone	\$10
5. Parking in a Roadway	\$10
6. Other	\$10
7. Overtime Parking	\$10
8. Parking in a Handicap Zone	\$50
9. Unauthorized Use of Permit	\$100
10. Bicycle	\$10

VA.R. Doc. No. R97-279; Filed February 6, 1997, 3:34 p.m.

## STATE WATER CONTROL BOARD

**EDITOR'S NOTICE:** At the State Water Control Board's September 12, 1996, meeting, the board took action on 9 VAC 25-260-310 b, 9 VAC 25-260-310 f and 9 VAC 25-260-390. These sections were proposed in 12:10 VA.R. 1328-1334 February 5, 1996, as part of the triennial review of the Water Quality Standards. The board adopted amendments to 9 VAC 25-260-310 b, repealed 9 VAC 25-260-310 f, and adopted amendments to 9 VAC 25-260-390. The other amendments to the Water Quality Standards proposed during the triennial review are still pending.

**Title of Regulation:** 9 VAC 25-260-10 et seq. Water Quality Standards (amending 9 VAC 25-260-310 and 9 VAC 25-260-390).

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

**Effective Date:** April 2, 1997.

## Summary:

The State Water Control Board, at its meeting on September 12, 1996, approved several revisions to the Water Quality Standards (9 VAC 25-260-10 et seq.). These actions were taken concurrently with and as a result of the adoption of the Policy for the Potomac River Embayments (9 VAC 25-415-10 et seq.). Specifically, the board amended special standard b (Potomac Embayment Special Standard) of 9 VAC 25-260-310 by deleting the Potomac Embayment special standard and adding a paragraph explaining that a Policy for the Potomac River Embayments (9 VAC 25-415-10 et seq.) had been adopted by the board on September 12, 1996. The board deleted special standard f (Potomac Enforcement Conference - Recommendation 1) of 9 VAC 25-260-310 due to the adoption of the Policy for the Potomac River Embayments (9 VAC 25-415-10 et seq.). In addition, the board adopted amendments to the Potomac River Subbasin (9 VAC 25-260-390) necessary to conform the subbasin section to the new policy and to revisions made to the special standards and requirements section of the Water Quality Standards.

These actions were proposed as part of triennial review amendments to the Water Quality Standards. The other amendments to the Water Quality Standards proposed during triennial review are still pending. Final action by the board has not been scheduled.

**Agency Contact:** Copies of the regulation may be obtained from Tom Faha, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3846.

### 9 VAC 25-260-310. Special standards and requirements.

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

4. a. Shellfish waters. In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following standard for fecal coliform bacteria will apply:

The median fecal coliform value for a sampling station shall not exceed an MPN of 14 per 100 ml of sample and not more than 10% of samples shall exceed 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

The shellfish area is not to be so contaminated by radionuclides, pesticides, herbicides, or fecal material that the consumption of shellfish might be hazardous.

2. Potomac embayment standards. The standards of quality, based on a one-month average, for all sewage treatment plant effluents discharging into Potomac River embayments in Virginia from Jones Point (Hunting Creek) to the Route 301 bridge, and for expansions of existing plants discharging into the non-tidal tributaries of these embayments, are:

## NOTES

1. Biochemical oxygen demand ~~Not greater than 3 ppm~~ A, B
2. Unoxidized nitrogen ~~Not greater than 1.0 ppm during the periods April 1 - October 31~~ B, C
3. Total phosphorus ~~Not greater than 0.2 ppm~~ D
4. Total nitrogen ~~Not greater than 1 ppm (when technology is available)~~ E

**Background notes:**

A. This BOD<sub>5</sub> standard is a factor of three less stringent than that being presently produced at the Lake Tahoe plant which is approximately 1 ppm of BOD<sub>5</sub>.

B. A BOD<sub>5</sub> of 3 ppm and 1 ppm of unoxidized nitrogen will result in a UOD of approximately 10 ppm.

C. To achieve this level of unoxidized nitrogen, nitrification can be accomplished by limiting the BOD<sub>5</sub> load on aeration units to 25 pounds per 1000 cubic feet or less and designing the aeration units to maximize the "plug-flow" principle.

D. This phosphorus standard is a factor of two less stringent than that being presently produced at the Lake Tahoe plant which is 0.1 ppm or less of P.

E. For the time being the requirement for total nitrogen removal is waived. However, all plants will have to have facilities to meet this standard as soon as practical after a technically feasible process with year-round reliability is developed and available.

b. *Policy for the Potomac Embayments.* At its meeting on [ ~~September 19, 1994, September 12, 1996,~~ ] the board adopted a policy ( [ ~~VR-680 - 9 VAC 25-415-10 et seq.~~ *Policy for the Potomac Embayments* ] ) to control point source discharges of conventional pollutants into the Virginia embayment waters of the Potomac River, and their tributaries, from the fall line at Chain Bridge in Arlington County to the Route 301 Bridge in King George County. The policy sets effluent limits for BOD<sub>5</sub>, total suspended solids, phosphorus, and ammonia, to protect the water quality of these high profile waterbodies.

3. c. Cancelled.

4. d. Aquia Creek. No proposal resulting in the discharge of treated wastes to Aquia Creek will be approved unless the following is provided:

a. (1) At least 100 days' storage to allow complete elimination of discharges during the low-flow summer months; or

b. (2) Other treatment, based on sound engineering concepts (preferably with experimental data to show

their feasibility), be provided for nutrient removal prior to discharge.

5. e. Cancelled.

6. ~~f. Potomac Enforcement Conference Recommendation 1. Based on the existing points of discharge, waste treatment facilities now discharging to the Potomac River between river mile 106 and river mile 91 (the 15 mile stretch of the river from Chain Bridge downstream to the vicinity of Hog Island) shall be improved to achieve removal of BOD<sub>5</sub>, total phosphorus, and total nitrogen so as to limit loadings as follows: Cancelled.~~

FACILITY	LBS/DAY		
	BOD <sub>5</sub>	TOTAL P	TOTAL N
Arlington	1,300	60	650
Alexandria	1,300	60	630
Fairfax Westgate	900	40	445

Additional loading and additional points of discharge will be acceptable only if the resultant water quality will be equal to, or better than, that which results from adherence to the above load limits at the existing points of discharge.

The following treatment plants shall provide 96% BOD<sub>5</sub> removal, 96% phosphorus removal, and 85% total nitrogen removal, so long as they discharge their effluents to tributaries or embayments of the Potomac River: Fairfax County Deque Creek, Little Hunting Creek, and Accotink Pohick (Lower Potomac) treatment plants; and Fort Belvoir.

NOTE: In accordance with board action in Minute 13 from its meeting on September 20-21, 1971, discharges which lie within boundaries of the Potomac Enforcement Conference (Little Falls to Hallowing Point) and of the Potomac Embayment Standards (Hunting Creek Jones Point to the Route 301 Bridge) must comply with the more restrictive provisions of the two.

7. g. Occoquan watershed policy. At its meeting on July 26, 1971, (Minute 10) the board adopted a comprehensive pollution abatement and water quality management policy for the Occoquan watershed. The policy set stringent treatment and discharge requirements in order to improve and protect water quality, particularly since the waters are an important water supply for Northern Virginia. Following a public hearing on November 20, 1980, the board, at its December 10-12, 1980, meeting, adopted as of February 1, 1981, revisions to this policy (Minute 20). These revisions became effective March 4, 1981. Copies are available upon request from the State Water Control Board.

8. h. Cancelled.

9. i. Cancelled.

10. j. Cancelled.

11. k. Cancelled.



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42. *l.* Cancelled.

43. *m.* The following effluent standards apply to the entire Chickahominy watershed above Walker's Dam:

CONSTITUENT	CONCENTRATION
1. Bio-chemical Oxygen demand 5-day at 20°	6.0 mg/l monthly average, with not more than 5% of individual samples to exceed 8.0 mg/l
2. Settleable Solids	Not to exceed 0.1 ml/l
3. Suspended Solids	5.0 mg/l monthly average, with not more than 5% of individual samples to exceed 7.5 mg/l
4. Ammonia Nitrogen	Not to exceed 2.0 mg/l as N
5. Total Phosphorus	Not to exceed 0.1 mg/l monthly average for all discharges with the exception of Holly Farms Poultry Industries, Inc. which shall meet 0.3 mg/l monthly average and 0.5 mg/l daily maximum.
6. Other Physical and Chemical Constituents	Other physical or chemical constituents not specifically mentioned will be covered by additional specifications as conditions detrimental to the stream arise. The specific mention of items 1 through 5 does not necessarily mean that the addition of other physical or chemical constituents will be condoned.

44. *n.* No sewage discharges, regardless of degree of treatment, should be allowed into the James River between Boshier and Williams Island Dams.

45. *o.* The concentration and total amount of impurities in Tuckahoe Creek and its tributaries of sewage origin shall be limited to those amounts from sewage, industrial wastes, and other wastes which are now present in the stream from natural sources and from existing discharges in the watershed.

46. *p.* Cancelled.

47. *q.* Rappahannock River Basin.

The following effluent standards (adopted in Minute 17 from the proceedings of the board at its meeting on September 17-18, 1972) apply to all waste discharges to the Rappahannock River Basin above the proposed Salem Church Dam in accordance with paragraphs a (1) and b (2) below:

CONSTITUENT	FINAL EFFLUENT REQUIREMENTS (WEEKLY AVERAGE)
BOD - mg/l	1
COD - mg/l	10
Suspended solids - mg/l	0 (unmeasurable)
MBAS - mg/l	0.1
Turbidity (Jackson Units)	0.4
Fecal Coliform Bacteria per 100 ml sample	Less than 2
Nitrogen - mg/l	1
Phosphorus - mg/l	0.1

a. (1) After the date of Congressional authorization for actual construction of the dam has been given, all new proposals shall comply fully with the adopted standards of the paragraph above and all existing owners shall immediately commence the necessary planning, financing and design to ensure that facilities are completed prior to final completion of the construction of the dam; and

b. (2) Any new proposals for waste discharges to the area encompassed by the standards shall provide such conventional treatment that in the opinion of the State Department of Health, the staff and the board, satisfactory advanced waste treatment units can readily be added when funds for construction of the Salem Church Dam have been authorized.

48. *r.* Cancelled.

49. *s.* Chlorides not to exceed 40 mg/l at any time.

20. *t.* Cancelled.

21. *u.* Maximum temperature for the New River Basin from West Virginia state line upstream to the Giles - Montgomery County line:

The maximum temperature shall be 27°C (81°F) unless caused by natural conditions; the maximum rise above natural temperatures shall not exceed 2.8°C (5°F).

This maximum temperature limit of 81°F was established in the 1970 water quality standards amendments so that Virginia temperature standards for the New River would be consistent with those of West Virginia, since the stream flows into that state.

22. *v.* The maximum temperature of the New River and its tributaries (except trout waters) from the Montgomery-Giles County line upstream to the Virginia-North Carolina State line shall be 29°C (84°F).

23. *w.* In Minute 3 from its meeting on March 10-11, 1977, the board authorized a variance to the General Standard relating to zinc for the length of Ash Camp Creek and a portion of Little Roanoke Creek from the

confluence of Ash Camp Creek to the Route 47 bridge.

4 II b,d

Tidal portions of the tributaries to the Potomac River from Marlboro Point to Brent Point (to include Aquia Creek and its tributaries).

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

24. x. Clinch River from the confluence of Dumps Creek at river mile 268 at Carbo downstream to river mile 255.4. The special water quality standard for copper (measured as total recoverable) in this section of the Clinch River is 12.4 ug/l for protection from chronic effects and 19.5 ug/l for protection from acute effects. This site specific standard is needed to provide protection to several endangered species of freshwater mussels.

4a III b,d  
4b III PWS,b,d

Free flowing portions of tributaries to the Potomac River in Section 4 up to the Aquia Sanitary District Water Impoundment.

Aquia Creek from the Aquia Sanitary District Water Impoundment, and other tributaries into the impoundment, including Beaverdam Run and the Lunga Reservoir upstream to their headwaters.

## 9 VAC 25-260-390. Potomac River Basin.

### Potomac River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION				
1	II	a	<del>VR 680-21-08.1. Potomac River Basin</del> Tidal tributaries of the Potomac River from Smith Point to Upper Machodoc Creek (Baber Point).	5	II	b	Tidal portions of tributaries to the Potomac River from Brent Point to Shipping Point, including tidal portions of Chopawamsic Creek and its tidal tributaries.
1a	III		<i>All free flowing portions of tributaries to the Potomac River from Smith Point to the Route 301 Bridge in King George County unless otherwise designated in this chapter.</i>	5a	III	b	Free flowing portions of Chopawamsic Creek and its tributaries to Quantico Marine Base water supply dam.
				5b	III	PWS,b	Chopawamsic Creek and its tributaries above the Quantico Marine Base water supply intakes at the Gray and Breckenridge Reservoirs to their headwaters.
1ab	III b		All free flowing portions of tributaries to the Potomac River from Smith Point the Route 301 Bridge in King George County to, and including, Potomac Creek, unless otherwise designated in this chapter.	6	II	b,f	Tidal portions of tributaries to the Potomac River from Shipping Point to Chain Bridge.
1bc	III	PWS,b	Potomac Creek and its tributaries from the Stafford County water supply dam (Able Lake Reservoir) to its headwaters.	7	III	b	Free flowing portions of tributaries to the Potomac River from Shipping Point to Chain Bridge, unless otherwise designated.
2	II	a	Upper Machodoc Creek and the tidal portions of its tributaries.	7a	III	b,g	Occoquan Creek and its tributaries above Fairfax County Water Authority's water supply impoundment, unless otherwise designated.
2a	III		Free flowing portions of those streams in Section 2.	7b	III	PWS,b,g	The impounded waters of Occoquan River above the water supply dam of the Fairfax County Water Authority to backwater of the impoundment on Bull Run and Occoquan River, and the tributaries of Occoquan above
3	II	b	Tidal portions of the tributaries to the Potomac River from Upper Machodoc Creek the Route 301 Bridge in King George County to Marlboro Point.				

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			the dam to a point 5 miles above the dam.				exceeded in the area above Big Spring and Little Spring at Routes 15 and 740 due to natural conditions). This section was given a PWS designation due to the Town of Leesburg's intake on the Potomac as referenced in Section 8b below.
7c	III	PWS,b,g	Broad Run and its tributaries above the water supply dam of the City of Manassas upstream to a point 5 miles above the dam.				
7d	III	PWS,b,g	The impounded waters of Lake Jackson, Broad Run, and Cedar Run.	8b	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the Town of Leesburg's intake on the Potomac River, unless otherwise designated.
7e	III	PWS,b,g	Cedar Run from the Town of Warrenton's raw water intake (just upstream of Route 678) to a point 5 miles upstream of the proposed multiple purpose structure near Airlie (Fauquier County).	8c	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the County of Fairfax's intake on the Potomac River.
7f	III	PWS,b,g	The Quantico Marine Base Camp Upshur and its tributaries' raw water intake on Cedar Run (located approximately 0.2 mile above its confluence with Lucky Run) to a point 5 miles upstream.	9	III	SR-1	Broad Run, Sugarland Run, Difficult Run, Tuscarora Creek, Sycoline Creek, and other streams tributary to streams in Section 8 from a point 5 miles above their confluence with the Potomac River to their headwaters, unless otherwise designated.
7g	III	PWS,b,g	The proposed impounded waters of Licking Run above the multiple purpose impoundment structure in Licking Run near Midland (Fauquier County) upstream to a point 5 miles above the proposed impoundment.	9a	III	PWS,SR-1	All the impounded water of Goose Creek from the City of Fairfax's water supply dam upstream to backwater, and its tributaries above the dam to a point 5 miles above the dam.
7h	III	PWS,b,g	The proposed impounded waters of Cedar Run above the proposed multiple purpose impoundment structure on the main stem of Cedar Run near Auburn (Fauquier County), to a point 5 miles above the impoundment.	9b	III	PWS	The Town of Round Hill's raw water intake at the Round Hill Reservoir, and including the two spring impoundments located northwest of the town on the eastern slope of the Blue Ridge Mountains.
8	III	PWS,SR-1	Tributaries to the Potomac River in Virginia between Chain Bridge and the Monacacy River from their confluence with the Potomac upstream 5 miles, to include Goose Creek to the City of Fairfax's raw water intake, unless otherwise designated.	10	III		Tributaries of the Potomac River from the Monacacy River to the West Virginia-Virginia state line in Loudoun County, from their confluence with the Potomac River upstream to their headwaters, unless otherwise designated.
8a	VI	PWS	Big Spring Creek and its tributaries in Loudoun County, from its confluence with the Potomac River upstream to their headwaters. (The temperature standard for natural trout water may be	10a	III	PWS	North Fork Catoctin Creek from Purcellville's raw water intake to its headwaters.

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10b	III	SR-2	South Fork Catoctin Creek and its tributaries from its confluence with the North Fork Catoctin Creek to its headwaters.	vi	Frank Run from its confluence with the South Branch Potomac River 0.8 mile upstream.
11	IV	pH-6.5-9.5	Tributaries of the Potomac River in Frederick and Clarke Counties, Virginia, unless otherwise designated.	vii	South Branch Potomac River (in Highland County) from 69.2 miles above its confluence with the Potomac River 4.9 miles upstream.
	V	pH-6.5-9.5	Put and Take Trout Waters in Section 11	vi	Strait Creek (Highland County) from its confluence with the South Branch Potomac River 3.9 miles upstream.
	***		Back Creek (upper) from Rock Enon 4 miles upstream.		
	***		Back Creek (lower) from Route 600 to the mouth of Hogue Creek - 2 miles.	VI	Natural Trout Waters in Section 12
	***		Hogue Creek from Route 679 upstream 6 miles to the Forks below Route 612.	ii	Blights Run from its confluence with Laurel Fork (Highland County) 0.6 mile upstream.
	vi		Opequon Creek (in Frederick County) from its confluence with Hoge Run upstream to the point at which Route 620 first crosses the stream.	ii	Buck Run (Highland County) from its confluence with Laurel Fork 1.3 miles upstream.
	vi		Turkey Run (Frederick County) from its confluence with Opequon Creek 3.6 miles upstream.	ii	Collins Run from its confluence with Laurel Fork 0.9 mile upstream.
	VI	pH-6.5-9.5	Natural Trout Waters in Section 11	ii	Laurel Fork (Highland County) from 1.9 miles above its confluence with the North Fork South Branch Potomac River 15.7 miles upstream.
	ii		Bear Garden Run from its confluence with Sleepy Creek 3.1 miles upstream.	ii	Locust Spring Run from its confluence with Laurel Fork 3.5 miles upstream.
	iii		Redbud Run from its confluence with Opequon Creek 4.4 miles upstream.	ii	Lost Run from its confluence with Laurel Fork 1.5 miles upstream.
11a	IV	pH-6.5-9.5	Hot Run and its tributaries from its confluence with Opequon Creek to its headwaters.	ii	Mullenax Run from its confluence with Laurel Fork 1 mile upstream.
	V	pH-6.5-9.5	Put and Take Trout Waters in Section 11a	ii	Newman Run from its confluence with Laurel Fork 1 mile upstream.
	vi		Clearbrook Run from its confluence with Hot Run 2.1 miles upstream.	ii	Slabcamp Run from its confluence with Laurel Fork 2.2 miles upstream.
12	IV	pH-6.5-9.5	South Branch of the Potomac River and its tributaries, such as Strait Creek, and the North Fork River and its tributaries from the Virginia-West Virginia state line to their headwaters.		
	V		Put and Take Trout Waters in Section 12.		

VA.R. Doc. No. R97-298; Filed February 12, 1997, 10:30 a.m.

# Final Regulations

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**Title of Regulation:** 9 VAC 25-415-10 et seq. Policy for the Potomac River Embayments.

**Statutory Authority:** § 62.1-14.15 of the Code of Virginia.

**Effective Date:** April 2, 1997.

**Summary:**

The State Water Control Board (SWCB) adopted a new regulation, Policy for the Potomac Embayments, on September 12, 1996. The new regulation replaces two regulations within the Commonwealth's Water Quality Standards: Potomac Embayment Standards and Potomac Enforcement Conference-Recommendation 1 (9 VAC 25-260-310 b and f).

The regulation sets maximum effluent limits for CBOD<sub>5</sub>, TSS, P, and seasonal NH<sub>3</sub> for discharges to affected waters. The regulation applies to all embayments and their tidal and nontidal tributaries, including their headwaters, of the Potomac River, from the fall line at Chain Bridge in Arlington County to the Route 301 Bridge in King George County. The Occoquan River watershed, upstream of the fall line at the Occoquan Dam, shall not be subject to the terms of this regulation, since those waters are governed by the Occoquan Policy (9 VAC 25-410-10 et seq.).

The regulation is based on a petition to the SWCB by the counties of Arlington, Fairfax, and Stafford, the Alexandria Sanitation Authority, and the Prince William County Service Authority. The petitioners requested that the effluent limits in the old regulations be replaced by those which are set forth in the new regulation and that a defined modeling process be employed for future effluent requirements. The regulation also eliminates confusion over applicability of the existing regulations.

The following changes were made to the draft regulation that was public noticed:

1. The Background Section was deleted. The Registrar's office commented that this section is not regulatory text and as such should not be codified.
2. An exemption clause has been added to the Policy Requirements section. This language continues the grandfather clause, for three existing small discharges, that was provided by the old Potomac Embayment Standards.
3. The word Phosphorus has been changed to Total Phosphorus in the Effluent Limitations section for clarification.
4. References to water quality modeling in the Effluent Limitations section have been reworded and moved to the Water Quality Modeling section for clarification.
5. The sections have been renumbered and the regulatory reference numbers have been changed in

accordance with the Commonwealth's new coding system.

6. A compliance date of five years from the date of adoption has been added to the Policy Requirements section. This provision essentially allows the dischargers and DEQ to proceed with upgrade and compliance without the necessity of Consent Orders.

7. The paragraph on total nitrogen in the Effluent Limitations section has been deleted. The draft language prescribed no regulatory requirement and was causing confusion and unnecessary comparisons to the Chesapeake Bay Agreements.

8. Standard language for all new regulations requiring administrative review has been added.

**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 Tom Faha, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3846.

## CHAPTER 415.

### POLICY FOR THE POTOMAC RIVER EMBAYMENTS.

#### 9 VAC 25-415-10. Purpose.

This chapter provides for the control of point source discharges into the Virginia embayment waters of the Potomac River from the fall line at Chain Bridge in Arlington County to the Route 301 Bridge in King George County.

This chapter also constitutes Special Standard 'b' in the State Water Control Board's Water Quality Standards "Special Standards and Requirements" (9 VAC 25-260-310) for the Potomac River Basin's Potomac River Subbasin (9 VAC 25-260-400).

#### 9 VAC 25-415-20. Affected waters.

This chapter shall apply to all embayments and their tidal and nontidal tributaries, including their headwaters, of the Potomac River, from the fall line at Chain Bridge in Arlington County to the Route 301 Bridge in King George County. The Occoquan River watershed, upstream of the fall line at the Occoquan Dam, shall not be subject to the terms of this chapter, since those waters are governed by the Occoquan Policy (9 VAC 25-410-10 et seq.).

#### 9 VAC 25-415-30. Policy requirements.

A. Existing discharges [~~and new discharges~~] shall meet the requirements of 9 VAC 25-415-40 [ within five years from April 2, 1997, ] unless exempted under subsection B [ or , ] C [ or D ] of this section. [ New dischargers shall meet the requirements of 9 VAC 25-415-40 immediately. ]

[ B. Existing discharges with design flows less than 0.05 mgd shall be exempt from meeting the requirements of 9 VAC 25-415-40 until the completion of their next design flow expansion. ]

[ B. C. ] Failing septic systems. Existing residential homes, industrial and commercial operations, public facilities, and any other operation where a septic drainfield system has failed shall be exempt from the requirements of 9 VAC 25-415-40, provided that the applicant demonstrates that it is not feasible to connect to a publicly-owned treatment plant and that there is no feasible alternative except to discharge. Discharge permits shall be issued in conformance with the Virginia Permit Regulation ( [ ~~9 VAC 25-30-10 et seq.~~ 9 VAC 25-31-10 et seq. ] ) and Virginia General VPDES Permit Regulation for Sewage Discharges Less Than or Equal to 1,000 Gallons per Day (9 VAC 25-110-10 et seq.).

[ G. D. ] Other exemptions. The requirements of 9 VAC 25-415-40 shall not apply to the following types of discharges: combined sewer overflows, stormwater, corrective action remediation, and industrial discharges where BOD and nutrients are not primary pollutants of concern.

9 VAC 25-415-40. Effluent limitations.

The following effluent limitations shall apply to all sewage treatment plants:

Parameter	Monthly Avg (mg/l)
CBOD <sub>5</sub>	5
Total Suspended Solids	6
[ Total ] Phosphorus	0.18
NH <sub>3</sub> (Apr 1 - Oct 31)	1
[ Total Nitrogen <del>_____</del> ]	<del>_____</del>

~~[ \*The Commonwealth of Virginia is working with other states to develop a program to protect the Chesapeake Bay. This program will most likely require nitrogen removal at treatment facilities. Upon the development of a regional, scientifically sound policy by the states involved, the Commonwealth may require nitrogen removal at the treatment plants on the Potomac River. Although no limits are established for total nitrogen at this time, it is the recommendation of the Department of Environmental Quality that treatment to reduce total nitrogen (comparable to reductions achieved by biological nutrient removal) be provided at the time of initial discharge for new plants and at the next upgrade or expansion of existing wastewater treatment plants. The purpose of this recommendation is to provide for the timely installation and operation of the most cost effective treatment possible for reducing nitrogen at the plants so that the nutrient reduction goals of the Chesapeake Bay Program may be obtained. Once a regional program with specific regulations are adopted to protect the Chesapeake Bay, the requirements will become a part of this policy. ]~~

The above limitations shall not replace or exclude the discharge from meeting the requirements of the state's Water Quality Standards (9 VAC 25-260-10 et seq.). ~~[ If water quality modeling demonstrates the necessity for more restrictive limits, the more restrictive limits shall apply. ]~~

9 VAC 25-415-50. Water quality modeling.

[ ~~State-of-the-art~~ ] Water quality models [ ~~shall be used may be required~~ ] to predict the effect of wastewater discharges on the water quality of the receiving waterbody, the embayment, and the Potomac River. The purpose of the modeling shall be to determine if more stringent limits than those required in 9 VAC 25-415-40 are required to meet

water quality standards. [ If modeling demonstrates the necessity for more restrictive limits, the more restrictive limits shall apply. ] Where needed, modeling shall account for and address previous modeling exercises and shall include all relevant point and nonpoint sources. All models shall undergo a peer review process. The models and modeling results shall be considered during the public participation process to ensure proper public input into the modeling process. The models shall be documented and certified by the Virginia Department of Environmental Quality for use in preparing VPDES permits for discharges to the Potomac Embayments and the Potomac River. All changes and modifications to the models shall receive peer review and be appropriately documented. Documentation on the models shall include the basis and reasoning for the recommended models including inputs and assumptions. The rationale shall be described in nontechnical language so someone who is reasonably familiar with water pollution problems can understand the inputs and the reasons behind them.

[ 9 VAC 25-415-60. Administrative review.

Within three years after the effective date of this chapter, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter, (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this chapter, (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements, and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities.

Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter, or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board. ]

VA.R. Doc. No. R96-299; Filed February 12, 1997, 10:38 a.m.

# STATE CORPORATION COMMISSION

**EDITOR'S NOTE:** Reference is made in the last paragraph of this order to Appendices A and B. Appendices A and B are listings of local telephone companies and certificated interexchange carriers operating in Virginia, respectively, and are not set out. These appendices may be viewed at the State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, VA 23219 or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Street, Richmond, VA 23219.

AT RICHMOND, FEBRUARY 6, 1997

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUC970009

Ex Parte: Implementation of  
IntraLATA Toll Dialing Parity  
pursuant to the provisions of  
47 U.S.C. § 251(b)3

## ORDER DIRECTING PUBLICATION AND INVITING COMMENTS

On February 8, 1996, the Telecommunications Act of 1996, 47 U.S.C. § 251 *et seq.* (hereafter the "Act") became effective. Section 251(b)3 of the Act requires all local exchange telecommunications carriers to provide dialing parity to competing providers of exchange and toll telephone services. On May 28, 1996, GTE South, Inc. ("GTE") filed a proposed implementation schedule and tariffs for intraLATA equal access service. On August 8, 1996, the Federal Communications Commission ("FCC") issued its Second Report and Order and Memorandum Opinion Order in CC Docket No. 96-98, In the matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 ("Dialing Parity Order").

On December 4, 1996, Bell Atlantic-Virginia, Inc. ("BA-VA"), United Telephone - Southeast, Inc., Central Telephone Company of Virginia, ("United/Centel"), and TCG-Virginia, Inc. filed intraLATA toll dialing plans pursuant to the requirements of the FCC Dialing Parity Order. On December 6, 1996, GTE filed a revised implementation schedule pursuant to the requirements of that Order.

The FCC's Dialing Parity Order establishes an implementation timetable for all local exchange carriers ("LECs") to provide intraLATA and interLATA dialing parity no later than February 8, 1999. In addition, the FCC order requires LECs, including Bell Operating Companies ("BOCs"), to provide intraLATA toll dialing parity in a state coincident with the provision of interLATA toll services within that state. A grace period, however, was granted to LECs that provided interLATA toll services in a state before August 8, 1997. These LECs are not required to implement intraLATA toll dialing parity until August 8, 1997.

Further, the FCC Dialing Parity Order requires LECs to submit to the appropriate state commission their plans for implementing toll dialing parity in that state. The FCC stated in its Order that the states were best able to evaluate the

LECs' implementation plans. The FCC ordered that any toll dialing parity

"plan must contain detailed implementation information, including the proposed date for dialing parity implementation for that exchange that the LEC operates in each state, and the method it proposes for enabling customers to select alternative providers of telephone service. For a LEC other than a BOC, the plan also must identify the LATA with which the LEC proposes to associate." (¶ 38, pp. 18-19.)

This Commission requests comments on whether the plans currently submitted by the LECs in this proceeding comply with § 251(b)3 of the Act and the FCC's Dialing Parity Order. The comments should, at a minimum, address the appropriateness of the (1) proposed presubscription methods; (2) customer notification and carrier selection procedures; and (3) cost recovery issues. Comments should also address whether other LECs should be required to implement intraLATA toll dialing parity sooner than the FCC's February 8, 1999 deadline, and whether presubscription methods, customer notification and carrier selection procedures and cost recovery should be consistent throughout the Commonwealth or whether they may vary by company. The Commission Staff shall review the plans currently on file and the comments concerning those plans, and file a report assessing the plans for compliance with the Act, the FCC Dialing Parity Order, and the public interest. Plans filed after the date of this order shall be considered on a separate procedural schedule.

Having considered the tariffs or plans submitted by GTE, BA-VA, United/Centel, and TCG, the Commission has determined that this matter should be docketed, and that public notice should be provided to offer the public an opportunity to comment upon the plans.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC970009.

(2) On or before February 14, 1997, the Division of Communications shall publish, as classified advertising on one occasion in daily newspapers whose circulation covers the entire Commonwealth, a notice as follows:

## VIRGINIA STATE CORPORATION COMMISSION SEEKS COMMENTS ABOUT PLANS OF VARIOUS LOCAL TELEPHONE COMPANIES TO IMPLEMENT INTRALATA TOLL DIALING PARITY CASE NO. PUC970009

GTE South, Inc. ("GTE"), Bell Atlantic-Virginia, Inc. ("BA-VA"), United Telephone-Southeast and Central Telephone Company of Virginia ("United/Centel"), and TCG have filed plans to implement "1 plus" and "zero plus" dialing parity among all providers of long distance telephone service. This will allow customers to select different long distance companies to carry intraLATA, or "short distance" toll calls by dialing 1 plus or zero plus the telephone number. Today a customer must

dial extra digits to make such calls. In response to these plans, the Virginia State Corporation Commission ("SCC") hereby seeks public comment on those plans and any of the issues addressed in those plans.

Persons wishing to review those plans or the Commission Order may write for copies to the Commission's Division of Communications, P.O. Box 1197, Richmond, Virginia 23218 or may call (804) 371-9420. Please refer to Case No. PUC970009.

Comments concerning the plans must refer to Case No. PUC970009 and be submitted to the Clerk of the Commission, Williams J. Bridge, c/o Document Control, P.O. Box 2118, Richmond, Virginia 23218 on or before February 28, 1997.

VIRGINIA STATE CORPORATION COMMISSION

(3) Comments must be filed with the Clerk of the Commission on or before February 28, 1997.

(4) Reply comments are due March 10, 1997.

(5) On or before April 2, 1997, the Commission Staff shall evaluate the comments and submit a report containing its findings.

(6) Those Virginia LECs currently offering interLATA toll services shall file their toll dialing parity plans on or before February 28, 1997.

(7) The tariff filed by GTE on May 28, 1996, to introduce intraLATA equal access service is hereby suspended pursuant to the provisions of Va. Code § 56-238.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange telephone company operating in Virginia as set out in Appendix A attached hereto: each certificated interexchange carrier operating in Virginia as set out in Appendix B attached hereto: the Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Richmond, Virginia 23219; Jean Ann Fox, Virginia Citizens Consumer Counsel, 114 Coachman Drive, Yorktown, Virginia 23219; Sheryl Butler, Esquire, Office of the Judge Advocate General, Department of the Army, 901 North Stuart Street, Room 400, Arlington, Virginia 22203-1837; Ronald B. Mallard, Director, Department of Consumer Affairs, County of Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035; Mr. Charles R. Smith, Hello, Inc., 2315 West Broad Street, Richmond, Virginia 23220; James C. Roberts, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; the Commission's Office of General Counsel, and the Commission's Divisions of Communications, Public Utility Accounting and Economics and Finance.

VA.R. Doc. No. R97-280; Filed February 10, 1997, 11:25 a.m.



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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER THIRTY-NINE (96)

"WINTER BLITZ," VIRGINIA LOTTERY RETAILER PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate "Winter Blitz," the Virginia Lottery Retailer Promotional Program Rules for the lottery retailer incentive program which will be conducted from Monday, January 20, 1997 through Friday, April 4, 1997. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until April 30, 1997, unless otherwise extended by the Director.

/s/ Penelope W. Kyle  
Director  
Date: December 27, 1996

VA.R. Doc. No. R97-274; Filed February 6, 1997, 9:30 a.m.

## DIRECTOR'S ORDER NUMBER ONE (97)

VIRGINIA'S SIXTY-EIGHTH INSTANT GAME LOTTERY; "COLD CASH," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-eighth instant game lottery, "Cold Cash." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: January 1, 1997

VA.R. Doc. No. R97-275; Filed February 6, 1997, 9:30 a.m.

## DIRECTOR'S ORDER NUMBER TWO (97)

VIRGINIA'S SIXTY-NINTH INSTANT GAME LOTTERY; "\$10,000 SLAM DUNK," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's sixty-ninth instant game lottery, "\$10,000 Slam Dunk." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: January 1, 1997

VA.R. Doc. No. R97-276; Filed February 6, 1997, 9:30 a.m.

## DIRECTOR'S ORDER NUMBER THREE (97)

VIRGINIA'S SEVENTIETH INSTANT GAME LOTTERY; "\$10,000 CASH POKER," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's seventieth instant game lottery, "\$10,000 Cash Poker." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: February 1, 1997

VA.R. Doc. No. R97-277; Filed February 6, 1997, 9:30 a.m.

DIRECTOR'S ORDER NUMBER FOUR (97)

VIRGINIA'S SEVENTY-FIRST INSTANT GAME LOTTERY;  
"CRUISE FOR CASH," FINAL RULES FOR GAME  
OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's seventy-first instant game lottery, "Cruise for Cash." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director

Date: February 1, 1997

VA.R. Doc. No. R97-278; Filed February 6, 1997, 9:30 a.m.

# MARINE RESOURCES COMMISSION

## FINAL REGULATIONS

**NOTICE:** Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating certain regulations. However, the Commission is required to publish the full text of final regulations.

**Title of Regulation:** 4 VAC 20-260-10 et seq. Pertaining to the Culling of Oysters (amending 4 VAC 20-260-20).

**Statutory Authority:** §§ 28.2-201, 28.2-507, and 28.2-513 of the Code of Virginia.

**Effective Date:** February 10, 1997.

### Preamble:

*This regulation establishes clean cull and seed areas, a minimum size limit, culling requirements, and inspection procedures for oysters taken from public oyster beds, rocks and shoals in the Chesapeake Bay and its tributaries and on all oyster grounds on the seaside of the Eastern Shore. This regulation is promulgated pursuant to authority contained in §§ 28.201, 28.2-507 and 28.2-513 of the Code of Virginia. This regulation amends 4 VAC 20-260-10 et seq. which was made effective on April 14, 1995. The effective date of these amendments is February 10, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2120.

### 4 VAC 20-260-20. Designation of seed areas and clean cull areas.

A. Seed areas: The following natural public oyster beds, rocks, or shoals are designated for the harvest of seed oysters:

1. Seaside of Eastern Shore. All of the public oyster grounds on the eastern side of Accomack and Northampton Counties on Virginia's Eastern Shore.

2. James River. All of the public oyster grounds in the James River and its tributaries above a line drawn from Cooper's Creek in Isle of Wight County on the south side of the James River to a line in a northeasterly direction across the James River to the Newport News municipal water tank located on Warwick Boulevard between 59th and 60th Streets in the City of Newport News, excluding the Jail Island and Point of Shoals Clean Cull area and the Deep Water Shoal State Repletion Seed Area.

3. Deep Water Shoal State Repletion Seed Area in the James River (574.66 acres) - beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, North 302,280.00, East 2,542,360.00; thence North Azimuth 30°49'59", 4,506.99 feet to Corner 2, North 306,150.00, East 2,544,670.00; thence North Azimuth 135°08'57", 5,430.60 feet to Corner 3, North 302,300.00, East 2,548,500.00; thence North Azimuth 212°13'54",

3,487.42 feet to Corner 4, North 299,350.00, East 2,546,640.00; thence North Azimuth 269°10'16", 2,765.29 feet to Corner 5, North 299,310.00, East 2,543,875.00; thence North Azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning. (Map 1)

B. Clean cull areas: All natural public oyster beds, rocks, or shoals in the tidal waters of Virginia, except those designated by the Marine Resources Commission as seed areas shall be considered clean cull areas.

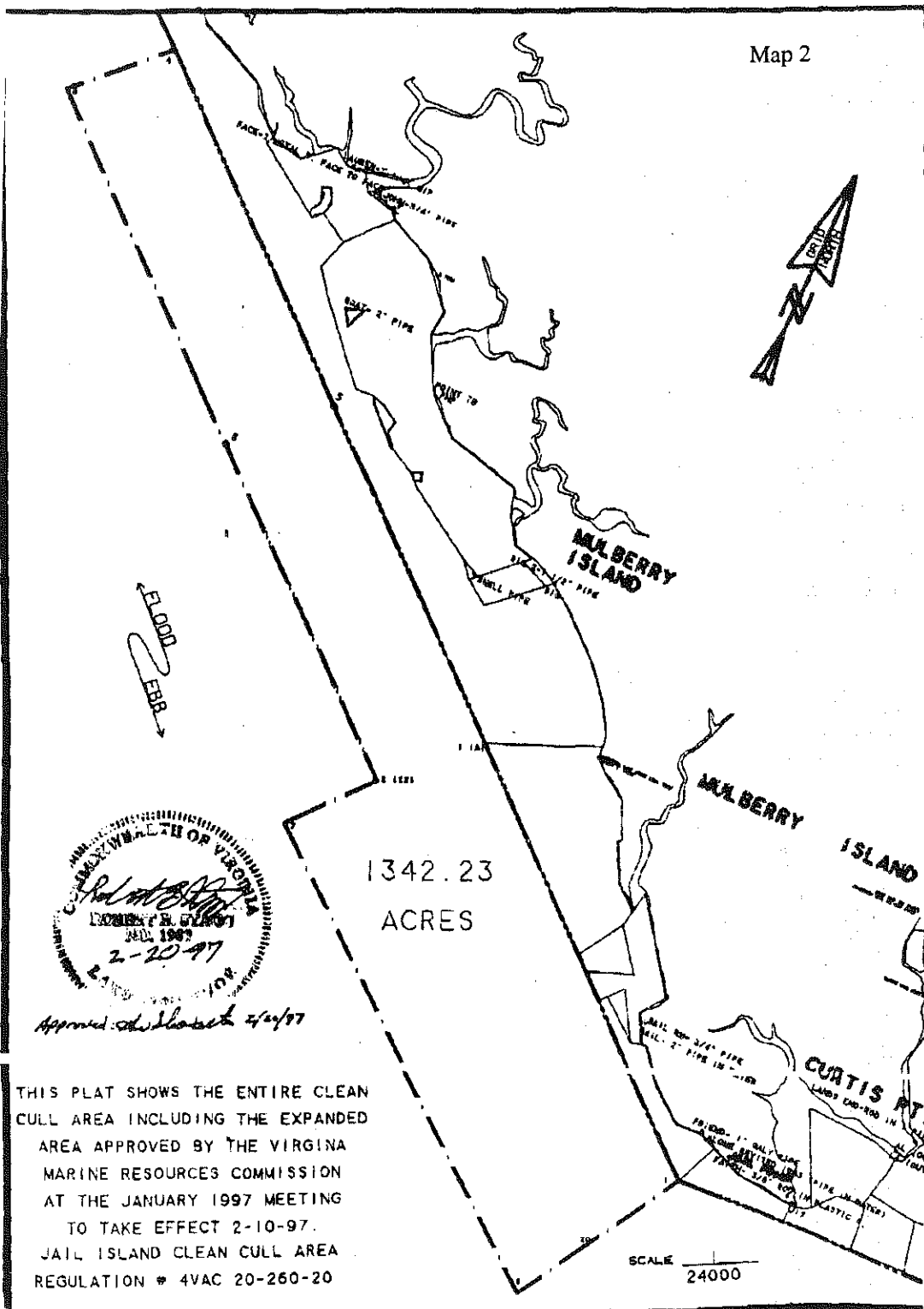
Two areas within the James River Seed Area are set aside as clean cull areas and are described as follows:

1. Jail Island Clean Cull area (4,040 1,342.23 acres): Beginning at a point approximately 2,000 feet southwest of the shore of Mulberry Island at Point A as located by Virginia State Plane Coordinates, South Zone, NAD 1927 North 281,468.20, East 2,558,879.7; thence North Azimuth 131°26'56", 8,422.95 feet to Corner 1B, North 275,892.62, East 2,565,193.09, then North Azimuth 210°28'11", 2,037.29 feet to Corner 20, North 274,136.69, East 2,564,160.02, thence North Azimuth 341°26'56", 8,949.8 feet to Point 22, 3,468.98 feet to Corner 628, North 280,061.03 272,902.72, East 2,557,451.72, continuing 2,563,434.03, thence North Azimuth 309°07'41", 9,174.96 feet to Corner 629, North 278,692.63, East 2,556,316.67, then North Azimuth 39°40'29", 1,777.88 feet to Corner 22, North 280,061.03, East 2,557,451.72, then North Azimuth 311°26'22", 13,325.00 feet to Corner 3, North 288,879.88, East 2,547,462.55, thence North Azimuth 45°25'14", 2,004.82 feet to Corner 4, North 290,287.06, East 2,548,890.54, thence North Azimuth 131°26'22", 13,325.00 feet to Point A, being the point of beginning. (Map 2)

2. Point of Shoals Clean Cull Area (Baylor Acres - 820 acres): Beginning at Channel Light #7 and continuing along the south side of channel to Tylers Beach to Channel Light #1 at entrance to Tylers Beach Channel, thence North Azimuth 101°08'43", 8,417 feet to an intersection corner near east end of Long Rock, Latitude 37°04'28.2", Longitude 76°37'37.5", thence North Azimuth 205°11'49", 9,604 feet to Day Marker #4, Latitude 37°03'03.17", Longitude 76°38'30", extending on same Azimuth line to other private ground. This area excludes any private leases within the outlined area. (Map 3)

/s/ William A. Pruitt  
Commissioner

**NOTICE:** Maps 1 (Deep Water Shoal Repletion Seed Area) and 3 (Management Area Within Baylor Acres 820 Acres) found in 4 VAC 20-260-20 have not been amended and are not set out. Map 2 (Jail Island Clean Cull Area) has been amended and is shown below.



VA.R. Doc. No. R97-262; Filed February 3, 1997, 9:40 a.m.

# Marine Resources Commission

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**Title of Regulation:** 4 VAC 20-720-10 et seq. Pertaining to Restrictions on Oyster Harvests (amending 4 VAC 20-720-80 and 4 VAC 20-720-100).

**Statutory Authority:** §§ 28.2-201 and 28.2-507 of the Code of Virginia.

**Effective Date:** February 10, 1997.

**Preamble:**

*This regulation sets times of closure and other restrictions on the harvest of oysters from all oyster grounds in the Chesapeake Bay and its tributaries and on the Seaside of Eastern Shore. This regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation amends and readopts 4 VAC 20-720-10 et seq., which was adopted on November 26, 1996, and was effective December 1, 1996. The effective date of these amendments is February 10, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2120.

**4 VAC 20-720-80. Quotas and catch limits.**

A. In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

B. In the James River Clean Cull areas there shall be an oyster harvest quota of ~~40,000~~ 15,000 bushels of clean cull oysters. It shall be unlawful for any person to harvest clean cull oysters from the James River Clean Cull areas after the ~~40,000~~ 15,000 bushel quota has been reached.

**4 VAC 20-720-100. Seed oyster planting procedures.**

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting spreading the oysters loosely on the bottom.

C. Seed oysters shall be placed on a designated and marked area of the private ground from which said oysters will not be removed until after the public oyster season has closed (4 VAC 20-720-40). It shall be unlawful to reharvest these seed oysters prior to the end of the public oyster season.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-263; Filed February 3, 1997, 9:41 a.m.

## EMERGENCY REGULATION

**Title of Regulation:** 4 VAC 20-430-10 et seq. Pertaining to the Marking and Minimum Mesh Size of Gill Nets (amending 4 VAC 20-430-10, 4 VAC 20-430-20, and 4 VAC 20-430-40).

**Statutory Authority:** §§ 28.2-201 and 28.2-210 of the Code of Virginia

**Effective Dates:** January 28, 1997, to February 27, 1997.

**Preamble:**

*This emergency regulation establishes marking requirements for gill nets to increase their visibility and identification and establishes a minimum mesh size for gill nets to aid the conservation of fish stocks. This emergency regulation is promulgated pursuant to authority contained in § 28.2-210 of the Code of Virginia. This emergency regulation amends 4 VAC 20-430-10 et seq., which was adopted June 27, 1995, and effective July 1, 1995. The effective dates of this emergency regulation are January 28, 1997, to February 27, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

**4 VAC 20-430-10. Purpose.**

The purpose of this chapter emergency regulation is to minimize gear conflicts between gill net fishermen and conflicts with recreational boaters caused by poor visibility of gill nets, and to conserve stocks of fish by establishing a minimum mesh size for gill nets.

**4 VAC 20-430-20. Marking procedures for drift and anchored gill nets.**

Except as provided in 4 VAC 20-430-40 and 4 VAC 20-430-50 of this chapter emergency regulation, it shall be unlawful for any person to place, set or fish any gill net, except when licensed as a fixed fishing device, that is not marked in the following manner:

1. One end of each gill net shall be marked by a flag of square dimensions, which shall measure at least 144 square inches.
2. The end of each gill net opposite the square flag marker, shall be marked by either a triangular flag of at least 144 square inches or a floating ball of at least 50 inches circumference.
3. Each flag described in subdivisions 1 and 2 of this section shall be supported on a staff sufficient to maintain the bottom of the flag at least three feet above the surface of the water.
4. The end-marker flags on the same net, or flag and floating ball on the same net shall be of identical color.

5. An easily visible number or symbol shall be attached to end-marker flags and floating balls, and the same number or symbol shall be used for both ends of the same net.

6. Each fisherman shall not use the same number or symbol for identification on more than one of the gill nets licensed by that fisherman.

7. All flag staffs shall be marked with two stripes of two-inch wide reflective material that shall be visible from all sides; all end-marker floating balls shall be marked on three sides with patches of approximately two-inch by two-inch reflective material that shall be visible from all sides above the water line.

**4 VAC 20-430-40. Upriver white perch and striped bass fishery exemption.**

During the period December 1 ~~to the last day of February, inclusive, through March 15,~~ it shall be unlawful for any person to place, set or fish any gill net, used for the taking of white perch or striped bass in the areas designated below, and that is not marked in the following manner:

1. Both ends of each gill net shall be marked by a floating buoy of at least 3-½ inches in diameter.

2. Both end-marker buoys shall be of blaze-orange color.

3. Areas designated.

a. James River. Upstream from a line connecting College Creek and Hog Point.

b. York River. Upstream from a line connecting the southernmost point of the northern headland of Poropotank Bay and Croaker Landing.

c. Rappahannock River. Upstream from a line connecting Greenvale Creek and Weeks Creek.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-268; Filed January 31, 1997, 3:48 p.m.

# FORMS

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**EDITOR'S NOTICE:** The following form has been issued by the Department of Mines, Minerals and Energy. Copies of the forms may be obtained from Cheryl Cashman, Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 North 9th Street, Richmond, VA 23219, telephone (804) 692-3200.

**Title of Regulation:** 4 VAC 25-130-10 et seq. Coal Surface Mining Reclamation Regulations.

Analysis--Premining vs Postmining Productivity Comparison (Hayland/Pasture Land Use), DMLR-PT-012, issued 1/97.



COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF MINES, MINERALS AND ENERGY  
 DIVISION OF MINED LAND RECLAMATION  
 P. O. DRAWER 900, BIG STONE GAP, VA 24219  
 TELEPHONE: (540) 523-8191

**ANALYSIS - Premining vs Postmining Productivity Comparison**  
 (Hayland/Pasture Land Use)

Company: \_\_\_\_\_ Permit Number: \_\_\_\_\_

<b>PREMINING PRODUCTIVITY (Projected)</b> U.S. Natural Resources Conservation Service -		
Soil Series: _____		
Productivity Levels:	<input type="checkbox"/> animal unit months	<input type="checkbox"/> tons of hay per acre
	<input type="checkbox"/> level of management. <small>(low, medium, or high)</small>	

<b>POSTMINING PRODUCTIVITY (Demonstrated by one or more of the practices listed below.)</b>			
<b>Grazing Record:</b>			
Total Acreage Grazed:	Number of Months Grazed per Year:		
Date Grazing Began:	Date Grazing Ended:		
Number of Animals:	Type of Animals:		
<b>Hay Production:</b>			
Total Acreage Harvested:	Date(s) of Harvesting:		
Number of Round Bales:			
Weight per Round Bale:			
Number of Square Bales:			
Weight per Square Bale:			
<b>Test Plot Results</b>			
Number of Plots:	Size of Plots Sampled:		
Results:	dry weight in tons.		

Comments:

Person Conducting Analysis \_\_\_\_\_ Date: \_\_\_\_\_

DMLR Reviewer \_\_\_\_\_ Date: \_\_\_\_\_

DMLR-PT-012  
1/97

# GOVERNOR

## EXECUTIVE ORDER NUMBER SEVENTY-TWO (97)

### DELEGATION OF AUTHORITY CONFERRED BY CHAPTER 912 OF THE 1996 ACTS OF ASSEMBLY, CHAPTERS 781, 789, 849, 892, 894 AND 896 OF THE 1992 ACTS OF ASSEMBLY, AND CHAPTER 5 OF THE 1994 ACTS OF ASSEMBLY, SPECIAL SESSION I

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 § 2.1-39.1 of the *Code of Virginia*, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby delegate to the individuals holding the positions named herein, the several powers and duties conferred upon me by the provisions of Chapter 912 of the 1996 Acts of Assembly (Appropriation Act for the 1996-1998 Biennium), Chapters 781, 789, 849, 892, 894 and 896 of the 1992 Acts of Assembly (General Obligation Bond Acts), and Chapter 5 of the 1994 Acts of Assembly, Special Session I (Taxation of Retirement Income), as detailed below.

Unless otherwise specified, "Item/Section" references below refer to Chapter 912 of the 1996 Acts of Assembly.

#### I. Delegations of Authority to Officials in the Office of Administration

##### A. To the Secretary of Administration:

<u>Item/Section</u>	<u>Subject Matter</u>
195 E.2	Approve Old Dominion University's lease agreement for space for activities related to technology transfer, research and graduate work, pursuant to §2.1-504.2, <i>Code of Virginia</i> .
203 C.2	Approve the College of William and Mary's lease agreement for space for activities related to technology transfer, research and graduate work, pursuant to §2.1-504.2, <i>Code of Virginia</i> .
217 A.2	Approve Christopher Newport University's lease agreement for space for activities related to technology transfer, research and graduate work, pursuant to §2.1-504.2, <i>Code of Virginia</i> .
457 F.1	Approve, with the Secretary of Finance, contracts for private site selection, construction, financing, maintenance and operation of certain prison facilities.
C-29 A.7	Approve lease agreement by Old Dominion University to construct a higher education building on land owned by the City of Virginia Beach, pursuant to §2.1-504.2, <i>Code of Virginia</i> .
C-53.20	Authorize expenditure up to \$200,000 for property to establish the Staunton River Battlefield/Fort Hill Historical State Park.

C-53.30 Authorize expenditure up to \$250,000 for acquisition of additional real estate in and around the Pinnacles Natural Area.

§4-4.01 p Receive reports and comments of the Department of Historic Resources, through the Department of General Services, and make final determination on plans for significant alterations, remodeling, redecoration, and restorations on state-owned registered historical landmarks.

§4-4.01 r Amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed, in the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of §2.1-511, *Code of Virginia*.

§4-5.09 Approve space planning procedures for leased facilities and waive requirements under which agencies can acquire property by lease, if such action may, in the opinion of the Governor, avoid an increase in cost or otherwise result in a measurable benefit to the state and funds are available within the appropriations made by Chapter 912.

§4-6.04 c.1. Approve basis for charging employees for parking spaces in state-owned facilities and determine the use of parking charges to pay costs of parking.

§4-8.01 c.2 Submit monthly reports on status of employment by the Attorney General of special counsel in certain highway proceedings.

§4-8.01 c.3 Submit monthly reports on changes in the level of compensation for job classes contained in compensation and classification plans.

##### B. To the Director, Department of General Services:

§2-0 C Prescribe guidelines for purchase of equipment to be used in structures for which funds are provided.

§4-4.01 c Approve preliminary requirements for capital projects.

§4-4.01 h Approve any construction change order increasing the original construction contract amount by more than \$50,000. Approval of any single change order, or accumulation of change orders, increasing the original architectural and



- engineering contract by 35% or the original construction contract by 25%.
- §4-4.01 i Require capital projects to conform with space planning guides approved by the Governor or General Assembly for any type of construction.
- §4-4.01 l Specify reporting requirements on capital projects, and, if the Governor finds that projects are not making satisfactory progress, take action necessary to ensure that legislative intent is met, as defined in §4-4.01 l.
- §4-5.12 a.2 May sell or lease surplus real property only under certain conditions. Notify in writing the Chairmen of the House Appropriations and Senate Finance Committees not less than thirty days prior to such sale or lease.
- §4-8.01 b.7 Submit reports on waivers of the requirements on agencies acquiring property by lease to the Chairmen of House Appropriations and Senate Finance Committees.
- §4-8.01 d.1 Submit reports on progress of capital projects to Chairmen of House Appropriations and Senate Finance Committees.
- C. *To the Director, Department of Information Technology:*
- §4-5.06 e Approve expenditure for motion picture television and radio services production.
- D. *To the Director, Department of Personnel and Training:*
- §4-6.01 h Approve a plan for statewide employee meritorious service awards program, as provided in §2.1-114.5.12, *Code of Virginia*.
- §4-6.02 Establish uniform rules and regulations by which the head of any state agency may authorize, from any funds appropriated to such department, institution or other state agency in Chapter 912 or subsequently made available for the purpose, compensation or expenses or both for employees pursuing approved training courses or academic studies for the purpose of becoming better equipped for their employment in the state service.
- II. Delegation of Authority to Officials in the Office of Education
- To the Secretary of Education:*
- §4-8.01 e.2 Submit monthly reports on status of certain State Council of Higher Education exemptions to policy which prohibits use of funds for certain academic programs.
- III. Delegations of Authority to Officials in the Office of Finance
- A. *To the Secretary of Finance*
- 457 F.1 Approve, with the Secretary of Administration, contracts for private site selection, construction, financing, maintenance and operation of certain prison facilities.
- C-17.10 Authorize initiation of capital project at Mountain Empire Community College upon certification to the Governor by the Virginia Public Building Authority that certain conditions have been met.
- C-32.50 Authorize initiation of capital project at the College of William and Mary upon certification to the Governor by the Virginia Public Building Authority that certain conditions have been met.
- C-45.20 Authorize initiation of capital project at Virginia State University upon certification to the Governor by the Virginia Public Building Authority that certain conditions have been met.
- §3-3.02 Direct State Comptroller to restore disputed charges against working capital funds.
- §4-1.02 a Restrain the State Comptroller from making further disbursements, in whole or in part, out of the appropriations to any agency expending its monies for any purposes other than those specified in Chapter 912.
- §4-1.05 a.4 Report increases in appropriations.
- §4-106 a.1 Approve reappropriation of general fund appropriations unexpended on June 30, 1996, and June 30, 1997, for agencies in the Executive Department.
- §4-1.06 a.2 Certify funds available before payment for reappropriation is made in cases where the General Assembly provided for reappropriation payable from the general fund.
- §4-1.06 a.3 Prescribe management standards under which unexpended appropriations may be reappropriated for institutions of higher education and other state agencies.
- §4-1.08 Act on appeals of agency heads regarding allotment of funds from appropriations and authorization of rates of pay.
- §4-4.01 e.1 Develop guidelines for use by the State Treasurer in reviewing any request for a capital project which 1) is considered by the Governor for inclusion in the

	Executive Budget, and 2) is proposed to be financed by revenue bonds or federal loans.	§4-1.06 a.1	Unallot funds from reappropriated balances of Executive Department agencies which relate to three categories of unexpended appropriations, with such unallotted amounts to revert to the general fund.
§4-5.01 a	Designate appropriations for payment of claims settled pursuant to §2.1-127, <i>Code of Virginia</i> .		
§4-8.01 a.2	Make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above amounts specifically appropriated, their sources and the amounts for each agency affected.	§4-2.01 a.1	Give written approval for agencies soliciting and accepting donations, gifts, grants or contracts under stated conditions.
		§4-2.01 a.2	Issue written policies for agencies soliciting and accepting donations, gifts and grants under stated conditions.
Enactment 2, §3.C, Chapter 5, 1994 Acts of Assembly, Special Session I	Supplement appropriations for certain state agencies for administrative expenses associated with the payment of claims pursuant to disputes involving taxation of retirement income and report such supplements to the Chairmen of the House Appropriations and Senate Finance Committees.	§4-2.01 d	Higher education planned excess revenues: receive documented information from institutions of higher education generating and retaining fees collected in excess of rates provided in §4-2.01 b.
		§4-2.02 a.2	Transfer funds to the general fund from the sale of surplus property not subject to §2.1-457, <i>Code of Virginia</i> , unless the General Assembly provides otherwise.
B. To the Director, Department of Planning and Budget:			
469 D	Approve physical plant projects for local jails prior to payments from reappropriated funds.	§4-2.03 b.1	Include estimated agency indirect cost recoveries in the Budget Bill.
478 G	Expend amounts necessary for administration of financial assistance for local facilities confinement, juvenile confinement, or construction for the Department of Juvenile Justice.	§4-4.01 d	Provide prior written approval for architectural or engineering planning, or construction of, or purchase of capital project before it is commenced or revised.
478 H	Approve physical plan projects for local detention and group homes prior to payments from reappropriated funds.	§4-4.01 d	Release from any capital project appropriation or reappropriation made pursuant to Chapter 912 such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided certain conditions are met.
529 A	Transfer monies from the appropriation in Item 529 to make payments on leases of instructional and research equipment from the Virginia College Building Authority, pursuant to the provisions of Chapter 597, Acts of Assembly of 1986.	§4-4.01 d	Approve the estimated costs of architectural or engineering fees paid on completion of the preliminary design for any such project.
529 D	Fulfill reporting requirements to General Assembly for lease payments and total value of equipment to be acquired by each higher education institution.	§4-8.01 b 1-6.	Submit monthly reports on operating appropriations.
529 F	Approve emergency acquisitions of instructional and research equipment by institutions of higher education when the General Assembly is not in session, and report such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees. (See also Item 264 B.3)	§4-8.01 c.1	Submit monthly reports on status of changes in positions and employment of state agencies affected to the Chairmen of House Appropriations and Senate Finance Committees.
§2-0 F	Prescribe rules and regulations for expenditures from items identified as "Maintenance Reserve."	§4-8.01 d.2	Submit monthly reports on progress of capital projects under Governor's authority in §4-4.01 j, which addresses projects not included in the Appropriation Act and which meet specific requirements (e.g. auxiliary enterprise,

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# Governor

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continue effective operation of existing program).

§4-8.01 e.1 Submit monthly reports on status of new services requested by agencies and authorized by the Governor.

§2 and §9 of Chapters 781, 789, 849, 892, 894, and 896, 1992 Acts of Assembly Increase or decrease allocations to specific capital projects, within total amounts allocated (§2) and increase appropriations for capital projects by the amount of the proceeds of donations, gifts, grants or other nongeneral funds (§9).

#### IV. Delegation of Authority to Officials in the Office of Public Safety

##### *To the Secretary of Public Safety:*

§4-5.03 Authorize transfer of prison labor, or farm commodities produced, at any state agency to any other state agency.

Should conflicts arise concerning any action authorized by this Executive Order, such matters shall be resolved by the Governor.

This Executive Order replaces Executive Order Number Thirty-two (94) issued by me on October 25, 1994.

This Executive Order shall be effective retroactive to July 1, 1996, upon its signing and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 24th day of January, 1997.

/s/ George Allen  
Governor

VA.R. Doc. No. R97-273; Filed February 6, 1997, 9:31 a.m.

# GENERAL NOTICES/ERRATA

## Symbol Key

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

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES

#### † Notice of Application for Grant Funds Pre-release and Post-incarceration Services (PAPIS)

The Department of Criminal Justice Services is accepting applications for grant funds for pre-release and post-incarceration services for adult offenders. These services provide training and counseling which prepare adult offenders for reintegration into society after release from state prisons or local jails. The deadline for application is 3 p.m., Friday, April 4, 1997. Program guides and applications may be obtained by contacting Carol-Lee Raimo, Program Analyst, Department of Criminal Justice Services, telephone (804) 786-9652, FAX (804) 786-9656, or e-mail [craimo.dcls@state.va.us](mailto:craimo.dcls@state.va.us). Any public or private nonprofit transition services provider is invited to make application.

#### Notice to the Public

The Department of Criminal Justice Services will submit, on or before February 15, 1997, an application to the Bureau of Justice Assistance, U. S. Department of Justice to obtain FY 1997 funding available through the Edward Byrne Memorial Formula Grant Program. The application requests a total of \$11,871,000 in federal funds. The department and the Criminal Justice Services Board anticipate using these funds beginning on July 1, 1997, to support local and state agency community-oriented justice projects, as well as projects in drug enforcement and prosecution; crime prevention; training and technical assistance; and other criminal justice system improvements which have previously received funding through this grant program.

The application is available for public review at the department's offices at 805 East Broad Street, Richmond, Virginia 23219. Comments from the public are welcome. Inquiries should be directed to Joe Marshall, Grants Administrator, at (804) 786-1577.

### BOARD OF GAME AND INLAND FISHERIES

#### Notice to the Public

The Board of Game and Inland Fisheries is conducting its regular biennial review of regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping, including the length of seasons, bag limits and methods of take for game. The regulation review and revision takes place over two sequential board meetings being held March 20-21 and May 5-6, 1997. The regulations subject to review and for which amendments may be adopted are:

- 4 VAC 15-20. Definitions And Miscellaneous: In General.
- 4 VAC 15-30. Definitions And Miscellaneous: Importation, Possession, Sale, Etc., of Animals.

- 4 VAC 15-40. Game: In General.
- 4 VAC 15-50. Game: Bear.
- 4 VAC 15-60. Game: Beaver.
- 4 VAC 15-70. Game: Bobcat.
- 4 VAC 15-80. Game: Crow.
- 4 VAC 15-90. Game: Deer.
- 4 VAC 15-100. Game: Dove.
- 4 VAC 15-110. Game: Fox.
- 4 VAC 15-120. Game: Grouse.
- 4 VAC 15-130. Game: Mink.
- 4 VAC 15-140. Game: Muskrat.
- 4 VAC 15-150. Game: Nutria.
- 4 VAC 15-160. Game: Opossum.
- 4 VAC 15-170. Game: Otter.
- 4 VAC 15-180. Game: Pheasant.
- 4 VAC 15-190. Game: Quail.
- 4 VAC 15-200. Game: Rabbits and Hares.
- 4 VAC 15-210. Game: Raccoon.
- 4 VAC 15-220. Game: Skunk.
- 4 VAC 15-230. Game: Squirrel.
- 4 VAC 15-240. Game: Turkey.
- 4 VAC 15-250. Game: Falconry.
- 4 VAC 15-260. Game: Waterfowl and Waterfowl Blinds.
- 4 VAC 15-270. Game: Firearms.
- 4 VAC 15-280. Game: Pelts and Furs.
- 4 VAC 15-290. Game: Permits.
- 4 VAC 15-300. Game: Weasel.
- 4 VAC 15-310. Game: Woodchuck.

The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia) and Executive Order Number Thirteen (94) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia. It is required by § 9-6.14:22 to publish all proposed and final regulations.

Under board procedures, regulatory actions occur over two sequential board meetings. At the March 20 - 21 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, and the board will solicit and hear comments from the public in a public hearing. The board then intends to propose regulations or regulation amendments. Any proposed regulatory actions (or informative summaries) will then be published in the *Virginia Register* and advertised in newspapers. Adoption of any regulations or regulation amendments as final will take place at a subsequent board meeting to be held in Richmond on May 5 - 6, 1997.

Under board procedures, the following opportunities for public involvement are being or will be provided:

First public hearing. A public hearing will be held, as described above, at the March 20 - 21, 1997, board meeting. This is the first of the two sequential meetings and the one at which, under its procedures, the board proposes regulatory actions.

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## General Notices/Errata

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Second public hearing. A public hearing will be held at the May board meeting. This is the second of the two board meetings, and the one at which the board adopts final regulations.

Supplemental public hearings. More public hearings or "public input meetings," to be held between the first and the second board meetings, may be ordered at the discretion of the board. If, at the March 20 - 21 board meeting, the board orders that supplemental public hearings be held, the dates, times, and locations will be published at a later date.

Public comment period. A public comment period on any proposed regulatory actions will open at the time the board proposes such regulations at its March 20 - 21 meeting, and will run until May 5 or the second board meeting. However, in order to be assured that comments submitted are included in the board's briefing materials, the comments must be received by the department no later than April 28, 1997, or seven days prior the second board meeting. In order to be taken into consideration, comments submitted: (i) must be in writing; (ii) must be accompanied by the name, address, and telephone number of the party offering the comments; (iii) should state the regulatory action desired; and (iv) should state the justification for the desired action. Comments submitted during the public comment period should be mailed to: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230.

Ongoing public comment. The department also receives and accepts comments on a continuous basis from members of the public, outside of the specified public comment period. The public comment period described above is an additional provision, to facilitate public involvement in specific proposed regulations.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

### GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT

#### † Job Training Partnership Act

The Department of Labor Appropriations Act for 1997 authorizes the U. S. Secretary of Labor to grant statutory and regulatory waivers of Job Training Partnership Act (JTPA) provisions for the year beginning July 1, 1997. The Governor's Employment and Training Department (GETD) intends to submit a proposal during the month of April 1997 to the U. S. Department of Labor seeking waiver of certain JTPA requirements. Notification as to the availability of the draft proposal will be advertised in this publication and other sources. Questions should be directed to William Carlson, Ph.D., GETD, Director of Program Operations, telephone (804) 786-2270.

### STATE WATER CONTROL BOARD

#### † Enforcement Action Proposed Consent Special Order Town of Narrows Town of Pembroke Town of Rich Creek

#### Proposed Amendment to Consent Special Order Town of Pearisburg Roanoke Regional Water Pollution Control Plant

The State Water Control Board and the Department of Environmental Quality propose to issue Consent Special Orders to:

1. The Town of Narrows for its sewage treatment plant in Giles County. The order will require submission and implementation of a sludge management plan and the revocation of the joint Giles County Virginia Pollution Abatement (VPA) permit for sludge management.
2. The Town of Pembroke for its sewage treatment plant in Giles County. The order will require submission and implementation of a sludge management plan. Pembroke was not a party to the Giles County VPA permit for sludge management.
3. The Town of Rich Creek for its sewage treatment plant in Giles County. The order will require submission and implementation of a sludge management plan and the revocation of the joint Giles County Virginia Pollution Abatement (VPA) permit for sludge management. The order will not affect the existing consent decree under which a new plant has already been built; the decree will be vacated when the plant completes 12 months of substantial compliance.

The State Water Control Board and the Department of Environmental Quality propose to amend Consent Special Orders for:

1. The Town of Pearisburg for its sewage treatment plant in Giles County. The amendment will require submission and implementation of a sludge management plan and the revocation of the joint Giles County Virginia Pollution Abatement (VPA) permit for sludge management. The amendment will also cancel as completed the inflow and infiltration requirements of the existing order.
2. The Roanoke Regional Water Pollution Control Plant in the City of Roanoke, serving Roanoke, Salem, Vinton, Botetourt County, and Roanoke County. The amendment will require the upgrade and expansion of the plant on a three-year construction schedule. Requirements in the existing order to continue inflow and infiltration corrective work on sewers will continue. The amendment will resolve the Significant Noncompliance status that resulted from violations of total Kjeldahl nitrogen average effluent limits in the second quarter of 1996.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed actions until April 2, 1997. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, N.W., Roanoke, VA 24019, or FAX 540-562-6725, and should refer to Narrows, Pearisburg, Pembroke, Rich Creek, or Roanoke.

The proposed orders and amendments may be examined at the Department of Environmental Quality, Office of Enforcement and Compliance Auditing, 629 East Main Street, P.O. Box 10009, Richmond, VA 23240-0009 or at the Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, N.W., Roanoke, VA 24019. Copies of the orders and amendments may be obtained in person or by mail from these offices.

**Enforcement Action  
Proposed Consent Special Orders  
Bergey's Dairy Farm, Inc.  
D. E. Bonney Company, Inc.  
Messick & Wessels Laundromat, Inc.  
Windsor Court Apartments**

**Isle of Wight County Schools, Windsor Elementary School**

The State Water Control Board proposes to take enforcement actions against Bergey's Dairy Farm, Inc., (Virginia Beach), D. E. Bonney Company, Inc. (Virginia Beach), Messick & Wessels Laundromat (Onley), Windsor Court Apartments (Windsor), and Isle of Wight County Schools, Windsor Elementary School (Windsor). The enforcement actions will be Consent Special Orders that will require the facilities to come into compliance with appropriate laws and regulations. The order for Bergey's Dairy contains a civil charge of \$4,000 and the order for D. E. Bonney Company, Inc. contains a civil charge of \$1,000.

The Department of Environmental Quality will receive comments relating to the board's proposed consent special orders until March 19, 1997. Comments should be addressed to David S. Gussman, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia 23462, and should refer to the specific consent special order. The proposed orders may be examined at the above address and copies of the orders may be obtained in person or by mail.

**Enforcement Action  
Proposed Consent Special Order  
John B. Enders, d/b/a Shelter Harbor Marine**

The State Water Control Board proposes to issue a Consent Special Order to John B. Enders, d/b/a Shelter Harbor Marine, located in Gloucester County, Virginia. The proposed order requires Mr. Enders to implement erosion and sediment controls of the dredge spoils at the Shelter Harbor Marine throughout this winter and spring, until June 30, 1997, at which time the order requires Mr. Enders to complete the county required erosion control measures. The

order also requires Mr. Enders to submit an oil spill contingency plan.

The Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until March 5, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. Copies of the order may be obtained in person or by mail from the above office.

**Enforcement Action  
Proposed Special Orders  
Kwik Klean Car Wash  
Grayson-Highland Car Wash  
Super Clean Car Wash  
Ramey Chevrolet Car Wash  
Konnarock Store Car Wash  
Levisa Car Wash  
Weaver's Store Car Wash  
Moorefield Car Wash  
Castlewood Car Wash**

The State Water Control Board proposes to take an enforcement action against the above listed car wash facilities. Under the terms of the proposed Special Orders, the owners of these facilities have agreed to be bound by the terms and conditions of effluent limitations and monitoring and reporting requirements contained in individual appendices within the respective orders.

These requirements contained in the orders bring the facilities into compliance with state law and will protect water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the Special Orders until March 5, 1997. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212, and should refer to the Consent Special Order.

The proposed orders may be obtained in person or by mail from, or examined at, the Department of Environmental Quality, 355 Deadmore Street, Abingdon, Virginia 24212.

**Enforcement Action  
Proposed Consent Special Order  
Masonite Corporation**

The State Water Control Board proposes to issue a Consent Special Order to Masonite Corporation located in Waverly, Virginia. The proposed order requires Masonite to submit and implement an approvable plan and schedule for a new stormwater system to connect Outfall 001 to the Waverly Wastewater Treatment Plant. The order requires that connection of Outfall 001 to the Town of Waverly's Wastewater Treatment Plant be completed no later than May 15, 1998.

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## General Notices/Errata

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On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until March 5, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the Order may be obtained in person or by mail from the above office.

**Enforcement Action  
Proposed Special Order  
White Packing Company, Inc.  
Wastewater Treatment**

The State Water Control Board proposed to issue a Consent Special Order to White Packing Company, Inc., (WPC) regarding the wastewater treatment at WPC's bacon packing facility located in King George County, Virginia.

The facility is subject to VPDES Permit No. VA0088200. The order provides, among other things, that WPC complete construction of the facility's wastewater treatment system, begin direct discharge of treated wastewater, and cease land application of treated wastewater by March 1, 1997. The order also requires that WPC implement a corrective action plan to remediate any soils or groundwater impacted by the facility's land application system. WPC has agreed to the issuance of the order.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order until March 5, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia 22193. Please write or visit the Woodbridge address or call (703) 583-3886 in order to examine or to obtain a copy of the order.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

#### Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02

PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS  
- RR08

## ERRATA

Title of Regulation: 18 VAC 130-20-10 et seq. Real Estate Appraiser Board Regulations.

Publication: 13:8 VA.R. 938-939 January 6, 1997.

Corrections to Final Regulation:

Page 939, 18 VAC 130-20-130 C, column 2, line 1, strike "\$70"

Page 939, 18 VAC 130-20-130 C, column 2, line 2, change "\$130" to "\$135"

Page 939, 18 VAC 130-20-130 D, column 2, "Licensed residential real estate appraiser," change "\$71" to "\$171"

# 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

† April 21, 1997 - 10 a.m. -- Open Meeting

† April 22, 1997 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review, committee reports, disciplinary cases, and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia State Apple Board

† March 12, 1997 - 8 p.m. -- Open Meeting

Holiday Inn, 1019 Millwood Pike, Executive Center, Winchester, Virginia.♿

A meeting to review past minutes and review tax collections. Budget consideration will also be reviewed for the 1997-98 fiscal year. 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 Nancy L. Israel at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Nancy L. Israel, Program Director, Virginia State Apple Board, Washington Bldg., 1100 Bank St., Suite 1008, Richmond, VA 23219, telephone (804) 371-6104 or FAX (804) 371-7786.

#### Virginia Dark-Fired Tobacco Board

March 20, 1997 - 10 a.m. -- Open Meeting

Sheldon's Restaurant, Highway 15 North, Routes 15 and 360 (Business), Keysville, Virginia.♿

A meeting to consider funding proposals for research, promotion, and education projects pertaining to Virginia dark-fired tobacco, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** D. Stanley Duffer, Secretary, Virginia Dark-Fired Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568 or FAX (804) 572-8234.

#### Virginia Marine Products Board

March 5, 1997 - 6 p.m. -- Open Meeting

Eliza's Restaurant, Main Street, Reedville, Virginia.♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program results and planning, publicity/public relations, old/new business, and to approve minutes of the prior meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Boulevard, Suite B, Newport



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## Calendar of Events

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News, VA 23608, telephone (757) 874-3474 or FAX (757) 886-0671.

### Virginia Soybean Board

March 5, 1997 - 8 a.m. -- Open Meeting

March 6, 1997 - 8 a.m. -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

The board will hear FY 1996-97 project reports and FY 1997-98 project proposals and make funding decisions. 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: Philip T. Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

### Virginia Sweet Potato Board

March 6, 1997 - 7:30 p.m. -- Open Meeting

Eastern Shore Agricultural and Extension Center, Research Drive, Painter, Virginia. ☎

A meeting to include discussion of programs regarding promotion, research and education, the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-1041.

### Virginia Winegrowers Advisory Board

April 9, 1997 - 10 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Virginia. ☎

The annual meeting of the board to conduct regular board business including committee reports, and to hear budget requests from individuals seeking grants for the 97-98 funding year. The board will entertain public comment after the grant proposals have been given and before the board votes on the proposal. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 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 ADVISORY BOARD ON AIR POLLUTION

† March 12, 1997 - 9 a.m. -- Open Meeting

The Library of Virginia, 800 East Broad Street, Conference Room A, Richmond, Virginia.

A general business meeting.

Contact: Kathy Frahm, Senior Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4376.

### STATE AIR POLLUTION CONTROL BOARD

March 11, 1997 - 10 a.m. -- Public Hearing

Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

April 4, 1997 -- Written 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 adopt regulations entitled: **9 VAC 5-500-10 et seq. Exclusionary General Permit for Federal Operating Permit Program.** The proposed general permit provides a legally enforceable mechanism for major sources subject to the federal operating permit program (Article 1 of 9 VAC 5 Chapter 80) to be excluded from the program provided they maintain their actual annual emissions at a level that is 75% of the major source, potential to emit applicability thresholds for the federal operating permit program. The regulation does not require any owner to apply for coverage under the general permit but provides the opportunity for an owner to apply for coverage if the stationary source meets the 75% of the threshold criteria and all other requirements of the regulation.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed general permit.

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 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  
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  
4411 Early Road  
Harrisonburg, Virginia  
Ph: (540) 574-7800

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

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Contact: Robert A. Mann, Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5492, or (804) 698-4021/TDD ☎

## ALCOHOLIC BEVERAGE CONTROL BOARD

March 3, 1997 - 9:30 a.m. -- Open Meeting  
March 17, 1997 - 9:30 a.m. -- Open Meeting  
March 31, 1997 - 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

† March 21, 1997 - 9 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

## Board for Interior Designers

† March 6, 1997 - 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 ☎

## Regulatory Review Task Force

† March 14, 1997 - 9 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct a review of the board's regulations and any other 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

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## Calendar of Events

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St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### **VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION**

† **March 5, 1997 - 1 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 2, Richmond,  
Virginia. ☎

A committee of the board will meet to develop revisions to the existing Lead-based Paint Activities Regulations to conform with recently promulgated regulations and to make other revisions necessary to protect the public health and safety. The objective is to prepare a report to be presented before the full board for consideration. The committee does not compose a quorum of the board. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

† **May 6, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 2, Richmond,  
Virginia. ☎

A meeting to (i) conduct routine business, (ii) receive a committee report recommending regulation revisions, and (iii) consider proposing amendments to the Lead-based Paint Activities Regulations. The board will also hear a report from Department of Professional and Occupational staff concerning the comment received on the Virginia Asbestos Licensing Program Regulations in response to a Notice of Intended Regulatory Action published in the Virginia Register on February 3, 1997. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

### **BOARD FOR BARBERS**

† **April 14, 1997 - 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) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### **BOARD FOR BRANCH PILOTS**

† **March 7, 1997 - 9:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk,  
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 ☎

### **CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

#### **Regulatory Committee and Regulation Advisory Committee**

**March 10, 1997 - 10 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street,  
Conference Room 3, Lower Level, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A joint meeting of the Chesapeake Bay Local Assistance Department's Regulatory Committee and the board's Regulation Advisory 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, telephone (804) 225-3440, FAX (804) 225-3447, or toll-free 1-800-243-7229/TDD ☎

**CHILD DAY-CARE COUNCIL**

NOTE: CHANGE IN MEETING TIME

**March 13, 1997 - 10 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.

**STATE BOARD FOR COMMUNITY COLLEGES**

† **March 19, 1997 - 1 p.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

State board committee meetings.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public  
Affairs, State Board for Community Colleges, James Monroe  
Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219,  
telephone (804) 225-2126, FAX (804) 371-0085, or (804)  
371-8504/TDD

† **March 20, 1997 - 8:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

A regularly scheduled board meeting.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public  
Affairs, State Board for Community Colleges, James Monroe  
Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219,  
telephone (804) 225-2126, FAX (804) 371-0085, or (804)  
371-8504/TDD

**COMPENSATION BOARD**

† **March 27, 1997 - 11 a.m.** -- Open Meeting  
† **April 24, 1997 - 11 a.m.** -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, 9th Floor,  
Room 913/913A, Richmond, Virginia. (Interpreter for the  
deaf provided upon request)

A routine business meeting.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box  
710, Richmond, VA 23218-0710, telephone (804) 786-0786,  
FAX (804) 371-0235, or (804) 786-0786/TDD

**DEPARTMENT OF CONSERVATION AND  
RECREATION**

**Chickahominy Scenic River Advisory Board**

**March 5, 1997 - 7:30 p.m.** -- Open Meeting  
Hargrove Insurance Company, 10321 Washington Highway  
(Route 1), Glen Allen, Virginia.

A meeting to discuss river issues.

**Contact:** Richard G. Gibbons, Environmental Program  
Manager, Department of Conservation and Recreation,  
Division of Planning and Recreation Resources, 203  
Governor St., Suite 326, Richmond, VA 23219, telephone  
(804) 786-4132, FAX (804) 371-7899, or (804) 786-  
2121/TDD

**Falls of the James Scenic River Advisory Board**

† **March 6, 1997 - Noon** -- Open Meeting  
† **April 3, 1997 - Noon** -- Open Meeting  
† **May 1, 1997 - Noon** -- Open Meeting  
City Hall, 900 East Broad Street, 5th Floor, Planning  
Commission Conference Room, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program  
Manager, Department of Conservation and Recreation,  
Division of Planning and Recreation Resources, 203  
Governor St., Suite 326, Richmond, VA 23219, telephone  
(804) 786-4132, FAX (804) 371-7899, or (804) 786-  
2121/TDD

**Goose Creek Scenic River Advisory Board**

**March 24, 1997 - 1:30 p.m.** -- Open Meeting  
County Administration Building, Lobby Level, Lovettsville  
Room, Leesburg, Virginia.

A meeting to discuss river issues.

**Contact:** Richard G. Gibbons, Environmental Program  
Manager, Department of Conservation and Recreation,  
Division of Planning and Recreation Resources, 203  
Governor St., Suite 326, Richmond, VA 23219, telephone  
(804) 786-4132, FAX (804) 371-7899, or (804) 786-  
2121/TDD

**Virginia State Parks Foundation**

† **April 3, 1997 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, 203 Governor  
Street, Suite 302, Richmond, Virginia.

A business meeting and election of officers of the Board  
of Directors.

**Contact:** Leon E. App, Agency Regulatory Coordinator,  
Department of Conservation and Recreation, 203 Governor  
St., Suite 302, Richmond, VA 23219, telephone (804) 786-  
4570 or FAX (804) 786-6141.

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# Calendar of Events

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## BOARD FOR CONTRACTORS

† March 6, 1997 - 10 a.m. -- Closed Meeting

† March 7, 1997 - 10 a.m. -- Closed Meeting

National Assessment Institute, 3818 Gaskins Road, Richmond, Virginia. ☎

Four members of the board and several subject matter experts will meet to conduct an examination workshop for the Contractors Licensing Examination. Due to the confidential nature of the examination, the meeting is not open to the public.

**Contact:** George O. Bridewell, Examination Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

## Recovery Fund Committee

March 18, 1997 - 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 two 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.

## Tradesman Certification Committee

March 4, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4 A-B, Richmond, Virginia. ☎

A regular quarterly meeting of the committee to consider items of interest relating to the tradesmen section of the Board for Contractors.

**Contact:** Steven L. Arthur, Administrator, Tradesman Certification Program, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166.

## BOARD OF CORRECTIONAL EDUCATION

† March 21, 1997 - 10 a.m. -- Open Meeting

Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

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, telephone (804) 225-3314, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

## BOARD OF CORRECTIONS

† March 19, 1997 - 10 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss matters which may be presented to the board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

## Administration Committee

† March 19, 1997 - 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

† March 18, 1997 - 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.

## Liaison Committee

† March 20, 1997 - 9:30 a.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss criminal justice matters.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

## BOARD FOR COSMETOLOGY

† April 7, 1997 - 10 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## CRIMINAL JUSTICE SERVICES BOARD

March 25, 1997 - 11 a.m. -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ♿

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

**Contact:** Sherri Stader, Assistant to the Director, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8718 or FAX (804) 786-0588.

### Committee on Training

March 25, 1997 - 9 a.m. -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ♿

A meeting to discuss matters related to training for criminal justice personnel.

**Contact:** Sherri Stader, Assistant to the Director, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8718 or FAX (804) 786-0588.

## LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

March 12, 1997 - 6 p.m. -- Open Meeting  
Lee Center Training Academy, 1108 Jefferson Street,  
Alexandria, Virginia. ♿ (Interpreter for the deaf provided upon request)

An open meeting to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

**Contact:** Charles McRorie, Emergency Preparedness Coordinator, 900 Second St., Alexandria, VA 22314, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† March 5, 1997 - 3 p.m. -- Open Meeting  
Shawnee Fire Company, 2333 Roosevelt Boulevard,  
Winchester, Virginia.

Diane Walker from EPA and a representative from ERM, a consultant who specializes in risk management plans, will be the guest speakers. They will talk about EPA's final rule of Clean Air Act 112(r) Risk Management Rule (40 CFR 68). Any interested persons may register to attend by calling Sue McDonald at (540) 662-2298.

**Contact:** L. A. Miller, Fire Chief, Winchester Fire and Rescue Dept., 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645.

## VIRGINIA EMPLOYMENT COMMISSION

### State Advisory Board

† March 11, 1997 - 10 a.m. -- Open Meeting  
Virginia Employment Commission, 703 East Main Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon request.)

A regular meeting of the board to receive reports from staff and to discuss matters that may be presented.

**Contact:** Amy Averill, Policy Assistant, Commissioner's Office, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 786-1070 or (804) 371-8050/TDD ☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† March 12, 1997 - 7 p.m. -- Public Hearing  
Virginia War Memorial, 621 South Belvidere Street,  
Auditorium, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to allow public comment on proposed revisions to the Commonwealth of Virginia State Implementation Plan. The proposed revisions consist of a modification to an existing determination and a proposed new determination for reasonably available control technology (RACT) for the control of emissions of volatile organic compounds (VOC) to the atmosphere from the following facilities located in the Richmond ozone nonattainment area: AlliedSignal Incorporated, Hopewell Plant, and Philip Morris, Incorporated, Park 500, located in Chesterfield County, Virginia.

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## Calendar of Events

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**Contact:** James E. Kyle, P.E., Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060-6295, telephone (804) 527-5047.

† **March 20, 1997 - 7 p.m.** -- Public Hearing  
Parks and Recreation Building, 301 Grove Street, Auditorium, Lynchburg, Virginia.

A public hearing to receive comments on the proposed issuance of a permit for the storage and treatment of hazardous waste at the Griffin Pipe Products Company facility in Lynchburg.

**Contact:** Douglas Brown, Department of Environmental Quality, Office of Permitting Management, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182.

### Small Business Environmental Compliance Advisory Board

† **March 10, 1997 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A regular meeting.

**Contact:** Richard Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 629-4394.

### BOARD OF FORESTRY

#### Reforestation of Timberlands Board

† **March 19, 1997 - 10 a.m.** -- Open Meeting  
Virginia Department of Forestry, 2229 East Nine Mile Road, Sandston, Virginia. ☎

A meeting to receive an update on the disposition of the Department of Forestry tree nurseries, current year reforestation of timberlands accomplishments, status of forest products tax issues and tracking of reforestation of timberlands projects on lands subject to the Seed Tree Law.

**Contact:** Phil T. Grimm, Staff Forester, Virginia Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or FAX (804) 296-2369.

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **March 3, 1997 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting of the Examination Committee. Public comments will be received during the first 15 minutes.

**Contact:** Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th

Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### Legislative Committee

**March 10, 1997 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

The regular meeting of the committee. Public comments will be received during the first 15 minutes.

**Contact:** Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### BOARD OF GAME AND INLAND FISHERIES

**March 20, 1997 - 9 a.m.** -- Public Hearing  
**March 21, 1997 - 8 a.m.** -- Public Hearing  
Comfort Inn, 3200 West Broad Street, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

The board is proposing changes in regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping. This is the regular biennial review for these regulations. The regulations subject to review and for which amendments may be proposed are listed in the General Notices section of this publication. General and administrative issues may be discussed by the board. The board may hold an executive session beginning at 9 a.m. on March 20, 1997. If the board completes its entire agenda on March 20, it may not convene on March 21.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

† **May 5, 1997 - Time to be announced** -- Open Meeting  
† **May 6, 1997 - Time to be announced** -- Open Meeting  
Richmond area; location to be announced.

The board will consider for final adoption wildlife regulations to be effective from July 1997 through June 1999. Under board procedures, regulatory actions occur over two sequential board meetings. At the May 5-6, 1997 meeting, the board will determine whether the amendments to regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping, including the length of seasons, bag limits and methods of take for game, which were proposed at its March 20-21, 1997, board meeting, will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the board meeting; the board's procedure is to solicit public comment on the first day of the board meeting (Monday, May 5, 1997), at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect, or the regulation amendments proposed at the March 20-

21, 1997, board meeting, as necessary for the proper management of wildlife resources.

Additional information on this review of regulations, including a list of the specific regulations subject to review and additional details on opportunities for public involvement is available in a separate announcement submitted under General Notices.

General and administrative issues may be discussed by the board at the May 5-6 meeting. The board may hold an executive session before the public session begins on May 5. If the board completes its entire agenda on May 5, it may not convene on May 6, the second of the scheduled two days of the meeting.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

## DEPARTMENT OF GENERAL SERVICES

### Design/Build Construction Management Review Board

**March 21, 1997 - 10 a.m.** -- Open Meeting

**April 18, 1997 - 10 a.m.** -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

**May 16, 1997 - 10 a.m.** -- Open Meeting

Department of General Services, 805 East Broad Street, Room 116, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the board to continue development of guidelines/procedures and review any requests which may have been submitted. The board meets the third Friday of each month.

**Contact:** Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD

## GEORGE MASON UNIVERSITY

### Board of Visitors

**March 26, 1997 - 4:30 p.m.** -- Open Meeting

George Mason University, Mason Hall, Room D23, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A 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.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### Biosolids Use Information Committee

**† March 20, 1997 - 1 p.m.** -- Open Meeting

UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting rescheduled from February 27 to begin immediately following the Biosolids Use Regulations Advisory Committee to discuss specific concerns relating to the land application and agricultural use of biosolids including issues related to the final Biosolids Use Regulations.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

### Biosolids Use Regulations Advisory Committee

**† March 20, 1997 - 9 a.m.** -- Open Meeting

UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting rescheduled from February 27 to discuss issues concerning the implementation of and proposed revisions to the Biosolids Use Regulations involving land application, distribution, or marketing of biosolids.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 371-2891.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**† March 2, 1997 - 4 p.m.** -- Open Meeting

Longwood College, Farmville, Virginia.

The Executive Committee will meet at 4 p.m., followed by the Outreach Committee at 5 p.m.

**Contact:** Michael McDowell, Senior Coordinator, 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.

**† March 3, 1997 - 8 a.m.** -- Open Meeting

Longwood College, Farmville, Virginia.

The Resource Committee will meet at 8 a.m.; the Planning Committee at 10 a.m., and the full council at 1 p.m. This is a regular business meeting. For more information, contact the council.



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## Calendar of Events

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**Contact:** Michael McDowell, Senior Coordinator, 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

† **March 13, 1997 - 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) 786-0719, toll-free 1-888-567-0540, or 1-800-253-0737/TDD ☎

### DEPARTMENT OF HISTORIC RESOURCES

#### State Review Board and Board of Historic Resources

† **March 19, 1997 - 10 a.m.** -- Open Meeting  
Old Petersburg Courthouse, One Courthouse Avenue, Petersburg, Virginia. ☎

A meeting to (i) accept easement donations, (ii) approve historical highway marker texts, (iii) list properties on the Virginia Landmarks Register and recommend properties for listing on the National Register of Historic Places, and (iv) remove destroyed properties from the Virginia Landmarks Register.

The Board of Historic Resources will consider listing the following properties, which are already National Historic Landmarks or already listed on the National Register, on the Virginia Landmarks Register:

1. President Gerald R. Ford, Jr., House, City of Alexandria
2. Green Spring, James City County
3. Lightship No. 101, City of Portsmouth
4. James Monroe Tomb, Hollywood Cemetery, City of Richmond
5. Pocahontas Mine No. 1, Tazewell County

The State Review Board will consider recommending the following properties for listing on the National Register of Historic Places and the Board of Historic Resources will consider listing them on the Virginia Landmarks Register:

1. Green Falls, Caroline County
2. Hite Store, Amherst County
3. Robert Russa Moton School, Prince Edward County
4. Brook Hall, Washington County
5. Clapman's Ferry, Loudoun County
6. Cloughton-Wright House, Northumberland County
7. Finney-Lee House, Franklin County

8. R. T. Greer & Company, Smyth County
9. Konnaroch School, Smith County
10. Dr. John Miller-Masury House, City of Virginia Beach
11. Natural Bridge, Rockbridge County
12. Old Presbyterian Meeting House, City of Alexandria
13. Poplar Hall, City of Norfolk
14. Red Fox Inn, Loudoun County
15. Isaac Spittler Homeplace, Page County
16. Williamsburg Inn, City of Williamsburg

The Board of Historic Resources will consider removing the following destroyed properties from the Virginia Landmarks Register:

1. Athlone, Amherst County
2. Bentfield, Brunswick County
3. Bladensfield, Richmond County
4. Bowers House, City of Petersburg
5. Botetourt Courthouse, Botetourt County
6. Bridge over the North Fork of the Roanoke River, Montgomery County
7. Caserta, Northampton County
8. Christ Church, City of Norfolk
9. Crawford House Hotel, City of Portsmouth
10. Exeter, Loudoun County
11. First Baptist Church, City of Roanoke
12. Fort Rhodes, Page County
13. Harrison-Hancock Building, Montgomery County
14. Nathaniel Burwell Harvey House, Pulaski County
15. Hayes Hall, City of Lynchburg
16. Manchester Cotton & Wool Manufacturing Co., City of Richmond
17. Rich Montgomery White Sulphur Springs Cottage, Montgomery County
18. The Morrison House, City of Harrisonburg
19. Moss Tobacco Factory, Mecklenburg County
20. Oak Hill, Pittsylvania County
21. Preston House (Palmer House) Smyth County
22. Richmond (Kingsland), Chesterfield County
23. Roseland Manor, City of Hampton
24. Springwood Truss Bridge, Botetourt County
25. Whitehurst House, City of Virginia Beach

**Contact:** M. Catherine Slusser, Director, Resource Information Division, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 225-3556, FAX (804) 225-4261, or (804) 786-1934/TDD ☎

### HOPEWELL INDUSTRIAL SAFETY COUNCIL

**March 4, 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**

† **March 24, 1997 - 10 a.m.** -- Open Meeting  
 Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ☎

A regular monthly business meeting. Public comment will be received.

**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) 371-7092, or (804) 371-7089/TDD ☎

**DEPARTMENT OF LABOR AND INDUSTRY**

**Virginia Apprenticeship Council**

**March 20, 1997 - 10 a.m.** -- Open Meeting  
 State Capitol, Capitol Square, House Room 1, Richmond, 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 ☎

**Migrant and Seasonal Farmworkers Board**

**March 12, 1997 - 10 a.m.** -- Open Meeting  
 State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board.

**Contact:** Patti C. Bell, Staff Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-6524 or (804) 786-2376/TDD ☎

**COMMISSION ON LOCAL GOVERNMENT**

**March 3, 1997 - 10 a.m.** -- Open Meeting  
 Commission on Local Government, 8th Street Office Building, 805 East Broad Street, Room 702, Richmond, Virginia.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

**STATE MANAGEMENT TEAM**

**March 4, 1997 - 9:30 a.m.** -- Open Meeting  
 The Library of Virginia, 800 East Broad Street, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss and recommend policy and procedure regarding the Comprehensive Services Act for At Risk Youth and Their Families to the State Executive Council. Please contact Pamela Fitzgerald Cooper or Gloria Jarrell to speak during the public forum.

**Contact:** Pamela Fitzgerald Cooper or Gloria N. Jarrell, Secretary, State Management Team, P.O. Box 1797, Richmond, VA 23236, telephone (804) 371-2177 or FAX (804) 371-0091.

**MARINE RESOURCES COMMISSION**

**March 25, 1997 - 9:30 a.m.** -- Open Meeting  
 Marine Resources Commission, 2600 Washington Avenue, 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**

† **March 12, 1997 - 1 p.m.** -- Open Meeting  
 General Assembly Building, 910 Capitol Square, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including prenatal care, school health, and teen pregnancy prevention.

**Contact:** Janice M. Hicks, Ph.D., Policy Analyst, Department of Health, Office of Family Health Services, 1500 E. Main St.,

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## Calendar of Events

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Suite 104-B, Richmond, VA 23219, telephone (804) 371-4125 or FAX (804) 692-0184.

### Perinatal and Early Childhood Subcommittee

† **March 12, 1997 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room 6B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to address issues regarding the health care of pregnant women and their young children, to include a discussion relating to access of obstetrical care in rural areas of Virginia, provider availability for perinatal care, and a follow-up on HIV testing of pregnant women.

**Contact:** Joan Corder-Mabe, Nurse Consultant, Department of Health, 1500 E. Main St., Room 135, Richmond, VA 23219, telephone (804) 371-4103 or FAX (804) 371-6032.

### School Health Subcommittee

**March 18, 1997 - 10 a.m.** -- Open Meeting  
American Cancer Society, 4240 Park Place Court, Glen Allen, Virginia.

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

**March 18, 1997 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

A meeting to discuss medical assistance services policy and to take action on issues pertinent to the board.

**Contact:** Cynthia A. Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or FAX (804) 371-4981.

### BOARD OF MEDICINE

**March 7, 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 Medicine intends to amend regulations entitled: **18 VAC 85-80-10 et seq. Regulations for the Certification of Occupational Therapists.** The purpose of the proposed amendments is to update the identification of the national accreditation body for occupational therapy, clarify the clinical

supervision of uncertified persons practicing occupational therapy, and reduce the application fee for certification.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.1 through 54.1-2956.5 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 371-4103 or FAX (804) 371-6032.

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† **April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **May 2, 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 Medicine intends to repeal regulations entitled: **18 VAC 85-30-10 et seq. Regulations for Practice of Physical Therapy,** and adopt regulations entitled: **18 VAC 85-31-10 et seq. Regulations for Practice of Physical Therapy.** Since revisions recommended as a result of the Executive Order 15(94) review were extensive, 18 VAC 85-30-10 et seq. is being repealed and replaced by new regulations which establish the criteria for licensure, a process for applicants to follow, requirements for renewal and fees, and practice standards appropriate to the type of licensure and statutory mandates for these professions. Regulations are clarified and simplified and the application fee has been reduced.

Statutory Authority: §§ 54.1-2400 and 54.1-2943 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

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† **April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **May 2, 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 Medicine intends to amend regulations entitled: **18 VAC 85-50-10 et seq. Regulations for Practice of Physicians' Assistants.** The purpose of the proposed amendments is to clarify and simplify regulations; to reduce the burdensome requirements of reporting recordkeeping of invasive procedures; and to reduce the application and renewal fee for physicians' assistants who work in more than one setting.

Statutory Authority: §§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

## Advisory Committee on Acupuncturists

† **March 14, 1997 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the committee to discuss regulatory review of 18 VAC 85-110-10 et seq., Licensed Acupuncturists, and such other issues which may be presented. The committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960 or FAX (804) 662-9943, or (804) 662-7197/TDD

## Informal Conference Committee

† **March 11, 1997 - 9 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

† **March 21, 1997 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, 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:** Karen W. Perrine, 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

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**March 13, 1997 - 10:30 a.m.** -- Open Meeting  
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to continue development of plans for mental health, mental retardation and substance abuse system reform pilot projects. The team will hear reports of the Priority Populations/Case Rate Funding subcommittee,

the Consumer and Family Involvement Subcommittee, and the POMS Subcommittee.

**Contact:** Cheryl Crawford, Administrative Staff Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-5682, FAX (804) 371-6638, or (804) 371-8977/TDD

## State Human Rights Committee

**March 7, 1997 - 9 a.m.** -- Open Meeting  
Location to be announced.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are available from Kli Kinzie.

**Contact:** Kli Kinzie, State Human Rights Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**March 18, 1997 - Time to be announced** -- Open Meeting  
**March 19, 1997 - Time to be announced** -- Open Meeting  
Martha Washington Inn, Abingdon, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to discuss business and promulgate policy and regulations. The agenda will include a public comment period at the beginning of the meeting on March 19. The agenda will be available one week in advance of the meeting.

**Contact:** Marline Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-0092.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Coal Mining Examiners

† **April 8, 1997 - 10 a.m.** -- Public Hearing  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Big Stone Gap, Virginia.

† **May 2, 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 Coal Mining Examiners intends to amend regulations entitled: 4 VAC 25-20-10 et seq. Board of Coal Mining Examiners Certification Requirements. The Board of Coal Mining Examiners is promulgating amendments to its certification requirements to ensure that miners are

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## Calendar of Events


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certified to perform specialized tasks required to mine coal. The amendments incorporate new requirements under the Mine Safety Act, revise and clarify requirements for individual certifications, and add several certifications needed by industry.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, 45.1-161.34 and 45.1-161.35 of the Code of Virginia.

**Contact:** Frank Linkous, Chair, Board of Coal Mining Examiners, Buchanan-Smith Bldg., Big Stone Gap, VA, telephone (540) 523-8100, FAX (540) 523-8239, or 1-800-828-1120 (VA Relay Center).

### Coal Surface Mining Reclamation Fund Advisory Board

**April 23, 1997 - 10 a.m.** -- Open Meeting  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review and discuss the current status and administration of the reclamation fund.

**Contact:** Danny R. Brown, Division Director, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

### Virginia Gas and Oil Board

**† April 15, 1997 - 9 a.m.** -- Public Hearing  
Southwest Virginia 4 H Center, Hillman Highway, Abingdon, Virginia.


**† May 2, 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 Virginia Gas and Oil Board intends to amend regulations entitled: **4 VAC 25-160-10 et seq. Virginia Gas and Oil Board Regulations**. The purpose of the proposed amendments is to enhance the conservation and use of the Commonwealth's gas and oil resources and protect the correlative rights of gas and oil resource owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

**Contact:** B. Thomas Fulmer, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or 1-800-828-1120 (VA Relay Center).

### MOTOR VEHICLE DEALER BOARD


**† March 18, 1997 - 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 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

**† March 17, 1997 - 3 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.

### Dealer Licensing Committee

**† March 17, 1997 - 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.

### Dealer Practices Committee

† **March 17, 1997 - 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.

### Finance Committee

† **March 18, 1997 - 9 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. 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.

### Franchise Review and Advisory Committee

† **March 18, 1997 - 9 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 Franchise Review and Advisory Committee to conduct general 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.

### Transaction Recovery Fund Committee

† **March 17, 1996 - 9:15 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 Transaction Recovery Fund Committee to conduct general 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.

### VIRGINIA MUSEUM OF FINE ARTS

**March 4, 1997 - 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. 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.

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# Calendar of Events

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## Collections Committee

**March 18, 1997 - 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.

## Finance Committee

**March 20, 1997 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue,  
Conference 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.

## Board of Trustees

**March 20, 1997 - 12:30 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue,  
Richmond, Virginia ☎

A meeting to receive reports from committees and staff, conduct budget review, and consider for approval purchases and gifts of art works. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

## BOARD OF NURSING

### Special Conference Committee

**† March 12, 1997 - 10 a.m.** -- Open Meeting  
Norfolk City Hall, 810 Union Street, 1st Floor East Wing,  
Norfolk, Virginia ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences 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 NURSING HOME ADMINISTRATORS

**† March 18, 1997 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia ☎

A meeting to discuss proposed regulations of the board.

**Contact:** Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## BOARDS OF NURSING AND MEDICINE

**March 21, 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 Boards of Nursing and Medicine intend to amend regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners.** The amendments clarify and simplify the regulations and increase the number of nurse practitioners with prescriptive authority who may be supervised by one physician from two to four.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.1 of the Code of Virginia.

**Contact:** Nancy Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9945 or FAX (804) 662-9943.

## BOARD FOR OPTICIANS

**† April 4, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

**BOARD OF OPTOMETRY**

† **March 12, 1997 - 8:30 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street,  
 5th 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:** 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 ☎

**Legislative Regulatory Review Committee**

† **March 12, 1997 - Noon** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street,  
 5th Floor, Conference Room 3, Richmond, Virginia. ☎  
 (Interpreter for the deaf provided upon request)

A meeting to discuss regulations and statutes referencing practicing in a commercial or mercantile establishment, and dispensing contact lenses. Public comment 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 ☎

**TPA Formulary Committee**

† **March 12, 1997 - 8 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street,  
 5th Floor, Conference Room 3, Richmond, Virginia. ☎  
 (Interpreter for the deaf provided upon request)

A meeting to review additions to the TPA formulary. Public comment 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**

† **March 20, 1997 - 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 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.

**POLYGRAPH EXAMINERS ADVISORY BOARD**

**March 11, 1997 - 10 a.m.** -- Open Meeting  
 Department of Professional and Occupational Regulation,  
 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎  
 (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or 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.

**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**

† **March 18, 1997 - 10 a.m.** -- Open Meeting  
 Department of Health Professions, 6606 West Broad Street,  
 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to discuss Executive Order 15(94) recommendations for amendments to Regulations Governing the Practice of Professional Counseling. Public comment will be received at the beginning of the meeting.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

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**March 19, 1997 - 10 a.m.** -- Public Hearing  
 Department of Health Professions, 6606 West Broad Street,  
 5th Floor, Conference Room 3, Richmond, Virginia.

**April 18, 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 Professional Counselors and Marriage and Family Therapists intends to adopt regulations entitled: **18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapy.** The purpose of the proposed regulation is to comply with statutory requirements to establish standards of ethics, fees and criteria for licensure of marriage and family therapists.



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## Calendar of Events

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Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

### BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**March 17, 1997 - 10 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. ☎

A general business meeting.

**Contact:** Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

### BOARD OF PSYCHOLOGY

† **April 8, 1997 - 8:30 a.m.** -- Public Hearing  
Department of Health Professions, 5th Floor, Conference Room 3, Richmond, Virginia.

† **May 12, 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 Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendments is to replace emergency regulations which were necessary to conform regulations to 1996 statutory changes requiring the transfer of licensure of clinical psychologists to the Board of Psychology and establishment of three types of psychology licensure. Fees and renewal schedules have been amended to be less burdensome for licensees.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

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† **March 14, 1997 - 10 a.m.** -- Public Hearing  
Department of Health Professions, 5th Floor, Conference Room 2, Richmond, Virginia.

† **May 2, 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 Psychology intends to adopt regulations entitled: **18 VAC 125-30-10**

**et seq. Regulations Governing the Certification of Sex Offender Treatment Providers.** The purpose of the proposed regulations is to establish requirements for education and supervised training, endorsement, renewal of certification, standards of practice, and fees for the certification of sex offender treatment providers.

Statutory Authority: §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

**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 ☎

### Examination Committee

† **March 21, 1997 - 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 committee business. Public comment be received at 10:15 a.m..

**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.

### REAL ESTATE APPRAISER BOARD

† **May 13, 1997 - 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 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) 367-2039, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

### REAL ESTATE BOARD

† **March 10, 1997 - 8:30 a.m.** -- Open Meeting  
† **March 11, 1997 - 8:30 a.m.** -- Open Meeting  
† **March 12, 1997 - 8:30 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, Alexandria Regional Office, 501 Montgomery Street, Alexandria, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to § 9-6.14:11 of the Code of Virginia.

**Contact:** Stacie G. Camden, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

† **March 27, 1997 - 9 a.m.** -- Open Meeting  
 † **May 1, 1997 - 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 ☎

## Education Committee

† **March 27, 1997 - 8 a.m.** -- Open Meeting  
 † **May 1, 1997 - 8 a.m.** -- Open Meeting  
 Department of Professional and Occupational Regulation,  
 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting of the committee. 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 ☎

## Fair Housing Subcommittee

† **March 27, 1997 - 8 a.m.** -- Open Meeting  
 † **May 1, 1997 - 8 a.m.** -- Open Meeting  
 Department of Professional and Occupational Regulation,  
 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting of the subcommittee. 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 ☎

## DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

**March 27, 1997 - 10 a.m.** -- Open Meeting  
 Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A quarterly business meeting of the board.

**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 ☎

## DEPARTMENT OF REHABILITATIVE SERVICES AND STATE REHABILITATION ADVISORY COUNCIL

**March 6, 1997 - 4 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, Central Office, Koger Center West, 8004 Franklin Farms Drive, Lee Building, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 10, 1997 - 3:30 p.m.** -- Public Hearing  
 Higher Education Center, 397 Little Neck Road, 3300 South Building, Room 103, Virginia Beach, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 12, 1997 - 4 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, Huntington Office, 5904 Old Richmond Highway, 4th Floor, Alexandria, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 13, 1997 - 7:15 p.m.** -- Public Hearing  
 Woodrow Wilson Rehabilitation Center, Dining Hall, Fishersville, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 18, 1997 - 1:30 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, Central Office, Koger Center West, 8004 Franklin Farms Drive, Lee Building, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 18, 1997 - 4 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, 3433 Brambleton Avenue, S.W., Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 19, 1997 - 4 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, 468 East Main Street, Abingdon, Virginia. ☎ (Interpreter for the deaf provided upon request)

NOTE: CHANGE IN MEETING LOCATION

**March 20, 1997 - 3 p.m.** -- Public Hearing  
 Department of Rehabilitative Services, 914 Brookdale Road, Martinsville, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 24, 1997 - 7 p.m.** -- Public Hearing  
 Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing to provide the public the opportunity to comment on vocational rehabilitative and supportive employment services provided by the Department of Rehabilitative Services. Public comments shall be considered in the department's policy formation and the development of the 1998 state plan. Interpreter services shall be available. Other accommodations may be requested through Gloria O'Neal. If members of the public are unable to attend the public hearing, comments

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## Calendar of Events

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may be recorded with Gloria O'Neal through April 1, 1997.

**Contact:** Gloria O'Neal, Program Support Technician, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7611, FAX (804) 662-7696, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9950/TDD ☎

### VIRGINIA RESOURCES AUTHORITY

**March 11, 1997 - 9:30 a.m.** -- Open Meeting  
Mutual Building, 909 East Main Street, Suite 607, 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 month, 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., Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

### BOARD OF SOIL SCIENTISTS

**† March 25, 1997 - 10 a.m.** -- Closed Meeting  
Division of Mineral Resources, 900 Natural Resources Drive, Charlottesville, Virginia. ♿

A meeting to compile the Virginia Soil Scientists Examination. Due to the confidential nature of the examination, the meeting is not open to the public.

**Contact:** George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

**† March 20, 1997 - 9 a.m.** -- Open Meeting  
Colonial Farm Credit, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia.

A regular bimonthly business meeting.

**Contact:** Linda J. Cox, Administrative Staff Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2123, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

### COMMONWEALTH TRANSPORTATION BOARD

**† March 19, 1997 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

**† March 20, 1997 - 10 a.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact 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.

### TRANSPORTATION SAFETY BOARD

**† March 19, 1997 - 10 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to provide a forum for the board members and other interested parties to discuss traffic safety issues.

**Contact:** Angelisa C. Jennings, Management Analyst Senior, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026 or FAX (804) 367-6031.

### TREASURY BOARD

**† March 19, 1997 - 9 a.m.** -- Open Meeting  
**† April 16, 1997 - 9 a.m.** -- Open Meeting  
**† May 21, 1997 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ♿

A regular business meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

## VIRGINIA RACING COMMISSION

**March 18, 1997 - 9:30 a.m.** -- Open Meeting  
Tyler Building, 1300 East Main Street, Richmond, Virginia ☒

A regular meeting to include a report by Colonial Downs and a review of regulations.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363.

## VIRGINIA VETERANS CARE CENTER

### Board of Trustees

† **March 7, 1997 - 1 p.m.** -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, Room 625, Richmond, Virginia ☒

The third quarterly meeting of the board to review the operations of the Virginia Veterans Care Center.

**Contact:** Jon K. Oliver, Acting Executive Director, P.O. Box 6334, Roanoke, VA 24017-0334, telephone (540) 857-6974, FAX (540) 857-6954, toll-free 1-800-220-8387, or (540) 342-8810/TDD ☒

## BOARD OF VETERINARY MEDICINE

† **March 21, 1997 - 9 a.m.** -- Open Meeting  
Hotel Roanoke, 110 Shenandoah Avenue, Roanoke, Virginia ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct formal hearings and 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 (BOARD OF)

**March 12, 1997 - 6:30 p.m.** -- Open Meeting  
Trinity Episcopal Church, 2217 Columbia Pike, Arlington, Virginia ☒ (Interpreter for the deaf provided upon request)

**March 15, 1997 - 1 p.m.** -- Open Meeting  
Tidewater Regional Transit Building, 1500 Monticello Avenue, Norfolk, Virginia ☒ (Interpreter for the deaf provided upon request)

**March 18, 1997 - 4 p.m.** -- Open Meeting  
Department for the Visually Handicapped, 620 East Beverly Street, Staunton, Virginia ☒ (Interpreter for the deaf provided upon request)

**March 19, 1997 - 5:30 p.m.** -- Open Meeting  
Lions Sight Foundation, 501 Elm Avenue, S.W., Roanoke, Virginia ☒ (Interpreter for the deaf provided upon request)

**March 25, 1997 - 5 p.m.** -- Open Meeting  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia ☒ (Interpreter for the deaf provided upon request)

**April 1, 1997 - 1 p.m.** -- Open Meeting  
Department for the Visually Handicapped, 111 Commonwealth Avenue, Bristol, Virginia ☒ (Interpreter for the deaf provided upon request)

A meeting to receive comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

**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 ☒

**April 12, 1997 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia ☒ (Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

**Contact:** Katherine C. Proffitt, Executive Secretary Senior, 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 WASTE MANAGEMENT BOARD

**March 19, 1997 - 10 a.m.** -- Public Hearing  
The Library of Virginia, 800 East Broad Street, First Floor, Lecture Hall, Richmond, Virginia.

**March 20, 1997 - 1:30 p.m.** -- Public Hearing  
Roanoke County Administration Center, 5204 Bernard Drive, Board Meeting Room, Roanoke, Virginia.

**April 18, 1997** -- Public comments may be submitted until 5 p.m. on this date to the address listed below or by hand delivery to 629 East Main Street, Richmond, VA.

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## Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation Regulations.** The purpose of the proposed regulation is to govern voluntary remediation of releases of hazardous substance, hazardous waste, solid waste, or petroleum.

Statutory Authority: § 10.1-1429.1 of the Code of Virginia.

**Contact:** Robert G. Wickline, P.E., Office of Technical Assistance, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX: (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

### STATE WATER CONTROL BOARD

**March 17, 1997 - 7 p.m.** -- Open Meeting  
Woodlawn Intermediate School, Hillsville, Virginia.

A meeting to receive comments from the public on the proposed issuance of a Virginia Pollutant Discharge Elimination System Permit for the Crooked Creek Wastewater Treatment Plant.

**Contact:** Clairise S. Cartier, Department of Environmental Quality, Southwest Regional Office, 355 Deadmore St., Abingdon, VA, telephone (540) 676-4800.

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**March 18, 1997 - 2 p.m.** -- Public Hearing  
Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia.

**March 19, 1997 - 11 a.m.** -- Public Hearing  
Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia.

**March 20, 1997 - 2 p.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

**April 18, 1997** - Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-194-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities.** The purpose of the proposed regulation is to establish a general permit to cover the car wash facility category of point source discharges to surface waters.

**Request for Comments:** The board is giving notice on the proposed adoption of 9 VAC 25-194-10 et seq. and the issuance of the General VPDES Permit (VAG75) to discharge to state waters and state certification under the State Water Control Law. The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, and also comments regarding the cost and benefits of the stated alternative or any other alternatives. Comments shall include the name, address,

and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

**Other Information:** The Department of Environmental Quality has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Cosby at the address below.

**Question and Answer Period:** A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to Persons with Disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact George Cosby. Persons needing interpreter services for the deaf should notify Mr. Cosby no later than March 7, 1997.

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

**Contact:** George Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067.

### Technical Advisory Committee

NOTE: CHANGE IN MEETING DATE

† **April 15, 1997 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the reissuance of the board's general permit regulation governing discharges from the cleanup of petroleum from underground storage tanks (9 VAC 25-120-10 et seq.).

**Contact:** Richard Ayers, Technical Services Administrator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4075 or FAX (804) 698-4032.

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **April 10, 1997 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, disciplinary cases, and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director,  
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

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 3

- Alcoholic Beverage Control Board, Virginia
- † Funeral Directors and Embalmers, Board of
- † Higher Education for Virginia, State Council of  
Local Government, Commission on

#### March 4

- Contractors, Board for
- Tradesman Certification Committee
- Hopewell Industrial Safety Council  
Management Team, State  
Museum of Fine Arts, Virginia

#### March 5

- Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
- Virginia Soybean Board
- † Asbestos Licensing and Lead Certification, Board for  
Conservation and Recreation, Department of
- Chickahominy Scenic River Advisory Board
- † Emergency Planning Committee, Local - Winchester

#### March 6

- Agriculture and Consumer Services, Department of
- Virginia Soybean Board
- Virginia Sweet Potato Board
- † Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for
- Board for Interior Designers
- † Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
- † Contractors, Board for

#### March 7

- † Contractors, Board for  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of
- State Human Rights Committee
- † Professional and Occupational Regulation, Department  
of
- Board for Branch Pilots
- † Veterans Care Center, Virginia
- Board of Trustees

#### March 10

- Chesapeake Bay Local Assistance Department
- Regulatory Committee and Regulation Advisory  
Committee
- Funeral Directors and Embalmers, Board of
- Real Estate Board
- † Small Business Environmental Compliance Advisory  
Board

#### March 11

- † Employment Commission, Virginia
- State Advisory Board
- † Medicine, Board of
- Polygraph Examiners Advisory Board
- Real Estate Board
- Resources Authority, Virginia

#### March 12

- † Agriculture and Consumer Services, Department of
- Virginia State Apple Board
- † Air Pollution, State Advisory Board on  
Emergency Planning Committee, Local - City of  
Alexandria
- † Environmental Quality, Department of  
Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
- † Maternal and Child Health Council
- Perinatal and Early Childhood Subcommittee
- † Nursing, Board of
- † Optometry, Board of
- Legislative Committee
- TPA Formulary Committee
- Real Estate Board
- Visually Handicapped, Department for the

#### March 13

- Child Day-Care Council
- † Higher Education Tuition Trust Fund, Virginia
- Mental Health, Mental Retardation and Substance Abuse  
Services, Department of
- Pilot Leadership Team

#### March 14

- † Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for
- Regulatory Review Task Force
- † Medicine, Board of
- Advisory Committee on Acupuncturists

#### March 15

- Visually Handicapped, Department for the

#### March 17

- Alcoholic Beverage Control Board, Virginia
- † Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Licensing Committee
- Dealer Practices Committee
- Transaction Recovery Committee
- Professional and Occupational Regulation, Board for  
Water Control Board, State

#### March 18

- Contractors, Board for
- † Corrections, Board of
- Correctional Services Committee
- Maternal and Child Health Council
- School Health Subcommittee
- Medical Assistance Services, Board of
- Mental Health, Mental Retardation and Substance Abuse  
Services Board, State
- † Motor Vehicle Dealer Board
- Finance Committee
- Franchise Review and Advisory Committee

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## Calendar of Events

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Museum of Fine Arts, Virginia  
- Board of Trustees  
† Nursing Home Administrators, Board of  
† Professional Counselors and Marriage and Family  
Therapists, Board of  
Virginia Racing Commission  
Visually Handicapped, Department for the

### March 19

† Community Colleges, State Board for  
† Corrections, Board of  
- Administration Committee  
† Forestry, Department of  
- Reforestation of Timberlands Board  
† Historic Resources, Department of  
- State Review Board and Board of Historic Resources  
Mental Health, Mental Retardation and Substance Abuse  
Services Board, State  
† Transportation Board, Commonwealth  
† Transportation Safety Board  
† Treasury Board  
Visually Handicapped, Department for the

### March 20

Agriculture and Consumer Services, Department of  
- Virginia Dark-fired Tobacco Board  
† Community College, State Board for  
† Corrections, Board of  
- Liaison Committee  
† Environmental Quality, Department of  
† Health, Department of  
- Biosolids Use Information Committee  
- Biosolids Use Regulations Advisory Committee  
Labor and Industry, Department of  
- Virginia Apprenticeship Council  
Museum of Fine Arts, Virginia  
- Board of Trustees  
† Pharmacy, Board of  
† Soil and Water Conservation Board, Virginia  
† Transportation Board, Commonwealth

### March 21

† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
† Correctional Education, Board of  
General Services, Department of  
- Design-Build/Construction Management Review  
Board  
† Medicine, Board of  
† Psychology, Board of  
- Examination Committee  
† Veterinary Medicine, Board of

### March 24

Conservation and Recreation, Department of  
- Goose Creek Scenic River Advisory Board  
† Housing and Community Development, Board of

### March 25

Criminal Justice Services Board  
- Committee on Training  
Marine Resources Commission  
† Soil Scientists, Board of  
Visually Handicapped, Department for the

### March 26

George Mason University  
- Board of Visitors

### March 27

† Compensation Board  
† Real Estate Board  
- Education Committee  
- Fair Housing Subcommittee  
Rehabilitative Services, Board of

### March 31

Alcoholic Beverage Control Board, Virginia

### April 1

Visually Handicapped, Department for the

### April 3

† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
- State Parks Foundation

### April 4

† Opticians, Board for

### April 7

† Cosmetology, Board of

### April 9

Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board

### April 12

Visually Handicapped, Board for the

### April 14

† Barbers, Board for

### April 15

† Water Control Board, State  
- Technical Advisory Committee

### April 16

† Treasury Board

### April 18

General Services, Department of  
- Design-Build/Construction Management Review  
Board

### April 21

† Accountancy, Board for

### April 22

† Accountancy, Board for

### April 23

Mines, Minerals and Energy, Department of  
- Coal Surface Mining Reclamation Fund Advisory  
Board

### April 24

Compensation Board

### May 1

† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
† Real Estate Board  
- Education Committee

- Fair Housing Subcommittee

**May 5**

† Game and Inland Fisheries, Board of

**May 6**

† Asbestos Licensing and Lead Certification, Board for  
† Game and Inland Fisheries, Board of

**May 13**

† Real Estate Appraiser Board

**May 16**

General Services, Department of  
- Design-Build/Construction Management Review  
Board

**May 21**

† Treasury Board

**April 8**

† Mines, Minerals and Energy, Department of  
- Board of Coal Mining Examiners  
† Psychology, Board of

**April 11**

† Medicine, Board of

**April 15**

† Mines, Minerals and Energy, Department of  
- Virginia Gas and Oil Board

**May 14**

† Psychology, Board of

## PUBLIC HEARINGS

**March 6**

Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council

**March 10**

Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council

**March 11**

Air Pollution Control Board, State

**March 12**

Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council

**March 13**

Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council

**March 18**

Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council  
Water Control Board, State

**March 19**

Professional Counselors and Marriage and Family  
Therapists, Board of  
Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council  
Waste Management Board, Virginia  
Water Control Board, State

**March 20**

Game and Inland Fisheries, Board of  
Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council  
Waste Management Board,  
Water Control Board, State

**March 24**

Game and Inland Fisheries, Board of  
Rehabilitative Services, Department of  
- State Rehabilitation Advisory Council



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