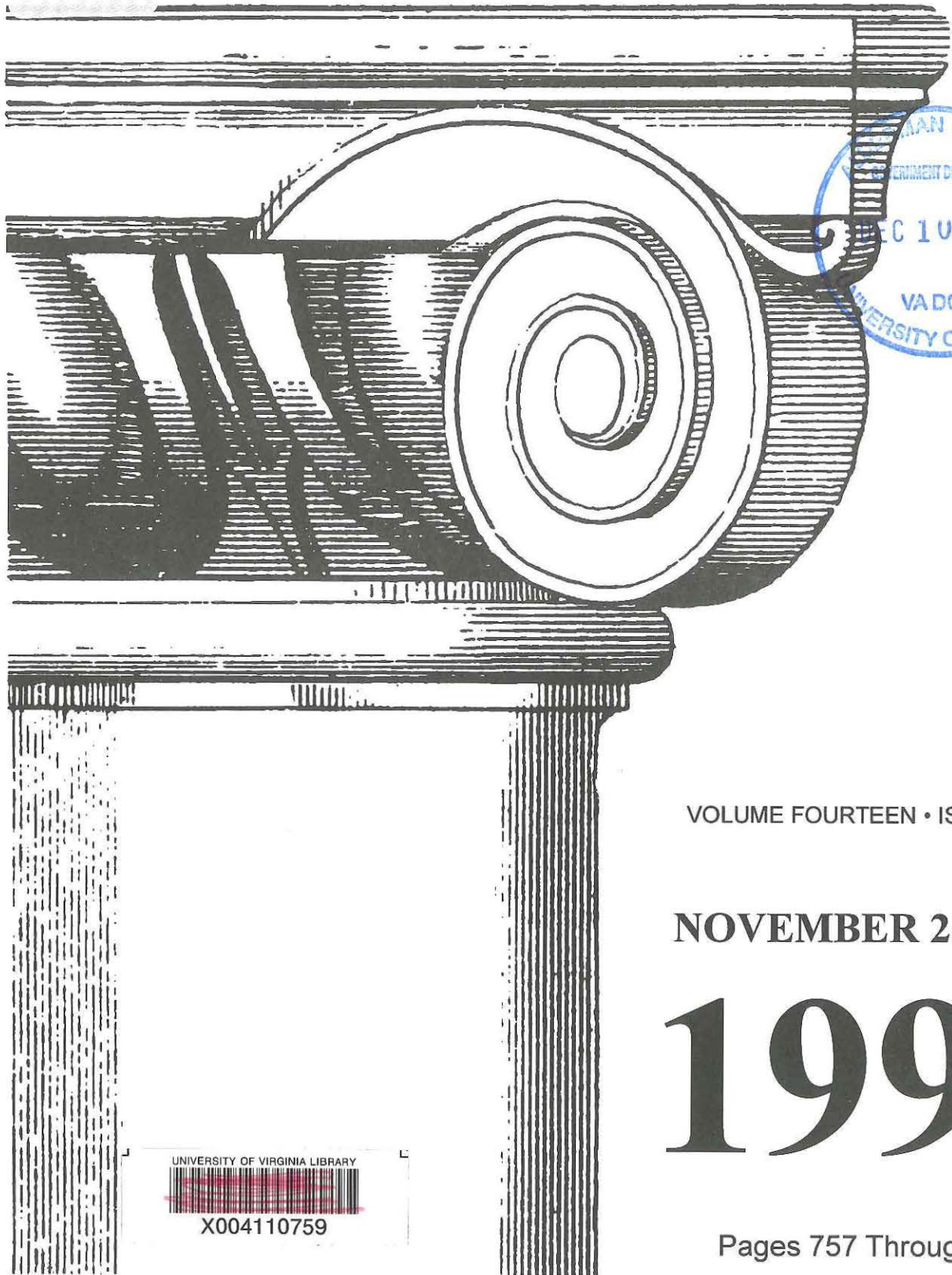


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THE VIRGINIA REGISTER

OF REGULATIONS

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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) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar 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

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

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE 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 Alcoholic Beverage Control Board intends to consider amending regulations entitled: **3 VAC 5-50-10 et seq. Retail Operations.** The purpose of the proposed action is to (i) simplify regulations on nonmember use of club facilities; (ii) simplify regulations establishing food inventory and sale qualifications for retail licensees; (iii) provide a process for the approval of employees with certain criminal convictions; (iv) clarify rules relating to lewd conduct; and (v) allow an exemption to happy hour regulations for educational tastings. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public comments may be submitted until December 31, 1997.

Contact: W. Curtis Coleburn, Secretary, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA 23261-9491, telephone (804) 213-4409 or FAX (804) 213-4411.

VA.R. Doc. No. R98-66; Filed October 8, 1997, 10:29 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **3 VAC 5-70-10 et seq. Other Provisions.** The purpose of the proposed action is to (i) clarify storage requirements for alcoholic beverages used for culinary purposes; (ii) eliminate certain reporting requirements for industrial and hospital permittees; (iii) increase the record retention period for licensees from two to three years; (iv) permit the use of electronic data interchange programs; (v) allow wholesalers to offer different prices to on-premises and off-premises retailers; (vi) allow manufacturers to make gifts of alcoholic beverages for certain public events; and (vii) provide a schedule of penalties for first violations of certain statutes or regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public comments may be submitted until December 31, 1997.

Contact: W. Curtis Coleburn, Secretary, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA

23261-9491, telephone (804) 213-4409 or FAX (804) 213-4411.

VA.R. Doc. No. R98-65; Filed October 8, 1997, 10:29 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled: **8 VAC 20-100-10 et seq. Regulations Governing Literary Loan Applications in Virginia.** The purpose of the proposed action is to amend the regulation to conform the regulation to changes made by Chapters 372 and 384 of the 1997 Acts of the Assembly by (i) increasing the limit on a single Literary Fund loan from \$5 million to \$7.5 million and (ii) providing the board with the authority to make Literary Fund loans for purchasing and installing educational technology equipment and infrastructure. A third potential change to the regulations stems from a request from the Piedmont Regional Education Program (PREP) to permit Literary Fund loans to be issued for regional programs using a "Blended Interest Rate." The Board of Education has the authority to set annual interest rates for Literary Fund loans pursuant to § 22.1-150 of the Code of Virginia, within the range of 2.0% and 6.0% per year. Current interest rates are established within this range by the board's regulations governing Literary Fund loans and are based on each school division's composite index. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16, 22.1-146 and 22.1-147 of the Code of Virginia.

Public comments may be submitted until November 26, 1997.

Contact: Daniel S. Timberlake, Assistant Superintendent for Finance, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2025 or FAX (804) 225-2300.

VA.R. Doc. No. R98-53; Filed September 25, 1997, 10:11 a.m.

Notices of Intended Regulatory Action

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-16.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rate; Other Types of Care.** The purpose of the proposed action is to allow the bundling of services/supplies under a per diem reimbursement methodology for certain durable medical equipment/supplies and pharmacy services. 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 December 24, 1997, to Linda Hamm, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R98-88; Filed November 3, 1997, 3:06 p.m.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code.** The purpose of the proposed action is to amend 13 VAC 5-61-440 by establishing standards for automatic sprinkler systems in certain dormitories at colleges and universities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-99.3 of the Code of Virginia.

Public comments may be submitted until November 28, 1997.

Contact: George Rickman, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

VA.R. Doc. No. R98-64; Filed October 6, 1997, 4:36 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF HEALTH PROFESSIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-16.14:7.1 of the Code of Virginia that the Board of Health Professions intends to consider amending regulations entitled: **18 VAC 75-20-10 et seq. Regulations Governing Practitioner Self-Referral.** The purpose of the proposed action is to amend regulations on the procedures to be followed in the administration of the Practitioner Self-Referral Act. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2510 of the Code of Virginia.

Public comments may be submitted until December 24, 1997, to Elaine J. Yeatts, Deputy Executive Director, Board of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Robert A. Nebiker, Executive Director, Board of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or FAX (804) 662-9943.

VA.R. Doc. No. R98-85; Filed October 27, 1997, 12:31 p.m.

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-16.14:7.1 of the Code of Virginia that the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals intends to consider amending regulations entitled: **18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers.** The purpose of the proposed action is to amend regulations in order to implement a statutory mandate to replace emergency regulations promulgated under provisions of Chapter 839 of the 1997 Acts of the Assembly. Chapter 839

Notices of Intended Regulatory Action

more precisely defines the scope of practice for individuals that exercise professional judgment in the provision of vocational rehabilitation services, and clearly restricts the mandate for certification to those individuals. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3505 and 54.1-3515 of the Code of Virginia.

Public comments may be submitted until December 24, 1997, to Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Evelyn B. Brown, Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912 or FAX (804) 662-9943.

VA.R. Doc. No. R98-84; Filed October 27, 1997, 12:31 p.m.

REAL ESTATE 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 Real Estate Board intends to consider promulgating regulations entitled: **18 VAC 135-60-10 et seq. Common Interest Community Management Information Fund Regulations.** The purpose of the proposed regulation is to set fees and deadlines for filing common interest community annual reports with the Real Estate Board. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2105.1, 55-79.93:1, 55-504.1, 55-516.1 and 55-530 of the Code of Virginia.

Public comments may be submitted until November 28, 1997.

Contact: Emily O. Wingfield, Property Registration Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8510, FAX (804) 367-2475, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R98-54; Filed September 26, 1997, 11:50 a.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† 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 Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **18 VAC 160-20-10 et seq. Board for**

Waterworks and Wastewater Works Operators Regulations. The purpose of the proposed action is to amend existing regulations governing the licensure of waterworks and wastewater works operators to (i) modify the definition section, (ii) clarify the entry/experience requirements for licensure and modify the procedures and provisions regarding renewal and reinstatement, and (iii) establish an efficient staggered system for collection of renewal fees. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 29, 1997.

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 ☎

VA.R. Doc. No. R98-91; Filed November 5, 1997, 11:21 a.m.

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to consider amending regulations entitled: **19 VAC 30-170-10 et seq. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** The purpose of the proposed action is to amend regulations governing the operation and maintenance of the Sex Offender and Crimes against Minors Registry to comply with statutory changes adopted during the 1997 Session of the General Assembly. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 19.2-298.1 and 19.2-390.1 of the Code of Virginia.

Public comments may be submitted until December 10, 1997.

Contact: Lt. Thomas W. Turner, Assistant Records Management Officer, Department of State Police, Safety Division, P.O. Box 27472, Richmond, VA 23261, telephone (804) 674-2022, FAX (804) 674-2105 or toll-free 1-800-553-3144/TDD ☎

VA.R. Doc. No. R98-74; Filed October 21, 1997, 12:42 p.m.

Notices of Intended Regulatory Action

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

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 for the Deaf and Hard-of-Hearing intends to consider amending regulations entitled: **22 VAC 20-30-10 et seq. Regulations Governing Interpreter Services for the Deaf and Hard of Hearing.** The purpose of the proposed action is to (i) improve clarity and reduce redundancy with statutory code language; (ii) add provisions for maintenance of Virginia Quality Assurance Screening (VQAS) levels; and (iii) add provisions for a consumer input and grievance procedure. In addition, the department will clarify language about the confidentiality of VQAS results and the availability of information about candidate levels to the public. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-85.4 and 63.1-85.4:1 of the Code of Virginia.

Public comments may be submitted until December 10, 1997.

Contact: Leslie G. Hutcheson, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9703/TDD ☎, FAX (804) 662-9718 or toll-free 1-800-552-7917/TDD ☎

VA.R. Doc. No. R98-80; Filed October 21, 1997, 4:12 p.m.

BOARD OF SOCIAL 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 Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-35-5 et seq. Virginia Independence Program.** The purpose of the proposed action is to amend the regulation to add the Virginia Targeted Grant Program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-25.3 of the Code of Virginia.

Public comments may be submitted until November 27, 1997.

Contact: David Olds, Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2251.

VA.R. Doc. No. R98-55; Filed September 30, 1997, 3:04 p.m.



PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

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

Title of Regulation: 4 VAC 15-30-5 et seq. **Definitions and Miscellaneous:** Importation, Possession, Sale, Etc., of Animals (adding 4 VAC 15-30-5, 4 VAC 15-30-7 and 4 VAC 15-30-60).

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened October 23, 1997, and remains open until January 8, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than December 25, 1997, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, January 8, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the January meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

The proposed regulations (i) delegate to the Director of the Department of Game and Inland Fisheries certain permitting powers, authorities and duties pursuant to subdivision 12 of § 29.1-103 of the Code of Virginia; (ii) authorize the director to establish a policy on the issuance of permits to those whose previous permits have been revoked or denied for a wildlife law infraction; (iii) under certain conditions, allow an individual holding a permit issued by the department who has submitted a renewal application for the permit at least 30 days prior to its expiration to continue using the permit after its expiration; and (iv) allow for the propagation of raptors under certain conditions.

4 VAC 15-30-5. Powers, authorities, and duties of the director in permitting.

Under authority granted to the board in subdivision 12 of § 29.1-103 of the Code of Virginia, the board hereby confers authority upon the director to set the permit schedule, establish permit conditions, delegate signature authority, establish protocols for responding to permit decision appeals, and render final permit decisions. The director shall also have authority to establish a policy on the issuance of new permits to individuals whose previous permits or applications have been revoked or denied for infractions of wildlife laws, regulations, or conditions.

4 VAC 15-30-7. Continuation of permitted activity.

Provided that the issuance of a permit renewal by the department has been delayed past the expiration date of the permittee's previous permit at no fault of the applicant, the permittee may continue the specific activities authorized by the expired permit until the department has acted on such person's application for renewal. To qualify for this allowance, applicants must submit a completed renewal application to the department at least 30 days prior to the expiration date of their permit. The department may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth by the department.

4 VAC 15-30-60. Raptor propagation.

An applicant for a permit to propagate raptors pursuant to §§ 29.1-412, 29.1-521, and 29.1-542 of the Code of Virginia who possesses a valid Federal Raptor Propagation Permit shall submit to the department a completed State Propagation Permit application form and shall conduct their activities in accordance with permit conditions established under the authority of the director as granted in 4 VAC 15-30-5.

VA.R. Doc. No. R98-93; Filed November 5, 1997, 11:26 a.m.

Proposed Regulations

Title of Regulation: 4 VAC 15-340-10 et seq. Fish: Seines and Nets (amending 4 VAC 15-340-30).

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened October 23, 1997, and remains open until January 8, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than December 25, 1997, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, January 8, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the January meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

The proposed amendment allows gill net permittees to purchase multiple tags under one permit which lists each of the tags issued.

4 VAC 15-340-30. Gill nets.

A. Authorization to take fish. A gill net permit shall authorize the holder thereof to take nongame fish during the times and in the waters and for the purposes provided for in this section. Such gill net shall not be more than 300 feet in length. The mesh size shall be not less than 1-½ inch bar or square mesh (three-inch stretch mesh). ~~Each net shall be identified by a department tag provided with such permit. Only one department tag will be issued per gill net permit, and these must have matching numbers. Persons intending to operate more than one net Applicants must annually purchase matching number permits and tags for each net the applicant intends to operate and attach a department tag to each net prior to use. A single permit will be issued to the~~

permittee and shall list each tag number the permittee has been issued. All nets must be checked daily and all game fish returned to the wild.

B. Permit holder to be present when gill net is being set and checked for fish. The holder of a gill net permit must be present with the net at all times when it is being set and checked for fish. The holder may have others to assist him, and such persons assisting are not required to have a permit. However, those assisting the permittee must meet the fishing license requirements of the Commonwealth.

C. Time and place permitted in Southampton County. Gill nets may be used in Southampton County only in the Nottoway River from Cary's Bridge to the North Carolina line from March 1 through May 15, both dates inclusive, to take fish for private table use only and not for sale.

D. Times and places permitted in Virginia Beach City; fish which may be taken. Gill nets may be used in Virginia Beach City in Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake) and North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River) for the taking of mullet only for table use and also for sale from July 1 through November 1, both dates inclusive; and for the taking of other nongame fish, except mullet, for table use and also for sale from November 1 through March 31, both dates inclusive. Gill nets set in Back Bay waters shall be at least 300 feet from any other net and at least 300 feet from the shoreline. All such nets must be marked at both ends and at least every 100 feet along the length of the net with a five-inch by 12-inch minimum dimensions float.

VA.R. Doc. No. R98-92; Filed November 5, 1997, 11:26 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Division of Communications

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

Title of Regulation: 20 VAC 5-400-10 et seq. Telecommunications (amending 20 VAC 5-400-90).

Statutory Authority: §§ 56-508.15 and 56-508.16 of the Code of Virginia.

Public Comment Deadline: Public comments may be submitted until November 25, 1997.

AT RICHMOND, NOVEMBER 4, 1997

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC970173

Ex Parte: In the matter of
revising Rules for Pay
Telephone Service and
Instruments pursuant to the
Pay Telephone Registration Act

ORDER PRESCRIBING NOTICE

By order of November 24, 1993, in Case No. PUC930013, the Commission adopted Rules for Pay Telephone Service and Instruments ("Rules"). On February 8, 1996, § 276 of the Telecommunications Act of 1996, 47 U.S.C. § 276, was enacted and thereafter the Federal Communications Commission ("FCC") adopted regulations that, among other things, required that the pay telephone instruments of all service providers, including those of local exchange carriers ("LECs"), be treated in a nondiscriminatory and equal manner similar to the pay telephone instruments owned and operated by private pay telephone providers.

In light of the FCC regulations, the Commission's Division of Communications has proposed revisions to the Rules designed to eliminate disparities between pay phone service as provided by LECs and as provided by the companies formerly known as private pay telephone providers.

Having reviewed its Staff's proposed revisions, the Commission finds that these revisions do not directly affect the general public. Instead, the revisions affect only providers and potential providers of pay phone service. Therefore, the Commission is of the opinion that this matter should be docketed; that notice of the proposed rule revisions be published in the Virginia Register of Regulations, and that direct mail notice should be furnished to Virginia's LECs, Virginia certificated interexchange carriers, and Virginia's private pay telephone providers.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC970173.

(2) The Commission's Division of Communications shall forthwith mail a copy of the following notice, along with the proposed revisions, to the LECs regulated by the State Corporation Commission, to certificated interexchange carriers certificated by the State Corporation Commission, and to the registered pay telephone providers registered with the Commission, at the addresses set forth in Appendices A, B, and C and cause the following notice to be forwarded for publication in the Virginia Register of Regulations:

NOTICE OF PROPOSED REVISIONS TO RULES FOR PAY TELEPHONE SERVICE AND INSTRUMENTS CASE NO. PUC970173

On November 24, 1993, the Virginia State Corporation Commission ("SCC") adopted Rules for Pay Telephone Company Service and Instruments ("Rules") pursuant to the provisions of §§ 56-508.15 and 56-508.16 of the Code of Virginia. The Rules have been substantially affected by the enactment of § 276 of the Telecommunications Act of 1996, 47 U.S.C. § 276, and rules promulgated by the Federal Communications Commission pursuant to that act. In order to eliminate certain disparities between the pay telephone instruments furnished by local exchange telephone companies and those furnished by private pay telephone providers, the SCC's Division of Communications has proposed revisions to the Rules.

The revisions prepared by the Division of Communications should affect pay telephone service providers and not the general public. The Commission invites comments from providers and interested members of the public concerning the proposed revisions on or before November 25, 1997. Comments or requests for hearing concerning the revisions must be filed with the Clerk of the SCC, William J. Bridge, P.O. Box 2118, Richmond, Virginia 23218, on or before that date referring to Case No. PUC970173. If no substantial objections or requests for hearing are received by that date, the Commission may adopt the proposed revisions without the necessity of conducting a hearing.

DIVISION OF COMMUNICATIONS OF THE STATE CORPORATION COMMISSION

(3) Comments or requests for hearing on the proposed revisions must be filed with the Clerk of the Commission on or before November 25, 1997.

(4) If no substantial objections or requests for hearing are filed on or before November 25, 1997, the Commission may adopt the proposed revisions to Rules for Pay Telephone Service and Instruments without the necessity of conducting a hearing.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to: Virginia's local exchange companies as set out in Appendix A attached hereto; Virginia's certificated interexchange carriers as set out in Appendix B attached hereto; Virginia's registered pay telephone service providers as set out in Appendix C attached hereto; the Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Richmond, Virginia 23219; the Commission's Office of General Counsel; and the Commission's Divisions of Communications and Public Utility Accounting.

Proposed Regulations

EDITOR'S NOTICE: Appendices A, B and C, which are the distribution lists referenced in the order printed above, are not being published. However, these lists are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia, from 8:15 a.m. to 5 p.m., Monday through Friday.

20 VAC 5-400-90. Regulations for pay telephone payphone service and instruments.

A. The following shall apply to all pay telephone payphone instruments installed or made available for public use within the Commonwealth of Virginia, whether owned and operated by a local exchange company, an interexchange carrier, a cellular carrier, or a privately owned pay telephone service provider:

1. Local exchange telephone companies, interexchange carriers, and cellular carriers are Any Payphone Service Provider (PSP) properly registered, as provided for in subdivision 3 of this subsection, with the State Corporation Commission (SCC) is authorized to provide pay telephone payphone service anywhere within their certificated areas in the Commonwealth of Virginia. Private pay telephone service providers, including local exchange companies, interexchange carriers and cellular carriers wishing to provide pay telephone service as providers outside of their certificated service territories, are authorized, when they have been properly registered with the State Corporation Commission (SCC), to provide pay telephone service anywhere within the Commonwealth of Virginia. The provisions contained herein apply to local exchange telephone companies, interexchange carriers, and private pay telephone service providers all registered PSPs. Restricted access pay telephone payphone instruments provided to confinement facilities are excluded from the registration requirement and all other application of this section. Cellular carriers must conform to subdivisions 3 and 13 of this subsection, but are otherwise excluded from the application of this subsection. Should circumstances such as, for example, consumer complaints make it necessary, the Commission SCC may in its own discretion amend this section for further application to cellular pay telephone providers and to restricted access instruments provided to confinement facilities.

2. Reliable connections to the telecommunications network and high quality service to end users is are expected of all pay telephone payphone providers.

3. Any SCC certificated local exchange company, interexchange carrier, or cellular carrier who is a provider of pay telephone service must submit a notarized letter to the SCC by not later than January 1, 1994, which attests to that fact. If any SCC certificated local exchange, interexchange, or cellular carrier is not a pay telephone service provider as of January 1, 1994 and, subsequent to that date, plans to become a provider of that service, they must first submit a notarized letter to

the SCC attesting to its intent. The letters as described in this subdivision should be addressed to the Division of Communications, P.O. Box 1197, Richmond, Virginia 23218.

4. 3. The State Corporation Commission SCC assesses a nonrefundable registration fee each year for each private pay telephone payphone operated in Virginia, including those telephones operated by local exchange companies, interexchange carriers and cellular carriers providing pay telephone service outside of their certificated service areas. The fee is \$40 \$4.00 per year per private pay telephone operated for one or two pay telephones, and \$8.00 per private pay telephone operated for three or more pay telephones payphone. The provider must submit this fee with the completed Commission SCC form in order to become registered. In the first year of the Pay Telephone Registration Act this fee will be due by not later than February 1, 1994, and For all currently registered PSPs and all local exchange carriers registering with the SCC for the first time, the fee and completed SCC form will be due by not later than January 1, 1998. In subsequent years, the fee will be assessed and payable to the Commission SCC by January 1 of each successive year. A late filing fee of 10% of the registration fee or \$25, whichever is greater, will be assessed for all first-year applications received after February 1, 1994, and for late payments registration applications and filing fees received after January 1, 1998, and after January 1 in successive years. After the Commission SCC processes a form and completes the registration process no refunds on fees received will be allowed. New PSPs must register and pay the total fee for the year of their initial registration before beginning operation. Commission SCC forms may be obtained by writing to the Division of Communications, P.O. Box 1197, Richmond, Virginia 23218 or by calling the Division of Communications at (804) 371-9420.

5. Private pay telephone 4. Payphone service may be provided only through telephone instruments registered by the Federal Communications Commission (FCC).

6. Pay telephone 5. Payphone instruments must be equipped to receive incoming calls unless they are prominently marked with either the words "OUTGOING CALLS ONLY," "NO INCOMING CALLS" or other language deemed acceptable by the Commission SCC which will reasonably advise the user that no incoming service is available.

7. 6. All providers of privately owned pay telephone payphone service must notify the area local exchange carrier of a pay telephone payphone instrument's connection, location, pay telephone provider's SCC registration number, and such other details as the local exchange company may need for billing purposes. Failure to provide accurate information could result in the instrument not being connected or being disconnected.

~~8.~~ 7. Where business flat rate service is available, local exchange companies will furnish access lines to ~~privately owned pay telephones~~ PSPs at a flat rate not to exceed the private branch exchange trunk flat rate. Where available, local exchange companies will offer optional message rate and/or measured rate business service access lines to ~~privately owned pay telephone~~ providers.

~~9.~~ 8. All ~~pay telephone service~~ providers must furnish local directory number information on their ~~pay telephone~~ payphone instruments. End users of ~~private pay telephones~~ payphones may be charged by the ~~private pay telephone~~ providers for local directory assistance service. The maximum local directory assistance charge from a ~~private pay telephone~~ payphone shall be determined by rounding the local exchange company charge up to the nearest multiple of \$.05. Any long distance directory assistance charge applied to the ~~pay telephone~~ payphone service provider by certificated carriers may be passed on to the ~~pay telephone~~ payphone instrument user.

~~10.~~ 9. All ~~pay telephone~~ payphone instruments must be equipped for dial tone first.

~~11.~~ 10. All ~~pay telephone~~ payphone instruments must provide calling without a charge to 911 where that number is utilized by emergency agencies. All ~~pay telephone~~ payphone instruments must allow consumers to reach an operator without charge by dialing "Operator ("0")." The operator whom the consumer reaches must provide prompt, efficient, and accurate emergency service to a consumer when requested. The Commission SCC may require a ~~pay telephone~~ provider to route "Operator ("0")" calls to the LEC Operator serving the area in which the instruments of the ~~pay telephone~~ provider are located if the operator service whom the ~~pay telephone~~ provider uses does not provide prompt, efficient and accurate emergency service to a consumer when requested.

~~12.~~ 11. The maximum rate for local calls or extended area calls originating from all ~~pay telephone~~ payphone instruments, whether the call is completed ~~coin paid~~, billed collect, billed to a credit card, or billed to a third number, may not exceed the rate approved for the area local exchange company including any operator assistance charges. However, a ~~private pay telephone~~ provider may initiate a proceeding before the Commission SCC to prove that its costs cannot reasonably be met under the rate caps contained herein.

~~13.~~ The charge for all intrastate toll calls placed from local exchange company, inter-exchange carrier, or cellular carrier-owned pay telephone instruments shall be as specified in the tariffs on file with the Commission. 12. The maximum charge for all intrastate, intraLATA toll calls placed from all ~~privately owned pay telephone~~ payphone instruments may not exceed the approved charge for similarly rated calls, including any operator assistance charges, as specified in the area local

exchange company tariff, plus a surcharge of \$1.00. The maximum charge for all intrastate, interLATA toll calls placed from ~~privately owned pay telephone~~ payphone instruments may not exceed the charge for similarly rated calls as specified in the tariffs of AT&T, plus a surcharge of \$1.00. However, a ~~private pay telephone~~ provider may initiate a proceeding before the Commission SCC to prove that its costs cannot reasonably be met under the rate caps contained herein.

~~14.~~ 13. All ~~pay telephone service~~ providers must post consumer information and instructions on their ~~pay telephone~~ payphone instruments as specified in the ~~attachment to subsection B of this section~~.

~~15.~~ 14. In providing intrastate toll service, all ~~pay telephone service~~ providers must allow dialed user access without charge from their ~~pay telephone~~ payphone instruments to all operator service providers' networks through their "950," "800," or "1-0-XXX-0+" or "1-0-1-0XXX-0" numbers. Dialed user access without charge must also be allowed to the local exchange operator. In those cases where the access code "0" is reserved for carriers other than the local exchange company operator, access to the local exchange operator must be provided through the access code "0."

~~16.~~ 15. All coin operated ~~pay telephone~~ payphone instruments must accept any combination of nickels, dimes, and quarters for local and long distance calling charges. All coin operated ~~pay telephone~~ payphone instruments must return any deposited amount if the call is not completed.

~~17.~~ 16. All ~~pay telephone service~~ providers must assure that a process exists for making prompt refunds to customers.

~~18.~~ 17. All ~~pay telephone service~~ providers must make all reasonable efforts to minimize the extent and duration of service interruptions. Ninety percent to 100% of all ~~pay telephone~~ payphone instruments which are reported as being out of service, when the trouble condition does not require construction work, must be restored to service within 24 hours of the report receipt. The 24-hour clearance standard excludes trouble reports received on Sundays, legal holidays, and during emergency operating conditions. Out of service reports which require construction must be cleared within five business days of report receipt.

~~19.~~ 18. Local exchange companies must furnish ~~private pay telephone service~~ providers who operate within their certificated areas a listing of all central office codes working in their area. In addition, the local exchange companies must also provide information to ~~private pay telephone service~~ providers on local and extended calling areas. This information must be updated by the local exchange companies and reissued to the ~~private pay telephone service~~ providers as central office codes are added or deleted and as changes occur in local calling and extended calling areas. If local exchange

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companies wish to charge ~~private pay telephone~~ providers for furnishing the above described information, they should submit tariffs for ~~Commission~~ SCC approval which describe their proposal.

~~20.~~ 19. All ~~pay telephone~~ *payphone* instruments must conform to the requirements and the timetables which are prescribed in the Americans with Disabilities Act (42 USC § 12101 et seq.).

~~24.~~ 20. Failure to comply with this section may result in appropriate action by the State Corporation Commission to include disconnection of ~~pay telephone~~ *payphone* instruments, fines, loss of registration for ~~private pay telephone~~ providers, loss of authority to engage in the ~~pay telephone~~ *payphone* business for ~~certificated carriers~~, or any combination of these penalties which, in the judgment of the ~~Commission~~ SCC, is necessary to protect the public interest. The sanctions set out in this section are in addition to any remedies that may be available through the Virginia Public Telephone Information Act (§ 59.1-424 et seq. of the Code of Virginia-).

~~22.~~ 21. If it finds that the action is consistent with the public interest, the ~~Commission~~ SCC may exempt a ~~pay telephone~~ provider from some or all of the subdivisions contained herein.

B. ~~Attachment to~~ Commission rules for pay telephone service and instruments. Subdivision A ~~44 13~~ of this section requires that all ~~pay telephone service~~ providers must post consumer information and instructions on their ~~pay telephone~~ *payphone* instruments as specified in this attachment subsection. ~~Pay telephone~~ *Payphone* instruction cards must contain, at a minimum, the following information:

1. Clear operating instructions.
2. Physical address and phone number of the ~~pay telephone~~ *payphone* instrument.
3. Ownership of the instrument, including the owner's name, address, and contact telephone number.
4. Procedures for repair, refunds, and billing disputes, including specific contact telephone numbers for 24-hour contact service.
5. Instructions on how to contact both local and long distance directory assistance.
6. Prominent instructions specifying how to reach the local exchange operator.
7. Clear and prominent instructions on how ~~pay telephone~~ *payphone* users may reach emergency agencies. These instructions shall refer to "911" where that code is in use as a locality's emergency agency contact number. Where "911" is not in use, the instructions must specify that the desired emergency agency's telephone number be called or dial "0" for emergency assistance.

8. If the ~~pay telephone~~ *payphone* instrument is not equipped to receive incoming calls, prominent instructions which read "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or other language deemed acceptable by the ~~Commission~~ SCC which will reasonably advise the user that no incoming service is available must be posted.

9. Instructions on how to reach a ~~pay telephone~~ *payphone* instrument user's preferred long distance or interexchange carrier.

10. The identity of the company normally making the charge for any intrastate long distance or local operator assisted call not handled by the local exchange company operator.

11. A conspicuous notice stating "For long distance rates, dial . . ." The listed number shall be toll free to the ~~pay telephone~~ *payphone* instrument user and shall connect the user to the company normally making the charge for any intrastate long distance or local operator assisted call originating from the ~~pay telephone~~ *payphone* instrument. The party to whom the ~~pay telephone~~ *payphone* instrument user is connected shall be able to quote a specific rate for each call upon inquiry.

12. Any and all other notices or information required by the Virginia Public Telephone Information Act (~~VPTIA~~, § 59.1-424 et seq. of the Code of Virginia-).

VA.R. Doc. No. R98-89; Filed November 5, 1997, 9:37 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.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

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

Title of Regulation: 4 VAC 15-260-10 et seq. **Game:** Waterfowl and Waterfowl Blinds (amending 4 VAC 15-260-140).

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

Effective Date: October 24, 1997.

Summary:

The amendment adds tungsten-iron shot as a permissible nontoxic shot for use in waterfowl hunting if such shot is permissible under federal migratory waterfowl regulations.

Agency Contact: Copies of the regulation may be obtained from Phil Smith, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-260-140. Steel Nontoxic shot required for waterfowl hunting effective 1994-95.

~~Effective with the 1994-95 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese (including brant), swans or coots while possessing shotshells loaded with shot other than steel or bismuth-tin or tungsten-iron shot if such shot is permissible under federal migratory waterfowl laws regulations.~~

VA.R. Doc. No. R97-752; Filed October 24, 1997, 11:15 a.m.

MARINE RESOURCES COMMISSION

REGISTRAR'S 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 20-610-10 et seq. **Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4 VAC 20-610-30).**

Statutory Authority: §§ 28.2-201 and 28.2-243 of the Code of Virginia.

Effective Date: November 1, 1997.

Preamble:

This regulation describes the procedures and manner for application for registration as a commercial fisherman, the manner and form of mandatory harvest reports by commercial fishermen and others, and exceptions to the registration process and delay requirements as specified in § 28.2-241 of the Code of Virginia. A commercial hook-and-line license is also established.

Summary:

The amendment allows persons to serve as agents for selling the catch of commercial fishermen without possessing the fisherman's commercial fisherman registration license.

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 20-610-30. Commercial fisherman registration license; exceptions.

A. In accordance with § 28.2-241 C of the Code of Virginia, only persons who hold a valid Commercial Fisherman Registration License may sell, trade, or barter their catch, or give their catch to another, in order that it may be sold, traded, or bartered. Only these licensees may sell their catches from Virginia tidal waters, regardless of the method or manner in which caught. Exceptions to the requirement to register as a commercial fisherman for selling catch are authorized for the following persons only:

1. Persons taking menhaden under the authority of licenses issued pursuant to § 28.2-402 of the Code of Virginia.
2. Persons independently harvesting and selling, trading, or bartering no more than three gallons of minnows per day who are not part of, hired by, or engaged in a continuing business enterprise.
 - a. Only minnow pots, a cast net or a minnow seine less than 25 feet in length may be used by persons independently harvesting minnows.
 - b. All other marine species taken during the process of harvesting minnows shall be returned to the water immediately.
3. ~~One agent, who is not registered as a commercial fisherman, may be authorized to possess the registration~~

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~~license of a commercial fisherman in order to serve as a substitute in his absence for fishing the license holder's gear and selling the catch. No more than one person shall be used as an agent at any time. An agent must possess the registration license of the owner when fishing or selling the catch in his behalf. Any person is authorized to possess the registration license of a commercial fisherman in order to serve as an agent for fishing the commercial fisherman's gear and selling the catch. No commercial fisherman shall use more than one person as an agent at any time. The agent shall possess the registration license and gear license of the commercial fisherman when fishing. When transporting or selling a commercial fisherman's catch, the agent shall possess either the registration license of that commercial fisherman or a bill of lading indicating that fisherman's name, address, commercial fisherman registration license number, date and amount of product to be sold.~~

B. In accordance with § 28.2-241 H, of the Code of Virginia, only persons with a valid Commercial Fisherman Registration License may purchase gear licenses. Beginning with licenses for the 1993 calendar year and for all years thereafter, gear licenses will be sold only upon presentation of evidence of a valid Commercial Fisherman Registration License.

Exceptions to the prerequisite requirement are authorized for the following gears only, and under the conditions described below:

1. Menhaden purse seine licenses issued pursuant to § 28.2-402 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.
2. Commercial gear licenses used for recreational purposes and issued pursuant to § 28.2-226.2 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.

C. Exceptions to the two-year delay may be granted by the commissioner [] if he finds any of the following:

1. (i) The applicant for an exception has demonstrated, to the satisfaction of the commissioner, that the applicant has fished a significant quantity of commercial gear in Virginia waters during at least two of the previous five years; and (ii) the applicant can demonstrate, to the satisfaction of the commissioner, that a significant hardship caused by unforeseen circumstances beyond the applicant's control has prevented the applicant from making timely application for registration. The commissioner may require the applicant to provide such documentation as he deems necessary to verify the existence of hardship.
2. The applicant is purchasing another commercial fisherman's gear, and the seller of the gear holds a Commercial Fisherman Registration License and the

seller surrenders that license to the commission at the time the gear is sold.

3. An immediate member of the applicant's family, who holds a current registration, has died or is retiring from the commercial fishery and the applicant intends to continue in the fishery.
4. Any applicant denied an exception may appeal the decision to the commission. The applicant shall provide a request to appeal to the commission 30 days in advance of the meeting at which the commission will hear the request. The commission will hear requests at their March, June, September, and December meetings.
5. Under no circumstances will an exception be granted solely on the basis of economic hardship.

VA.R. Doc. No. R98-87; Filed October 31, 1997, 11:45 a.m.

Title of Regulation: 4 VAC 20-995-10 et seq. Pertaining to Commercial Hook-and-Line Fishing.

Statutory Authority: §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

Effective Date: December 1, 1997.

Preamble:

This regulation establishes a limited commercial hook-and-line fishery in Virginia tidal waters. Its provisions are designed to provide for a viable commercial fishery while minimizing impacts on fully utilized fish stocks and conflicts with the recreational fishery.

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.

CHAPTER 995.

PERTAINING TO COMMERCIAL HOOK-AND-LINE FISHING.

4 VAC 20-995-10. Purpose.

The purpose of this chapter is to establish a viable commercial hook-and-line fishery in Virginia tidal waters while minimizing the potential for overharvesting of Virginia's fishery stocks and conflicts with the recreational fishery.

4 VAC 20-995-20. Entry limitation; catch restrictions; transfers.

A. *The sale of commercial hook-and-line licenses for 1998 and each year thereafter shall be limited to registered commercial fishermen meeting either of the following two requirements:*

1. *The fisherman shall have held a 1996 commercial hook-and-line license or a 1997 commercial hook-and-line license which was purchased prior to August 26, 1997.*

2. The fisherman shall hold a valid and current striped bass permit issued by the Marine Resources Commission.

B. Persons who are eligible to purchase a commercial hook-and-line license by meeting the provisions of subdivision A 2 of this section may take only striped bass by commercial hook and line.

C. On or after January 1, 1998, any person licensed for commercial hook and line under the provisions of subdivision A 1 of this section may transfer such license to any registered commercial fisherman when said transfer is documented on the form provided by the Marine Resources Commission and approved by the Marine Resources Commissioner. Upon approval, the person entering the commercial hook-and-line fishery shall purchase a commercial hook-and-line license in his own name. No commercial hook-and-line license shall be transferred more than once per calendar year.

4 VAC 20-995-30. Prohibitions.

It shall be unlawful for any person licensed under the provisions of 4 VAC 20-995-20 A 1 as a commercial hook-and-line fisherman to do any of the following:

1. Fail to be on board the vessel when that vessel is operating in a commercial hook-and-line fishing capacity.
2. Have more than three crew members on board.
3. Fail to display prominently the commercial hook-and-line license plate on the starboard side of the vessel.
4. Fish within 300 yards of any bridge, bridge-tunnel, jetty or pier from 6 p.m. Friday through 6 p.m. Sunday.
5. Fish within 300 yards of any fixed fishing device.
6. Use any hydraulic fishing gear or deck-mounted fishing equipment.
7. Use any fishing rod and reel or hand line equipped with more than six hooks.
8. Fish commercially with hook and line aboard any vessel licensed as a charter boat or head boat while carrying customers for recreational fishing.

4 VAC 20-995-40. Spear fishing.

It shall be unlawful for any person to harvest fish for commercial purposes by any method of spear fishing.

4 VAC 20-995-50. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R98-86, Filed November 3, 1997, 11:45 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Mines, Minerals and Energy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 4 VAC 25-130-10 et seq. Coal Surface Mining Reclamation Regulations (amending 4 VAC 25-130-700.5, 4 VAC 25-130-773.15, 4 VAC 25-130-784.14, 4 VAC 25-130-784.20, 4 VAC 25-130-816.116, 4 VAC 25-130-817.41, 4 VAC 25-130-817.116 and 4 VAC 25-130-817.121 and adding 4 VAC 25-130-785.25).

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Effective Date: December 24, 1997.

Summary:

The Department of Mines, Minerals and Energy (DMME) is amending the Coal Surface Mining Reclamation Regulations to incorporate changes made to the federal Office of Surface Mining regulations. These changes address requirements for coal mining companies to:

1. Repair material damage to surface land or repair or compensate owners for damage to certain surface structures due to underground coal mining conducted after October 24, 1992;
2. Replace a drinking, domestic, or residential water supply that has been contaminated, diminished or interrupted by underground coal mining conducted after October 24, 1992;
3. Permit remining activities on previously mined lands.

The United States Congress, in the national Energy Policy Act of 1992, amended the Surface Mining Control and Reclamation Act of 1977 (30 USC § 1201 et seq.) regarding coal remining (30 USC § 2503) and repair or compensation for material damage from subsidence due to underground coal mining and replacement of water supplies contaminated, diminished or interrupted by underground mining (30 USC § 2504).

In response to the federal action, the Virginia General Assembly enacted a 1993 amendment to the Virginia Coal Surface Mining and Reclamation Act of 1979, Chapter 19 (§ 45.1-226 et seq.) of Title 45.1 of the Code of Virginia, establishing the requirements for repair or replacement of water supplies in state law until amendments to the state regulation become effective (§ 45.1-258 of the Code of Virginia). The 1993 amendment also incorporated the subsidence repair or

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compensation requirements of the federal act into state law (§ 45.1-243 of the Code of Virginia).

The federal Office of Surface Mining promulgated final regulations on March 31, 1995, governing the subsidence and water loss provisions of the Energy Policy Act (60 FR 16721). The Office of Surface Mining also promulgated final regulations on November 27, 1995, governing lands eligible for remining (60 FR 58479). This state regulatory action incorporates these changes into the state regulation.

The Department of Mines, Minerals and Energy submitted these proposed regulatory amendments to the federal Office of Surface Mining for review. The amendments addressing subsidence and water loss were submitted on May 21, 1996 (61 FR 29506). The amendments addressing remining were submitted on May 28, 1996 (61 FR 31071).

The federal Office of Surface Mining approved the proposed remining amendments on September 4, 1996 (61 FR 46552). The Office of Surface Mining approved the subsidence and water loss amendments on September 17, 1997 (62 FR 48758).

This regulatory action does not differ materially from the federal action. It uses the same language as the federal rules except for the following:

1. References to federal regulation numbers have been replaced with references to the appropriate regulation under the Virginia Administrative Code.
2. The term "regulatory authority" has been replaced with the term "division."
3. The term "Act" has been replaced with the term "federal Act."
4. A subdivision has been added at 4 VAC 25-130-817.121 (a)(2)(iii) to clarify what is required when a structure owner denies a coal operator access to implement measures to minimize material damage to certain surface structures. This is not directly addressed in the federal regulations and has been added to the state regulation for clarity. The Office of Surface Mining reviewed this change and found it is consistent with the federal regulation.
5. The federal regulations governing subsidence from underground coal mining establish an angle-of-draw to set the area in which there is a rebuttable presumption of causation of damage from underground mining. The federal regulation set a 30° national standard for an angle-of-draw but provided that a state may apply the presumption to a different angle-of-draw if the different angle has a more reasonable basis than the national number.

DMME submitted technical justification to the Office of Surface Mining to support a 28° angle-of-draw in Virginia. The Office of Surface Mining has accepted this technical

justification stating that the proposed language "is consistent with and no less effective than" the federal regulation. Therefore, the DMME has drafted this regulation using a 28° angle-of-draw.

Agency Contact: Copies of the regulation may be obtained from Lola Flanary, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233 or (540) 523-8235.

4 VAC 25-130-700.5. Definitions.

As used throughout this chapter, the following terms have the specified meanings except where otherwise indicated.

"*Abatement plan*" means an individual technique or combination of techniques, the implementation of which is designed to result in reduction of the baseline pollution load. Abatement techniques include but are not limited to: addition of alkaline material, special plans for managing toxic and acid forming material, regrading, revegetation, and daylighting.

"*Acid drainage*" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive, or abandoned surface coal mining and reclamation operation or from an area affected by surface coal mining and reclamation operations.

"*Acid-forming materials*" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acid that may create acid drainage or leachate.

"*Act*" means the Virginia Coal Surface Mining Control and Reclamation Act of 1979 as amended (Chapter 19 (§ 45.1-226 et seq.) of Title 45.1 of the Code of Virginia).

"*Actual improvement*" means the reduction of the baseline pollution load resulting from the implementation of the approved abatement plan: except that a reduction of the baseline pollution load achieved by water treatment may not be considered as actual improvement.

"*Adjacent area*" means the area outside the permit area where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations, including probable impacts from underground workings.

"*Administratively complete application*" means an application for permit approval, or approval for coal exploration where required, which the division determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

"*Adverse physical impact*" means, with respect to a highwall created or impacted by remining, conditions such as sloughing of material, subsidence, instability, or increased erosion of highwalls, which occur or can reasonably be expected to occur as a result of remining and which pose threats to property, public health, safety, or the environment.

"Affected area" means any land or water surface area which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes the disturbed area; any area upon which surface coal mining and reclamation operations are conducted; any adjacent lands, the use of which is incidental to surface coal mining and reclamation operations; all areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations, except as provided in this definition; any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas; any areas upon which are sited structures, facilities, or other property or material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings. The affected area shall include every road used for purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road is a public road.

"Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

"Anthracite" means coal classified as anthracite in ASTM Standard D 388-77. Coal classifications are published by the American Society of Testing and Materials under the title, "Standard Specification for Classification of Coals by Rank," ASTM D 388-77, on pages 220 through 224. Table 1 which classifies the coals by rank is presented on page 223. This publication is hereby incorporated by reference.

"Applicant" means any person seeking a permit, permit revision, renewal, and transfer, assignment, or sale of permit rights from the division to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

"Application" means the documents and other information filed with the division under this chapter for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit rights for surface coal mining and reclamation operations or, where required, for coal exploration.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the division has determined that they comply with 4 VAC 25-130-816.49, 4 VAC 25-130-816.56, and 4 VAC 25-130-816.133 or 4 VAC 25-130-817.49, 4 VAC 25-130-817.56, and 4 VAC 25-130-817.133.

"Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

"Auger mining" means a method of mining coal at a cliff or highwall by drilling or cutting holes into an exposed coal seam from the highwall and transporting the coal along the auger bit to the surface.

"Authorized officer" means any person authorized to take official action on behalf of a federal agency that has administrative jurisdiction over federal lands.

"Baseline pollution load" means the characterization of the pollution material being discharged from or on the pollution abatement area, described in terms of mass discharge for each parameter, including seasonal variations and variations in response to precipitation events. The division will establish in each authorization the specific parameters it deems relevant for the baseline pollution load.

"Best professional judgment" means the highest quality technical opinion forming the basis for the terms and conditions of the treatment level required after consideration of all reasonably available and pertinent data. The treatment levels shall be established by the division under sections §§ 301 and 402 of the federal Water Pollution Control Act (33 USC §§ 1311 and 1342).

"Best technology" means measures and practices which are designed to abate or ameliorate to the maximum extent possible pollutional discharges from or on the pollution abatement area. These measures include engineering, geochemical or other applicable practices.

"Best technology currently available" means equipment, devices, systems, methods, or techniques which will:

(a) Prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contribution of suspended solids in excess of requirements set by the applicable state or federal laws;

(b) Minimize, to the extent possible, disturbances, and adverse impacts on fish, wildlife, and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, terms, methods, or techniques which are currently available anywhere as determined by the division even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with Parts 816 and 817 of this chapter. Within the constraints of the permanent program, the division shall have the discretion to determine the best technology currently available on a case-by-case basis, as authorized by the Act and this chapter.

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"Cemetery" means any area of land where human bodies are interred.

"Certification" when used in regards to construction certifications by qualified registered professional engineers, is not considered to be a warranty or guarantee.

"Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77, referred to and incorporated by reference in the definition of "anthracite."

"Coal exploration" means the field gathering of:

(a) Surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

(b) the gathering of Environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of this chapter.

"Coal lease" means a federal coal lease or license issued by the Bureau of Land Management pursuant to the Mineral Leasing Act and the federal Acquired Lands Leasing Act of 1947 (30 USC § 351 et seq.).

"Coal mine waste" means coal processing waste and underground development waste.

"Coal mining operation" means, for the purposes of Part 705 of this chapter - Financial Interests Of State Employees, the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the areas upon which such activities occur.

"Coal preparation" or "coal processing" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

"Coal preparation plant" means a facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. It includes facilities associated with coal preparation activities, including but not limited to the following: loading facilities; storage and stockpile facilities; sheds, shops, and other buildings; water-treatment and water storage facilities; settling basins and impoundments; and coal processing and other waste disposal areas.

"Coal processing waste" means earth materials which are separated and wasted from the product coal during cleaning, concentrating, or other processing or preparation of coal.

"Cognovit note" means an extraordinary note which authorizes an attorney to confess judgement against the person or persons signing it. It is written authority of a debtor and a direction by him for entry of a judgement against him if the obligation set forth in the note is not paid when due. Such judgement may be taken by any person holding the note, which cuts off every defense which makers of the note may otherwise have and it likewise cuts off all rights of

appeal from any judgement taken on it. The note shall, at a minimum:

- (a) Contain the date of execution.
- (b) Be payable to the "Treasurer of Virginia."
- (c) Be due and payable in the event of bond forfeiture of the permit.
- (d) Be payable in a sum certain of money.
- (e) Be signed by the makers.

"Collateral bond" means an indemnity agreement in a sum certain executed by the permittee and deposited with the division supported by one or more of the following:

- (a) The deposit of cash in one or more federally-insured accounts, payable only to the division upon demand;
- (b) Negotiable bonds of the United States, the Commonwealth of Virginia, or a political subdivision thereof, endorsed to the order of, and placed in the possession of the division; the bond will only be acceptable if the issue is rated "A" or better by Moody's Investor Service, Inc., or Standard and Poor's, Inc.;
- (c) Certificates of deposit issued by Virginia banks payable only to the division and placed in its possession. No security in default as to principal or interest shall be acceptable as collateral.

"Combustible material" means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

"Community or institutional building" means any structure, other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental-health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

"Compaction" means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

"Complete and accurate application" means an application for permit approval or approval for coal exploration where required which the division determines to contain all information required under the Act and this chapter.

"Contamination" means, in reference to ground water or surface water supplies receiving ground water, any impairment of water quality which makes the water unsuitable for a specific use.

"Cooperative agreement" means a cooperative agreement entered into in accordance with section § 523(c) of the federal Act and 30 CFR 745.

"*Cumulative impact area*" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and ground water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

- (a) The proposed operation;
- (b) All existing operations;
- (c) Any operation for which a permit application has been submitted to the division; and
- (d) All operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available.

"*Department*" means the Department of Mines, Minerals and Energy (DMME) of Virginia.

"*Diminution*" means, in reference to ground or surface water supplies receiving ground water, any impairment of water quantity which makes the water unsuitable for a specific use.

"*Direct financial interest*" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property and other financial relationships.

"*Director*" means the Director of the Department of Mines, Minerals, and Energy or his representative.

"*Disturbed area*" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or non-coal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by Subchapter VJ is released.

"*Diversion*" means a channel, embankment, or other manmade structure constructed to divert water from one area to another.

"*Division*" means the Division of Mined Land Reclamation of the Department of Mines, Minerals, and Energy.

"*Drinking water supply,*" "*domestic water supply*" or "*residential water supply*" means water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included, except to the extent the water supply is for direct human consumption or human sanitation or domestic use.

"*Downslope*" means the land surface between the projected outcrop of the lowest coal bed being mined along each highwall and a valley floor.

"*Embankment*" means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

"*Employee*" means (a) any person employed by the department or other state or local government agency who performs any function or duty under the Act, and (b) consultants who perform any function or duty under the Act, if they perform decision-making functions for the department under the authority of the Act or regulations promulgated under the Act.

"*Ephemeral stream*" means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice, and which has a channel bottom that is always above the local water table.

"*Escrow account*" means an account in a federally-insured financial institution.

"*Excess spoil*" means spoil material disposed of in a location other than the mined-out area; provided that spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in accordance with 4 VAC 25-130-816.102(d) and 4 VAC 25-130-817.102(d) in nonsteep slope areas shall not be considered excess spoil.

"*Existing structure*" means a structure or facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to the approval of the state program or a federal land program, whichever occurs first.

"*Extraction of coal as an incidental part*" means for the purposes of Part 707 of this chapter, the extraction of coal which is necessary to enable the construction to be accomplished. For purposes of Part 707, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of the Act and this chapter.

"*Federal act*" means the federal Surface Mining Control and Reclamation Act of 1977, as amended (Pub. L. 95-87).

"*Federal land management agency*" means a federal agency having administrative jurisdiction over the surface of federal lands that are subject to this chapter.

"*Federal lands*" means any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands.

"*Federal lands program*" means a program established by the secretary pursuant to section § 523 of the federal Act to

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regulate surface coal mining and reclamation operations on federal lands.

"Federal lease bond" means the bond or equivalent security required by 43 CFR 3400 to assure compliance with the terms and conditions of a federal coal lease.

"Federal lessee protection bond" means a bond payable to the United States or the state, whichever is applicable, for use and benefit of a permittee or lessee of the surface lands to secure payment of any damages to crops or tangible improvements on federal lands, pursuant to Section § 715 of the federal Act.

"Federal program" means a program established by the secretary pursuant to Section § 504 of the federal Act to regulate coal exploration and surface coal mining and reclamation operations on nonfederal and non-Indian lands within the state in accordance with the federal act and 30 CFR Chapter VII.

"First water producing zone" means the first water zone encountered which can be monitored in a manner which indicates the effects of a surface mining operation on usable ground water.

"Fragile lands" means areas containing natural, ecologic, scientific or aesthetic resources that could be significantly damaged by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, paleontological sites, National Natural Landmarks, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and aesthetic features and areas of recreational value due to high environmental quality.

"Fugitive dust" means that particulate matter which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation operations it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed. Fugitive dust does not include particulate matter emitted from a duct or stack.

"Fund" as used in Subchapter VR means the Abandoned Mine Reclamation Fund established pursuant to Section § 45.1-261 of the Act.

"General area" means, with respect to hydrology, the topographic and ground water basin surrounding a permit area and adjacent areas to include one or more watersheds containing perennial streams or ground water zones which possess useable and/or managed zones or flows, to allow an assessment of the probable cumulative impacts on the hydrologic regime.

"Government-financed construction" means construction funded 50 percent % or more by funds appropriated from a

government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments.

"Government financing agency" means any federal, state, regional, county, city or town unit of government, or a department, bureau, agency or office of a governmental unit or any combination of two or more governmental units or agencies, which, directly or through another unit of government, finances construction.

"Gravity discharge" means, with respect to underground coal mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs as a result of flooding a mine to the level of the discharge is not gravity discharge.

"Ground cover" means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of ground.

"Ground water" means subterranean water which exists within a totally saturated zone, stratum or group of strata.

"Growing season" means the period of year when climatic conditions are favorable for plant growth, common to a place or area. The period between April 15 and October 15 is the normal growing season.

"Half-shrub" means a perennial plant with a woody base whose annually produced stems die back each year.

"Head-of-hollow fill" means a fill structure consisting of any material, except organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow, measured at the steepest point, are greater than 20 degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than 10 degrees. In head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill, draining into the fill area.

"Higher or better uses" means postmining land uses that have a higher value or benefit, either economic or noneconomic, to the landowner or the community than the premining land uses.

"Highwall" means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

"Highwall remnant" means that portion of highwall that remains after backfilling and grading of a remaining permit area.

"Historically used for cropland" means (1) lands that have been used for cropland for any 5 five years or more out of the 10 years immediately preceding the acquisition, including purchase, lease, or option, of the land for the purpose of conducting or allowing through resale, lease, or option the

conduct of surface coal mining and reclamation operations; (2) lands that the division determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific 5 five-years-in-10 criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or (3) lands that would likely have been used as cropland for any 5 five out of the last 10 years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

"Historic lands" means areas containing historic, cultural, or scientific resources. Examples of historic lands include archaeological sites, properties listed on or eligible for listing on a the State or National Register of Historic Places, National Historic Landmarks, properties having religious or cultural significance to native Americans or religious groups, and properties for which historic designation is pending.

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transportation.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of the Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement.

"Impounding structure" means a dam, embankment or other structure used to impound water, slurry, or other liquid or semi-liquid material.

"Impoundments" mean all water, sediment, slurry or other liquid or semi-liquid holding structures and depressions, either naturally formed or ~~artificially~~ *artificially* built.

"Indemnity agreement" means an agreement between two persons in which one person agrees to pay the other person for a loss or damage. The persons involved can be individual people, or groups of people, or legal organizations, such as

partnerships, corporations or government agencies, or any combination of these.

"Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by the employee's spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

"In situ processes" means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

"Intermittent stream" means:

- (a) A stream or section of a stream that drains a watershed of at least one square mile, or
- (b) A stream or section of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

"Irreparable damage to the environment" means any damage to the environment, in violation of the Act, or this chapter, that cannot be corrected by the permittee.

"Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under § 404 or under § 402(g)(4) of the federal act.

"Land use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal use occur and may include land used for support facilities that are an integral part of the use. Changes of land use from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the division.

- (a) "Cropland." Land used for production of crops which can be grown for harvest alone or in a rotation with grasses and legumes, that include row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar crops.
- (b) "Pastureland" or land occasionally cut for hay. Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed.
- (c) "Grazingland." Lands used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

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(d) "Forestry." Land used or managed for long-term production of wood, wood fiber, or wood derived products.

(e) "Residential." Land used for single and/or multiple family housing, mobile home parks, or other residential lodgings.

(f) "Industrial/Commercial." Land used for:

(1) Extraction or transformation of materials for fabrication of products, wholesaling of products, or long-term storage of products. This includes all heavy and light manufacturing facilities.

(2) Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

(g) "Recreation." Land used for public or private leisure-time activities, including developed recreation facilities such as parks, camps, amusement areas, as well as undeveloped areas for recreation such as hiking and canoeing.

(h) "Fish and wildlife habitat." Land dedicated wholly or partially to the production, protection, or management of species of fish or wildlife.

(i) "Developed water resources." Land used for storing water for beneficial uses, such as stockponds, irrigation, fire protection, flood control, and water supply.

(j) "Undeveloped land or no current use or land management." Land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

"Leachate" means water percolating from a surface coal mining operation which contains dissolved and suspended matter.

"Leased federal coal" means coal leased by the United States pursuant to 43 CFR Part 3400, except mineral interests in coal on Indian lands.

"Lease terms, conditions and stipulations" means all of the standard provisions of a federal coal lease, including provisions relating to lease duration, fees, rentals, royalties, lease bond, production and recordkeeping requirements, and lessee rights of assignment, extension, renewal, termination and expiration, and site-specific requirements included in federal coal leases in addition to other terms and conditions which relate to protection of the environment and of human, natural and mineral resources.

"Material damage" in the context of 4 VAC 25-130-784.20 and 4 VAC 25-130-817.121 means:

(a) Any functional impairment of surface lands, features, structures, or facilities;

(b) Any physical change that has a significant adverse impact on the affected land's capability to support any

current or reasonably foreseeable uses or causes significant loss in production or income; or

(c) Any significant change in the condition, appearance, or utility of any structure or facility from its presubsidence condition.

"Mineral Leasing Act" or "MLA" means the Mineral Leasing Act of 1920, as amended, 30 USC § 181 et seq.

"Mining plan" means the plan, for mining leased federal coal, required by the Mineral Leasing Act.

"Mining supervisor" means the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, or District Mining Supervisor or other subordinate acting under their direction.

"Moist bulk density" means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (1/3 bar moisture tension). Weight is determined after drying the soil at 105 degrees Centigrade ° C.

"MSHA" means the United States Mine Safety and Health Administration.

"Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, and provide micro-climatic conditions suitable for germination and growth.

"Natural hazard lands" means geographic areas in which natural conditions exist which pose or as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, severe wind or soil erosion, frequent flooding, and areas of unstable geology.

"Net worth" means total assets less total liabilities. Total liabilities include, but are not limited to, funds pledged or otherwise obligated to the Commonwealth of Virginia, or to any other person at any time during the permit term. Total liabilities also include, but are not limited to, contingent liabilities that might materially affect the Commonwealth's ability to collect the amount of bond required in the event of bond forfeiture.

"Noncommercial building" means any building other than an occupied residential dwelling that at the time subsidence occurs is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined in this section. Any building used only for commercial agricultural, industrial, retail or other commercial enterprises is excluded.

"Noxious plants" means living plants which are declared to be noxious weeds or noxious plants pursuant to the Virginia Noxious Weed Law, Chapter 17.2 (§ 3.1-296.11 et seq.) of Title 3.1 of the Code of Virginia.

"Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

"Occupied residential dwelling and structures related thereto" means, for purposes of 4 VAC 25-130-784.20 and 4 VAC 25-130-817.121, any building or other structures that, at the time the subsidence occurs, is used either temporarily, occasionally, seasonally or permanently for human habitation. This term also includes any building, structure, or facility installed on, above or below, or a combination thereof, the land surface if that building structure or facility is adjunct to or used in connection with an occupied residential dwelling. Examples of such structures include, but are not limited to, garages; storage sheds and barns; greenhouses and related buildings; utilities and cables; fences and other enclosures; retaining walls; paved or improved patios, walks and driveways; septic sewage treatment facilities; and lot drainage and lawn and garden irrigation systems. Any structure used only for commercial agriculture, industrial, retail or other commercial purposes is excluded.

"Office" or "OSM" means the Office of Surface Mining Reclamation and Enforcement established under Title II of the federal Act.

"Operator" means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location.

"Other treatment facilities" means any facilities for chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point source discharge and that are utilized to prevent additional contribution of suspended solids to streamflow or runoff outside the permit area.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Owned or controlled" and "owns or controls" mean any one or a combination of the relationships specified in paragraphs (a) and (b) of this definition:

(a) ~~(1)~~ (i) Being a permittee of a surface coal mining operation; ~~(2)~~ (ii) Based on instrument of ownership or voting securities, owning of record in excess of 50 percent % of an entity; or ~~(3)~~ (iii) Having any other relationship which gives one person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations.

(b) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

- (1) Being an officer or director of an entity;
- (2) Being the operator of a surface coal mining operation;
- (3) Having the ability to commit the financial or real property assets or working resources of an entity;
- (4) Being a general partner in a partnership;
- (5) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent % of the entity; or
- (6) Owning or controlling coal to be mined by another person under a lease, sublease or other contract and having the right to receive such coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

"Perennial stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of ground-water discharge or surface runoff. The term does not include "intermittent stream" or "ephemeral stream."

"Performance bond" means a surety bond, collateral bond, or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Act, this chapter, and the requirements of the permit and reclamation plan.

"Performing any function or duty under this Act" means decision or action, which if performed or not performed by an employee, affects the programs under the Act.

"Permanent diversion" means a diversion which is approved by the division and, if required, by other state and federal agencies for retention as part of the postmining land use.

"Permanent impoundment" means an impoundment which is approved by the division and, if required, by other state and federal agencies for retention as part of the postmining land use.

"Permit" means a permit to conduct surface coal mining and reclamation operations issued by the division pursuant to the Act and this chapter or by the secretary pursuant to a federal program. For the purposes of the federal lands program, permit means a permit issued by the division under a cooperative agreement or by the OSM where there is no cooperative agreement.

"Permit application package" means a proposal to conduct surface coal mining and reclamation operations on federal lands, including an application for a permit, permit revision or permit renewal, all the information required by the federal Act, 30 CFR Subchapter D, the Act and this chapter, any applicable cooperative agreement and all other applicable laws and regulations including, with respect to leased federal coal, the Mineral Leasing Act and its implementing regulations.

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"*Permit area*" means the area of land indicated on the approved map submitted by the permittee with his application, required to be covered by the permittee's performance bond under Subchapter VJ and which shall include the area of land upon which the permittee proposes to conduct surface coal mining and reclamation operations under the permit. The permit area shall include all disturbed areas except that areas adequately bonded under another permit issued pursuant to this chapter may be excluded from the permit area.

"*Permittee*" means a person holding or required by the Act or this chapter to hold a permit to conduct coal exploration (more than 250 tons) or surface coal mining and reclamation operations issued (a) by the division, (b) by the director of the OSM pursuant to a federal lands program, or (c) by the OSM and the division, where a cooperative agreement pursuant to Section § 45.1-230 B of the Act has been executed.

"*Person*" means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization and any agent, unit, or instrumentality of federal, state or local government including any publicly owned utility or publicly owned corporation of federal, state or local government.

"*Person having an interest which is or may be adversely affected*" or "*person with a valid legal interest*" shall include any person:

(a) Who uses any resources of economic, recreational, aesthetic, or environmental value that is, or may be, in fact adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the division; or

(b) Whose property is, or may be, in fact adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the division.

The term "*adversely affected*" is further defined as meaning perceptibly harmed. "*Aesthetics*" means the consideration of that which is widely regarded to be a visibly beautiful element of a community or area.

"*Piezometer*" means a vertical pipe that is established in material, which is closed at the bottom, perforated from the upper limits of the material to the lower limits of the material, and which permits static water level measurements and water sampling.

"*Pollution abatement area*" means the part of the permit area which is causing or contributing to the baseline pollution load, which shall include adjacent and nearby areas that must be affected to bring about significant improvement of the baseline pollution load, and which may include the immediate location of the discharges.

"*Pool Bond fund*" means the Coal Surface Mining Reclamation Fund established pursuant to Section § 45.1-270.1 of the Act.

"*Precipitation event*" means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. "*Precipitation event*" also includes that quantity of water coming from snow cover as snow melt in a limited period of time.

"*Previously mined area*" means land disturbed or affected by coal mining operations prior to the effective date of the federal Act for that land that was not reclaimed in accordance with the requirements of this chapter.

"*Prime farmland*" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (Federal Register Vol. 4, No. 21) and which have historically been used for cropland.

"*Principal shareholder*" means any person who is the record or beneficial owner of 10 percent % or more of any class of voting stock in a corporation.

"*Professional geologist*" means a person who is certified pursuant to Chapter 14 (§ 54.1-1400 et seq.) of Title 54.1 of the Code of Virginia.

"*Prohibited financial interest*" means any direct or indirect financial interest in any coal mining operation.

"*Property to be mined*" means both the surface property and mineral property within the permit area and the area covered by underground workings.

"*Public building*" means any structure that is owned or leased, and principally used, by a governmental agency for public business or meetings.

~~"*Publicly owned park*" means a public park that is owned by a federal, state or local governmental entity.~~

"*Public office*" means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

"*Public park*" means an area or portion of an area dedicated or designated by any federal, state, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

"*Public road*" means a road (a) which has been designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) which is maintained with public funds, and is constructed, in a manner similar to other public roads of the same classification within the jurisdiction; and (c) for which there is substantial (more than incidental) public use.

~~"*Publicly-owned park*" means a public park that is owned by a federal, state or local governmental entity.~~

"*Qualified laboratory*" means a designated public agency, private firm, institution, or analytical laboratory which can

prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samplings under the Small Operator Assistance Program (4 VAC 25-130-795.1 *et seq.*) and which meets the standards of 4 VAC 25-130-795.10.

"Reasonably available spoil" means spoil and suitable coal mine waste material generated by the reining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

"Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

"Reclamation" means those actions taken to restore mined land as required by this chapter to a postmining land use approved by the division.

"Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the 10-year, 24-hour precipitation event would be that 24-hour precipitation event expected to occur on the average once in 10 years.

"Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by crop production methods approved by the division. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

"Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

"Regulatory program" means the Virginia Coal Surface Mining Control and Reclamation program (Chapter 19 (§ 45.1-226 *et seq.*) of Title 45.1 of the Code of Virginia) and rules and regulations approved by the secretary.

"Reining" means conducting surface coal mining and reclamation operations which affect previously mined areas.

"Renewable resource lands" means areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

"Replacement of water supply" means, with respect to protected water supplies contaminated, diminished or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes a provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

(a) Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and

maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

(b) If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration or surface coal mining and reclamation operations, including use by coal hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices.

"Secretary" means the Secretary of the Interior or the secretary's representative.

"Sedimentation pond" means an impoundment used to remove solids or other pollutants from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

"Self-bond" as provided by Part 801 of this chapter means:

(a) For an underground mining operation, a cognovit note in a sum certain payable on demand to the Treasurer of Virginia, executed by the applicant and by each individual and business organization capable of influencing or controlling the investment or financial practices of the applicant by virtue of this authority as an officer or ownership of all or a significant part of the applicant, and supported by a certification that the applicant participating in the Pool Bond Fund has a net worth, total assets minus total liabilities equivalent to one \$1 million dollars (\$1,000,000). Such certification shall be by an independent certified public accountant in the form of an unqualified opinion.

(b) For a surface mining operation or associated facility, an indemnity agreement in a sum certain payable on demand to the Treasurer of Virginia, executed by the

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applicant and by each individual and business organization capable of influencing or controlling the investment or financial practices of the applicant by virtue of this authority as an officer or ownership of all or a significant part of the applicant.

"*Significant forest cover*" means an existing plant community consisting predominantly of trees and other woody vegetation.

"*Significant, imminent environmental harm to land, air, or water resources*" means:

(a) An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plants and animal life.

(b) An environmental harm is imminent, if a condition, practice, or violation exists which:

(1) Is causing such harm; or,

(2) May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section § 45.1-245 B of the Act.

(c) An environmental harm is significant if that harm is appreciable and not immediately repairable.

"*Significant recreational, timber, economic, or other values incompatible with surface coal mining operations*" means those values to be evaluated for their significance which could be damaged by, and are not capable of existing together with, surface coal mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on other affected areas. Those values to be evaluated for their importance include:

(a) Recreation, including hiking, boating, camping, skiing or other related outdoor activities;

(b) Timber management and silviculture;

(c) Agriculture, aquaculture or production of other natural, processed or manufactured products which enter commerce;

(d) Scenic, historic, archaeological, esthetic, fish, wildlife, plants or cultural interests.

"*Siltation structure*" means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

"*Slope*" means average inclination of a surface, measured from its horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v:5h). It may also be expressed as a ~~percent~~ *percentage* or in degrees.

"*Soil horizons*" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four master soil horizons are:

(a) "A horizon." The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest;

(b) "E horizon." The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly differentiated from an underlying B horizon in the same sequum by color of higher value or lower chroma, by coarser texture, or by a combination of these properties;

(c) "B horizon." The layer that typically is immediately beneath the E horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons; and

(d) "C horizon." The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

"*Soil survey*" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 4 VAC 25-130-785.17(c)(1).

"*Spoil*" means overburden that has been removed during surface coal mining operations.

"*Stabilize*" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

"*Steep slope*" means any slope of more than 20 degrees or such lesser slope as may be designated by the division after consideration of soil, climate, and other characteristics of a region or the state.

"*Substantial legal and financial commitments in a surface coal mining operation*" means significant investments, prior to January 4, 1977, have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or the right to mine it without an existing mine, as described in the above example, alone are not sufficient to constitute substantial legal and financial commitments.

"*Substantially disturb*" means, for purposes of coal exploration, to significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface

or by other such activities; or to remove more than 250 tons of coal.

"*Successor in interest*" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

"*Surface coal mining and reclamation operations*" means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations."

"*Surface coal mining operations*" means:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section § 45.1-243 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16 2/3 percent % of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section § 45.1-233 of the Act; and, provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) The areas upon which the activities described in paragraph (a) of this definition occur or where such activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

"*Surface coal mining operations which exist on the date of enactment*" means all surface coal mining operations which were being conducted on August 3, 1977.

"*Surface mining activities*" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by

recovery of coal from a deposit that is not in its original geologic location.

"*Surface operations and impacts incident to an underground coal mine*" means all activities involved in or related to underground coal mining which are either conducted on the surface of the land, produce changes in the land surface or disturb the surface, air or water resources of the area, including all activities listed in Section § 45.1-229 (L) of the Act.

"*Surety bond*" means an indemnity agreement in a sum certain payable to the Commonwealth of Virginia, Director - Division of Mined Land Reclamation, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Virginia.

"*Suspended solids*" or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR Part 136).

"*Temporary diversion*" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and not approved by the division to remain after reclamation as part of the approved postmining land use.

"*Temporary impoundment*" means an impoundment used during surface coal mining and reclamation operations, but not approved by the division to remain as part of the approved postmining land use.

"*Ton*" means 2000 pounds avoirdupois (.90718 metric ton).

"*Topsoil*" means the A and E soil horizon layers of the four master soil horizons.

"*Toxic-forming materials*" means earth materials, or wastes which, if acted upon by air, water, weathering or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

"*Toxic mine drainage*" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill, injure, or impair plant and animal life commonly present in the area that might be exposed to it.

"*Transfer, assignment, or sale of permit rights*" means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the division.

"*Unanticipated event or condition*," as used in 4 VAC 25-130-773.15 means an event or condition related to prior mining activity which arises from a surface coal mining and

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reclamation operation on lands eligible for re-mining that was not contemplated by the applicable permit.

"Underground development waste" means waste-rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed of from underground workings in connection with underground mining activities.

"Underground mining activities" means a combination of:

(a) Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, aboveground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of wastes, and areas on which materials incident to underground mining operations are placed; and

(b) Underground operations such as underground construction, operations, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of the Act, or this chapter due to indifference, lack of diligence, or lack of reasonable care, or failure to abate any violation of such permit, the Act, or this chapter due to indifference, lack of diligence, or lack of reasonable care.

"Usable ground water" or "ground water in use" means all ground water which is reasonably able to be used.

"Valid existing rights" means:

(a) Except for haulroads, that a person possesses a valid existing right for an area protected under Section § 45.1-252 (D) of the Act on August 3, 1977, if the application of any of the prohibitions contained in that section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to compensation under the Fifth and Fourteenth Amendments to the United States Constitution;

(b) For haulroads,

(1) A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

(2) Any other road in existence as of August 3, 1977;

(c) A person possesses valid existing rights if the person proposing to conduct surface coal mining operations can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977. A determination that coal is "needed for" will be based upon a finding that the extension of mining is essential to

make the surface coal mining operation as a whole economically viable;

(d) Where an area comes under the protection of Section § 45.1-252 (D) of the Act after August 3, 1977, valid existing rights shall be found if:

(1) On the date the protection comes into existence, a validly authorized surface coal mining operation exists on that area; or

(2) The prohibition caused by Section § 45.1-252 (D) of the Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution.

(e) Interpretation of the terms of the document relied upon to establish the rights to which the standard of paragraphs (a) and (d) of this definition applies shall be based either upon applicable Virginia statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable state law exists, upon the usage and custom at the time and place it came into existence.

"Valley fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than 20 degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than 10 degrees.

"Violation notice" means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

"Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

"Willful violation" means an act or omission which violates the Act, this chapter, or any permit condition required by the Act, or this chapter, committed by a person who intends the result which actually occurs.

4 VAC 25-130-773.15. Review of permit applications.

(a) General.

(1) The division shall review the application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision, within a reasonable time, either granting, requiring modification of, or denying the application. If an informal conference is held under 4 VAC 25-130-773.13(c), the decision shall be made within 60 days of the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under paragraph-subdivision (b)(2) of this section.

(2) The applicant for a permit or revision of a permit shall have the burden of establishing that the application is in compliance with all the requirements of the regulatory program.

(b) Review of violations.

(1) Based on available information concerning federal and state failure-to-abate cessation orders, unabated federal and state imminent harm cessation orders, delinquent civil penalties issued pursuant to ~~Section~~ § 518 of the federal Act and ~~section~~ § 45.1-246 of the Code of Virginia, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of federal and state laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, the division shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the federal Act, this chapter, or any other law, rule or regulation referred to in this ~~Paragraph~~ subdivision. In the absence of a failure-to-abate cessation order, the division may presume that a notice of violation issued pursuant to 4 VAC 25-130-843.12 or under a federal or state program has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation, except where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine reclamation fees or civil penalties. If a current violation exists, the division shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either --

(i) Submit to the division proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or

(ii) Establish for the division that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the initial judicial review authority under 4 VAC 25-130-775.13 affirms the violation, then the applicant shall within 30 days of the judicial action submit the proof required under ~~paragraph~~ subdivision (b)(1)(i) of this section.

(2) Any permit that is issued on the basis of proof submitted under ~~Paragraph~~ subdivision (b)(1)(i) of this section that a violation is in the process of being corrected, or pending the outcome of an appeal described in ~~Paragraph~~ subdivision (b)(1)(ii) of this section, shall be conditionally issued.

(3) If the division makes a finding that the applicant, anyone who owns or controls the applicant, or the

operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Act of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with the Act, no permit shall be issued. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 4 VAC 25-130-775.11.

(4) (i) Subsequent to October 24, 1992, the prohibitions of subdivision (b) of this section regarding the issuance of a new permit shall not apply to any violation that:

(A) Occurs after that date;

(B) Is unabated; and

(C) Results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for reminging under a permit which was:

1. Issued before September 30, 2004, or any renewals thereof; and

2. Held by the person making application for the new permit.

(ii) For permits issued under 4 VAC 25-130-785.25 an event or condition shall be presumed to be unanticipated for the purposes of this subdivision if it:

(A) Arose after permit issuance;

(B) Was related to prior mining; and

(C) Was not identified in the permit.

(c) Written findings for permit application approval. No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the division finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

(1) The application is complete and accurate and the applicant has complied with all requirements of the Act and this chapter.

(2) The applicant has demonstrated that reclamation as required by the Act and this chapter can be accomplished under the reclamation plan contained in the permit application.

(3) The proposed permit area is:

(i) Not within an area under study or administrative proceedings under a petition, filed pursuant to Part 764 of this chapter and 30 CFR Part 769, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal

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and financial commitments in relation to the operation covered by the permit application; or

(ii) Not within an area designated as unsuitable for mining pursuant to Parts 762 and 764 of *this chapter*, or subject to the prohibitions or limitations of 4 VAC 25-130-761.11 and 4 VAC 25-130-761.12.

(4) For mining operations where the private mineral property to be mined has been severed from the private surface property, the applicant has submitted to the division the documentation required under 4 VAC 25-130-778.15(b).

(5) The division has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

(6) The applicant has demonstrated that any existing structure will comply with 4 VAC 25-130-701.11(d) and 4 VAC 25-130-773.16, and the applicable performance standards of the initial regulatory program or Subchapter VK.

(7) The applicant has paid all reclamation fees, civil penalty assessments, Pool Bond Fund fees, and anniversary fees, from previous and existing operations as required by this chapter.

(8) The applicant has satisfied the applicable requirements of Part 785 of *this chapter*.

(9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural postmining land use, in accordance with the requirements of 4 VAC 25-130-816.111(d) or 4 VAC 25-130-817.111(d).

(10) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 USC § 1531 et seq.).

(11) The division has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the division has determined that no additional protection measures are necessary.

(12) For a proposed re-mining operation where the applicant intends to reclaim in accordance with the requirements of 4 VAC 25-130-816.106 or 4 VAC 25-130-817.106, the site of the operation is a previously mined area as defined in 4 VAC 25-130-700.5.

(13) The applicant or the permittee specified in the application, has not owned or controlled a surface mining and reclamation operation for which the permit has been revoked and/or the bond forfeited pursuant to the Code of Virginia or any federal law, rule or regulation, or any law, rule or regulation enacted pursuant to federal or state law pertaining to air or water environmental protection and surface coal mining activities in any other state unless reinstated. Applicable Virginia reinstatement requirements may be found in 4 VAC 25-130-800.52.

(14) For permits to be issued under 4 VAC 25-130-785.25 the permit applications must contain:

(i) *Lands eligible for re-mining;*

(ii) *An identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and*

(iii) *Mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of this chapter can be accomplished.*

(d) Performance bond submittal. If the division decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in accordance with the provisions of Subchapter VJ.

(e) Final compliance review. After an application is approved, but before the permit is issued, the division shall reconsider its decision to approve the application, based on the compliance review required by Paragraph subdivision (b)(1) of this section in light of any new information submitted under 4 VAC 25-130-778.13(j) or 4 VAC 25-130-778.14(d).

4 VAC 25-130-784.14. Hydrologic information.

(a) Sampling and analysis. All water quality analyses performed to meet the requirements of this section shall be conducted according to the methodology in the current edition of "Standard Methods for the Examination of Water and Wastewater," which is incorporated by reference, or the methodology in 40 CFR Parts 136 and 434. Water quality sampling performed to meet the requirements of this section shall be conducted according to either methodology listed above when feasible.

(b) Baseline information. The application shall include the following baseline hydrologic information, and any additional information required by the division.

(1) Groundwater information. The location and ownership for the permit and adjacent areas of existing wells, springs, and other groundwater resources, seasonal quality and quantity of groundwater, and usage. Water quality descriptions shall include, at a minimum, total dissolved solids or specific conductance corrected to 25°C, pH, total iron, and total manganese.

Groundwater quantity descriptions shall include, at a minimum, approximate rates of discharge or usage and elevation of water in the coal seam, and each water-bearing stratum above and potentially impacted stratum below the coal seam.

(2) Surface water information. The name, location, ownership and description of all surface water bodies such as streams, lakes, and impoundments, the location of any discharge into any surface water body in the proposed permit and adjacent areas, and information on surface water quality and quantity sufficient to demonstrate seasonal variation and water usage. Water quality descriptions shall include, at a minimum, baseline information on total suspended solids, total dissolved solids or specific conductance corrected to 25°C, pH, total iron, and total manganese. Baseline acidity and alkalinity information shall be provided if there is a potential for acid drainage from the proposed mining operation. Water quantity descriptions shall include, at a minimum, baseline information on seasonal flow rates.

(3) Supplemental information. If the determination of the probable hydrologic consequences (PHC) required by paragraph subsection (e) of this section indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of groundwater or surface water supplies, then information supplemental to that required under paragraph subdivisions (b)(1) and (b)(2) of this section shall be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information may be based upon drilling, aquifer tests, hydrogeologic analysis of the water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics.

(c) Baseline cumulative impact area information.

(1) Hydrologic and geologic information for the cumulative impact area necessary to assess the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining on surface water and groundwater systems as required by paragraph subsection (f) of this section shall be provided to the division if available from appropriate federal or state agencies.

(2) If this information is not available from such agencies, then the applicant may gather and submit this information to the division as part of the permit application.

(3) The permit shall not be approved until the necessary hydrologic and geologic information is available to the division.

(d) Modeling. The use of modeling techniques, interpolation or statistical techniques may be included as part of the permit application, but actual surface water and

groundwater information may be required by the division for each site even when such techniques are used.

(e) Probable hydrologic consequences determination.

(1) The application shall contain a determination of the probable hydrologic consequences (PHC) of the proposed operation upon the quality and quantity of surface and ground water under seasonal flow conditions for the proposed permit and adjacent areas.

(2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

(3) The PHC determination shall include findings on:

(i) Whether adverse impacts may occur to the hydrologic balance;

(ii) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface water or groundwater supplies; and

(iii) What impact the proposed operation will have on:

(A) Sediment yield from the disturbed area;

(B) Acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;

(C) Flooding or streamflow alteration;

(D) Groundwater and surface water availability; and,

(E) Other characteristics as required by the division.

(iv) Whether the underground mining activities conducted after October 24, 1992, may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas.

(4) An application for a permit revision shall be reviewed by the division to determine whether a new or updated PHC determination shall be required.

(f) Cumulative hydrologic impact assessment.

(1) The division shall provide an assessment of the probable cumulative hydrologic impacts (CHIA) of the proposed operation and all anticipated mining upon surface water and groundwater systems in the cumulative impact area. The CHIA shall be sufficient to determine, for purposes of permit approval, whether the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The division may allow the applicant to submit data and analyses relevant to the CHIA with the permit application.

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(2) An application for a permit revision shall be reviewed by the division to determine whether a new or updated CHIA shall be required.

(g) Hydrologic reclamation plan. The application shall include a plan, with maps and descriptions, indicating how the relevant requirements of Part 817 of this chapter, including 4 VAC 25-130-817.41 through 4 VAC 25-130-817.43, will be met. The plan shall be specific to the local hydrologic conditions. It shall contain the steps to be taken during mining and reclamation through bond release to minimize disturbance to the hydrologic balance within the permit and adjacent areas; to prevent material damage outside the permit area; and to meet applicable federal and state water quality laws and regulations. The plan shall include the measures to be taken to: avoid acid or toxic drainage; prevent to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow; provide and maintain water treatment facilities when needed; control drainage; prevent the sudden release of accumulated water from the underground workings; and restore approximate premining recharge capacity. The plan shall specifically address any potential adverse hydrologic consequences identified in the PHC determination prepared under ~~paragraph subsection~~ (e) of this section and shall include preventive and remedial measures.

(h) Groundwater monitoring plan.

(1) The application shall include a groundwater monitoring plan based upon the PHC determination required under ~~paragraph subsection~~ (e) of this section and the analysis of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the groundwater for current and approved postmining land uses, to support the objectives for protection of the hydrologic balance set forth in ~~paragraph subsection~~ (g) of this section, to determine the cause of diminution or contamination of usable ground waters, and to guard against off-site influences and provide representation of the effects of the proposed surface coal mining operation. It shall identify the quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance. At a minimum, total dissolved solids or specific conductance corrected to 25°C, pH, total iron, total manganese, and water levels shall be monitored and data submitted quarterly or as otherwise specified by the division for each monitoring location.

(2) If an applicant can demonstrate by use of the PHC determination and other available information that a particular water-bearing stratum in the proposed permit and adjacent areas is not one which serves as an aquifer which significantly ensures the hydrologic balance within the cumulative impact area, then monitoring of that stratum may be waived by the division.

(3) The monitoring plan shall be designed in accordance with the following subparagraphs. The division may require additional monitoring and the analysis or measurement of other parameters on a site-specific basis. During the mining or postmining phase of activity, the division may require additional monitoring if it is determined that the established monitoring plan is ineffective.

(i) When pH or chemical analysis results indicate no immediate or potential acid-producing or toxic material within the proposed disturbed area, the applicant may submit a plan for representative monitoring. Appropriate monitoring which will indicate changes in subsurface water quality and quantity at sites which provide geological and hydrological representation of the entire proposed permit area shall be established.

(ii) When potential for adverse impacts to ground waters in use exists, then a representative monitoring plan utilizing wells or springs shall be provided.

(iii) When no potential to affect ground waters in use exists, then a plan utilizing piezometers or methods for representative monitoring in the unsaturated zone may be used.

(iv) When structural or stratigraphic variations are present within the proposed permit area, altering the ground water regime and indicating more than one representative area, the applicant shall include within the plan a minimum of one monitoring site for each representative area.

(v) The applicant shall include a plan to source monitor near isolated acid-producing or toxic material using piezometers or equipment for monitoring the unsaturated zone.

(vi) When any portion of a surface mine operation is proposed within a stream floodplain, the applicant shall include a plan for monitoring using wells in alluvial material both upstream and downstream of the proposed area to be disturbed. The plan shall also include adjacent upgradient and adjacent downgradient monitoring wells for any slurry pond with water having a pH of less than 6.0, coal stockpiles, and acid-producing or toxic-producing material disposal site.

(vii) In cases where the alluvium monitored has been determined to be consistently or seasonally unsaturated, the division may require revision of the monitoring plan to include appropriate monitoring of the unsaturated zone.

(viii) Where potential exists for adverse impacts to the hydrologic regime from a surface mining operation situated in an area of colluvium, the division may require monitoring similar to that required in floodplain areas.

(ix) For each refuse or hollow fill without an underdrain, the applicant shall include a plan to monitor the fill using piezometers which are sufficient in number and design to permit a planar determination of a potential water table within the fill.

(x) When a refuse or hollow fill is designed to contain underdrains, then a plan for monitoring the underdrain may be used, provided that the underdrain discharge indicates changes in water quality resulting from the fill and not from other sources or outside influences. If the underdrain is not representative of the effects of the fill material, then piezometers shall be used.

(xi) The applicant may include a plan to use a spring in lieu of other monitoring methods if:

(A) The spring is located both stratigraphically and geographically so that data representing an area to be disturbed or an acid or toxic spoil isolation area will be obtained.

(B) The spring has been observed and documented satisfactorily to the division to be a permanent spring.

(xii) For the adjacent area, the applicant shall submit a plan to individually monitor each significant aquifer identified with wells, springs, mine discharges or any combination of these. The plan shall include flow measurements for each point under seasonal conditions. The division shall require quality analyses in addition to quantity measurements if it determines that such monitoring is necessary for protection of the hydrologic balance.

(i) Surface water monitoring plan.

(1) The application shall include a surface water monitoring plan based upon the PHC determination required under ~~paragraph subsection~~ (e) of this section and the analysis of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved postmining land uses and to the objectives for protection of the hydrologic balance as set forth in ~~paragraph subsection~~ (g) of this section as well as the effluent limitations found at 40 CFR Part 434.

(2) The plan shall identify the surface water quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance.

(i) At all monitoring locations in surface water bodies such as streams, lakes, and impoundments, that are potentially impacted or into which water will be discharged and at upstream monitoring locations, the total dissolved solids or specific conductance corrected to 25°C, total suspended solids, pH, total iron, total manganese, and flow shall be monitored.

(ii) For point-source discharges, monitoring shall be conducted in accordance with 40 CFR Parts 122, 123, and 434 and as required by the National Pollutant Discharge Elimination System permit.

(3) The monitoring reports shall be submitted to the division quarterly. The division may require additional monitoring.

4 VAC 25-130-784.20. Subsidence control plan.

~~The permit application shall include a survey which shall show whether structures or renewable resource lands exist within the proposed permit area and adjacent area and whether subsidence, if it occurred, could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands. If the survey shows that no such structures or renewable resource lands exist, and no such material damage or diminution could be caused in the event of mine subsidence, and if the division agrees with such conclusion, no further information need be provided in the application under this section. In the event the survey shows that such structures or renewable resource lands exist, or that subsidence could cause material damage or diminution of value or foreseeable use of the land, or if the division determines that such damage or diminution could occur, the application shall include a subsidence control plan which shall contain the following information:~~

~~(a) A description of the method of coal removal, such as longwall mining, room and pillar removal, hydraulic mining, or other extraction methods, including the size, sequence, and timing for the development of underground workings.~~

~~(b) A map of underground workings which describes the location and extent of areas in which planned subsidence mining methods will be used and which includes all areas where the measures described in Paragraph (d) and (e) of this section will be taken to prevent or minimize subsidence and subsidence-related damage; and to correct subsidence-related material damage.~~

~~(c) A description of the physical conditions, such as depth of cover, seam thickness, and lithology, which affect the likelihood or extent of subsidence and subsidence-related damage.~~

~~(d) A description of monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce, or correct material damage in accordance with 4 VAC 25-130-817.121(c).~~

~~(e) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, including, but not limited to~~

~~(1) Backstowing or backfilling of voids;~~

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~~(2) Leaving support pillars of coal;~~

~~(3) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving the coal in place; and~~

~~(4) Taking measures on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface; and~~

~~(f) A description of the anticipated effects of planned subsidence, if any.~~

~~(g) A description of the measures to be taken in accordance with 4 VAC 25-130-817.121(c) to mitigate or remedy any subsidence-related material damage to, or diminution in value or reasonably foreseeable use of-~~

~~(1) The land; or~~

~~(2) Structures or facilities.~~

~~(h) Other information specified by the division as necessary to demonstrate that the operation will be conducted in accordance with the performance standards of 4 VAC 25-130-817.121(c) for subsidence control.~~

(a) Presubsidence survey. Each application must include:

(1) A map of the permit and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the division, showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value or reasonably foreseeable use may be diminished by subsidence, and showing the location and type of drinking, domestic, and residential water supplies that could be contaminated, diminished or interrupted by subsidence.

(2) A narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish or interrupt drinking, domestic or residential water supplies.

(3) A survey of the condition of all noncommercial buildings or occupied residential dwellings and structures related thereto that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the quantity and quality of all drinking, domestic and residential water supplies within the permit area and adjacent area that could be contaminated, diminished or interrupted by subsidence. If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner in writing of the effect that denial of access will have as described in 4 VAC 25-130-817.121(c)(4). The applicant must pay for any technical assessment or engineering evaluation used to determine the premining condition or value of

such noncommercial buildings or occupied residential dwellings and structures related thereto and the quantity and quality of drinking, domestic or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and the division.

(b) Subsidence control plan. If the survey conducted under subsection (a) of this section shows that no structures, or drinking, domestic or residential water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution or interruption of such water supplies would occur as a result of mine subsidence, and if the division agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution or interruption of protected water supplies, or if the division determines that damage, diminution in value or foreseeable use, or contamination, diminution or interruption could occur, the application must include a subsidence control plan that contains the following information:

(1) A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining including the size, sequence and timing of the development of underground workings;

(2) A map of the underground workings that describes the location and extent of the areas in which planned subsidence mining methods will be used and that identifies all areas where the measures described in subdivisions (b)(4)(5) and (b)(7) of this section will be taken to prevent or minimize subsidence and subsidence related damage and, when applicable, to correct subsidence related material damage;

(3) A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlying strata, that affects the likelihood or extent of subsidence and subsidence related damage;

(4) A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that when appropriate other measures can be taken to prevent, reduce, or correct material damage in accordance with 4 VAC 25-130-817.121(c).

(5) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence related damage, such as, but not limited to:

(i) Backstowing or backfilling of voids;

(ii) Leaving support pillars of coal;

(iii) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and

(iv) Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface.

(6) A description of the anticipated effects of planned subsidence, if any.

(7) For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to noncommercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken or unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs or repair.

(8) A description of the measures to be taken in accordance with 4 VAC 25-130-817.41(i) and 4 VAC 25-130-817.121(c) to replace adversely affected protected water supplies or to mitigate or remedy and subsidence related material damage to the land and protected structures.

(9) Other information specified by the division as necessary to demonstrate that the operation will be conducted in accordance with 4 VAC 25-130-817.121.

4 VAC 25-130-785.25. Lands eligible for reining.

(a) This section contains permitting requirements to implement 4 VAC 25-130-773.15(b)(4). Any person who submits a permit application to conduct a surface coal mining operation on lands eligible for reining must comply with this section.

(b) Any application for a permit under this section shall be made according to all requirements of this subchapter applicable to surface coal mining and reclamation operations. In addition, the application shall:

(1) To the extent not otherwise addressed in the permit application, identify potentially environmentally and safety problems related to prior mining activity at the site and that could be reasonably anticipated to occur. This identification shall be based on a due diligence investigation which shall include visual observations at the site, a record review of past mining at the site, and environmental sampling tailored to current site conditions.

(2) With regard to potential environmental and safety problems referred in to subdivision (b)(1) of this section, describe the mitigative measures that will be taken to ensure that the applicable reclamation requirements of this chapter can be met.

(c) The requirements of this section shall not apply after September 30, 2004.

4 VAC 25-130-816.116. Revegetation; standards for success.

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of 4 VAC 25-130-816.111.

(1) Statistically valid sampling techniques shall be used for measuring success.

(2) Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent % of the success standard. The sampling techniques for measuring success shall use a 90-percent % statistical confidence interval (i.e., one-sided test with a 0.10 alpha error). Sampling techniques for measuring woody plant stocking, ground cover, and production shall be in accordance with techniques approved by the division.

(b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

(1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or if approved by the division, a vegetative ground cover of 90 percent % for areas planted only in herbaceous species and productivity at least equal to the productivity of the premining soils may be achieved. Premining productivity shall be based upon data of the U.S. Natural Resources Conservation Service and measured in such units as weight of material produced per acre or animal units supported.

(2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or if approved by the division, crop yields shall be at least equal to the yields for reference crops from unmined lands. Reference crop yields shall be determined from the current yield records of representative local farms in the surrounding area or from the average county yields recognized by the U.S. Department of Agriculture.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

(i) Minimum stocking and planting arrangements shall be specified by the division on the basis of local and regional conditions and after consultation with and approval by the state agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a program wide or a permit specific basis.

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(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80 percent % of the trees and shrubs used to determine such success shall have been in place for at least three years. Root crown or sprouts over one foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur, only the tallest stem will be counted.

(iii) Vegetative ground cover shall not be less than that required to control erosion and achieve the approved postmining land use.

(iv) Where commercial forest land is the approved postmining land use:

(A) The area shall have a minimum stocking of 400 trees per acre.

(B) All countable trees shall be commercial species and shall be well distributed over each acre stocked.

(C) Additionally, the area shall have an average of at least 40 wildlife food-producing shrubs per acre. The shrubs shall be suitably located for wildlife enhancement, and may be distributed or clustered.

(v) Where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

(A) The stocking of trees, shrubs, half-shrubs and the ground cover established on the revegetated area shall approximate the stocking and ground cover on the surrounding unmined area and shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement;

(B) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 90 percent %;

(C) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 90 percent % and an average of 400 woody plants per acre. At least 40 of the woody plants for each acre shall be wildlife food-producing shrubs located suitably for wildlife enhancement, which may be distributed or clustered on the area.

(4) For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

(5) For areas previously disturbed by mining that were not reclaimed to the requirements of this Subchapter and that are remined or otherwise redisturbed by surface coal

mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance, and shall be adequate to control erosion.

(c) (1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the division in accordance with ~~Paragraph~~ subdivision (c)(3) of this section.

(2) The period of responsibility shall continue for a period of not less than:

(i) *Five full years- except as provided in subdivision (c)(2)(ii) of this section. The vegetation parameters identified in ~~paragraph~~ subsection (b) of this section for grazing land or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in ~~paragraph~~ subsection (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.*

(ii) *Two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by subdivision (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.*

(3) The division may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

4 VAC 25-130-817.41. Hydrologic-balance protection.

(a) General. All underground mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area, and to support approved postmining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this part. The division may require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented.

Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

(b) Groundwater protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 4 VAC 25-130-784.14(g) and the following:

(1) Groundwater quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to groundwater systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the groundwater.

(2) Groundwater quantity shall be protected by handling earth materials and runoff in a manner that will restore approximate premining recharge capacity of the reclaimed area as a whole, excluding coal mine waste disposal areas and fills, so as to allow the movement of water to the groundwater system.

(c) Groundwater monitoring.

(1) Groundwater monitoring shall be conducted according to the groundwater monitoring plan approved under 4 VAC 25-130-784.14(h). The division may require additional monitoring when necessary.

(2) Representative monitoring.

(i) Representative monitoring points shall be established within 100 feet downgradient from the initial disturbance within each representative area. This distance may be modified by the division if it is demonstrated in the permit application that the 100 feet distance is inappropriate for the monitoring point.

(ii) If degradation, contamination or diminution of water quality or quantity are evident through monitoring, then additional monitoring and/or remedial action may be required by the division.

(3) Source monitoring.

(i) Source monitoring shall be used near isolated acid-producing or toxic-producing material. Monitoring shall be by piezometers or other equipment suitable for monitoring in the unsaturated zone. Piezometers or alternate equipment shall be installed in backfilled material during or within 45 days after final grading of the area. Installation in fill or temporary storage areas shall be as soon as practicable. Monitoring points shall be of sufficient number and locations so that adverse impacts can be readily detected.

(ii) Representative monitoring may be required by the division in addition to source monitoring when the operation may adversely impact usable ground waters.

(4) Well drilling, construction and completion.

(i) When wells are used, they shall be drilled either to the first water-producing zone or, if no water is

encountered, to a depth of 100 feet below each coal seam to be mined. The division may require deeper drilling if site conditions indicate the potential for adverse impacts to a known water-producing zone which is at greater depth.

(ii) Monitoring wells shall be drilled an additional 20 feet into the water-producing zone to aid in pumping.

(iii) Monitoring wells shall:

(A) Accommodate a four-inch submersible pump for sample extraction and measurement of field parameters. Other diameters may be approved by the division if sample extraction is allowed.

(B) Be constructed in a manner which isolates the water-producing zone to be monitored and prevents the mixing of ground waters.

(C) Be grouted from the surface to at least one foot into bedrock, with all leakage around the well casing prevented.

(D) Be capped, locked, and labeled with an identification number.

(E) Be properly developed and the final yield reported.

(F) Not be constructed or packed with materials which would adversely affect the monitoring results obtained.

(iv) Existing wells may be used for monitoring provided that:

(A) The well is located at a point where data representative of the permit or adjacent area will be obtained.

(B) The well penetrates the water-producing zone to be monitored.

(C) The well is constructed in a manner which effectively isolates the water-producing zone.

(D) The well meets the standards of ~~paragraph~~ *subdivision (c)(4)* above.

(E) Filtering systems and water softeners are not present which may alter the quality of the water sample. Filters or softeners may be disconnected or bypassed during sampling.

(5) Groundwater monitoring data shall be submitted within 30 days after the end of the calendar quarter to the division. More frequent reporting may be prescribed by the division. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any groundwater sample indicates noncompliance with the permit conditions, then the permittee shall promptly notify the division and immediately take the actions provided for in 4 VAC 25-130-773.17(e) and 4 VAC 25-130-784.14(g).

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(6) Groundwater monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 4 VAC 25-130-774.13, the division may modify the monitoring requirements including the parameters covered and the sampling frequency if the permittee demonstrates, using the monitoring data obtained under this ~~paragraph~~ *subdivision*, that:

(i) The operation has minimized disturbance to the prevailing hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; or

(ii) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 4 VAC 25-130-784.14(h).

(7) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of groundwater onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the permittee when no longer required by the division.

(d) Surface water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 4 VAC 25-130-784.14(g), and the following:

(1) Surface water quality shall be protected by handling earth materials, groundwater discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage; prevents, to the extent possible using the best technology currently available, additional contribution of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, restabilization and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this section and 4 VAC 25-130-817.42, the permittee shall use and maintain the necessary water-treatment facilities or water quality controls.

(2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 4 VAC 25-130-784.14(g).

(e) Surface water monitoring.

(1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 4 VAC 25-130-784.14(i). The division may require additional monitoring when necessary.

(2) Surface water monitoring data shall be submitted every three months to the division or more frequently as prescribed by the division. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any surface water sample indicates noncompliance with the permit

conditions, the permittee shall promptly notify the division and immediately take the actions provided for in 4 VAC 25-130-773.17(e) and 4 VAC 25-130-784.14(g). Reporting shall be in accordance with the National Pollutant Discharge Elimination System (NPDES) permit requirements.

(3) Surface water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with 4 VAC 25-130-774.13, the division may modify the monitoring requirements, in accordance with the NPDES permit, including the parameters covered and sampling frequency, if the permittee demonstrates, using the monitoring data obtained under this ~~paragraph~~ *subdivision*, that--

(i) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and

(ii) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 4 VAC 25-130-784.14(i).

(4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the permittee when no longer required by the division.

(f) Acid- and toxic-forming materials.

(1) Drainage from acid- and toxic-forming materials and underground development waste into surface water and ground water shall be avoided by:

(i) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated; and

(ii) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

(2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of this chapter.

(g) Transfer of wells. Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with 4 VAC 25-130-817.13 and 4 VAC 25-130-817.15. With the prior approval of the division, wells may be transferred to another party, or retained by the permittee for further use. However,

at a minimum, the conditions of such transfer shall comply with state and local laws and the permittee shall remain responsible for the proper management of the well until bond release in accordance with 4 VAC 25-130-817.13 through 4 VAC 25-130-817.15.

(h) Discharges into an underground mine.

(1) Discharges into an underground mine are prohibited, unless specifically approved by the division after a demonstration that the discharge will:

- (i) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from underground mining activities;
- (ii) Not result in a violation of applicable water quality standards or effluent limitations;
- (iii) Be at a known rate and quality which shall meet the effluent limitations of 4 VAC 25-130-817.42 for pH and total suspended solids, except that the pH and total suspended solids limitations may be exceeded, if approved by the division; and
- (iv) Meet with the approval of the Mine Safety and Health Administration.

(2) Discharges shall be limited to the following:

- (i) Water;
- (ii) Coal-processing waste;
- (iii) Fly ash from a coal-fired facility;
- (iv) Sludge from an acid-mine drainage treatment facility;
- (v) Flue-gas desulfurization sludge;
- (vi) Inert materials used for stabilizing underground mines; and
- (vii) Underground mine development wastes.

(3) Water from one underground mine may be diverted into other underground workings according to the requirements of this section.

(i) Gravity discharges from underground mines.

(1) Surface entries and accesses to underground workings shall be located and managed to prevent or control gravity discharge of water from the mine. Gravity discharges of water from an underground mine, other than a drift mine subject to paragraph subdivision (i)(2) of this section, may be allowed by the division if it is demonstrated that the untreated or treated discharge complies with the performance standards of this part and any additional NPDES permit requirements.

(2) Notwithstanding anything to the contrary in paragraph subdivision (i)(1) of this section, the surface entries and accesses of drift mines first used after December 15, 1981, or the implementation of a federal lands program

in accordance with Part 740 of this chapter, and located in acid-producing or iron-producing coal seams shall be located in such a manner as to prevent any gravity discharge from the mine.

(3) Except where surface entries and accesses to underground workings are located pursuant to paragraph subdivision (i)(1) of this section, an unmined barrier of coal shall be left in place where the coal seam dips toward the land surface. The unmined barrier and associated overburden shall be designed to prevent the sudden release of water that may accumulate in the underground workings.

(i) The applicant may demonstrate the appropriate barrier width and overburden height by either:

(A) Providing a site specific design, certified by a licensed professional engineer, which considers the overburden and barrier characteristics; or

(B) Providing the greater of an unmined horizontal barrier width necessary to leave a minimum of 100 feet of vertical overburden, or an unmined barrier width calculated by the formula: $W=50+H$, when W is the minimum width in feet and H is the calculated hydrostatic head in feet.

(ii) An exception to the barrier requirement may be approved provided the division finds, based upon the geologic and hydrologic conditions, an accumulation of water in the underground workings cannot reasonably be expected to occur or other measures taken by the applicant are adequate to prevent the accumulation of water.

(j) *Drinking, domestic, or residential water supply. The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the division received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic information required in 4 VAC 25-130-784.14 and the geologic information concerning baseline hydrologic conditions required in 4 VAC 25-130-784.22 will be used to determine the impact of mining activities upon the water supply.*

4 VAC 25-130-817.116. Revegetation; standards for success.

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of 4 VAC 25-130-817.111.

(1) Statistically valid sampling techniques shall be used for measuring success.

(2) Ground cover, production, or stocking shall be considered equal to the approved success standard

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- when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., a one-sided test with a 0.10 alpha error). Sampling techniques for measuring woody plant stocking, ground cover, and production shall be in accordance with techniques approved by the division.
- (b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:
- (1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or if approved by the division, a vegetative ground cover of 90% for areas planted only in herbaceous species and productivity at least equal to the productivity of the premining soils may be achieved. Premining productivity shall be based upon data of the U.S. Natural Resources Conservation Service and measured in such units as weight of material produced per acre or animal units supported.
 - (2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or if approved by the division, crop yields shall be at least equal to the yields for reference crops from unmined lands. Reference crop yields shall be determined from the current yield records of representative local farms in the surrounding area or from the average county yields recognized by the U.S. Department of Agriculture.
 - (3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation, shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:
 - (i) Minimum stocking and planting arrangements shall be specified by the division on the basis of local and regional conditions and after consultation with and approval by the state agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a program wide or a permit specific basis.
 - (ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80% of the trees and shrubs used to determine such success shall have been in place for at least three years. Root crown or root sprouts over one foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur, only the tallest stem will be counted.
- (iii) Vegetative ground cover shall not be less than that required to control erosion and achieve the approved postmining land use.
 - (iv) Where commercial forest land is the approved postmining land use:
 - (A) The area shall have a minimum stocking of 400 trees per acre.
 - (B) All countable trees shall be commercial species and shall be well distributed over each acre stocked.
 - (C) Additionally, the area shall have an average of at least 40 wildlife food-producing shrubs per acre. The shrubs shall be suitably located for wildlife enhancement, and may be distributed or clustered.
 - (v) Where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:
 - (A) The stocking of trees, shrubs, half-shrubs and the ground cover established on the revegetated area shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement;
 - (B) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 90%;
 - (C) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 90% and an average of 400 woody plants per acre. At least 40 of the woody plants for each acre shall be wildlife food-producing shrubs located suitably for wildlife enhancement, which may be distributed or clustered on the area.
- (4) For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.
 - (5) For areas previously disturbed by mining that were not reclaimed to the requirements of this subchapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.
- (c)(1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the division in accordance with subdivision (c)(3) of this section.
- (2) The period of responsibility shall continue for a period of not less than
- (i) Five full years *except as provided in subdivision (c)(2)(ii) of this section*. The vegetation parameters identified in subsection (b) of this section for grazing land or pastureland and cropland shall equal or

exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in subsection (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(ii) *Two full years for lands eligible for reining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by subdivision (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.*

(3) The division may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

4 VAC 25-130-817.121. Subsidence control.

(a) *Measures to prevent or minimize damage.*

(1) The permittee shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this part shall be construed to prohibit the standard method of room-and-pillar mining.

(2) *If a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures consistent with the mining method employed to minimize material damage to the extent technologically and economically feasible to noncommercial buildings and occupied residential dwellings and structures related thereto, except that measures required to minimize material damage to such structures are not required if:*

(i) *The permittee has the written consent of the structure owners;*

(ii) *Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair; or*

(iii) *The structure owners have denied the permittee access to implement the measures specified in subdivision (a)(2) of this section and the permittee has provided written evidence of his good faith efforts to obtain access. The good faith effort shall include documentation apprising the structure owners that such measures are intended to lessen the potential for property damages or personal injury and that denial of access will not prevent mining.*

(b) The permittee shall comply with all provisions of the approved subsidence control plan prepared pursuant to 4 VAC 25-130-784.20.

~~(c) The permittee shall—~~

~~(1) Correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence; and~~

~~(2) Either correct material damage resulting from subsidence caused to any structures or facilities by repairing the damage or compensate the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase prior to mining of a noncancellable premium prepaid insurance policy.~~

(c) *Repair of damage.*

(1) *Repair of damage to surface lands. The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.*

(2) *Repair or compensation for damage to noncommercial buildings and dwellings and related structures. The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any noncommercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore, or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence related damage. The permittee may provide compensation by the purchase, before mining, of a noncancelable*

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premium-prepaid insurance policy. The requirements of this subdivision apply only to subsidence related damage caused by underground mining activities conducted after October 24, 1992.

(3) Repair or compensation for damage to other structures. The permittee must, to the extent required under applicable provisions of state law, either correct material damage resulting from subsidence caused to any structures or facilities not protected by subdivision (c)(2) of this section by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a noncancelable premium-prepaid insurance policy.

(4) Rebuttable presumption of causation by subsidence.

(i) Rebuttable presumption of causation for damage within angle-of-draw. If damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle-of-draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 28-degree angle-of-draw.

(ii) Approval of site-specific angle-of-draw. A permittee or permit applicant may request that the presumption apply to an angle-of-draw different from that established in the state program. The division may approve application of the presumption to a site-specific angle-of-draw different from that contained in the state program based on a site-specific analysis submitted by an applicant. To establish a site-specific angle-of-draw, an applicant must demonstrate and the division must determine in writing that the proposed angle-of-draw has a more reasonable basis than the standard set forth in the state program, based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation.

(iii) No presumption where access for presubsidence survey is denied. If the permittee was denied access to the land or property for the purpose of conducting the presubsidence survey in accordance with 4 VAC 25-130-784.20(a) of this chapter, no rebuttable presumption will exist.

(iv) Rebuttal of presumption. The presumption will be rebutted if, for example, the evidence establishes that the damage predated the mining in question, the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence, or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.

(v) Information to be considered in determination of causation. In a determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the division.

(5) Adjustment of bond amount for subsidence damage. When subsidence related material damage to land, structures, or facilities protected under subdivisions (c)(1)(2) and (3) of this section occurs, or when contamination, diminution, or interruption to a water supply protected under 4 VAC 25-130-817.41(i) occurs, the permittee shall provide additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation or replacement is completed within 90 days of the occurrence of damage or if the permittee demonstrates that the liability insurance required under 4 VAC 25-130-800.60 provides applicable coverage, no additional bond is required. The division may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the division finds in writing that subsidence is not complete, that not all probable subsidence related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that, therefore, it would be unreasonable to complete within 90 days the repair of the subsidence related material damage to lands or protected structures, or the replacement of protected water supply.

(d) Underground mining activities shall not be conducted beneath or adjacent to:

(1) Public buildings and facilities;

(2) Churches, schools, and hospitals; or

(3) Impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities. If the division determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.

(e) If subsidence causes material damage to any of the features or facilities covered by Paragraph subsection (d) of this section, the division may suspend mining under or adjacent to such features or facilities until the subsidence

control plan is modified to ensure prevention of further material damage to such features or facilities.

(f) The division shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

(g) Within a schedule approved by the division, the permittee shall submit a detailed plan of the underground workings. The detailed plan shall include maps and descriptions, as appropriate, of significant features of the underground mine, including the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage, areas of full extraction, and other information required by the division. Upon request of the permittee, information submitted with the detailed plan may be held as confidential, in accordance with the requirements of 4 VAC 25-130-773.13(d).



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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November 12, 1997

Mr. Stephen Walz
Department of Mines, Minerals and Energy
Ninth Street Office Building
202 N. Ninth Street, 8th Floor
Richmond, Virginia 23219

Dear Mr. Walz:

This letter acknowledges receipt of the amendments to 4 VAC 25-130-10 et seq. Coal Surface Mining Reclamation Regulations, submitted by the Department of Mines, Minerals and Energy.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a stylized flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: 6 VAC 20-160-10 et seq. Rules Relating to the Court-Appointed Special Advocate Program (CASA) (amending 6 VAC 20-160-10 through 6 VAC 20-160-100 and 6 VAC 20-160-120; repealing 6 VAC 20-160-110).

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

Effective Date: December 24, 1997.

Summary:

The amendments to the regulation are intended to ensure that the regulation is in support of and consistent with the mission and goals of CASA programs across Virginia.

Corrective changes to improve upon grammar or clarify the linguistic aspects of the regulations have been made. The substantive changes are generally adjustments in training requirements and program ratios intended to maintain and enhance the quality of practice in Virginia's CASA programs.

Significant changes to the regulations are as follows: (i) programs will be required to have a board which guides them in decision-making processes; (ii) new board members will be required to receive board training within six months of their appointment; (iii) the average number of cases per volunteer is not to exceed three for any program without a rationale provided to and approved by the Department of Criminal Justice Services; (iv) the maximum number of cases to which a volunteer may be assigned is three children or two sibling groups without submitting a rationale to the Department of Criminal Justice Services for approval; (v) the staff-to-volunteer ratio will not exceed one full-time equivalent to 25 active volunteers without the submission of a rationale and its approval by the Department of Criminal Justice Services; (vi) programs shall write policies regarding compliance with Equal Employment Opportunity, Drug-Free workplace, Smoke-Free workplace, and political activity statements; (vii) the training requirements for new volunteers is increased to 30 hours from 25 hours; (viii) programs must make available at least 12 hours of in-service training annually; and (ix) volunteers shall participate in 12 hours of continuing education (approved by the director) annually which can include training from other agencies or sources, through print or electronic media.

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 Melissa O'Neill, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-6428.

PART I. GENERAL DEFINITIONS.

6 VAC 20-160-10. Definitions.

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

"Active case" means a case that is assigned by the director to a CASA volunteer.

"Board" means the Criminal Justice Services Board.

"CASA" means court-appointed special advocate.

"CASA program" means any locally operated court-appointed special advocate program which utilizes court-appointed volunteers to assist in judicial proceedings involving allegations that a child is abused, neglected, in need of services or in need of supervision and for whom the judge determines such services are appropriate.

"Case" means a child or sibling group referred to the CASA program.

"Closed case" means a case in which the court has released the CASA volunteer or the director has notified the court of their intent to release the case or there has been no volunteer activity for more than 90 days.

"DCJS" means the Department of Criminal Justice Services.

"Program Director" means the director or coordinator of a local CASA program responsible for the day-to-day operations of the local CASA program.

"Referred case" means a case that is referred by the court but is not assigned by the director to a CASA volunteer.

"Volunteer" means the court-appointed special advocate.

PART II. PROGRAM ADMINISTRATION.

6 VAC 20-160-20. Advisory Boards.

A. ~~Although advisory boards are not mandated, CASA advisory boards are recommended. If a local CASA program does not have a board of directors, it shall have an advisory board.~~

B. The composition of local CASA advisory boards should include persons representatives of each geographic area served by the program having knowledge of or an interest in court matters, child welfare and juvenile justice issues from both public and private sectors.

C. All new board members shall receive board training within six months of their appointment.

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6 VAC 20-160-30. Recordkeeping and monitoring.

A. CASA programs are required to maintain records of the activities of the CASA program.

B. CASA programs ~~will~~ shall provide quarterly reports on the operation of the CASA program to the Department of Criminal Justice Services in a format provided by the department. The CASA quarterly reports (~~Appendix A~~) will shall cover the following periods: July-September; October-December; January-March; April-June. These reports are due ~~by the 20th day of the month following the end of each quarter on a timeline as established by DCJS.~~

C. The quarterly reports will shall include the following:

1. The number of volunteers who completed training during the quarter, the number currently assigned to cases, ~~and the number of currently inactive or, and the number currently unassigned volunteers;~~
2. The number of volunteer hours and a dollar equivalency for volunteer services for the quarter as prescribed by DCJS;
3. The number of cases served during the quarter including cases opened, closed and continued from previous quarters to ensure unduplicated numbers;
4. Average number of cases per volunteer, ~~if this number exceeds three cases a rationale must be submitted to and approved by DCJS;~~
5. Breakdown of the types of cases handled during the quarter;
6. Breakdown of the age, sex, and race of children served at the time of case assignment;
7. For cases closed during the quarter, the average length of time each case was assigned to the program;
8. For cases closed during the quarter, the average length of time each child was in out-of-home placement while assigned to the program; and
9. The number of new cases referred during the quarter awaiting assignment of a CASA volunteer or denied service due to lack of a CASA volunteer.

D. An annual report (~~[Appendices Forms] B, C and, D and E~~) will shall be due ~~September 15 of each year on a timeline as established by DCJS.~~ The annual report will shall include, but not be limited to, the following:

1. An annual statistical summary;
2. A program budget which contains expenditure and income projections and the sources and amounts of income from each source;
3. A narrative detailing the program's accomplishments, major changes in program policy or operation during the past year;
4. A letter from the CASA program's fiscal agent or accountant identifying who is responsible for maintaining

the fiscal records; ~~and stating where the fiscal records are routinely kept; and a statement, prepared in accordance with generally accepted accounting practices, showing the total cash receipts and disbursements for the CASA program for the past year.~~

5. A year-end fiscal statement prepared in accordance with generally accepted accounting practices showing the total cash receipts and disbursements for the CASA program from the past year.

6 VAC 20-160-40. Program and personnel policies.

A. Programs will shall ensure that an attorney is available for CASA program directors and boards to provide legal consultation in matters pertaining to administration of the programs.

B. Programs will shall not employ as paid staff any individual who concurrently supervises children-in-need of services or juvenile offender cases, either for the courts or any child serving agencies.

C. Programs shall write policies on the following and make those written policies available to the respective court:

1. The maximum number of cases to which a volunteer may be assigned at any one time. If that number is larger than three [~~active cases children or two sibling groups~~], a rationale must be submitted to and approved by DCJS.

2. The maximum number of volunteers to be supervised by each staff person. ~~Consideration should be given to [Calculations shall be based on the exact number of hours each staff person spends] in supervision (as opposed to administrative or other duties) [on case management activities as opposed to either administrative or fund-raising duties.]~~ The staff-to-volunteer ratio ~~should be calculated and reported each quarter shall not exceed 1 full-time equivalent staff to 30 25~~ volunteers who are assigned to active cases. A request ~~must~~ shall be submitted to and approved by DCJS should that ~~number~~ ratio exceed ~~30~~ 1:25.

3. ~~A policy for~~ The review, investigation and handling of any complaints that may be received concerning CASA volunteers, including procedures for the removal of CASA program to accept and prioritize cases for assignment to CASA volunteers ~~should dismissal become necessary.~~

4. ~~Policies shall be developed identifying~~ The specific factors to be used by the CASA program to accept and prioritize cases for assignment to CASA volunteers.

5. ~~A policy emphasizing~~ The confidentiality of the records and information to which CASA volunteers will have access, and training volunteers on the importance of confidentiality.

6. ~~A policy identifying~~ The objectives, standards, and conduct for CASA volunteers and the procedures that the CASA program has implemented to evaluate the

performance of its volunteers in order to ensure that volunteers are meeting CASA's objectives and standards of conduct.

7. ~~A policy and procedure for CASA volunteers~~ *The CASA volunteers' responsibility to report incidents of suspected child abuse and neglect.*

8. ~~A policy and procedure~~ *Concerning CASA investigations, CASA's role and responsibility in assisting the guardian ad litem, and monitoring court order compliance.*

9. *Compliance with federal laws, including Equal Opportunity Employment, Drug-Free workplace, Smoke-Free workplace, and political activity statements.*

D. CASA programs shall provide staff capable of managing effective and efficient program operations. The following job descriptions provide for essential CASA program management:

1. The program director is responsible for accomplishing organizational goals and all managerial functions. This staff position requires a degree or equivalent experience in child welfare, public administration, counseling, human services, juvenile justice or law. *It is also important that this person have an understanding of and experience with community organization and volunteer program management. Generally the duties and responsibilities of the program director will include:*

- a. Conducting or overseeing the recruitment, screening, training, supervision and evaluation of the program volunteers and staff;
- b. Developing and maintaining procedures for case recordkeeping; supervising staff and volunteers in completing recordkeeping tasks;
- c. Serving as a liaison to the court, ~~to the advisory~~ *their local board, to local agencies serving children and, to DCJS personnel, and to the Virginia CASA Network, to the Virginia CASA Association, and to the National CASA Association;*
- d. ~~Planning for and managing program growth and, development and evaluation,~~ *including special projects, budgets, annual workplans, and analysis of trends in program services;*
- e. Representing the program to networks of service providers, and community coalitions dealing with child welfare issues; *and*
- ~~f. Providing liaison and support to an advisory board; and~~
- ~~g. f.~~ *Supervising program operations including financial management, risk management, and resource development.*

2. Program/volunteer coordinator. Depending on program size, it may be necessary to designate a staff person having knowledge of or interest in court matters,

child welfare and juvenile justice issues who will focus ~~exclusively~~ on volunteer recruitment, screening, training ~~and, case assignment and supervision.~~ Generally, the duties and responsibilities of the program/volunteer coordinator ~~will~~ include:

- a. Developing and distributing volunteer recruitment materials, and conducting presentations on the CASA program for the purpose of recruiting volunteers and increasing community awareness;
- b. Screening volunteer applications and conducting interviews to determine suitability of the applicant for the CASA program;
- c. Arranging training for CASA volunteers;
- d. Recommending trained volunteers for acceptance into the CASA program;
- e. *Assigning cases and supervising volunteers;*
- f. *Planning and implementing volunteer recognition events;*
- ~~f. g.~~ *Evaluating effectiveness of volunteer recruitment, training, and case assignment, and recognition efforts; and*
- ~~g. h.~~ *Conducting annual written evaluations of each CASA volunteer.*

PART III. VOLUNTEER ADMINISTRATION.

6 VAC 20-160-50. Case assignment.

A. The CASA program director shall be responsible for all decisions pertaining to the assignment or removal of specific volunteers to specific cases.

B. A CASA volunteer ~~will~~ *shall* not be assigned to a case involving any professional connection or close personal relationship with the child client or family.

6 VAC 20-160-60. CASA volunteer duties and responsibilities.

A. Volunteers shall follow specific policies regarding the nature of assistance:

1. Provided to the guardian ad litem;
2. Relating to ~~his~~ *their* investigative role; ~~and~~
3. Relating to monitoring compliance with court orders; *and*
4. *Relating to the submission to the court of written reports.*

B. The CASA's investigation involves fact-finding via interviews, professional reports, observation of family and social interactions, and observation of the child's environment.

C. The CASA's investigation involves the observation of the child's circumstances. CASAs may conduct interviews of

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children; however, CASAs are specifically prohibited from questioning or inquiring of the child information regarding a precipitating incident or allegation involving child abuse and neglect.

D. The CASA volunteer should encourage interdisciplinary coordination and cooperation, whenever possible, in an effort to develop a plan of action in conjunction with other local agencies and professionals.

6 VAC 20-160-70. Confidentiality.

A. ~~A CASA volunteer~~ All CASA volunteers shall follow specific policies regarding the following:

1. Reporting suspected child abuse and neglect, and the procedure for making such reports;
2. Confidentiality of records and information ~~which are collected by the volunteer as part of his duties~~; and
3. Contacting ~~and~~, interviewing ~~and responding to~~ persons involved in the case.

B. To the extent permitted by *state and federal* confidentiality regulations (~~both state and federal~~), CASA volunteers should share information gathered with other involved professionals whenever possible and practicable.

6 VAC 20-160-80. Code of ethics.

A. CASA volunteers should conduct themselves in a professional manner, adhering to a code of ethics which is consistent with ethical principles established by local, state or national guidelines.

B. A CASA volunteer should not become inappropriately involved in the case ~~of~~ by providing direct service delivery to any parties that could (i) lead to a conflict of interest or liability ~~problems~~, or (ii) cause a child or family to become dependent on the CASA volunteer for services which should be provided by other agencies or organizations.

C. CASA volunteers should develop a general understanding of the code of ethics of other professionals with whom the CASA *volunteer* will be working.

PART IV. QUALIFICATIONS OF VOLUNTEERS.

6 VAC 20-160-90. Qualifications.

- A. CASA volunteers ~~must shall~~ be at least 21 years of age.
- B. CASA volunteers ~~must shall~~ have the ability to communicate effectively, both orally and in writing, ~~sufficient~~ to prepare court reports and to provide testimony.
- C. CASA volunteers ~~must shall~~ possess mature judgment, a high degree of responsibility and sufficient time to assist in advocating for the best interests of the child.
- D. CASA volunteers ~~must shall~~ be able to relate to persons of different cultures, ethnic backgrounds and different socioeconomic status.

6 VAC 20-160-100. Screening.

A. CASA volunteers ~~must shall~~ successfully complete screening procedures which, at a minimum, shall ~~consist of~~ include a written application and personal interview.

B. Pursuant to § 9-173.8 of the Code of Virginia, [~~CASA volunteers shall provide~~] ~~at their own cost~~, [~~the director shall obtain with the approval of the court~~] a copy of [~~their each applicant's~~] criminal history record or certification that no conviction data is maintained on [~~them him~~], in accordance with § 19.2-389 of the Code of Virginia, and a copy of information from the central registry, maintained pursuant to § ~~63.1-248 [Repealed]~~ 63.1-248.8 of the Code of Virginia, on any investigation of child abuse or neglect undertaken on him or certification that no such record is maintained on him. If the volunteer applicant has lived in another state within the past ~~12 months~~ *three years*, the CASA volunteer ~~should shall~~ also provide a copy of [~~their his~~] criminal history record from that area. An applicant should be rejected if he refuses to sign a release of information for appropriate law-enforcement checks.

C. CASA volunteers ~~must have shall~~ provide three references who will speak to their character, judgment and suitability for the position of CASA volunteer.

D. *Before the volunteer is sworn in, the director shall determine that the CASA volunteer is qualified under 6 VAC 20-160-90.*

~~6 VAC 20-160-110. Training.~~

E. CASA volunteers ~~must shall~~ successfully complete required training as set forth in 6 VAC 20-160-120.

PART V. TRAINING GUIDELINES FOR VOLUNTEERS.

6 VAC 20-160-120. Training.

A. To ensure that volunteers are fully prepared to perform their role as a CASA and to assume the accompanying responsibilities, each volunteer ~~must shall~~ participate in a minimum of ~~25~~ *30* hours of training prior to being accepted as a CASA *volunteer* and assigned cases. Credit may not be given (~~towards this 25 30 hours of training~~) for any previous training obtained by a volunteer prior to application to a *local* CASA program.

B. The initial training curriculum for a CASA should, at a minimum, include instructions on:

1. The delineation of the roles and responsibilities of a CASA focusing on the rationale for family preservation/permanency planning, discussion of the basic principles of advocacy, distinction between the appropriate and inappropriate activities for a CASA, level of commitment required of a CASA involved in a case and the performance expectations, review of the case assignment process and procedures, differentiation between the role of the CASA and other system personnel, and a comprehensive list of resources available and when and how to utilize these resources;

2. ~~The importance obligation~~ of confidentiality in the ~~work of a~~ CASA *related matters*, proper recordkeeping techniques, and the scope of state and federal statutes on the confidentiality of records;

3. The dynamics of cultural diversity and the development of cultural sensitivity by the CASA;

4. The nature of child abuse and neglect, the impact of drugs ~~and~~ alcohol on the incidence of abuse, identification of the family conditions and patterns which lead to and perpetuate abuse and neglect, and ~~discussions of instruction on~~ how social services respond to and assess reports of abuse and neglect;

5. The general principles and concepts of child and family development;

6. [*Concepts of separation and loss, the role of foster care and*] permanency planning in the context of state law with consideration of the state's position on family preservation, family reunification and alternative permanent plans for a child who cannot be returned to the home. ~~Through the critical use of these concepts, discussion of how a case plan is devised;~~

7. Basic communication and interview skills, with guidelines for dealing with sensitive issues and the interaction between the CASA and ~~other~~ parties to a case, and practice in conducting interviews and writing reports;

8. The juvenile court process which should include an outline of the various types of court ~~events proceedings~~, what transpires at each ~~event proceeding~~, the CASA's role ~~at the event~~, who to contact when there is a question about the court process, a glossary of legal terminology, how to prepare for a hearing, and how to prepare a report for the court; and

9. The development of advocacy skills, such as negotiation and conflict management, and how they may be used by the CASA to improve the conditions for a child.

C. The initial training program ~~should~~ *shall* provide an opportunity for the volunteer to observe actual court proceedings similar to those in which he would be involved as a CASA volunteer. This observation is above and beyond the hours included in the initial training.

D. CASA volunteers in training should be provided an opportunity to visit community agencies and institutions relevant to their work as a volunteer.

E. The CASA program should provide volunteers in training with the following written materials:

1. Copies of pertinent laws, regulations, and policies;
2. A statement of commitment form clearly stating the minimum expectations of the volunteer once trained; and
3. A training manual which is easy to update and revise.

F. Trainers and faculty for the initial training program and any ongoing training or continuing education should be persons with substantial knowledge, training and experience in the subject matter which they present and should also be competent in the provision of technical training to lay persons.

G. CASA program staff and others responsible for the initial training program should be attentive to the participation and progress of each trainee and be able to objectively evaluate his abilities according to criteria developed by the CASA program for that purpose. CASA directors should use the Comprehensive Training Curriculum for CASA from the National CASA Association and training curricula developed within the state as a reference in designing and developing their training program.

H. The CASA program ~~should~~ *shall* make available a minimum of 12 hours of ~~continuing education in-service training~~ annually for volunteers who are accepted into the program. These [~~ongoing training in-service~~] programs should be designed and presented to maintain and improve the volunteer's level of knowledge and skill. Special attention shall be given to informing volunteers of changes in the law, local court procedures, the practices of other agencies involved, CASA program policies and developments in the fields of child development, child abuse and child advocacy. [~~Ongoing training may be provided directly by the CASA program, in conjunction with another agency or agencies, or through an outside agency. All training provided by outside agencies must have been reviewed and approved by the CASA program director for its suitability for the continuing education of the CASA volunteers.~~]

I. ~~On an annual basis each CASA volunteer should participate in such continual education activities as determined by the program director volunteers shall~~ [*attend participate in*] 12 hours of continuing education annually [*as approved by the director. This continuing education may be in-service programs provided directly by the CASA program, or in conjunction with another agency or agencies, or may be through an outside agency, through print or electronic media, or from other sources. All training not conducted or sponsored by the CASA program must have been reviewed and approved by the CASA director for its suitability for the continuing education of CASA volunteers, and the amount of continuing education credit that is appropriate.*]

FORMS

NOTICE: The forms used in administering 6 VAC 20-160-10 et seq., Rules Relating to the Court-Appointed Special Advocate Program (CASA), are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

Appendix A— CASA Quarterly Case Summary, [~~eff. 3/26/92~~ rev. 8/1/97] (Form A).

Appendix B— CASA Annual Case Summary, [~~eff. 3/26/92~~ rev. 5/97] (Form B).

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Appendix C— CASA Annual Case Summary Narrative Form, [eff. 3/26/92 rev. 5/97] (Form C).

Appendix D— CASA Annual Financial Status, [eff. 3/26/92 rev. 5/97] (Form D).

CASA Annual Projected Program Budget, 5/97 (Form E).



Form A
May 1997

Quarterly Case Summary

Program Name: _____
 Grant #: _____
 Localities Served: _____
 Reporting Person: _____
 Date/Quarter: _____

Case Volunteer Activity This Quarter

volunteers completing training: _____
 # volunteers active on cases: _____
 # volunteers unassigned: _____
 # volunteers inactive: _____
 Total case volunteer hours: _____ X hour
 Total case volunteer \$ opportunity: _____ \$

Children Served This Quarter

Holdover children: _____
 # New children: _____
 # Total children: _____
 # Total children: _____ = # active volunteers

	New	Carry Over	Total	Closed	Balance
# A/N					
# Custody					
# Child					
# Other					
# Other					
# Cases closed					
# Cases closed					
# Cases closed					
# Cases closed					

Client Characteristics

AGE	New	Carry Over	Total	Closed	Balance
0-24 mon.					
2-5 yrs.					
6-10 yrs.					
11-14 yrs.					
15+					

GENDER	New	Carry Over	Total	Closed	Balance
Male					
Female					

RACE	New	Carry Over	Total	Closed	Balance
Black					
White					
Hispanic					
Asian					
Nat.Amer.					
Other					

Eliminate Cases closed this quarter

Total Volunteer Activity Hours

Administrative Hours:	
Other Program Hours:	
Total Other Volunteer Hours:	
Total Case Volunteer Hours:	
Total Other Volunteer Hours:	
Total Volunteer Hours:	

Cases Closed This Quarter

Total cases assigned: _____ # cases closed: _____
 # Total cases assigned at home: _____ # cases closed: _____

Final 06/01/97

Form C
May 1997

casa

Annual Case Summary Narrative Form

Program Name: _____
 Grant #: _____
 Localities Served: _____
 Reporting Person: _____
 Date/Year: _____

Use this sheet to detail the program's major accomplishments and major changes in program policy or operation during the past year.

Form B
May 1997

casa

Annual Case Summary

Volunteer Activity This Year

Program Name: _____
 Localities Served: _____
 Reporting Person: _____
 Date: _____
 Grant #: _____

Volunteers completing training:

Average # Volunteers active on cases: X per hour

Total volunteer hours:

Total volunteer \$ equivalency:

* Multiply the total number of volunteer hours this year by the hourly rate to arrive at the total volunteer \$ equivalency.

Children Served This Year

Age	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# 0 - 24 mos.:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# 2 - 5 yrs.:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# 6 - 10 yrs.:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# 11 - 14 yrs.:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# 15 + yrs.:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Sex	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Male:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Female:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Race	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Black:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# White:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Hispanic:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Asian:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Native American:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
# Other:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Cases This Year

Holdover cases:

Abuse/Neglect cases:

New cases:

Custody cases:

Total cases:

Child cases:

Other cases:

* Add the cases held over from last year to arrive at the total number of active cases this year.

Total Cases:

Volunteers:

Cases per volunteer:

* Divide the total number of active cases this year by the average number of active volunteer this year to arrive at the average number of cases per volunteer.

Closed Cases This Year

Total days assigned:

Average assignment length:

Cases closed:

Total days out-of-home:

Average length of placement:

Cases closed:

* For cases closed this year, divide the sum of the total number of days spent for cases closed in a year by the total number of cases closed to arrive at the average assignment length.

* For cases closed this year, divide the sum of the total duration of out-of-home placement for all cases closed by the number of closed cases to arrive at the average length of placement.

Attach to annual CASA Summary Form and return to:
 Virginia Department of Criminal Justice Services
 805 East Broad Street, 10th Floor
 Richmond, Virginia 23231
 Attn: CASA Program Coordinator

Form E
May 1997

casa

Annual Projected Program Budget

Please attach a projected budget which contains
expenditure and income projections, the sources of
income, and the amount of income from each source.

Program Name: _____
Grant #: _____
Localities Served: _____
Reporting Person: _____
Date/Year: _____

Form D
May 1997

casa

Annual Financial Status

Please attach a letter from the program's fiscal agent or
accountant identifying who is responsible for the fiscal
records and stating where they are routinely kept. Also,
attach a statement, prepared in accordance with generally
accepted accounting practices, showing the total cash
receipts and disbursements for the past year.

Program Name: _____
Grant #: _____
Localities Served: _____
Reporting Person: _____
Date/Year: _____

Attach to annual CASA Summary Form and return to:
Virginia Department of Criminal Justice Services
805 East Broad Street, 10th Floor
Richmond, Virginia 23231
Attn: CASA Program Coordinator

Attach to annual CASA Summary Form and return to:
Virginia Department of Criminal Justice Services
805 East Broad Street, 10th Floor
Richmond, Virginia 23231
Attn: CASA Financial Coordinator

VA.R. Doc. No. R97-515; Filed October 31, 1997, 11:11 a.m.

TITLE 11. GAMING

CHARITABLE GAMING COMMISSION

Title of Regulation: 11 VAC 15-12-10 et seq. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 18.2-340.18 of the Code of Virginia.

Effective Date: January 1, 1998.

Summary:

These regulations replace the current interim public participation guidelines which expire December 31, 1997. These regulations establish the procedures to be used for soliciting public input in the formulation, amendment or repeal of regulations in accordance with the Administrative Process Act.

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 the Administrative Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238. There is a \$10 charge for copies.

CHAPTER 12.
PUBLIC PARTICIPATION GUIDELINES.

11 VAC 15-12-10. Definitions.

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

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

"Approving authority" means the collegial body of the Virginia Charitable Gaming Commission consisting of seven members each being duly appointed by the Governor of Virginia.

"Charitable Gaming Law" means the provisions found in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia.

"Executive Secretary" means the Executive Secretary of the Virginia Charitable Gaming Commission or his designee.

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

11 VAC 15-12-20. Soliciting input.

A. The procedures in this chapter shall be used for soliciting input of interested persons in the formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act [~~APA~~]. This chapter does not apply to regulations exempted from the

provisions of [§ 9-6.14:4.1 B of] the Administrative Process Act [~~(§ 9-6.14:4.1 B of the Code of Virginia)~~] or excluded from the operation of Article 2 [(§ 9-6.14:7.1 et seq.) of the Administrative Process Act [~~(pursuant to)~~] § 9-6.14:4.1 C of the Code of Virginia [~~†~~].

B. [~~The~~] Failure of any person to receive any notice or copies of any documents provided under this chapter shall not affect the validity of any regulation.

C. In developing any regulation governing charitable gaming, the commission is committed to obtaining comments from interested persons. These comments may be forwarded to the executive secretary at the commission's main business office.

D. [~~The~~] Public participation procedures shall apply to regulations administered by the commission that are subject to the Administrative Process Act. These procedures shall not apply to regulations adopted on an emergency basis.

E. Any person may petition the commission concerning the adoption or amendment of regulations. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended action with respect to regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact of the proposed action on the petitioner and other affected persons; and
7. Supporting documents, if applicable.

The commission shall provide a written response to such petition within 180 days from the date the petition was received. The commission's decision to initiate or not initiate rule making in response to petitions is not subject to judicial review. The commission, at its discretion, may consider any regulation request or change.

F. The commission shall maintain a list of persons who provide written comments or petitions to the commission and mail to everyone on the list a copy of the Notice of Intended Regulatory Action.

G. The commission shall place on its agenda, whenever appropriate, a period for public participation during its regular meetings.

H. The commission shall identify persons who either would be interested in or affected by proposed regulations. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Using a list, compiled by the commission, of organizations which have been issued a permit or exempt authorization to conduct charitable gaming

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activities and of suppliers with a Certificate of Registration.

2. Using commission mailing lists to identify people who have raised questions or expressed an interest in the regulations.

3. Obtaining from the Secretary of the Commonwealth a list of persons who have registered as lobbyists for the most recent General Assembly session. The list shall be used to identify groups which may be interested in the subject matter of the proposed regulations.

I. The commission shall use, as necessary, advisory committees and interested individuals for developing proposed regulations. The commission shall use individuals with special expertise for professional input as required. Situations that may warrant the use of advisory committees may include, but are not limited to, analyzing electronic and mechanical gaming equipment, conducting special studies of charitable gaming as requested by the commission or the legislature and commenting on current or proposed statutes, regulations or operating rules and procedures.

J. Except for those regulations exempted by § 9-6.14.4.1 of the Code of Virginia, the commission shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation. At least 30 days shall be provided for public comment after publication of the NOIRA. The commission shall not file proposed regulations with the Registrar of Regulations until the public comment period on the NOIRA has closed.

K. The methods of notifying interested persons shall include publishing a notice in the Virginia Register of Regulations (Virginia Register) and may also include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in subsection H of this section; and

2. Requesting that groups, associations and organizations to whom the notice is sent, publish the notice in newsletters or journals or use other means available to them to inform their members.

L. After interested parties have had reasonable opportunity to respond to the notice, the commission shall determine the level of interest in the proposed regulations.

1. If sufficient interest exists, the commission may schedule informal meetings before development of the proposed regulations. The purpose of the meetings shall be to determine specific areas of interest and concern and gather factual information on the subject of the proposed regulations.

2. Instead of or in addition to informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of regulations from those who respond to the notice.

3. The commission may forego an informal meeting, provided sufficient information to develop regulations was acquired as a result of the notice.

M. After initial public input on the intended regulatory action, the commission shall develop proposed regulations for review, revision and adoption.

N. After the drafting process, the commission-approved regulations shall be submitted to the Registrar of Regulations in accordance with the Administrative Process Act. Commission-approved regulations shall be published as proposed regulations in the Virginia Register.

O. The commission shall furnish a copy of the regulations published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulations.

P. The commission shall indicate in the NOIRA whether it intends to hold a public hearing on the proposed regulations after it is published. The commission shall hold such public hearings if required by law. If the commission states an intent to hold a public hearing on the proposed regulations in the NOIRA, then it shall hold the hearing.

Q. The commission shall adopt all final regulations. The final regulations shall be submitted for publication in the Virginia Register.

R. The commission shall order the printing of all adopted final regulations.

V.A.R. Doc. No. R97-689; Filed November 5, 1997, 11:42 a.m.

Title of Regulation: 11 VAC 15-22-10 et seq. Charitable Gaming Rules and Regulations.

Statutory Authority: §§ 18.2-340.15, 18.2-340.18, 18.2-340.19 and 18.2-340.30 of the Code of Virginia.

Effective Date: January 1, 1998.

Summary:

These regulations replace the current Interim Charitable Gaming Regulations that expire December 31, 1997. These regulations prescribe the conditions under which charitable gaming shall be conducted in the Commonwealth of Virginia to ensure that this type of gambling is conducted in a manner consistent with the purpose for which it is permitted. Changes made to proposed regulations (i) establish charitable use of proceeds requirements and consequences for failing to meet use of proceeds requirements; (ii) amend the rules for volunteers playing charitable games; and (iii) require verification of defective electronic bingo devices.

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 the Administrative Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238. There is a \$10 charge for copies.

CHAPTER 22.
CHARITABLE GAMING RULES AND REGULATIONS.

PART I.
DEFINITIONS.

11 VAC 15-22-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following [~~meaning~~ meanings] unless the context clearly indicates otherwise:

"Address of record" means an address provided to the commission on a permit application or exempt notification form or the most recent address on the commission's files.

[~~"Bingo equipment and video systems" shall include equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.~~]

"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.

"Building" means a structure enclosed by continuous exterior walls regardless of the configuration of the interior walls.

"Bundled pull-tabs" means certain pull-tabs, commonly referred to as "jar tickets," "guppies," etc., which are taped or stapled together and sold as one unit.

"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

"Cash" means United States currency or coinage.

"CGC number" means a unique identification number issued by the commission.

"Commission" means the Virginia Charitable Gaming Commission.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open," "Bonanza Bingo," "Bullseye" and "Fortune Card."

"Daubing" means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, pull-tab raffle or seal cards with the same serial number.

"Designator" means an object used in the number selection process, such as a ping pong ball, upon which bingo letters and numbers are imprinted.

"Discount" means any reduction in cost of admission or game packs via use of coupons, free packs or other similar methods.

["Disinterested player" means a player who is unbiased.]

"Disposable paper card" means a nonreusable, paper bingo card manufactured with preprinted numbers.

"Door prize" means any prize awarded by the random drawing or random selection of a name or number taken from any entry or admission ticket.

"Electronic bingo device" means an electronic device which displays facsimiles of bingo cards and allows a player to daub such cards.

"Electronic verification" means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which contains preprogrammed software for this purpose.

["Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.]

"Fiscal year" or "annual reporting period" means the 12-month period beginning October 1 of any given year and ending September 30 of the following year.

"501(c) organization" means any organization that is tax exempt under 26 USC § 501(c) (3), (4), (8), (10) or (19).

"Flare" means a piece of paper, cardboard or similar material which bears printed information relating to [the] name of [the] manufacturer or logo, name of the game, card count, cost per play, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

"Free space number," "perm number," "center number [,]" [or] "card [number]" or ["] face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

"Game program" means a written list of all games to be played and prize amounts to be paid during a session for each game, where prize amounts are fixed or are based on attendance.

"Immediate family" means one's spouse, mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, father-in-law [and or] stepchild.

"Interested parties" means the president, an officer or bingo manager of any qualified organization which is exempt or is a permit applicant or holds a permit or exempt authorization to conduct charitable gaming or the owner,

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director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

["Management" means the provision of oversight and supervision.]

~~["Management, operation or conduct" means the provision of oversight and supervision, check writing or approval authority for charitable gaming funds, purchase authority for charitable gaming supplies, service as a volunteer worker or assistant or negotiation of contracts or leases.]~~

"Manufacturer" means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person who modifies, converts, adds [to] or removes parts [to or] from bingo or other charitable gaming equipment or supplies to further [its their] promotion or sale for the conduct of charitable gaming.

"Operating costs" means charitable gaming fund disbursements for reasonable and proper expenses incurred in the conduct of charitable gaming including, but not limited to, costs of publicizing the time, date and location of charitable gaming [;] utilities [;] rent [;] prizes [;] professional fees [;] audit and administration or permit fees [,] and gaming supplies.

["Operation" or "conduct" means the authority for check writing, approval of expenses of charitable gaming funds, purchase of charitable gaming supplies, negotiation of contracts or leases, or service as a volunteer worker or assistant.]

"Owner" means any individual with financial interest of 10% or more in a supplier.

"Packet" means sheets of bingo paper assembled in the order of games to be played. This may or may not include specials, winner-take-all and jackpots.

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

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card game" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

"Pull-tabs" means individually prepackaged cards made completely of paper or paper products with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.

"Random selection" or "randomly selected" means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a device that is operated manually or mechanically to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set or each instant bingo or pull-tab card in a deal.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper [cards] or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

"Set" means the bingo cards contained within each series number.

"Special permit" means a permit granted to a qualified organization to allow the organization to conduct more frequent operation of bingo games during carnivals, fairs or other similar public amusement events of limited duration.

"Use of proceeds" means the use of funds derived by an organization from its charitable gaming activities which are disbursed for those lawful religious, charitable, community or educational purposes. This includes expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

PART II.

PERMITS, EXEMPT NOTIFICATIONS, REGISTRATION CERTIFICATES.

11 VAC 15-22-20. Eligibility for permit; when valid; permit requirements.

A. The conduct of charitable gaming is a privilege which may be granted or denied by the commission. Except as provided in § 18.2-340.23 of the Code of Virginia, every [eligible] organization and volunteer fire department and rescue squad with anticipated gross [gaming] receipts of \$25,000 or more annually shall obtain a permit or exempt authorization number from the commission prior to the commencement of authorized charitable gaming activities.

B. Upon the organization's request and pursuant to § 18.2-340.24 B of the Code of Virginia, the commission shall review a tax exempt request submitted to the IRS for a tax exempt

status determination. A nonrefundable fee of \$250 shall be charged for this review.

C. A permit or exempt authorization shall be valid only for [activities,] locations, days, dates and times as listed on the permit or exempt authorization.

D. In accordance with subdivision 1 of § 18.2-340.19 of the Code of Virginia, as a condition of receiving a permit or exempt authorization, the following minimum percentage of charitable gaming gross receipts shall be used for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes:

[For the fiscal year beginning October 1, 1996:	
For organizations with annual gross receipts less than \$150,000	3%
For organizations with annual gross receipts between \$150,000 and \$500,000	4%
For organizations with annual gross receipts over \$500,000	6%]
For the fiscal year beginning October 1, 1997:	
For organizations with annual gross receipts less than \$150,000	4%
For organizations with annual gross receipts between \$150,000 and \$500,000	6%
For organizations with annual gross receipts over \$500,000	9%
For the fiscal year beginning October 1, 1998, and later fiscal years:	
For organizations with annual gross receipts less than \$150,000	5%
For organizations with annual gross receipts between \$150,000 and \$500,000	10%
For organizations with annual gross receipts over \$500,000	12%

[Unless an organization has derived no gross receipts in the prior fiscal year, the gross receipts of the most recently completed fiscal year shall be used to determine the applicable percentage for the use of proceeds requirement. An organization with no prior charitable gaming activity shall be subject to a 5.0% minimum use of proceeds requirement.]

[~~E. Organizations not formed exclusively for religious, charitable, community or educational purposes shall expend at least the following percentage of the use of proceeds requirement for charitable gaming funds towards expenses other than those relating to the acquisition, construction, maintenance or repair of any interest in real property:~~

For the fiscal year beginning October 1, 1998	25%
For the fiscal year beginning October 1, 1999	50%
For the fiscal year beginning October 1, 2000	75%

~~Nothing in this subsection shall prevent an organization from using general fund moneys for expenses relating to the acquisition, construction, maintenance or repair of any interest in real property.~~

F. E.] If an organization fails to meet the minimum use of proceeds [~~percentage based on financial reports requirement,~~], its permit shall be suspended [~~for a period of 30 days,~~ or revoked based on the deficiency in use of proceeds according to the following schedule:

Deficiency	First Failure	Second Failure
Less than 2.0%	10 days	20 days
2.0 to 5.0%	20 days	40 days
Over 5.0%	30 days	60 days]

If an organization [~~has previously failed fails~~] to meet the minimum use of proceeds requirement [~~in any of the three previous fiscal years three times~~], its permit shall be revoked.

[F. Notwithstanding the provisions of subsection E of this section, if an organization is within less than one percentage point of the minimum use of proceeds requirement for a given fiscal year, it may request a one-time approval to make up the deficiency (in dollars) in the following fiscal year. If such approval is granted, the deficiency will be added to the percentage requirement for the following year and the permit shall not be suspended.

Failure to meet the required percentage in the year following such approval shall result in a 30-day suspension.]

G. An organization whose permit is revoked for failure to comply with provisions set forth in ~~subsections~~ subsection D [~~and E~~] of this section shall be eligible to reapply for a permit at the end of one year from the date of revocation [~~of the permit~~]. The commission, at its discretion, may issue the permit if it is satisfied that the organization has made substantial changes to its management [~~or,~~] operations or both [~~and may achieve its minimum use of proceeds percentages~~].

11 VAC 15-22-30. Permit application and exempt notification process.

A. Organizations anticipating gross [gaming] receipts of \$25,000 or more (except volunteer fire departments and rescue squads) shall complete a commission-prescribed application to request issuance or renewal of an annual permit to conduct charitable gaming. The application shall be accompanied by a nonrefundable fee payable to the Treasurer of Virginia in the amount of \$200. The commission may [also] issue permits for periods of less than one year. Fees for such permits shall be prorated and rounded off to the nearest \$50 per quarter.

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B. Volunteer fire departments and rescue squads anticipating gross receipts of \$25,000 or more shall file a commission-prescribed exempt notification form to request an authorization to conduct charitable gaming.

C. The commission may initiate action against any organization exempt from permit requirements when it reasonably believes the organization is not in compliance with the provisions of charitable gaming laws or applicable regulations, or both, of the commission. The commission may decline to issue an exempt notification number to volunteer fire departments and rescue squads failing to meet the requirements of § 18.2-340.23 of the Code of Virginia.

D. Permit holders requiring a special permit shall convey their request in the form of a letter to the commission. There shall be a \$50 fee for special permits.

E. Permits and exempt authorizations shall be valid for a period of one year from the date of issuance or for a period specified on the permit or authorization.

F. Permits shall be granted only after a background investigation [of an organization or interested parties, or both,] to ensure public safety and welfare as required by § 18.2-340.25 of the Code of Virginia. Investigations shall consider the nature, the age and severity and the potential harm to public safety and welfare of any criminal offenses. The investigation may include, but shall not be limited to, the following:

1. A search of Virginia criminal history records for all officers of the organization and members who serve as game managers. Information and authorization to conduct these records checks shall be provided in the permit application. Applications may be denied if any game manager or officer has been convicted within 10 years preceding the date of application for any [of the following]:

- a. [Any] Felony involving fraud, theft or financial crimes; or

- b. [Any] Misdemeanor crimes involving moral turpitude.

In addition, any felony conviction involving fraud, theft or financial crimes, regardless of age, may result in denial of application.

2. An inquiry as to whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years.

3. An inquiry as to whether the organization has entered into any contract with, or has otherwise employed for compensation, any persons for the purpose of organizing or managing, operating or conducting any charitable gaming activity.

4. Inquiries into the finances and activities of an organization and the sources and uses of funds.

5. Inquiries into the level of community or financial support to the organization and the level of community involvement in the membership and management of the organization.

G. The [initial] permit application shall include:

1. A list of members participating in the conduct of charitable gaming;

2. A copy of the articles of incorporation, bylaws, charter, constitution or other [similar appropriate] organizing document [~~Religious organizations with churches or other houses of worship may submit other appropriate organizing documents~~];

3. A copy of the determination letter issued by the IRS under § 501(c) of the Internal Revenue Code, if appropriate, or a letter from the national office of an organization indicating the applicant organization is in good standing and is currently covered by a group exemption ruling;

4. A copy of the organization's most recent annual financial statement and balance sheet;

5. A copy of the written lease or proposed written lease agreement and all other agreements if the organization rents or intends to rent [the a] facility where bingo is or will be conducted. Information on the lease shall include name, address, phone number of the landlord, square footage and maximum occupancy of the building and the rental amount by each category of equipment or property rented; and

6. An authorization by an officer or other appropriate official of an organization to permit the commission to determine whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years. [~~This authorization will allow appropriate tax authorities to provide information relating to open or closed criminal investigations, civil examinations or other enforcement activity regarding the organization's involvement in charitable gaming, revocation of tax exempt status or other matters that may impact the issuance of a charitable gaming permit.~~]

H. Copies of minutes of meetings of an organization and any contracts with landlords or suppliers to which the organization is, or may be a party, may be requested by the commission prior to rendering a permitting decision.

- I. Copies of amendments to an organization's articles of incorporation, bylaws, charter, constitution or other organizing document, as they occur, shall be submitted to the commission.

- J. Organizations applying to renew a permit previously issued by the commission shall submit articles of incorporation, bylaws, charter, constitution or other organizing document and IRS determination letter [only] if there are any amendments or changes to these documents.

The most recent financial statements, information on officers and an IRS tax waiver form shall also be filed with a renewal application.

K. Organizations may request permits to conduct joint bingo games as provided in § 18.2-340.29 of the Code of Virginia and special permits as provided in § 18.2-340.27 of the Code of Virginia:

1. In the case of a joint game between a volunteer fire department or rescue squad and an organization not exempt from permit requirements, both shall file the exempt notification form and permit application respectively. Benefits extended by regulation or the Code of Virginia to a volunteer fire department or rescue squad shall not extend to a nonexempt organization solely due to operation of a joint game.

2. The nonrefundable permit fee for joint games shall be a total of \$200.

3. A single permit shall be issued in the names of both organizations conducting a joint game. All restrictions and prohibitions applying to single organizations shall apply to qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 of the Code of Virginia.

4. No charitable gaming shall be conducted prior to the issuance of a joint permit or joint exemption number.

5. Applications for joint games shall include an explanation of the division of manpower, costs and proceeds for the joint game.

L. An organization wishing to permanently change dates, times or locations of its charitable gaming shall request a change in the permit.

M. No more than six temporary changes in dates or times due to inclement weather, special events or holidays may be made in a permit year without a permanent change in the permit.

N. Change requests shall be made in writing at least 30 days in advance of the proposed effective date.

O. A nonrefundable fee of \$50, payable to the Treasurer of Virginia, shall be submitted with a request for a permanent permit change. The fee shall not be charged for temporary changes as described in subsection M of this section or to changes in permits due to an addition or removal of a charitable gaming activity.

P. An organization located in the Northern Virginia Planning District may sell raffle tickets for a drawing to be held in another state in the United States provided:

1. The raffle is conducted by the organization in conjunction with a meeting outside the Commonwealth of Virginia or with another organization which is licensed to conduct raffles outside the Commonwealth of Virginia [- ;]

2. The raffle is conducted in accordance with the laws of the state where the drawing is to be held [- ; and]

3. The portion of the proceeds derived from the sale of raffle tickets in the Commonwealth is reported to the commission.

PART III.

CONDUCT OF GAMES, RULES OF PLAY, ELECTRONIC BINGO.

11 VAC 15-22-40. Conduct of bingo, instant bingo and raffles.

A. Organizations subject to [~~these regulations~~ this chapter] shall post their permit or exempt authorization at all times on the premises where charitable gaming is conducted.

B. No individual shall provide any information or engage in any conduct that alters or is intended to alter the outcome of any charitable game.

C. Individuals under 18 years of age may play bingo provided such persons are accompanied by a parent or legal guardian. It shall be the responsibility of the organization to ensure that such individuals are eligible to play. [~~At its option;~~] An [~~organization~~ organization's house rules] may [~~adopt a house rule to~~] limit the play of bingo [~~to individuals age 18 or older~~ by minors].

D. Individuals under the age of 18 may sell raffle tickets for a qualified organization raising funds for activities in which they are active participants.

E. No individual under the age of 11 may participate in the management, operation or conduct of bingo games. [Individuals 11 through 17 years of age may participate in the conduct or operation of a bingo game provided the organization permitted for charitable gaming obtains and keeps on file written parental consent from the parent or legal guardian and verifies the date of birth of such youth. An organization's house rules may limit the involvement of minors in the operation or conduct of bingo games.]

[~~F. Individuals between the ages of 11 and 18 may participate in the conduct or operation of a bingo game provided the organization conducting such bingo games obtains and keeps on file written parental consent from the parent or legal guardian and verifies the date of birth of such youth.~~]

~~G. F.] Family members and surviving spouses of deceased bona fide members may participate as volunteer game workers.~~

[~~H. G.] All volunteer workers, including nonmember spouses, shall have in their possession a picture identification, such as a driver's license, while participating in the management, operation or conduct of a bingo game.~~

[~~I. H.] There shall be a game manager or person in charge present any time a bingo game is conducted.~~

[I. Organizations shall ensure that all charitable gaming equipment is in working order before charitable gaming activities commence.]

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J. Any organization selling instant bingo, pull-tab raffles or seal cards shall:

1. Maintain a supplier's invoice or a legible copy thereof [~~on premises where gaming is conducted which reflects all deals in play, in storage or used at the location where instant bingo cards, pull-tab or seal card raffles are sold; and at the location where the gaming is taking place and cards are sold. The original invoice or legible copy shall be stored in the same storage space as the supply of pull-tabs, instant bingo or seal cards.]~~

2. Pay for instant bingo, pull-tab or seal card supplies only by a check drawn on the charitable gaming account of the organization.

K. A volunteer working a bingo session may receive complimentary food and nonalcoholic beverages for consumption on premises, provided the retail value of such food and beverages does not exceed [~~\$5.00~~ \$8.00] for each session.

[L. Individuals employed by an organization to work in the private social quarters open only to members and guests may sell seal cards or pull-tab cards provided they are members who are not directly compensated for the sale of these products.]

[~~L. M.~~] Individuals who are not members of an organization or are members who do not participate in any charitable gaming activities may be paid reasonable fees for preparation of financial reports.

[~~M. N.~~] Except for individuals identified in subsections K and [~~L. M.~~] of this section and individuals allowed by law to be compensated for providing assistance to organizations for the deaf and blind, no free packs, [free electronic bingo devices,] discounts or remuneration in any other form shall be provided directly or indirectly to volunteers, members of their family or individuals residing in their household. [The reduction of tuition, dues or any fees or payments due as a result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.]

[~~M. O.~~] Individuals providing security for an organization's charitable gaming activity shall not participate in the charitable gaming activity as a player and shall not be compensated with charitable gaming supplies or with rentals of electronic bingo devices.

[~~O. P.~~] No organization shall award any prize money or any merchandise valued in excess of the following amounts:

1. No bingo door prize shall exceed \$25.
2. No regular bingo or special bingo game prize shall exceed \$100.
3. No instant bingo prize for a single card shall exceed \$500.
4. No bingo jackpot of any nature whatsoever shall exceed \$1,000 nor shall the total amount of bingo

jackpot prizes awarded in any one calendar day exceed \$1,000.

5. No pull-tab card [~~, when played as permitted in § 18.2-340.26 of the Code of Virginia,] shall have a prize exceeding \$500.~~

The provisions of this subsection shall not apply to any bingo game in which all the gross receipts from players for that game up to \$1,000 are paid as prize money back to the players, provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

[~~P. Q.~~] Multiple bingo sessions shall be permitted in a single premises as long as the sessions are distinct from one another and are not used to advertise or do not result in the awarding of more in prizes than is permitted for a single qualified organization. All leases for organizations to conduct charitable gaming in a single premises shall be for sessions separated by an interval of at least one hour during which no [~~instant bingo~~] sales shall take place.

[~~Q. R.~~] Separate sessions at the same location shall require separate admission fees.

[~~R. S.~~] All bingo and instant bingo sales must occur within the time specified on the charitable gaming permit. In addition, instant bingo sales may occur as provided in subsection [~~S. T.~~] of this section provided no such sales take place in the required one hour break between sessions.

[~~S. T.~~] Instant bingo cards shall only be sold in conjunction with a regular bingo session. No instant bingo sales shall take place [~~for~~] more than two hours before or after a session. If multiple sessions are held at the same location, no [~~instant bingo~~] sales shall be conducted during the required one hour break between sessions. The commission may take action if it believes that a regular bingo session is not legitimate or is being conducted in a manner such that instant bingo cards are not being sold in conjunction with a normal, regular bingo session.

[~~T. No charitable gaming shall be conducted by any organization on days, premises or at times other than those which are specified on the organization's permit or exempt authorization approved by the commission.]~~

U. Only bona fide volunteers of qualified organizations may rent, exchange or otherwise provide electronic bingo devices to players.

V. A qualified organization shall conduct only bingo games listed on a game program for that session. The program shall list all games and prize amounts. If the prize amounts are determined by attendance or at the end of a game, the game program shall list the attendance required for the prize amount or [~~the fact disclose~~] that prizes shall be determined at the end of a game.

W. A qualified organization selling instant bingo or pull-tab cards shall post a flare provided by the manufacturer at the location where such cards are sold.

X. Only qualified organizations shall advertise a bingo game. Providing players with information about bingo games through printed advertising is permitted, provided the name of the qualified organization shall be in a type size equal to or larger than the name of the premises, hall or the word "bingo." Printed advertisements shall identify the use of proceeds percentage reported in the past quarter or fiscal year.

Y. Raffles which award prizes based on a percentage of gross receipts shall use prenumbered tickets.

Z. The following rules shall apply to pull-tab dispensing devices:

1. A dispenser shall only be used at a location owned or leased by a qualified organization which holds a permit to conduct charitable gaming at that location. Only cards purchased by an organization to be used during the organization's charitable gaming activity shall be in the dispenser.
2. Keys to the dispensing area and coin/cash box shall be in the possession and control of the game manager or designee of the organization's board of directors at all times. Keys shall at all times be available at the location where the dispensing device is being used.
3. The game manager or designee shall provide keys to a commission representative for inspection upon request.
4. Only a volunteer game worker of an organization may stock the device, remove cash or pay winners' prizes.

11 VAC 15-22-50. Rules of play.

A. An organization may adopt "house rules" regarding conduct of the game, provided such rules are consistent with the provisions of the law and this chapter. "House rules" shall be conspicuously posted or [,] at an organization's option, printed on the game program.

[~~B. The following rules of play govern the conduct of bingo games:~~]

[~~1. B.] All players shall be physically present at the location where the balls for a bingo game are drawn to play the game or to claim a prize. Seal card prizes that can only be determined after a seal is removed or opened must be claimed within 30 days of the close of a deal. All other prizes must be claimed on the game date.~~

[~~2. No random number generators shall be used in the conduct of bingo games.~~]

C. The following rules of play shall govern the sale of instant bingo and pull-tab cards:

1. Cards shall not be sold to the public from the original packing box or container. Cards from the original

packing box or container shall be mixed thoroughly before being sold by volunteers, dispensing machines or from other containers.

2. No cards which have been marked, defaced, altered, tampered with or otherwise constructed in a manner which tends to deceive the public or affect the chances of winning or losing shall be placed into play.

3. Winning cards shall have the winning symbol or number defaced or punched immediately after redemption by the organization's authorized representative.

4. An organization may commingle unsold cards with no more than one additional deal. The practice of commingling deals shall be disclosed to the public via house rules or in a similar manner.

5. If a deal is not played to completion and unsold cards remain, the remaining cards shall be sold on the next date the same type of ticket is scheduled to be sold. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed. The unsold cards shall be retained in accordance with 11 VAC 15-22-70.

[6. All seal card games purchased shall contain the sign-up sheet, seals and the cards packaged together in each deal.

7. Progressive seal card prizes not claimed within 30 days shall be carried forward to the next progressive game in progress and paid to the next progressive game prize winner.]

[~~D. [Individuals involved in the management, operation or conduct of charitable gaming Volunteers] may play bingo [for at] any session they have worked provided they do not [work a game after they have played in a given session. Such individuals return to working a game after having played. Volunteers] may not purchase [directly or through others] instant bingo, pull-tab or seal card products [from organizations they assist on the day they have volunteered or from any deal they have helped sell, whichever is later].~~

E. Electronic bingo.

1. Electronic bingo devices may be used by bingo players in the following manner:

- a. Players must input into the device each number called;
- b. Players must notify the game operator or caller of a winning pattern of bingo by a means other than use of the electronic device;
- c. Players are limited to playing a maximum of 72 cardfaces per game on each device;
- d. Electronic bingo devices shall not be reserved for players. Each player shall have an equal opportunity to use the available devices on a first come, first served basis;

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e. Each player using an electronic bingo device shall possess a printed representation of all faces played or to be played by the device or a receipt with the organization name, date, time, number of cards played and device identification number. Images of cards or faces stored in an electronic device must be exact duplicates of the printed faces if faces are printed;

f. Commission representatives may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing;

g. All electronic bingo devices must be programmed or enabled for play on the premises where the game will be played;

h. All electronic bingo devices shall be rented or otherwise provided to a player only by an organization and no part of the proceeds of the rental of such devices shall be paid to a landlord, his employee, agent or member of his immediate family; and

i. If a player's call of a bingo is disputed by another player or if a commission representative makes a request, one or more cards stored on an electronic bingo device shall be printed by [~~an~~ the] organization.

2. Players may exchange a defective electronic bingo device for another device provided [~~the exchange does not take place while a game is in progress~~ a disinterested player verifies that the device is not functioning. A disinterested player shall also verify that no numbers called for the game in progress have been keyed into the replacement device prior to the exchange] .

F. The following rules of play shall govern the conduct of raffles:

1. Before a prize drawing, each stub or other detachable section of each ticket sold shall be placed into a receptacle from which the winning tickets shall be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

2. All prizes shall be valued at fair market value.

PART IV.

BANK ACCOUNTS, RECORDKEEPING, FINANCIAL REPORTING, AUDITS, FEES.

11 VAC 15-22-60. Bank accounts.

A. Qualified organizations shall maintain a separate bank account for charitable gaming receipts.

B. [~~All~~] Disbursements [for expenses other than prizes and reimbursement of meal expenses] shall be made by check directly from a charitable gaming account or from a

general fund account of the organization if charitable gaming funds are transferred to such an account.

C. Monthly bank statements and reconciliations shall be maintained for three years following the close of a fiscal year (September 30).

D. All receipts from each session of bingo games and instant bingo shall be deposited by the second business day following the session at which they were received.

E. Pull-tab and raffle proceeds shall be deposited at least once every calendar week.

11 VAC 15-22-70. Recordkeeping.

A. In addition to the records required by § 18.2-340.30 D of the Code of Virginia, qualified organizations conducting bingo shall maintain a system of records that documents and identifies:

1. Charitable gaming supplies purchased;
2. Charitable gaming supplies used;
3. Discounts provided;
4. Daily bingo reconciliation and instant bingo reconciliation;
5. Number of electronic bingo devices rented, unique serial numbers of such devices, number of faces sold by each unit and a summary report for each session to include date, time, location and detailed information on income and expenses;
6. Unused charitable gaming supplies that were destroyed. Destruction must be witnessed by two officers of the organization who shall sign and date the itemized list if the retail face value of supplies destroyed exceeds \$1,000 in a fiscal year; [~~and~~]
7. All operating expenses including rent, advertising and security. Copies of invoices for all such expenses shall be maintained [- ;]

[8. Expected and actual receipts from games played on hard cards and number of games played on hard cards; and

9. Each winner for all seal cards, pull-tabs and instant bingo prizes of \$250 and over.]

B. Qualified organizations conducting raffles shall have a recordkeeping system to account for cash receipts, cash disbursements and raffle tickets purchased or sold and prizes awarded. All records shall be maintained for three years from the close of the fiscal year. The recordkeeping system shall include:

1. Invoices for the purchase of pull-tab raffle cards which shall reflect the following information:

- a. Name and address of supplier;
- b. Name of purchaser;

- c. Date of purchase;
- d. Invoice price for each deal;
- e. Form number and name of card;
- f. Serial numbers;
- g. Quantity purchased; and
- h. Sales price of cards.

2. A record of cash receipts from raffle ticket sales (other than pull-tabs) by tracking the total number of tickets available for sale, the number issued to sellers, the number returned, the number sold and reconciliation of all raffle sales to receipts;

3. [Serial numbers of door prize tickets for raffle sales initiated and concluded at a bingo game or] sequentially numbered tickets which shall state the name, address and telephone number of the organization, the prize or prizes to be awarded, the date of the prize drawing or selection, the selling price of the raffle ticket and the charitable gaming permit or exempt authorization number;

4. Receipts for all raffle prizes valued at \$500 or more on which prize winners must provide printed name, residence address and the amount and description of the prize received; and

5. Deposit records of the required weekly deposits of pull-tab raffle receipts.

C. All raffle tickets (except for pull-tab raffles) shall state the name and address of the organization, the prize or prizes to be awarded, the date of the prize drawing, the selling price of the ticket and the charitable gaming permit or exemption number. All such tickets shall be sequentially numbered. Winning tickets for prizes of \$500 and over and unsold tickets shall be maintained for three years from the close of the fiscal year.

D. Organizations shall maintain a complete set of records for each deal of pull-tab cards sold and a reconciliation of cash to determine gross receipts and prizes paid. The reconciliation must be performed at the close of each deal unless all pull-tabs are sold for the same price. In this event, a reconciliation shall be performed at least once every week.

E. Each organization shall prepare and maintain the following records for each session:

- 1. A session reconciliation form and an instant bingo reconciliation [form] completed and signed within 48 hours of the end of the session by the bingo manager;
- 2. An admissions control system that provides a cross-check on the number of players in attendance and admission sales. This may include a ticket control system, cash register or any similar system;
- 3. A reconciliation to account for cash received from floor workers for the sale of extra bingo sheets for any game; and

4. A record of all discounts exceeding \$2.00 per person given to customers may be required from organizations whose discounts for the previous fiscal year exceeded 1.0% of that fiscal year's gross receipts.

[F. Organizations may value winner-take-all sheets sold in game packs at a different price from the sale price of such sheets on the floor provided players are notified as to the value attached to sheets in the packs via the house rules.]

11 VAC 15-22-80. Financial reporting, penalties, inspections and audits.

A. Each charitable gaming permit holder shall file an annual report of receipts and disbursements by December 15 of each year on a form prescribed by the commission. The annual report shall cover the activity for the fiscal year. Volunteer fire departments and rescue squads shall file a commission-prescribed resolution of their board of directors by December 15 each year in lieu of the financial report.

B. The annual report shall be accompanied by the audit and administration fee as established by the commission for the fiscal year unless the fee has been remitted with quarterly reports.

C. An organization [~~requesting~~ desiring] an extension to file annual reports for good cause shall pay the [projected] audit and administration fee by December 15 [and request the extension in writing].

D. Qualified organizations realizing gross receipts in excess of \$50,000 in any calendar quarter shall file, in addition to its annual report, a quarterly report of receipts and disbursements on a form prescribed by the commission as follows:

<u>Quarter Ending</u>	<u>Date Due</u>
December 31	March 1
March 31	June 1
June 30	September 1
September 30	December 1

Quarterly reports shall be accompanied by the appropriate audit and administration fee. An annual financial report may not substitute for a quarterly report.

E. Organizations failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day from the due date up to a maximum of \$750.

F. Any other qualified organization in possession of funds derived from charitable gaming (including those who have ceased operations) as of September 30 of any year, regardless of when such funds may have been received or whether it has a valid permit from the commission shall file an annual financial report on or before December 15 of each year until such funds are depleted. If an organization ceases the conduct of charitable gaming, it shall provide the commission with the name of an individual who shall be responsible for filing financial reports. If no such information is provided, the president of an organization shall be

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responsible for filing reports until all charitable gaming proceeds are depleted.

G. If an organization has been identified through inspection, audit or other means as having deficiencies in complying with statutory or regulatory requirements or having ineffective internal controls, the commission may impose restrictions or additional recordkeeping and financial reporting requirements.

H. The commission, at its option, may impose a penalty on any organization which fails to comply with provisions of the law or this chapter.

I. Any records deemed necessary to complete an inspection, audit or investigation may be removed by the commission, its employees or agents from the premises of an organization or any location where charitable gaming is conducted. The commission shall provide a written receipt of such records at the time of removal.

11 VAC 15-22-90. Use of proceeds.

A. All payments by an organization intended as use of proceeds [: must be made by check written from the organization's charitable gaming account or the organization's general fund account.]

~~[1. Must be made by check written from the organization's charitable gaming account or the organization's general fund account; and~~

~~2. Must B. Use of proceeds payments may] be [made] for [scholarship funds or] the future acquisition, construction, remodeling or improvement of real property or the acquisition of other equipment or vehicles to be used for religious, charitable, educational or community purposes. [In addition, an organization may obtain commission approval to establish a special fund account or an irrevocable trust fund for special circumstances. Transfers such as an account or an irrevocable trust fund may be included as a use of proceeds if the commission-approved payment is authorized by an organization's board of directors.]~~

~~[Transfers to a special fund account may be included as a use of proceeds if the payment is made into a special fund account authorized by the board of directors or an irrevocable trust fund.]~~

No payments made to [the such a] special fund account shall be withdrawn for other than the specified purpose unless prior notification is made to the commission.

[C. Expenditures of charitable gaming funds for social or recreational activities or for events, activities or programs which are open primarily to an organization's members and their families shall not qualify as use of proceeds unless substantial benefit to the community is demonstrated.

D. Payments made to or on behalf of indigent or sick or deceased members or their immediate families shall be allowed as use of proceeds up to 1.0% of an organization's prior year gross receipts provided they are approved by the board of directors and the need is documented.

Organizations may obtain prior commission approval to exceed the 1.0% limit in special cases.

E. Payments made directly for the benefit of an individual member, member of his family or person residing in his household shall not be allowed as a use of proceeds unless authorized by law or elsewhere in this chapter.]

[~~B. F.] Use of proceeds payments by an organization [: shall not be made for any activity which is not permitted by federal, state or local laws or for any activity which attempts to influence or finance directly or indirectly political parties or committees or the election or reelection of any person who is or has been a candidate for public office.]~~

~~[1. Shall not be made directly for the benefit of any individual member or shareholder of an organization or a person residing in the member's or shareholder's household. If any benefit derived by any officer, director, game manager or other member engaged in the management, operation or conduct of charitable gaming is greater than benefit available to any other individual, regardless of whether they are involved in the management, operation or conduct of charitable gaming, such benefit shall not qualify as a use of proceeds. The reduction of tuition, dues or any fees or payments as a result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.~~

~~2. Shall not be made for any activity which is not permitted by federal, state or local laws or for any activity which attempts to influence or finance directly or indirectly political parties or committees or the election or reelection of any person who is or has been a candidate for public office.~~

~~G. G.] Organizations shall provide details of use of proceeds with the annual financial report.~~

~~[D. Expenditures of charitable gaming funds for events, activities or programs which are open primarily to an organization's members and their families shall not qualify as use of proceeds unless substantial benefit to the community is demonstrated by an organization.~~

~~E. H.] The commission or its employees may disallow a use of proceeds payment to be counted against the minimum percentage referred to in 11 VAC 15-22-20 D.~~

If any payment claimed as use of proceeds is subsequently disallowed, an organization may be allowed additional time as specified by the commission to meet minimum use of proceeds requirements.

PART V. RENT.

11 VAC 15-22-100. Requirements regarding renting premises, agreements and landlord participation.

A. No organization shall rent or use any leased premises to conduct charitable gaming unless all terms for rental or use are set forth in a written agreement and signed by the

parties thereto prior to the issuance of a permit to conduct charitable gaming.

B. Organizations shall not make payments to a landlord except by check drawn on the organization's general fund or charitable gaming account.

C. No landlord, his agent or employee, member of his immediate family or person residing in his household shall make directly or indirectly a loan to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of an organization in Virginia which leases its charitable gaming facility from the landlord.

D. No landlord, his agent or employee, a member of his immediate family or person residing in his household shall make any direct or indirect payment to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming conducted at a facility rented from the landlord in Virginia unless the payment is authorized by the lease agreement and is in accordance with the law.

E. No landlord, his agent or employee, person residing in the same household or member of his immediate family shall, at charitable games conducted on the landlord's premises:

1. Participate in the management, operation or conduct of any charitable games;
2. Sell, lease or otherwise provide any bingo supplies including, but not limited to, bingo cards, pull-tab cards, markers or other game pieces; or
3. Require as a condition of the lease or contract that a particular manufacturer, distributor or supplier of bingo supplies be used by the organization.

"Bingo supplies" as used in this chapter shall not include glue and tape sold from concession stands or from a location physically separated from the location where bingo supplies are normally sold.

F. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment and each service to be provided by the landlord.

G. No member of an organization involved in the management, operation or conduct of charitable gaming shall provide any services to a landlord or be remunerated in any manner by the landlord of the facility where an organization is conducting its charitable gaming.

PART VI.

FACT-FINDING CONFERENCES [, AND] HEARINGS [, APPEALS].

11 VAC 15-22-110. Procedural rules for the conduct of fact-finding conferences [, and] hearings [, appeals].

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no authorization or permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a fact-finding conference, as set forth in § 9-6.14:11 of the Administrative Process Act.

2. If a basis exists for a refusal to renew [, suspend or revoke a suspension or a revocation of] a permit or authorization, the commission shall notify, by certified mail or by hand delivery, the interested parties at the address of record maintained by the commission.

3. Notification shall include the basis for the proposed action and afford interested parties the opportunity to present written and oral information to the commission which may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the commission at least 14 days before the scheduled conference.

4. [If] after consideration of evidence presented during an informal fact-finding conference, [if] a basis for action still exists, the interested parties shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a permit or authorization, interested parties shall be notified by certified mail or hand delivery of the proposed action and of the opportunity for a hearing on the proposed action. If an organization desires to request a hearing, it shall notify the commission within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to, or subsequent to, an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the organization is located. Hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

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[~~D. Administrative Process Act. The provisions of the Virginia Administrative Process Act shall apply.~~

~~E. D.] Hearing decisions.~~

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or basis for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The [~~commission's executive secretary or his designee~~ commission] shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

[~~F. E.] Agency representation. The executive secretary's designee may represent the commission in an informal conference or at a hearing.~~

PART VII. REPORTING VIOLATIONS.

11 VAC 15-22-120. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the commission or its employees regarding alleged violations shall be held in strict confidence.

B. Any officer, director or game manager of a qualified organization shall immediately report to the commission any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a charitable gaming permit or authorization.

D. Any officer, director or game manager of a qualified organization involved in the management, operation or conduct of charitable gaming shall immediately notify the commission upon conviction of a felony or a crime of moral turpitude.

E. Failure to report information required by subsection D of this section by any officer, director or game manager of a qualified organization or supplier may result in the denial, suspension or revocation of a permit or authorization.

F. Any officer, director or game manager of a qualified organization involved in charitable gaming shall immediately report to the commission any change the Internal Revenue Service makes in the tax status of the organization, or if it is a chapter of a national organization covered by a group tax exempt determination, the tax status of the national organization.

[G. All organizations regulated by the commission shall display prominently a poster advising the public of a phone number where complaints relating to charitable gaming may

be made. Such posters shall be provided by the commission to organizations at no charge.]

NOTICE: The forms used in administering 11 VAC 15-22-10 et seq., Charitable Gaming Regulations, 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 Charitable Gaming Commission, 101 North 14th Street, James Monroe Building, 17th Floor, Richmond, Virginia 23211, telephone (804) 786-0238, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Bingo/Raffle Application, CGC Form #201, [~~eff. 6/97~~ rev. 9/97].

Exempt Organization - Notification, CGC Form #202, [~~eff. 8/96~~ rev. 11/97].

Supplier Registration Certificate Application to Distribute Authorized Gambling Paraphernalia and Supplies, CGC Form #203, [~~eff. 4/97~~ rev. 11/97].

Report of Sales to Charitable Gaming Organizations, CGC Form #103, rev. 4/97.

Financial Report for Year Ending [~~9/30/~~ ___/___/___], Form 101 [, (rev. 9/19/97)].

[~~Financial Report for the Quarter Ending 6/30/97.~~

~~Financial Report for the Quarter Ending 9/30/97.~~

~~Financial Report for the Quarter Ending 12/31/97.~~

~~Financial Report for the Quarter Ending 3/31/98.]~~

[~~Bingo Games - Raffles Quarterly Financial Report, CGC Form #102, rev. 10/31/97.]~~

Suggested Bingo Daily Reconciliation Form, CGC Form #104, rev. 4/97.

[~~Sample Suggested~~] Instant Bingo/Seal Ticket Reconciliation Report, CGC Form #105, rev. [~~7/96~~ 11/97].

[~~Sample Suggested~~] Instant Bingo/Seal Card Reconciliation Report, CGC Form #106, [~~eff. 4/97~~ rev. 11/97].

Request for Extension for Filing the Annual Financial Report, CGC Form #117, eff. 10/97.

[~~Exempt Organization Resolution, eff. 11/97.~~

~~Tax Information Disclosure Authorization, eff. 11/97]~~

VA.R. Doc. No. R97-690; Filed November 5, 1997, 11:42 a.m.

Title of Regulation: 11 VAC 15-31-10 et seq. **Supplier Regulations.**

Statutory Authority: §§ 18.2-340.15 and 18.2-340.18 of the Code of Virginia.

Effective Date: January 1, 1998.

Summary:

These regulations replace the current Interim Supplier Regulations that expire December 31, 1997. These regulations prescribe construction and other standards for charitable gaming supplies and products sold in the Commonwealth of Virginia. The regulations establish the rules relating to the conduct of business by vendors of charitable gaming supplies in the Commonwealth of Virginia to ensure that these products are distributed in a manner consistent with the purpose for which they are permitted. Substantive changes made to the proposed regulation strengthen the language regarding the suspension of a supplier's registration certificate.

Summary of Public Comments and the Agency's Response:

A summary of comments made by the public and the agency's response may be obtained by the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from the Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238. There is a \$10 charge for copies.

CHAPTER 31.
SUPPLIER REGULATIONS.

11 VAC 15-31-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Address of record" means an address provided to the commission on a registration certificate application or the most recent address on the commission files.

~~*["Bingo equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.]*~~

"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.

"Bundled pull-tabs" means certain pull-tabs, commonly referred to as "jar tickets," "guppies," etc., which are taped or stapled together and sold as one unit.

"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

"Cash" means United States currency or coinage.

"CGC number" means a unique identification number issued by the commission.

"Commission" means the Virginia Charitable Gaming Commission.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open," "Bonanza Bingo," "Bullseye" and "Fortune Card."

"Daubing" means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, pull-tab raffle or seal cards with the same serial number.

"Designator" means an object used in the number selection process, such as a ping-pong ball, upon which bingo letters and numbers are imprinted.

"Disposable paper card" means a nonreusable paper bingo card manufactured with preprinted numbers.

"Electronic bingo device" means an electronic device which displays facsimiles of bingo cards and allows a player to daub such cards.

"Electronic verification" means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which contains preprogrammed software for this purpose.

~~*["Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.]*~~

"Fiscal year" or "annual reporting period" means the 12-month period beginning October 1 of any given year and ending September 30 of the following year.

"Flare" means a piece of paper, cardboard or similar material which bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

"Free space number," "perm number," "center number," "card number" or "face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

"Game program" means a written list of all games to be played and prize amounts to be paid during a session for

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each game, where prize amounts are fixed or are based on attendance.

"Immediate family" means one's spouse, mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, father-in-law or stepchild.

"Interested parties" means the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

~~["Management," "operation" or "conduct" means the provision of oversight and supervision, check writing or approval authority for charitable gaming funds, purchase authority for charitable gaming supplies, service as a volunteer worker or assistant or negotiation of contracts or leases.]~~

["Management" means the provision of oversight and supervision.]

"Manufacturer" means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person who modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

["Operation" or "conduct" means the authority for check writing, approval of expenses of charitable gaming funds, purchase of charitable gaming supplies, negotiation of contracts or leases, or services as a volunteer worker or assistant.]

"Owner" means any individual with financial interest of 10% or more in a supplier.

"Packet" means sheets of bingo paper assembled in the order of games to be played. This may or may not include specials, winner-take-alls and jackpots.

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

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card game" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

"Pull-tabs" means individually prepackaged cards made completely of paper or paper products with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.

"Random selection" or "randomly selected" means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a manually or mechanically operated device to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set or each instant bingo or pull-tab card in a deal.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations, that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

"Set" means the bingo cards contained within each series number.

11 VAC 15-31-20. Suppliers of charitable gaming supplies: application, qualifications, suspension, revocation or refusal to renew certificate; maintenance and production of records.

A. Prior to providing any charitable gaming supplies, a supplier shall submit an application on a form prescribed by the commission and receive a registration certificate. A \$500 application fee payable to [the] Treasurer of Virginia is required. Provisional registration certificates valid for no more than 180 days may be issued by the commission if the background investigation is not completed. The actual cost of background investigations for a registration certificate may be billed by the commission to an applicant. The commission shall act on an application within 90 days of the date of the application.

B. The commission may refuse to register a supplier or may suspend or revoke a registration certificate if an officer, director, employee, agent or owner:

1. Is operating without a valid license, permit or certificate as a supplier or manufacturer in any state in the United States;
2. Fails or refuses to recall a product as directed by the commission;
3. Conducts business with unauthorized entities in the Commonwealth of Virginia;
4. Has been convicted of a crime of moral turpitude or has violated the gambling laws of any state or province in the United States or Canada. As this provision relates

to employees or agents, it shall only apply to individuals involved in sales to or solicitations of customers in the Commonwealth of Virginia; or

5. Has been engaged in conduct that would compromise the commission's objective of maintaining the highest level of integrity in charitable gaming.

C. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies for use by anyone in the Commonwealth other than to an organization with a permit or exemption number from the commission or another registered supplier. However, a supplier may:

1. Sell charitable gaming supplies to an organization which expects to gross less than \$25,000 in a fiscal year.

For each such organization, the supplier shall maintain the name, address and telephone number. The supplier shall also obtain a written statement from an officer or game manager of such organization confirming that gross receipts are expected to be less than \$25,000. Such statement shall be dated and kept on file for three years from the end of a fiscal year.

2. Sell bingo cards, paper and related supplies [~~such as daubers~~] to persons or entities other than qualified organizations provided such supplies shall not be sold or otherwise provided for use in charitable gaming activities regulated by the commission or in unlawful gambling activities. Payment for such sales in excess of \$50 shall be accepted in the form of a check. Suppliers shall maintain records of these sales and provide them to the commission upon request.

This provision shall not apply to the sale to landlords of [~~bingo~~] equipment and video systems as defined in this chapter. [~~Bingo~~] Equipment [and video systems] shall not include dispensing devices and electronic bingo devices.

D. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies to any individual or organization in the Commonwealth unless the charitable gaming supplies are purchased or obtained from a manufacturer or another registered supplier. No supplier shall accept payment for the sale of charitable gaming supplies in the Commonwealth except by a check drawn on the charitable gaming [or general fund] account. This requirement shall not apply to sales of \$50 or less made under subdivision C 2 [of this section] and to sales by one registered supplier to another. Suppliers may take back for credit and resell supplies received from an organization with a permit or exempt authorization which has ceased charitable gaming or is returning supplies not needed.

E. No supplier, supplier's agent, employee, member of the supplier's immediate family or person residing in the same household as a supplier may be involved in the management, operation or conduct of charitable gaming of any customer of the supplier in the Commonwealth.

F. The commission shall conduct a background investigation prior to the issuance of a certificate to any supplier. The investigation may include, but shall not be limited to, the following:

1. A search of the Virginia Central Criminal Records Exchange (CCRE) on all officers, directors and owners; and

2. Verification of current compliance with Commonwealth of Virginia state tax laws.

G. Appropriate information and authorizations shall be provided to the commission to verify information cited in subsection F of this section.

H. Suppliers shall document each sale of charitable gaming supplies to an organization in the Commonwealth on an invoice which reflects the following:

1. Name and address of the organization;

2. Date of sale and location where bingo supplies are shipped if different from the billing address;

3. Name, form number and serial number of each deal of instant bingo or pull-tab raffle cards or bundles and the number of cards in each deal;

4. Quantity of deals sold, the organization's cost per deal and selling price per card;

5. Serial number of the top sheet in each packet of disposable bingo paper, the number of sheets in each packet or pad, the cut and color and the number of pads sold;

6. Serial number for each series of uncollated bingo paper and the number of sheets sold;

7. Detailed information concerning the type, quantity and individual price of any other charitable gaming supplies or related items including, but not limited to, concealed face bingo cards, hard cards, markers or daubers and refills. For concealed face bingo cards, the number of sets, price per set and the serial number of each set shall be included; and

8. Any type of equipment, device or product manufactured for or intended to be used in the conduct of charitable games including, but not limited to, designators, designator receptacles, number display boards, selection devices, dispensing machines and verification devices.

I. Suppliers shall ensure that two copies of the detailed invoice are provided to the customer for each sale of charitable gaming supplies.

J. Each supplier shall provide a report to the commission by January 1 of each year on sales of charitable gaming supplies for the fiscal year ending September 30 of the previous year to each organization in the Commonwealth. Reports shall include the name and address of each organization; its CGC number; the sales (in dollars) of bingo

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paper, instant bingo cards, pull-tabs, seal cards, daubers, tape and other supplies; and rental fees and sales of electronic bingo devices. For sales of instant bingo cards, pull-tabs and seal cards, the records shall also indicate the name, form number, selling price per ticket and serial number of each deal or box of instant bingo or pull-tab raffle cards and the number of tickets in each deal. This report may be provided to the commission on paper, computer disk or other commission-approved media.

K. The commission shall have the right to set manufacturing and testing criteria for all electronic and mechanical equipment used in the conduct of charitable gaming. If any such equipment does not meet the criteria, it shall be recalled. The cost of testing shall be borne by the manufacturer of such equipment.

L. Commission employees or agents shall have the right to inspect all electronic and mechanical equipment used in the conduct of charitable gaming.

M. Suppliers, their agents and employees, members of the supplier's immediate family or persons residing in their household shall not make any loan directly or indirectly to any organization or officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of a supplier's customer located in the Commonwealth.

N. No supplier or supplier's agent or employee shall directly or indirectly provide a rebate, discount or refund to any person other than an organization which purchases supplies or leases or purchases equipment from the supplier. All such transactions shall be recorded on the supplier's account books.

O. A supplier shall not rent, sell or otherwise provide electronic bingo devices unless he possesses a valid registration certificate in the Commonwealth.

P. A written agreement specifying the terms of lease or rental shall be required for any electronic bingo devices provided [to] an organization.

11 VAC 15-31-30. Construction and other standards for bingo, instant bingo, pull-tabs, raffles; electronic bingo devices and pull-tab dispensers.

A. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use bingo supplies unless they conform to the following construction standards:

1. Disposable paper sold shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading, bleeding or otherwise obscuring other numbers or cards.
2. Each sheet of disposable bingo paper shall be comprised of cards bearing a serial number. No serial number shall be repeated on or in the same style, series and color of cards within a one-year period.

3. Disposable bingo paper assembled in books or packets shall not be separated except for single-sheet specials. This provision does not apply to two-part cards on which numbers are filled by players and one part is separated and provided to an organization for verification purposes.

4. Each carton of disposable bingo paper shall have an exterior label listing the following information:

- a. Type of product;
- b. Number of booklets or loose sheets;
- c. Series numbers;
- d. Serial number of the top sheet;
- e. Number of cases;
- f. Cut of paper; and
- g. Color of paper.

B. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use instant bingo, pull-tab or seal cards unless they conform to the following construction standards:

1. Cards shall be constructed so that concealed numbers, symbols or winner protection features cannot be viewed or determined from the outside of the card by using a high intensity lamp of 500 watts, with or without utilizing a focusing lens.
2. Deals shall be designed, constructed, glued and assembled in a manner to prevent determination of a winning or losing ticket without removing the tabs or otherwise uncovering the symbols or numbers as intended.
3. Each card in a deal shall bear the same serial number. Only one serial number shall be used in a deal. No serial number used in a deal shall be repeated by the same manufacturer on that same manufacturer's form within a three-year period. The flare of each deal shall accompany the deal and shall have affixed to it the same serial number as the tickets in such deal.
4. Numbers or symbols on cards shall be fully visible in the window and shall be placed so that no part of a number or symbol remains covered when the tab is removed.
5. Window slits on each card shall be perforated on the three cut sides. Cards shall be glued on all four edges and between each window. Glue shall be of sufficient strength and type to prevent the undetectable separation or delamination of the card.
6. The following minimum information shall be printed on a card:

- a. Break open pull-tab, instant bingo cards:

(1) Name of the manufacturer or its distinctive logo;

- (2) Name of the game;
- (3) Manufacturer's form number;
- (4) Price per individual card or bundle, unless accompanied by a flare with that information;
- (5) Unique minimum five-digit game serial number printed on the game information side of the card; and
- (6) Number of winners and respective winning number or symbols and specific prize amounts, unless accompanied by a publicly posted flare with that information.

b. Banded pull-tabs:

- (1) Manufacturer;
- (2) Serial number; and
- (3) Number of winners and respective winning numbers or symbols and prize amounts, or a publicly posted flare giving that information.

[7. All seal card games sold to organizations shall contain the sign-up sheet, seals and cards packaged together in each deal.]

C. No organization shall use raffle tickets (other than pull-tab cards) independent of a bingo game unless they conform to the following construction standards:

1. Each ticket shall have a detachable section and shall be consecutively numbered.
2. Each section of a ticket shall bear the same number. The section retained by the organization shall provide space for the purchaser's name, complete address and telephone number.
3. The following information shall be printed on the purchaser's section of each ticket:
 - a. Dates and times of drawings;
 - b. Locations of the drawings;
 - c. Name of the charitable organization conducting the raffle;
 - d. Price of the ticket;
 - e. Charitable Gaming Commission permit or exemption number; and
 - f. Prizes.

D. Electronic bingo.

1. At any time, the commission, at its discretion, may require testing at the manufacturer's expense of electronic bingo devices as a condition of use.
2. All electronic bingo devices shall be programmed or enabled for play on the premises where the game is to be played.

3. Each electronic bingo device shall have a unique identification number permanently coded into the software of such device.

4. Electronic bingo devices shall not allow a player to create a card by the input of specific numbers on each card.

5. Electronic bingo devices shall not accept cash, currency or tokens for play.

6. Electronic bingo devices shall require the manual entry of numbers as they are called.

7. A device shall not allow the play of more than 72 cards per game.

8. The electronic bingo device system shall record a sequential transaction number or audit tracking number for each transaction. The system shall not allow the manual resetting or changing of this number.

9. The system shall produce a receipt and a transaction log containing the following:

- a. Organization name;
- b. Location of bingo game;
- c. Sequential transaction or receipt number;
- d. Number of electronic bingo cards loaded;
- e. Cost of electronic bingo cards loaded;
- f. Electronic device number issued to a player; and
- g. Date and time of the transaction.

In addition, the system shall produce a summary report identifying the date and time of the report, voided transactions and total gross receipts for each session.

10. Each device shall be programmed to automatically erase all stored electronic cards at the end of the last game of a session or within a set time from their rental to a player.

11. All devices shall be reloaded with another set of cards at the beginning of each session if the devices are to be reused at the same location.

E. In instances where a defect in packaging or in the construction of deals or electronic devices is discovered by or reported to the commission, the commission shall notify the manufacturer of the deals or devices containing the alleged defect. Should the commission, in consultation with the manufacturer, determine that a defect exists, and should the commission determine the defect affects game security or otherwise threatens public confidence in the game, the commission may, with respect to deals or electronic devices for use still located within the Commonwealth, require the supplier to:

1. Recall the deals or electronic devices affected that have not been sold or otherwise provided; or

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2. Issue a total recall of all affected deals or electronic devices.

F. No pull-tab dispenser may be sold, leased or otherwise furnished to any person or organization in the Commonwealth or used in the conduct of charitable gaming unless the device meets standards approved by the commission. In addition, suppliers and manufacturers of such dispensers shall comply with the requirements of The Gambling Devices Act of 1962 (15 USC §§ 1171-1178).

G. All pull-tab dispensing devices must meet the following standards:

1. Each dispenser shall be manufactured in a manner that ensures a pull-tab ticket is dispensed only after insertion of United States currency or coinage into the dispenser. Such ticket and any change due shall be the only items dispensed from the machine.
2. Each dispenser shall be manufactured in a manner that ensures the device neither displays nor has the capability of displaying or otherwise identifying a pull-tab as a winning or nonwinning ticket.
3. Each dispenser shall be manufactured in such a manner that any visual animation does not simulate or display rolling or spinning reels or produce audible music or enhanced sound effects.
4. Each dispenser shall be equipped with separate locks for the pull-tab supply modules and money boxes. Locks shall be configured so that no one key will operate both the supply modules and money boxes.

H. No dispensing devices shall be linked to other such devices so as to permit the play of progressive games.

I. The commission may test a dispensing device at any time to ensure that it meets construction standards and allows for fair play. Such tests shall be conducted at the cost of the manufacturer of such devices.

J. The face value of cards being dispensed shall match the amount deposited in the currency/coin acceptor less change provided.

11 VAC 15-31-40. Instant bingo and pull-tab randomization standards.

All instant bingo and pull-tab cards shall meet the following randomization standards:

1. Deals shall be assembled so that winning tickets are placed throughout each deal.
2. Deals shall be assembled and packaged in a manner that prevents isolation of winning cards due to variations in printing, graphics, colors, sizes, appearances of cut edges or other markings of cards.
3. Winning cards shall be distributed and mixed among all other cards in a deal so as to eliminate any pattern between deals or portions of deals from which the

location or approximate location of any winning card may be determined.

11 VAC 15-31-50. Procedural rules for the conduct of fact-finding conferences [, and] hearings [, appeals].

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no certificate to sell charitable gaming supplies shall be denied, suspended or revoked except upon notice stating the basis for such proposed action and the time and place for a fact-finding conference, as set forth in § 9-6.14:11 of the Administrative Process Act.

2. If a basis exists for a refusal to renew, suspend or revoke a certificate, the commission shall notify, by certified mail or by hand delivery, the interested parties at the address of record maintained by the commission.

3. Notification shall include the basis for the proposed action and afford interested parties the opportunity to present written and oral information to the commission which may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the commission at least 14 days before the scheduled conference.

4. [If,] after consideration of evidence presented during an informal fact-finding conference, [and-if] a basis for action still exists, the interested parties shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a certificate, interested parties shall be notified by certified or hand-delivered mail of the proposed action and of the opportunity for a hearing on the proposed action. If a supplier desires to request a hearing, it shall notify the commission within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to or subsequent to an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. *Hearing location.* Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the supplier is located. Hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

[~~D. Administrative Process Act. The provisions of the Virginia Administrative Process Act shall apply.~~]

[~~E. D.~~] *Hearing decisions.*

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or bases for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The [~~commission's executive secretary or his designee~~ commission] shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

[~~F. E.~~] *Agency representation.* The executive secretary's designee may represent the commission in an informal conference or at a hearing.

11 VAC 15-31-60. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the commission or its employees regarding alleged violations shall be held in strict confidence.

B. Any officer or director of a supplier, or his agent or employee, shall immediately report to the commission any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a certificate of registration.

D. Any officer, director, partner or owner of a supplier shall immediately notify the commission upon conviction or plea of *nolo contendere* to a felony or a crime involving gambling or an action against any license or certificate held by the supplier in any state in the United States.

E. Failure to report information required by subsection D of this section by any supplier may result in the denial, suspension or revocation of a registration certificate.

FORMS

Supplier Registration Certificate Application, CGC Form #203, eff. 11/97.

COMMONWEALTH OF VIRGINIA



Charitable Gaming Commission
P. O. Box 756 Richmond, VA 23218
(804) 786-1681

SUPPLIER REGISTRATION CERTIFICATE APPLICATION
To Distribute Authorized Gambling Paraphernalia and Supplies

GENERAL INSTRUCTIONS

CGC FORM #203 (EFF 11-97)

1. USE THIS APPLICATION WHEN APPLYING FOR EITHER A NEW OR RENEWAL CERTIFICATE
2. COMPLETE THE ENTIRE APPLICATION AND ALL ATTACHMENTS.
3. PLACE N/A IF AN ITEM IS NOT APPLICABLE.
4. PLEASE TYPE OR PRINT ALL ANSWERS. DO NOT USE PENCIL.
5. IF NECESSARY, ATTACH ADDITIONAL DOCUMENTS OR EXPLANATION SHEETS.
6. ENCLOSE A CHECK FOR THE \$500 NON-REFUNDABLE APPLICATION FEE MADE PAYABLE TO:
TREASURER OF VIRGINIA
7. ENSURE APPLICATION IS SIGNED, DATED AND NOTARIZED BY THE APPROPRIATE INDIVIDUAL(S).

APPLICANT INFORMATION

APPLICATION TYPE: NEW RENEWAL

1. FULL BUSINESS NAME: _____
2. MAILING ADDRESS: _____
PREMISES ADDRESS: _____
CITY/COUNTY _____ STATE _____ ZIP _____
3. TELEPHONE: OFFICE () _____ FAX () _____ FED. ID # _____
4. CONTACT PERSON: _____ POSITION/TITLE: _____
E-MAIL ADDRESS: _____
5. TYPE OF BUSINESS: CORPORATION PARTNERSHIP INDIVIDUAL/SOLE PROPRIETOR
 LIMITED LIABILITY COMPANY OTHER () _____

PREMISES INFORMATION

8. LIST THE FOLLOWING FOR EACH OFFICE, WAREHOUSE OR OUTLET WHERE CHARITABLE GAMING SUPPLIES ARE EITHER STORED AND/OR SOLD. (attach additional sheet if necessary)
01. PREMISES NAME: _____
STREET ADDRESS: _____
CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE OFFICE () _____ FAX () _____

PREMISES INFORMATION (CONTINUED)

- b) PREMISES NAME: _____
STREET ADDRESS: _____
CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: OFFICE () _____ FAX () _____
 - c) PREMISES NAME: _____
STREET ADDRESS: _____
CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: OFFICE () _____ FAX () _____
- (attach additional sheet if necessary)

BUSINESS INFORMATION

7. DATE BUSINESS BEGAN: _____ STATE INCORPORATED IN _____
8. IF PREVIOUSLY LICENSED IN VIRGINIA OR ANY STATE, WAS YOUR LICENSE EVER:
 DENIED REVOKED SUSPENDED WITHDRAWN N/A
(Attach a detailed explanation for any denial, revocation, suspension, or withdrawal)
9. PLEASE PROVIDE A LIST OF AT LEAST THREE (3) TRADE CREDIT REFERENCES. (list attached?) YES NO
10. NAME OF MANUFACTURER(S) WHOSE PRODUCT LINES ARE CARRIED/SUPPLIED: _____
11. LIST LOCATION WHERE BUSINESS RECORDS ARE MAINTAINED
STREET ADDRESS: _____
CITY _____ STATE _____ ZIP _____
12. NAME OF INDIVIDUAL AND/OR COMPANY THAT PREPARES ALL LEGAL AND FINANCIAL FORMS
NAME: _____ COMPANY: _____
STREET ADDRESS: _____
CITY _____ STATE _____ ZIP _____
TELEPHONE: OFFICE () _____ FAX () _____
E-MAIL ADDRESS: _____

Business Name: _____ Page 3

13. PROVIDE INFORMATION ON FINANCIAL INSTITUTION(S) IN WHICH THIS BUSINESS MAINTAINS RECORDS OF OPERATING AND/OR INVESTMENT ACCOUNTS: (attach additional sheet if necessary)

NAME OF BANK/INSTITUTION: _____
STREET ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: OFFICE () _____ FAX () _____

PERSONAL INFORMATION

Complete the following information for ALL corporate officers, directors, partners or owners with a 10% or greater ownership interest. Provide complete addresses and telephone numbers, including zip code and area code. Attach additional sheet if necessary.

13a. FULL NAME: _____ TITLE: _____
SOCIAL SECURITY #: _____ DATE OF BIRTH: _____
HOME ADDRESS: _____ CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: HOME: () _____ WORK: () _____ FAX: () _____

13b. FULL NAME: _____ TITLE: _____
SOCIAL SECURITY #: _____ DATE OF BIRTH: _____
HOME ADDRESS: _____ CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: HOME: () _____ WORK: () _____ FAX: () _____

13c. FULL NAME: _____ TITLE: _____
SOCIAL SECURITY #: _____ DATE OF BIRTH: _____
HOME ADDRESS: _____ CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: HOME: () _____ WORK: () _____ FAX: () _____

13d. FULL NAME: _____ TITLE: _____
SOCIAL SECURITY #: _____ DATE OF BIRTH: _____
HOME ADDRESS: _____ CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: HOME: () _____ WORK: () _____ FAX: () _____

13e. FULL NAME: _____ TITLE: _____
SOCIAL SECURITY #: _____ DATE OF BIRTH: _____
HOME ADDRESS: _____ CITY/COUNTY _____ STATE _____ ZIP _____
TELEPHONE: HOME: () _____ WORK: () _____ FAX: () _____

Business Name: _____ Page 4

PERSONAL INFORMATION (CONTINUED)

FOR QUESTIONS #15 THRU #23, CHECK EITHER "YES" OR "NO". FOR EACH BLOCK THAT IS ANSWERED "YES", PLEASE ATTACH A DETAILED EXPLANATION ON A SEPARATE SHEET.

- 15. DOES ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST MEMBERS OF THEIR IMMEDIATE FAMILY OR PERSONS LIVING IN THEIR HOUSEHOLD PARTICIPATE IN THE MANAGEMENT, OPERATION OR CONDUCT OF CHARITABLE GAMING? YES NO
- 16. IS ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST A PRINCIPAL IN ANY OTHER CHARITABLE GAMING SUPPLY COMPANY? YES NO
- 17. DOES ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST HAVE ANY FINANCIAL OR OWNERSHIP INTEREST IN ANY OTHER GAMBLING ACTIVITY OR ENTERPRISE? YES NO
- 18. DOES ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST HAVE FAMILY MEMBERS WITH A FINANCIAL OR OWNERSHIP INTEREST IN ANY OTHER GAMBLING ACTIVITY OR ENTERPRISE? (include spouse, parents, children, brothers/sisters) YES NO
- 19. HAS THE APPLICANT OR ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST, EVER BEEN ISSUED A GAMBLING LICENSE BY ANY OTHER AGENCY? YES NO
- 20. HAS THE APPLICANT OR ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST, EVER BEEN DENIED A GAMBLING LICENSE BY ANY OTHER AGENCY? YES NO
- 21. HAS THE APPLICANT OR ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST, EVER HAD ANY ACTION TAKEN AGAINST A GAMBLING LICENSE? YES NO
- 22. HAS THE APPLICANT OR ANY OFFICER, DIRECTOR, PARTNER, PRINCIPAL OR OWNER WITH 10% OR GREATER INTEREST EVER BEEN (except for traffic violations): INDICTED, ARRESTED, CHARGED, TRIED, CONVICTED, COURT MARTIALED, PLED GUILTY, PLED NO CONTEST, OR HAD ANY CRIMINAL RECORD EXPUNGED RELATED TO ANY CRIME IN FEDERAL COURT, THE COURTS OF ANY STATE, THE DISTRICT OF COLUMBIA OR ANY TERRITORY OF ANY COUNTRY? YES NO

SEND YOUR COMPLETED APPLICATION FORM ALONG WITH A \$50 CHECK PAYABLE TO
TREASURER OF VIRGINIA

TO: VIRGINIA CHARITABLE GAMING COMMISSION, P. O. BOX 756, RICHMOND, VA 23218.

PLEASE ALLOW SIXTY (60) DAYS FOR PROCESSING
INCOMPLETE INFORMATION WILL DELAY PROCESSING.

Business Name: _____ Page 5

This application must be signed by a majority owner, partner or corporate officer listed on the application. Signatures must be notarized.

I hereby affirm that all information provided in this application and attachments are true and factual to the best of my knowledge and belief. No false or misleading statements have willfully been made. I also agree that the organization listed on this application and its officers, members and employees will abide by all of the rules and regulations of the Virginia Charitable Gaming Commission pursuant to *Code of Virginia Chapter 8 § 18.2-340.15 et seq.*

(NAME - PRINT) (SIGNATURE)

(POSITION/TITLE) (DATE)

NOTARY PUBLIC

Sworn to and subscribed before me this _____ day of _____ 19 ____.

My commission expires _____ By: _____
Notary Public

CHARITABLE GAMING COMMISSION USE ONLY

Date Received: _____ Approval Date _____ Denial Date _____

Permit # _____ Licensing Official _____

VA.R. Doc. No. R97-691; Filed November 5, 1997, 11:43 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-30-10 et seq. **Mandatory Coverage:** Categorically Needy and Other Required Special Groups (amending 12 VAC 30-30-10).

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

Effective Date: January 1, 1998.

Summary:

Section 4732 of the Balanced Budget Act of 1997 created a capped entitlement to fund two new groups who are eligible for assistance in meeting their costs of paying Medicare Part B premiums. While both of these new groups must meet previously established eligibility guidelines, income ranges for these new groups of individuals will be higher. Individuals (to be known as Q1-1s) who qualify for Medicare Part A whose income is between 120% and 135% of the Federal Poverty Income Guidelines (FPIG) will be eligible for payment of 100% of their Medicare Part B premiums. The individuals (to be known as Q1-2s) whose incomes fall between 135% and 175% of the FPIG will be eligible to receive assistance with the portion of their Part B premium increase that is attributable to the impact of changes made in the Balanced Budget Act of 1997. Enrollment of these Q1-2 individuals will begin at the time Medicare Part B premium rates increase. Coverage for both groups will be on a first-come, first-served basis up to the capped federal entitlement, and waiting lists will be established as necessary.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-30-10. Mandatory coverage: Categorically needy and other required special groups.

The Title IV-A agency determines eligibility for Title XIX services.

1. Recipients of AFDC.

a. The approved state AFDC plan includes:

(1) Families with an unemployed parent for the mandatory six-month period and an optional extension of 0 months.

(2) AFDC children age 18 who are full-time students in a secondary school or in the equivalent level of vocational or technical training.

b. The standards for AFDC payments are listed in 12 VAC 30-40-220.

2. Deemed recipients of AFDC.

a. Individuals denied a Title IV-A cash payment solely because the amount would be less than \$10.

b. Effective October 1, 1990, participants in a work supplementation program under Title IV-A and any child or relative of such individual (or other individual living in the same household as such individuals) who would be eligible for AFDC if there were no work supplementation program, in accordance with § 482(e)(6) of the Act.

c. Individuals whose AFDC payments are reduced to zero by reason of recovery of overpayment of AFDC funds.

d. An assistance unit deemed to be receiving AFDC for a period of four calendar months because the family becomes ineligible for AFDC as a result of collection or increased collection of support and meets the requirements of § 406(h) of the Act.

e. Individuals deemed to be receiving AFDC who meet the requirements of § 473(b)(1) or (2) for whom an adoption of assistance agreement is in effect or foster care maintenance payments are being made under Title IV-E of the Act.

3. ~~Qualified family members.~~ Effective October 1, 1990, qualified family members who would be eligible to receive AFDC under § 407 of the Act because the principal wage earner is unemployed.

4. Families terminated from AFDC solely because of earnings, hours of employment, or loss of earned income disregards entitled up to ~~twelve~~ 12 months of extended benefits in accordance with § 1925 of the Act.

5. Individuals who are ineligible for AFDC solely because of eligibility requirements that are specifically prohibited under Medicaid. Included are:

a. Families denied AFDC solely because of income and resources deemed to be available from:

(1) Stepparents who are not legally liable for support of stepchildren under a state law of general applicability;

(2) Grandparents;

(3) Legal guardians; and

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- (4) Individual alien sponsors (who are not spouses of the individual or the individual's parent);
- b. Families denied AFDC solely because of the involuntary inclusion of siblings who have income and resources of their own in the filing unit.
- c. Families denied AFDC because the family transferred a resource without receiving adequate compensation.
6. Individuals who would be eligible for AFDC except for the increases in OASDI benefits under P.L. 92-336 (July 1, 1972), who were entitled to OASDI in August 1972 and who were receiving cash assistance in August 1972.
- a. Includes persons who would have been eligible for cash assistance but had not applied in August 1972 (this group was included in the state's August 1972 plan).
- b. Includes persons who would have been eligible for cash assistance in August 1972 if not in a medical institution or intermediate care facility (this group was included in this state's August 1972 plan).

7. Qualified pregnant women and children.

- a. A pregnant woman whose pregnancy has been medically verified who:

- (1) Would be eligible for an AFDC cash payment if the child had been born and was living with her;
- (2) Is a member of a family that would be eligible for aid to families with dependent children of unemployed parents if the state had an AFDC-unemployed parents program; or
- (3) Would be eligible for an AFDC cash payment on the basis of the income and resource requirements of the state's approved AFDC plan.

- b. Children born after September 30, 1973 (specify optional earlier date), who are under age 19 and who would be eligible for an AFDC cash payment on the basis of the income and resource requirements of the state's approved AFDC plan.

Sections 12 VAC 30-40-280 and 12 VAC 30-40-290 describe the more liberal methods of treating income and resources under § 1902(r)(2) of the Act.

8. Pregnant women and infants under one year of age with family incomes up to 133% of the federal poverty level who are described in §§ 1902(a) (10)(A)(i)(IV) and 1902(l)(A) and (B) of the Act. The income level for this group is specified in 12 VAC 30-40-220.

9. Children:

- a. Who have attained one year of age but have not attained six years of age, with family incomes at or below 133% of the federal poverty levels.

- b. Born after September 30, 1983, who have attained six years of age but have not attained 19 years of age, with family incomes at or below 100% of the federal poverty levels.

Income levels for these groups are specified in 12 VAC 30-40-220.

10. Individuals other than qualified pregnant women and children under ~~item 7 above~~ *subdivision 7 of this section* who are members of a family that would be receiving AFDC under § 407 of the Act if the state had not exercised the option under § 407(b)(2)(B)(i) of the Act to limit the number of months for which a family may receive AFDC.

11. a. A woman who, while pregnant, was eligible for, applied for, and receives Medicaid under the approved state plan on the day her pregnancy ends. The woman continues to be eligible, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan for a 60-day period (beginning on the last day of her pregnancy) and for any remaining days in the month in which the 60th day falls.

- b. A pregnant women who would otherwise lose eligibility because of an increase in income (of the family in which she is a member) during the pregnancy or the postpartum period which extends through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends.

12. A child born to a woman who is eligible for and receiving Medicaid as categorically needy on the date of the child's birth. The child is deemed eligible for one year from birth as long as the mother remains eligible or would remain eligible if still pregnant and the child remains in the same household as the mother.

13. Aged, blind and disabled individuals receiving cash assistance.

- a. Individuals who meet more restrictive requirements for Medicaid than the SSI requirements. (This includes persons who qualify for benefits under § 1619(a) of the Act or who meet the eligibility requirements for SSI status under § 1619(b)(1) of the Act and who met the state's more restrictive requirements for Medicaid in the month before the month they qualified for SSI under § 1619(a) or met the requirements under § 1619(b)(1) of the Act. Medicaid eligibility for these individuals continues as long as they continue to meet the § 1619(a) eligibility standard or the requirements of § 1619(b) of the Act.)

- b. These persons include the aged, the blind, and the disabled.

- c. The more restrictive categorical eligibility criteria are described below:

- (1) See 12 VAC 30-30-40

(2) Financial criteria are described in 12 VAC 30-40-10.

14. Qualified severely impaired blind and disabled individuals under age 65 who:

a. For the month preceding the first month of eligibility under the requirements of § 1905(q)(2) of the Act, received SSI, a state supplemental payment under § 1616 of the Act or under § 212 of P.L. 93-66 or benefits under § 1619(a) of the Act and were eligible for Medicaid; or

b. For the month of June 1987, were considered to be receiving SSI under § 1619(b) of the Act and were eligible for Medicaid. These individuals must:

(1) Continue to meet the criteria for blindness or have the disabling physical or mental impairment under which the individual was found to be disabled;

(2) Except for earnings, continue to meet all nondisability-related requirements for eligibility for SSI benefits;

(3) Have unearned income in amounts that would not cause them to be ineligible for a payment under § 1611(b) of the Act;

(4) Be seriously inhibited by the lack of Medicaid coverage in their ability to continue to work or obtain employment; and

(5) Have earnings that are not sufficient to provide for himself or herself a reasonable equivalent of the Medicaid, SSI (including any federally administered SSP), or public funded attendant care services that would be available if he or she did have such earnings.

The state applies more restrictive eligibility requirements for Medicaid than under SSI and under 42 CFR 435.121. Individuals who qualify for benefits under § 1619(a) of the Act or individuals described above who meet the eligibility requirements for SSI benefits under § 1619(b)(1) of the Act and who met the state's more restrictive requirements in the month before the month they qualified for SSI under § 1619(a) or met the requirements of § 1619(b)(1) of the Act are covered. Eligibility for these individuals continues as long as they continue to qualify for benefits under § 1619(a) of the Act or meet the SSI requirements under § 1619(b)(1) of the Act.

15. Except in states that apply more restrictive requirements for Medicaid than under SSI, blind or disabled individuals who:

a. Are at least 18 years of age;

b. Lose SSI eligibility because they become entitled to OASDI child's benefits under § 202(d) of the Act or an increase in these benefits based on their disability. Medicaid eligibility for these individuals continues for

as long as they would be eligible for SSI, absent their OASDI eligibility.

c. The state does not apply more restrictive income eligibility requirements than those under SSI.

16. Except in states that apply more restrictive eligibility requirements for Medicaid than under SSI, individuals who are ineligible for SSI or optional state supplements (if the agency provides Medicaid under § 435.230 of the Act), because of requirements that do not apply under Title XIX of the Act.

17. Individuals receiving mandatory state supplements.

18. Individuals who in December 1973 were eligible for Medicaid as an essential spouse and who have continued, as spouse, to live with and be essential to the well-being of a recipient of cash assistance. The recipient with whom the essential spouse is living continues to meet the December 1973 eligibility requirements of the state's approved plan for OAA, AB, APTD, or AABD and the spouse continues to meet the December 1973 requirements for have his or her needs included in computing the cash payment.

In December 1973, Medicaid coverage of the essential spouse was limited to: the aged; the blind; and the disabled.

19. Institutionalized individuals who were eligible for Medicaid in December 1973 as inpatients of Title XIX medical institutions or residents of Title XIX intermediate care facilities, if, for each consecutive month after December 1973, they:

a. Continue to meet the December 1973 Medicaid State Plan eligibility requirements; and

b. Remain institutionalized; and

c. Continue to need institutional care.

20. Blind and disabled individuals who:

a. Meet all current requirements for Medicaid eligibility except the blindness or disability criteria; and

b. Were eligible for Medicaid in December 1973 as blind or disabled; and

c. For each consecutive month after December 1973 continue to meet December 1973 eligibility criteria.

21. Individuals who would be SSI/SSP eligible except for the increase in OASDI benefits under P.L. 92-336 (July 1, 1972), who were entitled to OASDI in August 1972, and who were receiving cash assistance in August 1972.

This includes persons who would have been eligible for cash assistance but had not applied in August 1972 (this group was included in this state's August 1972 plan), and persons who would have been eligible for cash assistance in August 1972 if not in a medical institution

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or intermediate care facility (this group was included in this state's August 1972 plan).

22. Individuals who:

- a. Are receiving OASDI and were receiving SSI/SSP but became ineligible for SSI/SSP after April 1977; and
- b. Would still be eligible for SSI or SSP if cost-of-living increases in OASDI paid under § 215(i) of the Act received after the last month for which the individual was eligible for and received SSI/SSP and OASDI, concurrently, were deducted from income.

The state applies more restrictive eligibility requirements than those under SSI and the amount of increase that caused SSI/SSP ineligibility and subsequent increases are deducted when determining the amount of countable income for categorically needy eligibility.

23. Disabled widows and widowers who would be eligible for SSI or SSP except for the increase in their OASDI benefits as a result of the elimination of the reduction factor required by § 134 of P.L. 98-21 and who are deemed, for purposes of Title XIX, to be SSI beneficiaries or SSP beneficiaries for individuals who would be eligible for SSP only, under § 1634(b) of the Act.

The state does not apply more restrictive income eligibility standards than those under SSI.

24. Disabled widows, disabled widowers, and disabled unmarried divorced spouses who had been married to the insured individual for a period of at least ~~ten~~ 10 years before the divorce became effective, who have attained the age of 50, who are receiving Title II payments, and who because of the receipt of Title II income lost eligibility for SSI or SSP which they received in the month prior to the month in which they began to receive Title II payments, who would be eligible for SSI or SSP if the amount of the Title II benefit were not counted as income, and who are not entitled to Medicare Part A.

The state applies more restrictive eligibility requirements for its blind or disabled than those of the SSI program.

25. Qualified Medicare beneficiaries:

- a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818 of the Act);
- b. Whose income does not exceed 100 percent % of the federal level; and
- c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to Medicare cost sharing as defined in item 3.2 of this plan.)

26. Qualified disabled and working individuals:

- a. Who are entitled to hospital insurance benefits under Medicare Part A under § 1818A of the Act;

b. Whose income does not exceed 200 percent % of the federal poverty level; and

c. Whose resources do not exceed twice the maximum standard under SSI.

d. Who are not otherwise eligible for medical assistance under Title XIX of the Act.

(Medical assistance for this group is limited to Medicare Part A premiums under §§ 1818 and 1818A of the Act.)

27. Specified low-income Medicare beneficiaries:

a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818A of the Act);

b. Whose income for calendar years 1993 and 1994 exceeds the income level in 25.b., but is less than 110 percent % of the federal poverty level, and whose income for calendar years beginning 1995 is less than 120 percent % of the federal poverty level; and

c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to Medicare Part B premiums under § 1839 of the Act.)

28. Qualified individuals (pursuant to P.L. 105-33):

a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818A of the Act);

b. Whose income is at least 120% of the federal poverty level but is less than 135% of the federal poverty level;

c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to the portion of the Medicare Part B increase that is attributable to § 4611 of the Balanced Budget Act of 1997 and will become effective with the next increase in the Medicare Part B premium. Coverage will be provided on a first-come, first-served basis up to the capped federal entitlement, and waiting lists will be established as necessary.)

29. Qualified individuals-2.

a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818A of the Act);

b. Whose income is at least 135% of the federal poverty level but is less than 175% of the federal poverty level; and

c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to the portion of the Medicare Part B increase that is attributable to

§ 4611 of the Balanced Budget Act of 1997 and will become effective with the next increase in the Medicare Part B premium. Coverage will be provided on a first-come, first-served basis up to the capped federal entitlement, and waiting lists will be established as necessary.)

~~28-~~ 30. a. Each person to whom SSI benefits by reason of disability are not payable for any month solely by reason of clause (i) or (v) of § 1611(e)(3)(A) shall be treated, for purposes of Title XIX, as receiving SSI benefits for the month.

b. The state applies more restrictive eligibility standards than those under SSI.

Individuals whose eligibility for SSI benefits are based solely on disability who are not payable for any months solely by reason of clause (i) or (v) of § 1611(e)(3)(A) and who continue to meet the more restrictive requirements for Medicaid eligibility under the state plan, are eligible for Medicaid as categorically needy.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

November 12, 1997

Mr. Joseph M. Teefey, Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

Dear Mr. Teefey:

This letter acknowledges receipt of the amendments to 12 VAC 30-30-10 et seq. Mandatory Coverage: Categorically Needy and Other Required Special Groups, submitted by the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a stylized flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 12 VAC 30-120-10 et seq. Waivered Services (Part VI: Medallion II) (amending 12 VAC 30-120-400).

Statutory Authority: § 32.1-325 of the Code of Virginia and 42 CFR 434.67.

Effective Date: January 1, 1998.

Summary:

Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. An additional provision has recently been added to the federal regulations for which monitoring is required. This new rule adds to 42 CFR 434.67 the requirement to monitor for violations of the physician incentive plan provisions. Virginia was required to begin implementing the new rule, including monitoring for compliance, January 1, 1997. The new federal regulations set out specific reporting requirements with which the HMOs must comply (42 CFR 417.479 (h)(1) and 42 CFR 434.70). These reporting requirements include such provisions as disclosing the type of incentive plan; the amount and type of stop-loss protection provided to the physicians; and the capitation payments paid to physicians by percent for primary care services, referral services to specialists, and hospital and other types of provider services. DMAS will review the reports submitted by the HMOs to monitor the HMOs' compliance.

Summary of Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-120-400. Quality Control and Utilization Review.

A. DMAS shall rigorously monitor the quality of care provided by the HMOs. DMAS may contract with one or more external quality review organizations to perform focused studies on the quality of care provided by the HMOs. Specifically, DMAS shall monitor to determine if the HMO:

1. Fails substantially to provide the medically necessary items and services required under law or under the contract to be provided to an enrolled recipient and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual. This shall be monitored through the review of encounter data on a routine basis and other methods determined by DMAS.
2. Imposes on clients premium amounts in excess of premiums permitted. This shall be monitored through

surveying a sample of clients at least annually and other methods determined by DMAS.

3. Engages in any practice that discriminates among individuals on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, or any practice that could reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by § 1903(m) of the Social Security Act (42 USC § 1396b(m))) by eligible individuals whose medical conditions or histories indicate a need for substantial future medical services. This shall be monitored through surveying a sample of clients at least annually and other methods determined by DMAS.

4. Misrepresents or falsifies information that it furnishes, under § 1903(m) of the Social Security Act (42 USC § 1396b(m)) to HCFA, DMAS, an individual, or any other entity. This shall be monitored through surveying a sample of clients at least annually and other methods determined by DMAS.

5. Fails to comply with the requirements of 42 CFR 417.479(d) through (g) relating to physician incentive plans, or fails to submit to DMAS its physician incentive plans as required or requested in 42 CFR 434.70. This provision shall be monitored through review of the information listed in 42 CFR 417.479(h)(1) as submitted by the HMOs in accordance with the requirements of 42 CFR 434.70.

B. DMAS shall ensure that data on performance and patient results is collected. Specifically, DMAS shall review, which may include on-site reviews, encounter data submitted by the HMOs as defined in the contracts. This review shall include, but not be limited to:

1. Whether services were properly authorized or excluded,
2. The adequacy and appropriateness of services provided or denied, and
3. Analysis of possible trends in increases or reductions of services.

C. DMAS shall ensure that quality outcomes information is provided to HMOs. DMAS shall ensure that changes which are determined to be needed as a result of quality control or utilization review are made.

VA.R. Doc. No. R97-563; Filed November 3, 1997, 3:05 p.m.



FORMS

DEPARTMENT OF MINES, MINERALS AND ENERGY

EDITOR'S NOTICE: The following form has been discontinued by the Department of Mines, Minerals and Energy. Questions may be directed to Cheryl Cashman, Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 North 9th Street, Richmond, VA 23219, telephone (804) 692-3213.

Accident and Injury Report, DM-AR-1 (Rev. 2/89)

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: 2 VAC 5-205-10 et seq. Rules and Regulations Pertaining to Shooting Enclosures.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: June 12, 1997

VA.R. Doc. No. R97-655; Filed October 24, 1997, 10:38 a.m.

TITLE 8. EDUCATION

DEPARTMENT OF EDUCATION

Title of Regulation: 8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by federal and state law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: August 18, 1997

VA.R. Doc. No. R97-729; Filed October 24, 1997, 10:39 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulation.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by state and federal law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I

have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: August 21, 1997

VA.R. Doc. No. R97-745; Filed October 24, 1997, 10:40 a.m.

Title of Regulation: 9 VAC 25-101-10 et seq. Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by state and federal law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: August 21, 1997

VA.R. Doc. No. R97-744; Filed October 24, 1997, 10:39 a.m.

Title of Regulation: 9 VAC 25-260-10 et seq. Water Quality Standards.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is imperative that ammonia discharge not adversely affect the health of Virginians. Therefore, I reserve the right to take action authorized by the Administrative Process Act during the final adoption period based on the information and public comment then available.

/s/ George Allen, Governor
Date: May 19, 1997

VA.R. Doc. No. R97-679; Filed October 24, 1997, 10:40 a.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Title of Regulation: 11 VAC 10-70-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Stewards.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption

Governor

period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: September 24, 1997

VA.R. Doc. No. R97-350; Filed October 24, 1997, 10:38 a.m.

Title of Regulation: 11 VAC 10-90-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Appeals to the Commission.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: September 24, 1997

VA.R. Doc. No. R97-348; Filed October 24, 1997, 10:38 a.m.

Title of Regulation: 11 VAC 10-130-10 et seq. Virginia Breeders Fund.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by federal and state law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: July 31, 1997

VA.R. Doc. No. R97-683; Filed October 24, 1997, 10:38 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by federal and state law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: August 19, 1997

VA.R. Doc. No. R97-763; Filed October 24, 1997, 10:40 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: 18 VAC 30-20-10 et seq. Regulations of the Board of Audiology and Speech-Language Pathology.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: July 17, 1997

VA.R. Doc. No. R97-754; Filed October 24, 1997, 10:39 a.m.

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: July 17, 1997

VA.R. Doc. No. R97-755; Filed October 24, 1997, 10:39 a.m.

BOARD OF PSYCHOLOGY

Title of Regulation: 18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor
Date: July 17, 1997

VA.R. Doc. No. R97-756; Filed October 24, 1997, 10:39 a.m.

REAL ESTATE APPRAISER BOARD

Title of Regulation: 18 VAC 130-20-10 et seq. Real Estate Appraiser Board Rules and Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by state and federal law. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen, Governor

Date: September 15, 1997

VA.R. Doc. No. R97-716; Filed October 24, 1997, 10:38 a.m.

TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

Title of Regulation: 22 VAC 15-30-10 et seq. Minimum Standards for Licensed Child Day Centers.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis, and reserve the right to take action authorized by the Administrative Process Act during the final adoption period. I look forward to reviewing the information and public comment after it is received. Our ultimate goal is to ensure that child day care in Virginia is available, affordable, safe and of high quality.

/s/ George Allen, Governor

Date: October 27, 1997

VA.R. Doc. No. R97-670; Filed October 29, 1997, 11:38 a.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF LABOR AND INDUSTRY

In accordance with the Governor's Executive Order Number Fifteen (94), effective June 21, 1994, the Virginia Department of Labor and Industry is continuing the comprehensive review of all of its existing regulations. The purpose of this review is to reduce the burden imposed by regulations by ensuring that the only regulations in effect are those that are essential to protect the health, safety, and welfare of citizens or for the efficient and economical performance of an important governmental function. The review will also ensure that the regulations are clearly written and easily understandable and will evaluate the effectiveness of the regulations in meeting their stated purpose.

The agency is reviewing during the current fiscal year (July 1, 1997, through June 30, 1998) the following five regulations. Two are department regulations, one is an Apprenticeship Council regulation, and two are regulations of the Safety and Health Codes Board. Comments are requested to assist in the identification of any regulations that are unclear, duplicative, or do not achieve the essential purpose for which they were established.

The agency will use three ad hoc committees (DOLI, Apprenticeship, and SHCB) to review these regulations and the comments received. Anyone interested in serving on one of these ad hoc committees should submit his name, address, company/organizational affiliation and committee interest by January 9, 1998, to the Department of Labor and Industry, 13 S. Thirteenth Street, Richmond, VA 23219, Attention: Bonnie Robinson.

Regulations Under Review:

Department of Labor and Industry

16 VAC 15-10-10 et seq. Public Participation Guidelines.

This regulation sets out procedures to be followed by the agency to ensure that the public and all parties interested in the regulations adopted by the commissioner have a full and fair opportunity to participate at every stage in the development or revision of regulations. The Administrative Process Act requires each agency to develop, adopt and use public participation guidelines for soliciting comments from interested parties when developing, revising or repealing regulations.

16 VAC 15-50-10 et seq. Regulation Governing the Employment of Minors on Farms, In Gardens and In Orchards.

This regulation prohibits the employment of minors under 16 years of age in specified hazardous occupations on farms, in gardens, and in orchards. The prohibited occupations include operating a tractor of over 20 PTO horsepower; operating or assisting in the operation of other heavy equipment; operating or assisting in the operation of earthmoving equipment, fork-lifts, potato combines, and chain saws; working in enclosed areas occupied by dangerous animals; working from ladders; driving certain vehicles; working inside enclosed areas containing dangerous atmospheres; and handling poisonous chemicals or blasting agents or anhydrous ammonia. The regulation exempts children below the age of 16 employed by their parents on their own farms; student learners; students in Federal Extension Service and 4-H Tractor and Machine Operation Training Programs; and students in the Vocational Agricultural Training Program. Agricultural employers are required to maintain basic records on minor employees.

Apprenticeship Council

16 VAC 20-10-10 et seq. Public Participation Guidelines.

This regulation sets out procedures to be followed by the Apprenticeship Council and the agency to ensure that the public and all parties interested in the regulations adopted by the council have a full and fair opportunity to participate at every stage in the development or revision of regulations. The Administrative Process Act requires each agency to develop, adopt and use public participation guidelines for soliciting comments from interested parties when developing, revising or repealing regulations.

Safety and Health Codes Board

16 VAC 25-10-10 et seq. Public Participation Guidelines.

This regulation sets out procedures to be followed by the Safety and Health Codes Board and the agency to ensure that the public and all parties interested in the regulations adopted by the board have a full and fair opportunity to participate at every stage in the development or revision of regulations. The Administrative Process Act requires each agency to develop, adopt and use public participation guidelines for

Schedules for Comprehensive Review of Regulations

soliciting comments from interested parties when developing, revising or repealing regulations.

16 VAC 25-60-10 et seq. Administrative Regulation for the Virginia Occupational Safety and Health Program.

This regulation provides a framework of administrative rules and procedures for the operation of the Virginia Occupational Safety and Health Program as prescribed by Title 40.1 of the Code of Virginia and the Virginia State Plan for Occupational Safety and Health as approved by the U.S. Department of Labor.

Comments: Comments on these regulations may be submitted until January 9, 1998. Mail or fax all written comments to the Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, Attention: Bonnie Robinson, FAX (804) 786-9877. Written or faxed comments should contain the following information:

1. Name, address and telephone number of person submitting comments;
2. Regulation number and title of regulation;
3. Recommended action to be taken with regard to the specific regulation;
4. Statement of need and justification for the proposed action;
5. Statement of impact on the person submitting comments;
6. Identification of other affected persons or organizations and statement of impact on these entities; and
7. Recommended alternatives to the regulation, if any.

Copies of the regulations may be obtained from the Virginia Department of Labor and Industry.

Agency Contact: Bonnie Robinson, Regulatory Coordinator, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 371-2631.

GENERAL NOTICES/ERRATA

DEPARTMENT OF CONSERVATION AND RECREATION

The Department of Conservation and Recreation announces the recipients of the 1997 Water Quality Improvement Act grant funds dedicated to nonpoint source water pollution prevention and control. The recipients were selected after

consultation with agencies in the Secretariat of Natural Resources, as well as the State Department of Health, the Department of Agriculture and Consumer Services, and the Department of Forestry. These same agencies will have a role in the management of the funded projects. Grant activities begin in January 1998 and end in December 1998.

1997 Grant Recipients Water Quality Improvement Fund Nonpoint Source Projects

POTOMAC/SHENANDOAH RIVER BASIN

Project Title	Sponsor	Match Funds	Grant Amount*
Headwaters Riparian Partners Project	Valley Conservation Council	\$155,000	\$150,000
Improving WQ in Potomac Shenandoah River Basin w/year round Controlled Grazing	Va Forage & Grassland Council	\$75,000	\$40,000
Reduction NPS Pollution in Accotink Creek Watershed	Virginia Tech & VCE	\$15,182	\$15,000
Tyson NPS Project	Tyson Foods, Inc.	\$169,444	\$84,722
Urban Nutrient Management Implementation & Measurement	Virginia Tech & VCE	\$47,574	\$47,400
Phosphorus Reduction from NPS Using Phytase & Enhanced Available Phos. Sources Part I	Faraway Farms/Sharfield	\$24,548	\$24,548
Rocco Feeds NPS Project 27 HU's	Rocco Feeds, Inc.	\$155,225	\$155,225
Site Specific Nutrient Management Enhancement Program - 27 HU's	County of Rockingham	\$63,280	\$38,084
Prince William Co. WQ Restoration Project	Prince William County	\$45,000	\$45,000
Wetland and Stream Restoration in the Potomac Tributaries	Ducks Unlimited	\$59,188	\$53,810
Riverview Park/South River Project	City of Waynesboro	\$31,500	\$31,500
Kingstowne Stream Restoration Project	Northern Virginia SWCD	\$229,000	\$103,100
Lake Montclair Water Protection Program	Montclair Property Owners Assoc.	\$55,000	\$55,000
On-Site Wastewater Improvement	Northern Neck PDC	\$100,000	\$100,000
Homeowner Septic Tank Pump Out Cost-Share Project	Loudoun SWCD	\$79,000	\$79,000
Private BMP Maintenance Enhancement Project	Northern Virginia PDC	\$15,069	\$15,069
Soil and Water Conservation Districts			
Agricultural Best Management Practices (BMPs)--Practices will vary for each district such as grass filter strips, diversions, animal waste control facilities, loafing lot management and strip cropping.	Northern Virginia SWCD	\$5,233	\$15,700
	Headwaters SWCD	\$129,367	\$388,100
	Loudoun SWCD	\$34,467	\$103,400
	Prince William SWCD	\$31,233	\$93,700
	Shenandoah Valley SWCD	\$161,433	\$484,300

General Notices/Errata

Project Title	Sponsor	Match Funds	Grant Amount*
	Northern Neck SWCD	\$9,300	\$27,900
	John Marshall SWCD	\$28,567	\$85,700
	Lord Fairfax SWCD	\$87,533	\$262,600
	Tri-County/City SWCD	\$4,433	\$13,300
	Mountain SWCD	\$8,433	\$25,300

*Grant amount will not exceed this figure. Further cost savings may be determined during contract development.

REGIONS OUTSIDE THE CHESAPEAKE BAY BASIN

Project Title	Sponsor	Match Funds	Grant Amount*
Blackwater River Riparian NPS Pollution Control Project	Ferrum College	\$296,162	\$215,000
Guest River Watershed Restoration Project	Lonesome Pine SWCD	\$287,500	\$226,762
New River Watershed Controlled Grazing Project	New River-Highlands RC&D	\$305,000	\$304,450
North Fork Holston River Pastureland & Riparian Area Protection	Evergreen SWCD	\$94,140	\$93,040
Nutrient Management Plan Development & Implementation	Eastern Shore SWCD	\$14,000	\$14,000
Rhea Valley/Bethel Karst Project	Holston River SWCD	\$47,500	\$47,500
Phosphorus Reduction From NPS Using Phytase Part II	Green Valley/Brickland Breeders	\$32,785	\$32,785
Post Pelleting Spray Application System for Application of Phytase Enzyme to Boiler Feed	Perdue Farms, Inc.	\$50,000	\$50,000
Improving WQ in Southwest Virginia With Year Round Controlled Grazing	Va Forage & Grassland Council	\$75,000	\$40,000
Animal Waste Project	Skyline SWCD	\$67,500	\$67,500
Upper Reed Creek Watershed Project	Big Walker SWCD	\$54,980	\$54,980
Reduction of Inorganic Phosphorus in Swine Food 14 HU's	Carroll's Foods of Va, Inc.	\$117,838	\$116,638
Tazewell SWCD No-Till Drill	Tazewell SWCD	\$4,500	\$13,500
Crooked Creek Streambank Erosion Control Project	New River-Highlands RC&D	\$5,320	\$5,320
Environmentally & Economically Sustainable Agriculture Buffer Strategy for WQ Protection	The Nature Conservancy	\$39,184	\$20,000
Septic Tank Maintenance for Smith Mountain Lake	Peaks of Otter SWCD	\$24,000	\$24,000
Disposal of Hazardous Waste Materials	Natural Tunnel SWCD	\$2,500	\$2,500
Greenfield Water Quality Management Project	Botetourt County	\$598,675	\$200,000
Soil and Water Conservation Districts			
Agricultural Best Management Practices (BMPs)--Practices will	Eastern Shore SWCD	\$16,200	\$48,600
vary for each district such as grass filter strips, diversions, animal	Mountain Castles SWCD	\$1,667	\$5,000
waste control facilities, loafing lot management and strip cropping.	Lonesome Pine SWCD	\$7,933	\$23,800

General Notices/Errata

Project Title	Sponsor	Match Funds	Grant Amount*
	Virginia Dare SWCD	\$14,467	\$43,400
	Skyline SWCD	\$21,633	\$64,900
	Clinch Valley SWCD	\$24,667	\$74,000
	Daniel Boone SWCD	\$7,333	\$22,000
	Blue Ridge SWCD	\$10,433	\$31,300
	Holston River SWCD	\$14,700	\$44,100
	Piedmont SWCD	\$17,400	\$52,200
	J. R. Horsley SWCD	\$20,633	\$61,900
	Natural Tunnel SWCD	\$9,600	\$28,800
	Pittsylvania SWCD	\$18,533	\$55,600
	Southside SWCD	\$15,133	\$45,400
	New River SWCD	\$18,733	\$56,200
	Big Walker SWCD	\$18,667	\$56,000
	Evergreen SWCD	\$17,600	\$52,800
	Patrick County SWCD	\$5,100	\$15,300
	Halifax SWCD	\$8,533	\$25,600
	Lake Country SWCD	\$22,900	\$68,700
	Peanut SWCD	\$6,833	\$20,500
	Appomattox River SWCD	\$8,633	\$25,900
	Tazewell SWCD	\$9,133	\$27,400
	Peaks of Otter SWCD	\$3,733	\$11,200
	Robert E. Lee SWCD	\$11,467	\$34,400
	James River SWCD	\$1,667	\$5,000

*Grant amount will not exceed this figure. Further cost savings may be determined during contract development.

VIRGINIA CODE COMMISSION

Notice to Subscribers

Beginning with Volume 14, Issue 1 of the Virginia Register (14:1 VA.R. September 29, 1997), the format of the Register changed slightly. Regulations and other information previously published in the State Corporation Commission, Marine Resources Commission, State Lottery Department, and Tax Bulletin sections have been merged into the Proposed Regulations, Final Regulations, Emergency Regulations, or General Notices sections as appropriate. In addition, regulations appear in order by Virginia Administrative Code (VAC) title order to correspond with the VAC.

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 may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page: <http://legis.state.va.us/codecomm/regindex.htm>

FORMS:

- NOTICE of INTENDED REGULATORY ACTION - RR01
- NOTICE of COMMENT PERIOD - RR02
- PROPOSED (Transmittal Sheet) - RR03
- FINAL (Transmittal Sheet) - RR04
- EMERGENCY (Transmittal Sheet) - RR05
- NOTICE of MEETING - RR06
- AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 786-6530 or Senate Information and Constituent Services at (804) 786-3838 or (804) 225-4749/TDD☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

December 15, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

A meeting to discuss request for proposals and regulatory review. All meetings and times are subject to change. Call the board office within 24 hours of the meeting for confirmation. 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, Board 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 AGRICULTURE AND CONSUMER SERVICES

December 11, 1997 - 9 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.♿

A meeting to discuss regulations and to consider matters relating to its responsibilities. The board will entertain public comment as the first item of business for a period not to exceed 15 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy Seward at least five days before the

meeting date so that suitable arrangements can be made.

Contact: Roy Seward, Secretary to the Board, Board of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3538 or FAX (804) 371-7679.

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December 11, 1997 - 1:30 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats, and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they also can recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies.

This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of this action is to revise the regulation and increase its effectiveness, including but not limited to amending the regulation to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstance at a particular time

would allow--whether Stage I or Stage V, or any stage in between.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

December 11, 1997 - 1:30 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-205-10 et seq. Rules and Regulations Pertaining to Shooting Enclosures.** This regulation provides rules to govern shooting enclosures in Virginia. The purpose of this action is to promulgate regulations providing for licensing shooting enclosures, establishing a licensing fee, and establishing criteria for the operation and management of the enclosures to include the health status of the animals held in the enclosure. The regulation also establishes which animals can be held in the shooting enclosures: goats, sheep and swine.

Statutory Authority: § 3.1-763.5:5 of the Code of Virginia.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Corn Board

December 17, 1997 - 9 a.m. -- Open Meeting
Wallace Manor, 3821 North Courthouse Road, Providence Forge, Virginia. ☎

A meeting to discuss checkoff revenues and the financial status resulting from the sales of the 1997 corn crop, as well as hear reports from the Chairman, U.S. Feed Grains Council, National Corn Development Foundation and other committee representatives. The nomination and election of 1998 officers will also take place at the 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 Phil Hickman at least five days before the

meeting date so that suitable arrangements can be made.

Contact: Phil Hickman, Program Director, Virginia Corn Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Irish Potato Board

December 15, 1997 - 7 p.m. -- Open Meeting
Eastern Shore Agricultural Research and Extension Center, Research Drive, Painter, Virginia. ☎

A meeting to discuss programs (promotion, research and education), the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-1041.

Virginia Plant Pollination Advisory Board

† February 6, 1998 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 4th Floor Conference Room, Richmond, Virginia. ☎

A regular meeting to receive reports from members on the past year's activity in their respective disciplines as it relates to apiculture, pollination, education and the production of food and fiber in the Commonwealth. The board will also consider matters for the future in the aforementioned categories. 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 special assistance in order to participate at the meeting should contact Robert G. Wellemeyer at least five days before the meeting date so that suitable arrangements can be made.

Contact: Robert G. Wellemeyer, Secretary-Treasurer, Virginia Plant Pollination Advisory Board, 234 West Shirley Ave., Warrenton, VA 22186, telephone (540) 347-6380, FAX (540) 347-6384, or (804) 371-6344/TDD ☎

Virginia Sheep Industry Board

December 5, 1997 - 3 p.m. -- Open Meeting
Donaldson Brown Center, Virginia Tech, Otey Street, Blacksburg, Virginia. ☎

A meeting to hear funding requests for the Virginia FFA Foundation, Virginia Association of Fairs, and for a lamb and wool marketing conference. The board will also

Calendar of Events

discuss sponsoring a lamb serving booth at the 1998 Virginia Food Festival. 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 Mike Carpenter at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mike Carpenter, Program Director, Livestock Marketing Services, Department of Agriculture and Consumer Services, 116 Reservoir Street, Harrisonburg, VA 22801, telephone (540) 434-0779 or FAX (540) 434-5607.

Virginia Small Grains Board

January 7, 1998 - Noon -- Open Meeting

January 8, 1998 - 7:30 a.m. -- Open Meeting

Roanoke Airport Hilton, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☎

A meeting to hear additional FY 1997-98 project proposals and allocate funding for those projects. Additionally, the board will make funding decisions for U.S. Wheat Associates for FY 1998-99, and action will be taken on any other new business that comes 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 Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Small Grains Board, Washington Bldg., 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Soybean Board

December 8, 1997 - 2:30 p.m. -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ☎

A meeting to discuss checkoff revenues and the financial status resulting from sales of the 1997 soybean crop. Reports will be heard from the chairman, United Soybean Board representatives and from other committee representatives. 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

December 3, 1997 - 6 p.m. -- Open Meeting

Little Italy Restaurant, 10227 Rogers Drive, Nassawadox, Virginia. ☎

A meeting to discuss (i) programs regarding promotion, research and education, (ii) the annual budget, and (iii) 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.

ALCOHOLIC BEVERAGE CONTROL BOARD

November 24, 1997 - 9:30 a.m. -- Open Meeting

December 8, 1997 - 9:30 a.m. -- Open Meeting

December 22, 1997 - 9:30 a.m. -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities of staff members. Other matters have not been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **December 3, 1997 - 9 a.m.** -- Open Meeting

† **December 18, 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Interior Design Section

† **December 11, 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Landscape Architects Section

† **December 4, 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

ART AND ARCHITECTURAL REVIEW BOARD

† **December 5, 1997 - 10 a.m.** -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review capital construction projects for state agencies. The meeting is open for public comment.

Contact: Richard L. Ford, AIA, Art and Architectural Review Board Chairman, 805 E. Broad St., Richmond, VA 23219, telephone (804) 643-8061 or FAX (804) 371-7934.

VIRGINIA BOARD FOR ASBESTOS AND LEAD

† **December 8, 1997 - 9 a.m.** -- Open Meeting
National Assessment Institute, 3813 Gaskins Road,
Richmond, Virginia. ☎

Two board members and invited subject matter experts will meet to conduct an exam workshop for the lead abatement examination. No board business will be conducted.

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 ☎

December 17, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 West,
Richmond, Virginia. ☎

A meeting to conduct routine business. 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 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

† **December 11, 1997 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4W, Richmond,
Virginia. ☎

The board and invited subject matter experts will meet to conduct an exam workshop. A public comment period will be held at the beginning of the workshop. After the public comment period the workshop will be conducted in closed executive session under authority of § 2.1-344 A 11 of the Code of Virginia due to the confidential nature of the examination. The public will not be admitted to the closed executive session.

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 ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Legislative/Regulatory Committee

† **December 11, 1997 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎

A meeting to discuss legislative proposals of definitions.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717,

Calendar of Events

telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

† **December 17, 1997 - 3 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

December 1, 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 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

BOARD FOR BRANCH PILOTS

† **December 9, 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **December 15, 1997 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Conference Room 3, Richmond, Virginia.

A meeting to conduct general business and to review local Chesapeake Bay Preservation Area programs and the 1999 Competitive Grants Program Request for Proposals. Public comment will be taken early in the meeting. A tentative agenda will be available by December 1 from the department.

Contact: Carolyn J. Elliott, Executive Secretary, 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

November 24, 1997 - 4 p.m. -- Public Hearing
Roanoke City Council Chambers, Municipal Building, 215 Church Avenue, S.W., 4th Floor, Roanoke, Virginia.

November 25, 1997 - 4 p.m. -- Public Hearing
Southwest Virginia 4-H Center, 25236 Hillman Highway, Ratcliff Hall, Abingdon, Virginia.

November 29, 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 Child Day-Care Council intends to amend regulations entitled: **22 VAC 15-30-10 et seq. Minimum Standards for Licensed Child Day Centers.** This regulation lists the standards that child day centers serving children of preschool age or younger must meet to be licensed by the Department of Social Services. The school age requirements from 22 VAC 15-40-10 et seq. will be incorporated into this regulation

Statutory Authority: § 63.1-202 of the Code of Virginia.

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

November 29, 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 Child Day-Care Council intends to repeal regulations entitled: **22 VAC 15-40-10 et seq. Minimum Standards for Licensed Child Day Centers Serving School Age Children.** The purpose of

the proposed action is to repeal this regulation and incorporate these standards into the regulation currently entitled "Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger" (22 VAC 15-30-10 et seq.).

Statutory Authority: § 63.1-202 of the Code of Virginia.

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

† **December 11, 1997 - 9 a.m.** -- Open Meeting
Theater Row Building, 730 East Broad Street, 7th Floor Conference Room, 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 or FAX (804) 692-2370.

COMPENSATION BOARD

† **November 26, 1997 - 10 a.m.** -- Open Meeting
† **December 18, 1997 - 11 a.m.** -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 10th Floor Conference Room, 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

Board of Conservation and Recreation

December 11, 1997 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Suite 200, Richmond, Virginia.

A regular business meeting to discuss the proposed action to adopt final stormwater management regulations.

Contact: Leon E. App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302,

Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141.

Virginia State Parks Foundation

† **December 3, 1997 - 10 a.m.** -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Suite 200, Richmond, Virginia.

A regular business meeting.

Contact: Michael R. Fletcher, Director of Development, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-8445 or FAX (804) 786-6141.

BOARD FOR CONTRACTORS

Disciplinary Committee

† **December 2, 1997 - 9 a.m.** -- Open Meeting
† **December 3, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to review board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act and to review consent order offers in lieu of further disciplinary proceedings. 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 board fully complies with the Americans with Disabilities Act.

Contact: Gerald W. Morgan, Senior Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD

Recovery Fund Committee

† **December 10, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to consider claims filed under the Virginia Contractor Transaction Recovery Fund Act. This meeting will be open to the public; however, a portion of the board's business may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Pratt Stelly so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Pratt P. Stelly, Assistant Director, Enforcement Division, Post-Adjudication, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA

Calendar of Events

23230-4917, telephone (804) 367-2683 or (804) 367-9753/TDD ☎

Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 692-0948.

BOARD FOR COSMETOLOGY

November 24, 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 10 days in advance.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

CRIMINAL JUSTICE SERVICES BOARD

† December 2, 1997 - 11 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A regularly scheduled meeting to discuss criminal justice related issues.

Contact: George B. Gotschalk, Jr., Regulatory Review Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 692-0948.

Committee on Training

† December 1, 1997 - 2 p.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☎

A meeting to consider comments received as a result of two public hearings pertaining to the proposed 6 VAC 20-20-10 et seq. Rules Relating to Compulsory Minimum Training for Law-Enforcement Officers.

Contact: George B. Gotschalk, Jr., Regulatory Review Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 692-0948.

† December 2, 1997 - 9 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A regularly scheduled meeting to discuss criminal justice related issues.

Contact: George B. Gotschalk, Jr., Regulatory Review Coordinator, Department of Criminal Justice Services, 805 E.

BOARD OF DENTISTRY

Advertising Committee

† December 18, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss advertising issues. Public comment will be received at the beginning of the meeting.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

November 25, 1997 - 11 a.m. -- Open Meeting
Department of Economic Development, Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Board Room, Richmond, Virginia. ☎

A meeting of the Board of Directors to discuss matters related to the Virginia Economic Development Partnership.

Contact: Kimberly M. Ellett, Administrative Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108, FAX (804) 371-8112 or (804) 371-0327/TDD ☎


Virginia Tourism Corporation

November 27, 1997 - 9 a.m. -- Open Meeting
Department of Economic Development, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)


A meeting of the Product Development Committee to discuss strategic planning. The agenda is available upon request. Public comment will be taken at the beginning of the meeting.

Contact: Judy H. Bulls, Assistant to the President and CEO, Virginia Tourism Corporation, 901 East Byrd St., Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919 or (804) 371-0327/TDD ☎


† December 16, 1997 - 10 a.m. -- Open Meeting
Department of Economic Development, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Board Room,

Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Board of Directors to discuss strategic planning and budgets related to the Virginia Tourism Corporation. The agenda is available upon request. Public comment will be taken at the beginning of the meeting.

Contact: Judy H. Bulls, Assistant to the President and CEO, Virginia Tourism Corporation, 201 East Byrd St., Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919 or (804) 371-0327/TDD 


STATE BOARD OF ELECTIONS

November 24, 1997 - 10 a.m. -- Open Meeting
State Capitol, House Room One, Richmond, Virginia. 


A meeting to certify election results for the November 4 general election.

Contact: M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or 1-800-260-3466/TDD 

LOCAL EMERGENCY PLANNING COMMITTEE - GOOCHLAND COUNTY

November 25, 1997 - 7 p.m. -- Open Meeting
Courthouse Complex, 2938 River Road West, General District Courtroom, Goochland, Virginia.  (Interpreter for the deaf provided upon request)


A semi-annual meeting.

Contact: Gregory K. Wolfrey, Emergency Coordinator, P.O. Box 10, Goochland, VA 23063, telephone (804) 556-5310 or (804) 556-5317/TDD 


LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† December 3, 1997 - 3 p.m. -- Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A regular meeting.

Contact: L. A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645/TDD 

FAMILY AND CHILDREN'S TRUST FUND

December 19, 1997 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia. 

A regular monthly meeting. Contact the Trust Fund for more information or for a copy of the agenda.

Contact: Margaret Ross Schultze, Executive Director, Family and Children's Trust Fund, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1823.

VIRGINIA FIRE SERVICES BOARD

December 5, 1997 - 9 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A business meeting to discuss training and policies. The hearing is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire Prevention and Control Committee

December 4, 1997 - 1 p.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire/EMS Education and Training Committee

December 4, 1997 - 8:30 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Legislative/Liaison Committee

December 4, 1997 - 10 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Calendar of Events

Sprinkler/Code Change Committee

December 3, 1997 - 2 p.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800
Shore Drive, Virginia Beach, Virginia.

A meeting to discuss residential sprinklers. The meeting
is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire
Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor,
Richmond, VA 23219, telephone (804) 371-0220.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

December 4, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia.☎

† **January 8, 1998 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia.☎

A general board meeting. Public comment will be
received during the first 15 minutes of the meeting. A
formal hearing will follow the general board meeting.

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
or (804) 662-7197/TDD ☎

Special Conference Committee

December 3, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia.☎

Informal conferences. No public comment will be
received.

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
or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

† **December 5, 1997 - 10 a.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad
Street, Richmond, Virginia.☎ (Interpreter for the deaf
provided upon request)

A meeting to discuss options for the long-term funding of
the department. Other matters, including general and
administrative issues, may be discussed. The board
may hold an executive session before the public session
begins.

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) 367-2311.

† **January 8, 1998 - 9 a.m.** -- Open Meeting

† **January 9, 1998 - 9 a.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad
Street, Richmond, Virginia.☎ (Interpreter for the deaf
provided upon request)

A meeting to address regulation amendments proposed
at its October 23, 1997, meeting pertaining to wildlife
permitting generally and permitting for raptor propagation
and for use of gill nets specifically. The board will solicit
comments from the public during the public hearing
portion of the meeting, at which time any interested
citizen present shall be heard. The board will determine
whether the proposed regulation amendments will be
adopted as final regulations. 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 regulations proposed at the
October 23, 1997, board meeting, as necessary for the
proper management of wildlife resources. The board will
address the agency's legislative proposals and other
legislation which is anticipated during the 1998 Session
of the General Assembly. General and administrative
issues may be discussed by the board. The board may
hold an executive session before the public session
begins on January 8. If the board completes its entire
agenda on January 8, it may not convene on January 9.

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) 367-2311.

DEPARTMENT OF HEALTH PROFESSIONS

Practitioner Self-Referral Committee

December 3, 1997 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.☎
(Interpreter for the deaf provided upon request)

A meeting to consider an application for an advisory
opinion pursuant to the Virginia Practitioner Self-Referral
Act. A brief public comment period will be held at the
beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Board of
Health Professions, 6606 W. Broad St., 4th Floor, Richmond,
VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-
9943 or (804) 662-7197/TDD ☎

Ad Hoc Committee on Telehealth

† **December 1, 1997 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A continuation of a study by the board of issues related to telehealth and the practice of health professionals. The committee will receive comments from invited guests and will consider the adoption of a workplan. Public comment will be received after comment from invited guests.

Contact: Elaine J. Yeatts, Acting Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7691 or FAX (804) 662-7098.

BOARD FOR HEARING AID SPECIALISTS

January 27, 1998 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 West,
Richmond, Virginia. ☎

A routine business meeting. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact David Dick at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

December 12, 1997 - 8 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor,
Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Resources Committee will meet at 8 a.m.; the Planning Committee will meet at 11 a.m.; and the Outreach Committee will meet at 12 p.m. The full council will hold its regular meeting at 1 p.m.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911.

Executive Committee

November 25, 1997 - 1 p.m. -- Open Meeting
State Council of Higher Education, James Monroe Building,
101 North 14th Street, Richmond, Virginia. ☎

December 19, 1997 - 8:30 a.m. -- Open Meeting
Piedmont Virginia Community College, Board Room,
Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911.

Search Committee

November 25, 1997 - 3 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor,
Richmond, Virginia. ☎

A business meeting. An executive session may be called.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911.

DEPARTMENT OF HISTORIC RESOURCES

Historic Resources Board and State Review Board

December 3, 1997 - 10 a.m. -- Open Meeting
St. James Episcopal Church Parish House, 1205 West
Franklin Street, Richmond, Virginia. ☎

A quarterly meeting to consider completed and proposed reports for the Virginia Landmarks Register and the National Register of Historic Places, easements and highway markers.

Contact: Marc C. Wagner, National Register Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

Calendar of Events

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 2, 1997 - 9 a.m. -- Open Meeting

† January 6, 1998 - 9 a.m. -- Open Meeting

† February 3, 1998 - 9 a.m. -- Open Meeting

† March 3, 1998 - 9 a.m. -- Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† December 10, 1997 - 9:30 a.m. -- Open Meeting

Henrico Area Mental Health/Mental Retardation Services, 10299 Woodman Road, Glen Allen, VA 23060. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion will focus on issues related to Virginia's implementation of the Part H program.

Contact: Nicole Rada, Part H Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention 10th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† December 11, 1997 - 9:30 a.m. -- Open Meeting

Norfolk Technical Vocational Center, 1330 North Military Highway, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly council meeting. The council will receive the subcommittee report on tradesmen certification and discuss request for apprenticeship ability for (i) Howmet Corp., Hampton: Facilitator, 183 167 018; Layout Inspector, 600 281 014 and (ii) Northor-Grumman, Ft. Eustis: Pollution Control Tech, 029 261 014.

Contact: Patti C. Bell, Administrative Staff Specialist, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 786-8418 or (804) 786-2376/TDD

Migrant and Seasonal Farmworkers Board

December 3, 1997 - 10 a.m. -- Open Meeting

State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the board.

Contact: Patti C. Bell, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 786-8418 or (804) 786-2376/TDD

MARINE RESOURCES COMMISSION

November 25, 1997 - 9 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

† December 3, 1997 - 1 p.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, 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 teenage pregnancy.

Contact: Janice M. Hicks, Ph.D., Policy Analyst, Department of Health, Office of Family Health Services, 1500 E. Main St., Room 104, Richmond, VA 23219, telephone (804) 371-0478 or FAX (804) 692-0184.

BOARD OF MEDICAL ASSISTANCE SERVICES


December 16, 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 K. Morton, 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


Credentials Committee

December 6, 1997 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD 


Executive Committee

December 5, 1997 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to:

- (i) review disciplinary files requiring administrative action;
- (ii) adopt amendments for approval of promulgation of regulations as presented; and
- (iii) act on other issues that come before the board.

The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD 

Informal Conference Committee


December 4, 1997 - 10:30 a.m. -- Open Meeting
Holiday Inn Express, I-64, Exit 55, Route 11 South, I-81, Exit 191, Lexington, Virginia.

December 9, 1997 - 9:30 a.m. -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

† December 11, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.


January 8, 1998 - 10 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, 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) 662-9517 or (804) 662-7197/TDD 

VIRGINIA MILITARY INSTITUTE

Board of Visitors

December 6, 1997 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia. 

A regular meeting to hear committee reports and to visit academic departments. The Board of Visitors will provide an opportunity for public comment at this meeting. Public comment is received at the first meeting of the academic year, normally in August or September.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7600.

Calendar of Events

BOARD OF NURSING

Special Conference Committee

† December 3, 1997 - 9 a.m. -- Open Meeting

† December 8, 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)

The committee will conduct informal conferences with licensees or certificate holders or both. 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

Legislative/Regulatory Committee

† November 24, 1997 - 10 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. No public comment will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TDD

OLD DOMINION UNIVERSITY

Board of Visitors

† December 4, 1997 - 3 p.m. -- Open Meeting

Old Dominion University, Webb University Center, Board Room, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting of the governing board of the institution to discuss business of the university brought forth as a result of meetings of its Academic Affairs, Administration and Finance, Institutional Advancement and Student Affairs Committees, and as determined by the Rector and the President.

Contact: Donna W. Meeks, Secretary to the Board of Visitors, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5041, or e-mail DMEEKS@ODU.EDU

BOARD OF PHARMACY

† December 9, 1997 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A general business meeting and to respond to public comment received on proposed Virginia Board of Pharmacy Regulations, 18 VAC 110-20-10 et seq., concerning automated dispensing devices in hospitals and to anticipate adopting as final regulations. Public comments will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, Executive Director, Virginia Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

December 16, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. All meetings and times are subject to change. Call the board office within 24 hours of the meetings for confirmation. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act. Please call the board 24 hours in advance to confirm that the meeting will take place.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

Regulatory Committee

December 8, 1997 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

An information-gathering meeting to hear issues and concerns pertaining to licensure requirements for substance abuse treatment practitioners.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF PSYCHOLOGY

† **January 27, 1998 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A regular meeting to discuss general board business, receive committee reports and consider proposed amendments to the Regulations Governing the Practice of Psychology, 18 VAC 125-20-10 et seq., pursuant to Executive Order 15 (94). Public comment will be received at the beginning of the meeting.

Contact: LaDonna Duncan, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Regulatory Committee

† **December 2, 1997 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to discuss Executive Order 15 (94) draft amendments to the Regulations Governing the Practice of Psychology, 18 VAC 125-20-10 et seq. Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

December 15, 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 Racing Commission intends to amend regulations entitled: **11 VAC 10-70-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Stewards.** The purpose of the proposed action is to establish procedures for stewards hearings and establishes a steward to oversee the operation of satellite facilities.

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

Contact: William H. Anderson, Policy, Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-4200 or FAX (804) 966-8906.

December 15, 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 Racing Commission intends to amend regulations entitled: **11 VAC 10-90-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Formal Hearings.** The purpose of the proposed action is to establish procedures by which the Virginia Racing Commission may conduct reviews of decisions taken by the stewards.

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

Contact: William H. Anderson, Policy, Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-4200 or FAX (804) 966-8906.

† **December 17, 1997 - 9:30 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia.

A regular monthly meeting to include a review of the regulation pertaining to criteria for unlimited license facilities.

Contact: William H. Anderson, Policy, Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-4200 or FAX (804) 966-8906.

REAL ESTATE BOARD

† **December 2, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ☎

Board members and invited subject matter experts will meet to conduct an exam workshop. A public comment period will be held at the beginning of the workshop. After the public comment period, the workshop will be conducted in closed executive session under authority of § 2.1-344 A 11 of the Code of Virginia due to the confidential nature of the examination. The public will not be admitted to the closed executive session.

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 ☎

† **December 10, 1997 - 2 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review board policies. Persons desiring to participate in the meeting and requiring special

Calendar of Events

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 ☎

December 10, 1997 - 2 p.m. – Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

December 27, 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 Real Estate Board intends to amend regulations entitled: **18 VAC 135-20-10 et seq. Virginia Real Estate Board Licensing Regulations.** The purpose of the proposed action is to replace emergency regulations governing the duties of real estate brokers and salespersons and to incorporate statutory changes effective July 1, 1995, and July 1, 1996.

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

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

December 11, 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

December 11, 1997 - 8 a.m.-- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

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 ☎

Fair Housing Committee

December 11, 1997 - 8:15 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 ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **December 9, 1997 - 10 a.m.** -- Open Meeting
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A quarterly meeting to discuss legislation from the 1997 Session of the General Assembly which impacted the council. The council was established by the General Assembly in 1993 to develop strategies to enhance the markets for recyclables. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Paddy Katzen for details or e-mail pmkatzen@deq.state.va.us.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488.

VIRGINIA RESOURCES AUTHORITY

December 9, 1997 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 700,
Richmond, Virginia.

A meeting 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 the authority 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.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† **December 11, 1997 - 5 p.m.** -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor Classroom, Richmond, Virginia. ♿

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

Loan Committee

† **December 9, 1997 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to review applications for loans submitted to the authority for approval. Contact the authority for confirmation of meeting time.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8254, FAX (804) 225-3384, or (804) 371-0327/TDD ♿

STATE BOARD OF SOCIAL SERVICES

† **December 8, 1997 - 9 a.m.** -- Open Meeting
Department of Social Services, Central Region Office, Wythe Building, 1604 Santa Rosa Road, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A work session and business meeting.

Contact: Pat Rengnerth, Administrative Staff Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1949, toll-free 1-800-552-3431, or toll-free 1-800-552-7096/TDD ♿

VIRGINIA SOIL AND WATER CONSERVATION BOARD

December 9, 1997 - 3 p.m. -- Open Meeting
Fort Magruder Inn, 6945 Route 60 East, Williamsburg, Virginia.

A joint meeting with the Virginia Association of Soil and Water Conservation Districts and 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 ♿

BOARD FOR THE VISUALLY HANDICAPPED

† **January 20, 1998 - 1 p.m.** -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, 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 VOLUNTARY FORMULARY BOARD

December 4, 1997 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to review the public hearing record and product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

Calendar of Events

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† December 5, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 West,
Richmond, Virginia. ☎

A meeting to conduct board business. 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: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

STATE WATER CONTROL BOARD

† December 16, 1997 - 9:30 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Lecture Hall,
Richmond, Virginia.

A regular meeting.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† January 8, 1998 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of the meeting is subject to change. Call the board office within 24 hours of the meeting to confirm meeting date and time. 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 department so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE STATUS AND NEEDS OF AFRICAN-AMERICAN MALES IN VIRGINIA - HJR 570 (1997)

Education Task Force

† December 18, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The task force will have a roundtable discussion on the "African-American Perspective on Education." Please submit all questions to Brenda Edwards or Micah Yarbrough, Division of Legislative Services, telephone (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact Committee Operations at least 10 days prior to the meeting.

Contact: Dawn B. Smith, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD ☎

JOINT SUBCOMMITTEE STUDYING AGRICULTURAL AND FORESTAL DISTRICTS - HJR 468

December 10, 1997 - 1 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House
Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting. Members of the public who wish to see copies of the bill drafts to be considered by the committee may call Nicole Beyer at (804) 786-3591 on or after November 25, 1997. Please direct any questions to Nicole Beyer, Division of Legislative Services, 910 Capitol Square, 2nd Floor, Richmond, VA 23219. Individuals requiring interpreter services should contact Barbara Regen at least 10 working days prior to the meeting. Persons making audio-visual presentations should call for specifications.

Contact: Barbara L. Regen, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD ☎

COMMISSION ON EARLY CHILDHOOD AND DAY CARE PROGRAMS

December 15, 1997 - 6:30 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, Senate
Room B, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing on JLARC's recommended legislative changes. Individuals requiring interpreter services or other accommodations should contact Brian Taylor.

Contact: Brian B. Taylor, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TDD ☎

VIRGINIA CODE COMMISSION

December 16, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Titles 14.1 (Costs, Fees, Salaries and Allowances) and 17 (Courts of Record) of the Code of Virginia for recodification.

Contact: Jane D. Chaffin, Deputy Registrar, General Assembly Bldg., 2nd Floor, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

CONSERVATION AND NATURAL RESOURCES JOINT SUBCOMMITTEE STUDYING FUNDING FOR THE DEPARTMENT OF GAME AND INLAND FISHERIES - HJR 552

December 1, 1997 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting. Questions concerning the agenda should be addressed to Martin G. Farber, Division of Legislative Services at (804) 786-3591. Individuals requiring interpreter services or special assistance should contact Brandon Merchant at least 10 working days prior to the meeting.

Contact: Brandon Merchant, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369.

SPECIAL JOINT SUBCOMMITTEE OF THE COMMITTEE ON CORPORATIONS, INSURANCE AND BANKING STUDYING DISPOSAL OF UNCLAIMED PROPERTY - HJR 428

December 3, 1997 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting. Please direct any questions to Rob Omberg or Arlen Bolstad, Division of Legislative Services, 910 Capitol Square, 2nd Floor, Richmond, VA 23219. Individuals requiring interpreter services should contact Barbara Regen at least 10 working days prior to the meeting.

Contact: Barbara L. Regen, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD ☎

HOUSE COUNTIES, CITIES AND TOWNS SUBCOMMITTEE #4 - A LOCAL GOVERNMENT ADVISORY SUBCOMMITTEE

December 4, 1997 - 10 a.m. -- Open Meeting
General Assembly, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A working session. Questions about the agenda should be addressed to Jeffery F. Sharp, Senior Attorney, Division of Legislative Services at (804) 786-3591. For interpreter or other assistance, call Anne Howard at least 10 days prior to the meeting.

Contact: Anne R. Howard, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD ☎

SENATE COMMITTEE FOR COURTS OF JUSTICE

† **December 11, 1997 - 2 p.m.** -- Open Meeting
† **December 12, 1997 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

A meeting to conduct judicial interviews.

Contact: Susan Clarke Schaar, Clerk of the Senate, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450.

SUBCOMMITTEE STUDYING EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES - HJR 581

November 24, 1997 - 1 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting. Please call Amy Marschean, Division of Legislative Services, 910 Capitol Square, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591 with any questions regarding this meeting. Individuals requiring interpreter services or special assistance should contact Kathleen Myers at least 10 working days prior to the meeting.

Contact: Kathleen Myers, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD ☎

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JOINT SUBCOMMITTEE STUDYING THE FUTURE OF VIRGINIA'S ENVIRONMENT - HJR 221 (1996)

December 4, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please direct all questions regarding the agenda to Shannon Varner, Division of Legislative Services at (804) 786-3591. Individuals requiring interpreter services or other accommodations should contact Chad Hudson by November 24, 1997.

Contact: Chad Hudson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD

Special Subcommittee on State Parks

November 24, 1997 - 8 a.m. -- Open Meeting
Westmoreland State Park, Montross, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please direct all questions regarding the agenda to Shannon Varner, Division of Legislative Services at (804) 786-3591. Individuals requiring interpreter services or special assistance should contact Chad Hudson by November 17, 1997.

Contact: Chad Hudson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD

HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS

Subcommittee on Health Standards

December 4, 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 to discuss HB 2468, HB 2696 and HJR 612 (1997). Questions concerning the meeting agenda should be addressed to Gayle Vergara, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or special assistance should contact Brandon Merchant at least 10 working days prior to the meeting.

Contact: Brandon Merchant, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† December 8, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on highway location siting.

Contact: Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

HOUSE AND SENATE COMMITTEES ON PRIVILEGES AND ELECTIONS

November 25, 1997 - 7 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. The committees invite interested persons to present plans and comments on the redrawing of the Third Congressional District and surrounding districts to comply with a February 1997 order of the United States Federal District Court. Please direct any questions to Mary Spain, Division of Legislative Services, telephone (804) 786-3591. Persons wishing to speak may register in advance by contacting Barbara Regen or Patty Lung, Senate Committee Operations, (804) 698-7450. Individuals requiring interpreter services or special assistance should contact Barbara Regen at least 7 working days prior to the meeting.

Contact: Barbara L. Regen, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TDD

VIRGINIA COMMISSION ON THE FUTURE OF PUBLIC EDUCATION - HJR 196

December 11, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A regular meeting.

Contact: Helen G. Rolfe, Ph.D., Project Manager, Commission on the Future of Public Education, 919 W. Franklin St., P.O. Box 843061, Richmond, VA 23284-3061, telephone (804) 828-6252 or FAX (804) 786-3216.

RAPPAHANNOCK RIVER BASIN STUDY COMMISSION

† **December 3, 1997 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Senate
Room B, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A regular meeting. Please submit all questions to Eldon
James, Project Coordinator, (540) 775-5422. Individuals
requiring interpreter services or other accommodations
should contact Brian Taylor.

Contact: Brian Taylor, Senate Committee Operations, P.O.
Box 396, Richmond, VA 23218, telephone (804) 698-7450 or
(804) 698-7419/TDD

COMMISSION ON STATE AND LOCAL GOVERNMENT RESPONSIBILITY AND TAXING AUTHORITY - HJR 532

December 16, 1997 - 2 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, House
Room D, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A public hearing on all state and local tax issues.
Questions concerning the meeting agenda should be
addressed to Joan Putney, Division of Legislative
Services, at (804) 786-3591. Individuals requiring
interpreter services or special assistance should contact
Brandon Merchant at least 10 working days prior to the
meeting.

Contact: Brandon Merchant, Committee Operations, House
of Delegates, State Capitol, P.O. Box 406, Richmond, VA
23218, telephone (804) 698-1540 or (804) 786-2369/TDD

JOINT SUBCOMMITTEE STUDYING SCHOOL DROP OUTS AND WAYS TO PROMOTE THE DEVELOPMENT OF SELF-ESTEEM AMONG YOUTH AND ADULTS - HJR 241

November 25, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia. (Interpreter for the
deaf provided upon request)

A regular meeting. Please call Brenda Edwards, Division
of Legislative Services, at 786-3591 with any questions
regarding this meeting. Individuals requiring interpreter
services or special assistance should contact Dawn
Smith at least 10 working days prior to the meeting.

Contact: Dawn B. Smith, Committee Operations, House of
Delegates, State Capitol, P.O. Box 406, Richmond, VA
23218, telephone (804) 698-1540 or (804) 786-2369/TDD

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

Civil and Criminal Laws Committee

† **December 15, 1997 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, House
Room C, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A meeting of Advisory Committee #5 to discuss civil and
criminal laws involving technology. The public is invited
to attend. The final agenda for this meeting can be
obtained via the commission's website at
<http://legis.state.va.us/agencies.htm>.

Contact: Diane E. Horvath, Director, Joint Commission on
Technology and Science, 910 Capitol St., 2nd Floor,
Richmond, VA 23219, telephone (804) 786-3591 or FAX
(804) 371-0169.

COMMISSION ON THE FUTURE OF TRANSPORTATION IN VIRGINIA - HJR 160

December 10, 1997 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, House
Room D, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A regular meeting. Individuals requiring interpreter
services or special assistance should contact Chad
Hudson at least 10 working days prior to the meeting.

Contact: Chad Hudson, Committee Operations, House of
Delegates, State Capitol, P.O. Box 406, Richmond, VA
23218, telephone (804) 698-1540 or (804) 786-2369.

JOINT SUBCOMMITTEE STUDYING ALTERNATIVES FOR WELFARE RECIPIENTS WHO REACH THE LIFETIME LIMIT ON BENEFITS

† **December 11, 1997 - 1 p.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Senate
Room B, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A regular meeting. Please call Amy Marschean or
Gayle Vergara, Division of Legislative Services at (804)
786-3591 for questions concerning the agenda.
Individuals requiring interpreter services or other
accommodations should contact Thomas C. Gilman by
December 3, 1997.

Contact: Thomas C. Gilman, Senate Committee Operations,
P.O. Box 396, Richmond, VA 23218, telephone (804) 698-
7450 or (804) 698-7419/TDD

Calendar of Events

CHRONOLOGICAL LIST

OPEN MEETINGS

November 24

- Alcoholic Beverage Control Board, Virginia
- Cosmetology, Board for
- Early Intervention Services for Infants and Toddlers with Disabilities - HJR 581, Subcommittee Studying
- Elections, State Board of
- Environment, Joint Subcommittee Studying the Future of Virginia's
 - Special Subcommittee on State Parks
- † Nursing Home Administrators, Board of
 - Legislative/Regulatory Committee

November 25

- Economic Development Partnership, Virginia
 - Board of Directors
- Emergency Planning Committee, Local - Goochland County
- Higher Education, State Council of
 - Executive Committee
 - Search Committee
- Marine Resources Commission
- School Drop Outs and Ways to Promote the Development of Self-Esteem Among Youth and Adults, Joint Subcommittee Studying

November 26

- † Compensation Board

November 27

- Economic Development Partnership, Virginia
 - Virginia Tourism Corporation

December 1

- Barbers, Board for
- Conservation and Natural Resources Joint Subcommittee Studying Funding for the Department of Game and Inland Fisheries
- † Criminal Justice Services Board
 - Committee on Training
- † Health Professions, Board of
 - Ad Hoc Committee on Telehealth

December 2

- † Contractors, Board for
 - Disciplinary Board
- † Criminal Justice Services Board
 - Committee on Training
- Hopewell Industrial Safety Council
- † Psychology, Board of
 - Regulatory Committee
- † Real Estate Board

December 3

- Agriculture and Consumer Services, Department of
 - Virginia Sweet Potato Board
- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

- † Conservation and Recreation, Department of
 - Virginia State Parks Foundation Board of Directors
- † Contractors, Board for
 - Disciplinary Board
- Corporations, Insurance and Banking Studying Disposal of Unclaimed Property, Special Joint Subcommittee of the Committee on
- † Emergency Planning Committee, Local - Winchester Fire Services Board, Virginia
 - Sprinkler/Code Change Committee
- Funeral Directors and Embalmers, Board of
 - Special Conference Committee
- Health Professions, Department of
 - Practitioner Self-Referral Committee
- Historic Resources, Department of
 - Historic Resources Board and State Review Board
- Labor and Industry, Department of
 - Migrant and Seasonal Farmworkers Board
- † Maternal and Child Health Council
- † Nursing, Board of
 - Special Conference Committee
- † Rappahannock River Basin Study Commission

December 4

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Landscape Architects
- Counties, Cities and Towns Subcommittee #4, House Fire Services Board, Virginia
 - Fire Prevention and Control Committee
 - Fire/EMS Education and Training Committee
 - Legislative/Liaison Committee
- Funeral Directors and Embalmers, Board of
- Future of Virginia's Environment, Joint Subcommittee Studying the
- Health Standards, Legislative Subcommittee on
- Medicine, Board of
 - Informal Conference Committee
- † Old Dominion University
 - Board of Visitors
- Voluntary Formulary Board, Virginia

December 5

- Agriculture and Consumer Services, Department of
 - Virginia Sheep Industry Board
- † Art and Architectural Review Board
- Fire Services Board, Virginia
- † Game and Inland Fisheries, Board of
- Medicine, Board of
 - Credentials Committee
 - Executive Committee
- † Waste Management Facility Operators, Board for

December 6

- † Medicine, Board of
 - Credentials Committee
- Military Institute, Virginia
 - Board of Visitors

December 8

Agriculture and Consumer Services, Department of
 - Virginia Soybean Board
 Alcoholic Beverage Control Board, Virginia
 † Asbestos and Lead, Virginia Board for
 † Legislative Audit and Review Commission, Joint
 † Nursing, Board of
 - Special Conference Committee
 Professional Counselors, Marriage and Family
 Therapists and Substance Abuse Treatment
 Professionals, Board of Licensed
 - Regulatory Committee
 † Social Services, State Board of

December 9

† Branch Pilots, Board for
 Medicine, Board of
 - Informal Conference Committee
 † Pharmacy, Board of
 † Recycling Markets Development Council, Virginia
 Resources Authority, Virginia
 † Small Business Financing Authority, Virginia
 - Loan Committee
 Soil and Water Conservation Board, Virginia

December 10

Agricultural and Forestal Districts, Joint Subcommittee
 Studying
 † Contractors, Board for
 - Recovery Fund Committee
 † Interagency Coordinating Council, Virginia
 Real Estate Board
 Transportation in Virginia, Commission on the Future of

December 11

Agriculture and Consumer Services, Board of
 † Architects, Professional Engineers, Land Surveyors
 and Landscape Architects, Board for
 - Board for Interior Design
 † Auctioneers Board
 † Audiology and Speech-Language Pathology, Board of
 † Child Day-Care Council
 Conservation and Recreation, Board of
 † Courts of Justice, Senate Committee for
 † Labor and Industry, Department of
 - Virginia Apprenticeship Council
 † Medicine, Board of
 - Informal Conference Committee
 Public Education, Commission on the Future of
 Real Estate Board
 - Education Committee
 - Fair Housing Committee
 † Richmond Hospital Authority
 - Board of Commissioners
 † Welfare Recipients Who Reach the Lifetime Limit on
 Benefits, Joint Subcommittee Studying Alternatives for

December 12

† Courts of Justice, Senate Committee for
 Higher Education for Virginia, State Council of

December 15

Accountancy, Board for
 Agriculture and Consumer Services, Department of
 - Virginia Irish Potato Board
 † Chesapeake Bay Local Assistance Board
 † Technology and Science, Joint Commission on
 - Civil and Criminal Laws Committee

December 16

Code Commission, Virginia
 † Economic Development Partnership, Virginia
 - Virginia Tourism Corporation
 Medical Assistance Services, Board of
 Polygraph Examiners Advisory Board
 † Water Control Board, State

December 17

Agriculture and Consumer Services, Department of
 - Virginia Corn Board
 Asbestos and Lead, Virginia Board for
 † Aviation Board, Virginia
 Racing Commission, Virginia

December 18

† African-American Males in Virginia, Joint
 Subcommittee Studying the Status and Needs of
 † Architects, Professional Engineers, Land Surveyors
 and Landscape Architects, Board for
 † Compensation Board
 † Dentistry, Board of
 - Advertising Committee

December 19

Family and Children's Trust Fund
 Higher Education, State Council of
 - Executive Committee

December 22

Alcoholic Beverage Control Board, Virginia

January 6, 1998

† Hopewell Industrial Safety Council

January 7

Agriculture and Consumer, Department of
 - Virginia Small Grains Board

January 8

Agriculture and Consumer, Department of
 - Virginia Small Grains Board
 † Funeral Directors and Embalmers, Board of
 † Game and Inland Fisheries, Board of
 Medicine, Board of
 - Informal Conference Committee
 † Waterworks and Wastewater Works Operators, Board
 for

January 9

† Game and Inland Fisheries, Board of

January 20

† Visually Handicapped, Board for the

Calendar of Events

January 27

- † Hearing Aid Specialists, Board for
- † Psychology, Board of

February 3

- † Hopewell Industrial Safety Council

February 6

- † Agriculture and Consumer Services, Department of.
- Virginia Plant Pollination Advisory Board

March 3

- † Hopewell Industrial Safety Council

PUBLIC HEARINGS

November 24

- Child Day-Care Council

November 25

- Child Day-Care Council
- Privileges and Elections, House and Senate Committees
on

December 10

- Real Estate Board

December 11

- Agriculture and Consumer Services, Board of

December 15

- Early Childhood and Day Care Programs, Legislative
Commission on

December 16

- State and Local Government Responsibility and Taxing,
Commission on