

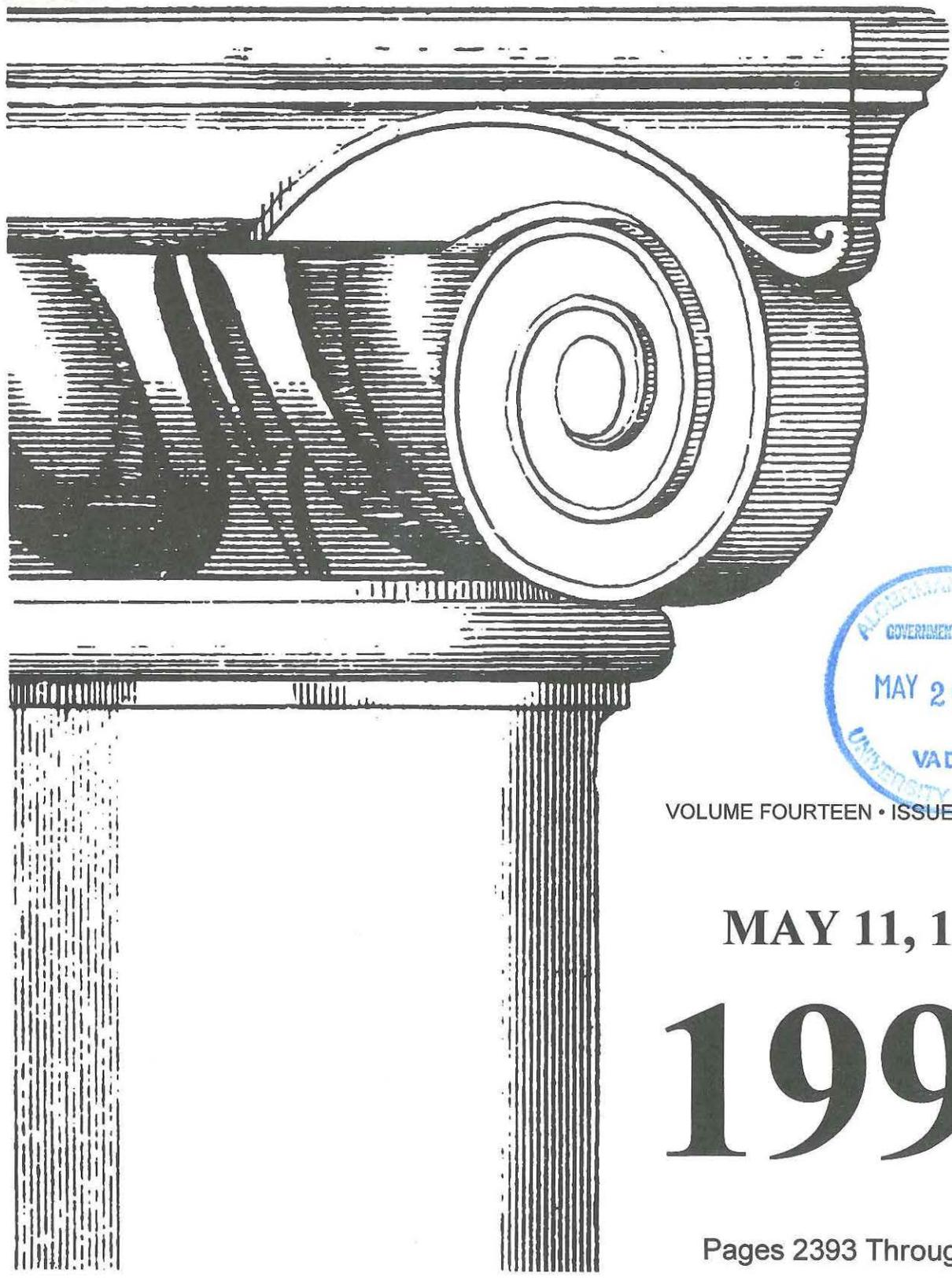
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THE VIRGINIA REGISTER

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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.

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Language which has been stricken indicates proposed text for deletion.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Extension of Public Comment Period

Title of Regulation: 9 VAC 20-80-10 et seq. Solid Waste Management Regulations.

The Virginia Waste Management Board noticed a public comment period on proposed amendments to the Solid Waste Management Regulations in the March 16, 1998, Virginia Register (14:13 VA.R. 1965 March 16, 1998). The public comment period on the proposed amendments was to have closed on May 21, 1998. However, due to requests received, the Department of Environmental Quality, on behalf of the Virginia Waste Management Board, has extended the comment period until 5 p.m. on Monday, June 22, 1998.

Comments and questions on the proposal should be directed to Wladimir Gulevich, Assistant Division Director, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218.

VA.R. Doc. No. R95-709; Filed April 22, 1998, 9:52 a.m.

STATE WATER CONTROL BOARD

Withdrawal

Title of Regulation: 9 VAC 25-260-10 et seq. Water Quality Standards (amending 9 VAC 25-260-310 and 9 VAC 25-260-520).

The State Water Control Board has withdrawn the proposed amendment to the Water Quality Standards which would establish a site-specific ammonia standard for Sandy Bottom Branch in Accomack County. The proposal appeared in 13:24 VA.R. 3189-3194 August 18, 1997. The specific sections to be amended in the regulation were 9 VAC 25-260-310 and 9 VAC 25-260-520.

VA.R. Doc. No. R97-679; Filed April 22, 1998, 9:33 a.m.

TITLE 21. SECURITIES AND RETAIL FRANCHISING

STATE CORPORATION COMMISSION

Division of Securities and Retail Franchising

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: Securities Act Regulations (SEC980021).

21 VAC 5-10-10 et seq. General Administration (amending 21 VAC 5-10-40).

21 VAC 5-20-10 et seq. Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations/Qualification, Financial Statements and Reports (amending 21 VAC 5-20-10, 21 VAC 5-20-70, 21 VAC 5-20-80, 21 VAC 5-20-230, 21 VAC 5-20-290 and 21 VAC 5-20-300).

21 VAC 5-30-10 et seq. Securities Registration (amending 21 VAC 5-30-20, 21 VAC 5-30-50, 21 VAC 5-30-60, 21 VAC 5-30-70 and 21 VAC 5-30-80).

21 VAC 5-40-10 et seq. Exempt Securities (amending 21 VAC 5-40-20, 21 VAC 5-40-30, 21 VAC 5-40-100 and 21 VAC 5-40-120).

21 VAC 5-80-10 et seq. Investment Advisors (amending 21 VAC 5-80-10, 21 VAC 5-80-40, 21 VAC 5-80-140, 21 VAC 5-80-160, 21 VAC 5-80-170, 21 VAC 5-80-210 and 21 VAC 5-80-220; adding 21 VAC 5-80-250).

21 VAC 5-85-10. Forms (amending).

Statutory Authority: §§ 12.1-13 and 13.1-523 of the Code of Virginia.

NOTICE TO INTERESTED PERSONS

The VIRGINIA STATE CORPORATION COMMISSION will consider adopting proposed changes to its SECURITIES ACT regulations and forms. The primary purposes of the proposed changes are to implement Securities Act amendments enacted by the 1998 Session of the Virginia General Assembly, to conform the regulations to rules promulgated by the U.S. Securities and Exchange Commission ("SEC"), and to make technical and minor changes to various regulations and forms.

Proposed Regulations

It is contemplated that numerous regulations will be amended. Areas of proposed change include: addition to the list of definitions several federal statutes as well as a definition of "investment advisor representative" of a federal covered advisor which comports with the SEC definition of this term; addition of a requirement that broker-dealers subject to the Securities Exchange Act of 1934 promptly notify the Commission if they fall below the net capital requirement; replacement of the April 27, 1997, NASAA Option and Warrants statement of policy with the November 18, 1997, NASAA Options and Warrants statement of policy; elimination of the requirement for written supervisory procedures for sole proprietorship, single employee investment advisors; adoption of a regulation and form which address multiple employment of investment advisor representatives in limited circumstances; repeal of Form S.A.1, Supplemental information to be supplied by broker-dealers; and deletion of general citations to various federal statutes from the text of numerous regulations.

Copies of the proposed changes are available from the Commission's Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218-1197, (804) 371-9187, FAX (804) 371-9911. Written comments are invited. Any interested person who files objections to any proposed changes to the regulations will, if he or she so requests, be afforded an opportunity to present evidence and be heard in regard to such objections.

Comments and requests for hearing should be submitted to State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, VA 23218-2118, FAX (804) 371-9654, should include a conspicuous reference to CASE NO. SEC980021, and must be received by June 3, 1998. Interested persons who file objections and request to be heard, or who ask to be informed of any hearing, will be notified of the date, time and place of the hearing.

CHAPTER 10.

GENERAL ADMINISTRATION - SECURITIES ACT.

21 VAC 5-10-40. Definitions.

As used in the Securities Act (~~the Act~~), the following regulations and forms pertaining to securities, instructions and orders of the commission, the following meanings shall apply:

"Act" means the Securities Act contained in Chapter 5 (§ 13.1-501 et seq.) of Title 13.1 of the Code of Virginia.

"Applicant" means a person on whose behalf an application for registration or a registration statement is filed.

"Application" means all information required by the forms prescribed by the commission as well as any additional information required by the commission and any required fees.

"Bank Holding Company Act of 1956" (12 USC § 1841 et seq.) means the federal statute of that name as now or hereafter amended.

"Commission" means State Corporation Commission.

"Federal covered advisor" means any person who is (i) registered or required to be registered under § 203 of the Investment Advisers Act of 1940 as an "investment adviser." or (ii) ~~excepted from the definition of an "investment adviser" under § 202(a)(11) of the Investment Advisers Act of 1940.~~

"Investment Advisers Act of 1940" (15 USC § 80b-1 et seq.) means the federal statute of that name as now or hereafter amended.

Notwithstanding the definition in § 13.1-501 of the Act, "investment advisor representative" as applied to a federal covered advisor only includes an individual who has a "place of business" (as that term is defined in rules or regulations promulgated by the SEC) in this Commonwealth and who either:

1. Is an "investment advisor representative" as that term is defined in rules or regulations promulgated by the SEC; or
2. a. Is not a "supervised person" as that term is defined in the Investment Advisers Act of 1940, and
b. Solicits, offers or negotiates for the sale of or sells investment advisory services on behalf of a federal covered advisor.

"Investment Company Act of 1940" (15 USC § 80a-1 et seq.) means the federal statute of that name as now or hereafter amended.

"NASAA" means the North American Securities Administrators Association, Inc.

"NASD" means the National Association of Securities Dealers, Inc.

"Notice" or "notice filing" means, with respect to a federal covered advisor or federal covered security, all information required by the regulations and forms prescribed by the commission and any required fee.

"Registrant" means an applicant for whom a registration or registration statement has been granted or declared effective by the commission.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act of 1933" (15 USC § 77a et seq.) means the federal statute of that name as now or hereafter amended.

"Securities Exchange Act of 1934" (15 USC § 78a et seq.) means the federal statute of that name as now or hereafter amended.

21 VAC 5-20-10. Application for registration as a broker-dealer.

A. Application for registration as a broker-dealer shall be filed with the commission at its Division of Securities and Retail Franchising and/or such other entity designated by the commission on and in full compliance with forms prescribed

by the commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer unless the following executed forms, fee and information are submitted to the commission:

1. Form BD (see 21 VAC 5-85-10).
2. Statutory fee payable to the Treasurer of Virginia in the amount of \$200 pursuant to § 13.1-505 F of the Act.
- ~~3. All items included on the Virginia Supplemental Sheet to Form BD.~~
4. 3. A signed and executed Agreement for Inspection of Records form.
- ~~5. 4. A copy of the firm's written supervisory procedures. Sole proprietorships are excluded.~~
- ~~6. 5. Financial statements required by 21 VAC 5-20-80.~~
- ~~7. 6. Evidence of exam requirements for principals required by 21 VAC 5-20-70.~~
- ~~8. 7. Any other information the commission may require.~~

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

21 VAC 5-20-70. Examinations/qualifications.

A. Broker-dealers registered pursuant to § 15 of the Securities Exchange Act of 1934 (15 USC §§ ~~78a through 78j~~ 78o).

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a minimum passing grade of 70% on the Uniform Securities Agent State Law Examination - Series 63 (USASLE-Series 63), the Uniform Combined State Law Examination - Series 66, or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.
2. In lieu of meeting the examination requirement described in subdivision 1 of this subsection A, at least two principals of an applicant may provide evidence of having passed the General Securities Principal Qualification Exam (Series 24) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

For the purposes of this subsection A, the term "principal" means any person associated with a broker-dealer who is engaged directly (i) in the management, direction or supervision on a regular or continuous basis on behalf of such broker-dealer of the following activities: sales, training, research, investment advice, underwriting, private placements, advertising, public relations, trading, maintenance of books or records, financial operations; or (ii) in the training of persons associated with such broker-dealer for the management, direction, or supervision on a regular or continuous basis of any such activities.

3. Subsection A of this section is applicable only to principals of broker-dealers that are, or intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

B. Broker-dealers not registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a minimum passing grade of 70% on:
 - a. The Uniform Securities Agent State Law Examination - Series 63 (USASLE-Series 63), the Uniform Combined State Law Examination - Series 66, or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.
 - b. Any additional securities-related examination(s) that the commission deems appropriate in light of the business in which the applicant proposes to engage.

2. Subsection B of this section is applicable only to principals of broker-dealers that are not, or do not intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

21 VAC 5-20-80. Financial statements and reports.

A. All financial statements required for registration of broker-dealers shall be prepared in accordance with generally accepted accounting principles, as promulgated by the American Institute of Certified Public Accountants.

B. Definitions:

"*Certified financial statements*" shall be defined as those financial statements examined and reported upon with an opinion expressed by an independent accountant and shall include at least the following information:

1. Date of report, manual signature, city and state where issued, and identification without detailed enumeration of the financial statements and schedules covered by the report;
2. Representations as to whether the audit was made in accordance with generally accepted auditing standards

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and designation of any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which may have been omitted, and the reason for their omission; nothing in this section however shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit for the purpose of expressing the opinions required under this section;

3. Statement of the opinion of the accountant in respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein, and as the consistency of the application of the accounting principles, or as to any changes in such principles which would have a material effect on the financial statements;

4. Any matters to which the accountant takes exception shall be clearly identified, the exemption thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

"*Financial statements*" shall be defined as those reports, schedules and statements, prepared in accordance with generally accepted accounting principles and which contain at least the following information unless the context otherwise dictates:

1. Statement of Financial Condition or Balance Sheet;
2. Statement of Income;
3. Statement of Changes in Financial Position;
4. Statement of Changes in Stockholder's/Partner's/Proprietor's Equity;
5. Statement of Changes in Liabilities Subordinated to Claims of General Creditors;
6. Schedule of the Computation of Net Capital Under Rule 15c3-1 of the Securities Exchange Act of 1934 (17 CFR 240.15c3-1);
7. Schedule of the Computation for Determination of the Reserve Requirements under Exhibit A of Rule 15c3-3 and Information Relating to the Possession and Control Requirements under Rule 15c3-3 of the Securities Exchange Act of 1934 (17 CFR 240.15c3-3).

"*Independent accountant*" shall be defined as any certified public accountant in good standing and entitled to practice as such under the laws of the accountant's principal place of business or residence, and who is, in fact, not controlled by, or under common control with, the entity or person being audited; for purposes of this definition, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates in which, during the period of the accountant's professional engagements to examine the financial statements being reported on or at the date of the report, the accountant or the firm or a member thereof had, or was committed to acquire,

any direct financial interest or any material indirect financial interest; or in which, during the period of the accountant's professional engagement to examine the financial statements being reported on, at the date of the report or during the period covered by the financial statements, the accountant or the firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated himself from the person and its affiliates covering any period of employment by the person. For partners in the firm participating in the audit or located in an office of the firm participating in a significant portion of the audit; and in determining whether an accountant may in fact be not independent with respect to a particular person, the commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the commission.

"*Review of financial statements*" shall be defined as those financial statements prepared by an independent accountant, and shall include at least the following:

1. Date of report, manual signature, city and state where issued, and identification without detailed enumeration of the financial statements and schedules covered by the report;
2. Representations that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants;
3. Representations that the accountant is not aware of any material modification that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles, other than those modifications, if any, indicated in the accountant's report.

"*Unaudited financial statements*" shall be defined as those financial statements prepared in a format acceptable to the commission not accompanied by the statements and representations as set forth in the definitions of "certified financial statements" or "review of financial statements" of this subsection, and shall include an oath or affirmation that such statement or report is true and correct to the best knowledge, information, and belief of the person making such oath or affirmation; such oath or affirmation shall be made before a person authorized to administer such oath or affirmation, and shall be made by an officer of the entity for whom the financial statements were prepared.

C. Requirements for broker-dealers:

1. Every broker-dealer applicant that is subject to the Securities Exchange Act of 1934 (~~15 USC §§ 78a through 78j~~) shall file any financial information that is

required to be provided to the SEC, or its designee, under the Securities Exchange Act of 1934.

2. All other broker-dealer applicants not subject to subdivision 1 of *this subsection*, unless exempted under subdivision 3 of this subsection, shall file financial statements as of a date within 90 days prior to the date of filing its application for registration, which statements need not be audited provided that the applicant shall also file audited financial statements as of the end of the most recent fiscal year end.

3. Those broker-dealer applicants which have been in operation for a period of time less than 12 months, and for which audited financial statements have not been prepared or are not available, and which are not registered with the SEC, a national securities association or a national securities exchange shall be permitted to file a review of financial statements prepared by an independent accountant provided the following conditions are met:

a. Such financial statements shall be as of a date within 30 days prior to the date of filing an application for registration; and

b. Such financial statements shall be prepared by an independent accountant as defined under subsection B of *this section* and in accordance with the definitions of "financial statements" and "review of financial statements" in subsection B and in accordance with subdivision 3 of *this subsection*.

21 VAC 5-20-230. Notice of civil, criminal, administrative or arbitrational action.

A. An applicant or a registrant shall notify the commission:

1. Within 30 calendar days of the date any complaint, pleading or notice is served or received giving notice of any civil, criminal or administrative charge or any arbitration proceeding or any formal order of investigation, including any such charge, proceeding or order by a self-regulatory organization registered under the Securities Exchange Act of 1934 (~~15 USC §§ 78a-78j~~), against the applicant or registrant which directly or indirectly relates to the registration or sale of securities to any activity as a broker-dealer or agent or to any activity in which a breach of trust is alleged.

2. Within 30 calendar days of the date filed, any answer, reply or response to the complaint, pleading or notice referred to in subdivision A 1, ~~above of this subsection~~.

3. Within 30 calendar days of the date of any decision, order or sanction rendered, or any appeal filed with respect to such decision, order or sanction, in regard to the complaint, pleading or notice referred to in subdivision A 1, ~~above of this subsection~~.

B. A registrant who is a NASD member broker-dealer or is associated with a NASD member broker-dealer may file the notification required by subsection A of this section either

with the commission's Division of Securities and Retail Franchising or on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system.

C. One copy of any item referred to in ~~subdivisions A subdivision 1, A 2 or A 3, above, of this subsection~~ shall be filed with the commission promptly following a request for same.

21 VAC 5-20-290. Financial responsibility.

A. The term "financial responsibility," as used in § 13.1-505 (A) of the Act, shall mean that the net capital of an applicant or registrant subject to the Securities Exchange Act of 1934 (~~15 USC §§ 78a through 78j~~) shall be demonstrated and maintained at a level required by subsection B of this section.

B. For the purpose of demonstrating "financial responsibility," all broker-dealers subject to the Securities Exchange Act of 1934 shall meet and maintain the net capital and ratio requirements as prescribed by Rule 15c3-1 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-1). The net capital and ratio requirements shall be computed in accordance with Rule 15c3-1 under the Securities and Exchange Act of 1934 (17 CFR 240.15c3-1).

C. Every broker-dealer subject to the Securities Exchange Act of 1934 shall notify the commission at its Division of Securities and Retail Franchising in writing within three business days should its net capital drop below its net capital requirement and shall immediately take action necessary to establish a net capital in compliance with Rule 15c3-1 of the Securities Exchange Act of 1934.

~~C. D.~~ Every broker-dealer shall file with the commission certified financial statements as defined in subsection B of 21 VAC 5-20-80 within 60 days of its fiscal year end.

21 VAC 5-20-300. Net worth.

A. For broker-dealers not subject to the Securities Exchange Act of 1934 (~~15 USC §§ 78a through 78j~~), the term "net worth" as used in § 13.1-505 B of the Act shall be computed as total assets minus total liabilities, excluding liabilities of the broker-dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement as defined in Appendix D of Rule 15c3-1 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-1d).

B. If a broker-dealer applicant or registrant not subject to the Securities Exchange Act of 1934 cannot demonstrate and maintain a net worth in excess of \$25,000, the commission shall require the filing of a surety bond on the form prescribed in 21 VAC 5-85-10. The amount of the penal sum of the surety bond can be determined according to the following table:

NET WORTH (Rounded to nearest \$1)	PENALTY AMOUNT OF SURETY BOND
Less than \$5,000	\$25,000
5,001-10,000	20,000
10,001-15,000	15,000

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15,001-20,000	10,000
20,001-25,000	5,000

C. If the net worth of a broker-dealer registrant not subject to the Securities Exchange Act of 1934 plus the penal sum of its surety bond drops below \$25,000, the registrant must so notify the Division of Securities and Retail Franchising in writing within three business days and immediately take action to establish a net worth in excess of \$25,000.

21 VAC 5-30-20. Requirements for registrations filed pursuant to § 13.1-509 of the ~~Code of Virginia Act~~.

A. Every registration statement filed under § 13.1-509 of the ~~Code of Virginia Act~~ shall contain in the prospectus such financial statements as are required by the Securities Act of 1933 (~~15 USC §§ 77a-77aa~~) and any regulations promulgated thereunder.

B. Every registration statement filed under § 13.1-509 of the Act that is governed by any regulation, promulgated pursuant to § 13.1-523 of the ~~Code of Virginia Act~~ shall also contain such financial information as required by such regulations.

21 VAC 5-30-50. Requirements for registration statements relating to nonissuer distributions.

A. The requirements for a registration statement filed pursuant to § 13.1-508 of the Act relating to securities to be offered and sold pursuant to a nonissuer distribution (i.e., "secondary trading") are:

1. a. The registration statement shall contain the issuer's most recent 10-K Annual Report and 10-Q Quarterly Report filed with the ~~United States~~ SEC pursuant to ~~Section~~ § 13 or § 15(d) of the Securities Exchange Act of 1934 (15 USC §§ ~~78a-78j~~ 78m or o(d)).

b. The registration statement pertaining to the securities of a Canadian issuer which have been registered pursuant to the Multijurisdictional Disclosure System described by the SEC in Release No. 33-6841 shall contain the issuer's most recent Annual Information Form (plus the issuer's latest audited fiscal year-end financial statements) and Quarterly Report as filed with the appropriate Canadian regulatory authority.

2. If within 12 months of the date of filing the registration statement any 8-K Current Report has been filed with the SEC pursuant to ~~Section~~ § 13 or § 15(d) of the Securities Exchange Act of 1934, then a copy of each such report shall be filed with the registration statement.

3. If within 12 months of the date of filing the registration statement any Form 10 general form for registration of securities has been filed with the SEC pursuant to ~~Section~~ § 12(d) or (g) of the Securities Exchange Act of 1934, then a copy of each such form shall be filed with the registration statement.

4. If within 12 months of the date of filing the registration statement a registration statement has been filed with the SEC pursuant to ~~Section~~ § 6 of the Securities Act of 1933 (15 USC §§ ~~77a-77aa~~), then a copy of each such registration statement shall be filed with this registration statement.

B. For purposes of this section, the word "registered" as used in § 13.1-508 A 2 (i) of the Act shall mean registered pursuant to this Act, the Securities Act of 1933 or the Securities Exchange Act of 1934.

C. The requirement for delivery of a prospectus under § 13.1-508 D of the Act, with respect to securities registered pursuant to this section, shall be met by compliance with 21 VAC 5-20-280 A 19.

D. A registration statement filed pursuant to this section need not comply with 21 VAC 5-30-40.

21 VAC 5-30-60. Requirements for renewal applications filed pursuant to § 13.1-512 of the ~~Code of Virginia Act~~.

In accordance with § 13.1-512 of the Act, a registration statement and any renewal thereof relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company as those terms are defined in the Investment Company Act of 1940 (~~15 USC §§ 80a-1 through 80a-64~~), shall expire at midnight on the annual date of its effectiveness in Virginia. The effectiveness of such registration statement ~~may~~ may be renewed for an additional ~~one-year~~ one-year period by filing the materials described below with the commission or the Securities Registration Depository, Inc. ("SRD"), when that facility is available, or any other entity approved by rule or order of the commission, prior to the expiration date.

1. A renewal application filed with the commission shall contain the following:

a. A facing page of Form U-1.

b. A fee of \$300 (make check payable to Treasurer of Virginia).

2. A renewal application filed with the SRD shall be filed on and in compliance with all requirements and forms prescribed by the SRD and shall include a fee of \$300 (make check payable to SRD).

Note: Refer to 21 VAC 5-60-10 for prospectus filing requirements.

21 VAC 5-30-70. Investment company notice filing requirements.

A. An investment company that is registered or that has filed a registration statement under the Investment Company Act of 1940 (~~15 USC §§ 80a-1 through 80a-64~~) (the "1940 Act") shall make a notice filing with the commission prior to the initial offer in this Commonwealth of a security which is a federal covered security under § 18(b)(2) of the Securities Act of 1933 (15 USC §§ ~~77a through 77aa~~(b)(2)) (the "1933

Act²). Notice filings shall be effective upon receipt or concurrent with SEC effectiveness, if requested by the issuer. A notice filing for a unit investment trust is effective for an indefinite period of time from the date of its effectiveness. With respect to an open-end management company, as that term is defined in the 1940 Act, the effectiveness of a notice filing, and any renewal thereof, shall expire at midnight on the annual date of its effectiveness in Virginia. The effectiveness of such notice may be renewed for an additional one-year period by filing a renewal notice prior to the expiration date. Notice filings, notice renewal filings, amendment filings, and termination filings may be filed with the commission, the Securities Registration Depository, Inc. ("SRD"), when that facility is available, or any other entity approved by rule or order of the commission. Requirements for investment company notice filings are set forth below:

1. An initial notice filing shall contain the following:
 - a. A copy of each document which is part of a current federal registration statement as filed with the SEC or a Form NF.
 - b. An executed consent to service of process (Form U-2) appointing the Clerk of the State Corporation Commission, unless a currently effective consent to service of process is on file with the commission.
 - c. A fee (payable to the Treasurer of Virginia) in the amount of 1/20 of 1.0% of the maximum aggregate offering price of the securities to be offered in this Commonwealth; provided that the fee shall not be less than \$200 nor more than \$700, except that in the case of a unit investment trust, as that term is defined in the 1940 Act, the fee shall not be less than \$400 nor more than \$1,000.
2. A renewal notice filing of an open-end management company shall contain the following:
 - a. A copy of each document which is part of a current federal registration statement as filed with the SEC or a Form NF.
 - b. An executed consent to service of process (Form U-2) appointing the Clerk of the State Corporation Commission, unless a currently effective consent to service of process is on file with the commission.
 - c. A fee of \$300 (payable to the Treasurer of Virginia).
3. An amendment filing of an open-end investment company shall contain a copy of the amended documents filed with the SEC or a revised Form NF. No fee is required for an amendment.
4. A notice filing may be terminated by providing notice to the commission of such termination. The termination is effective upon receipt by the commission of the notice of termination or at a later date specified in the notice.

B. Any notice, amendment, termination or renewal, *as the case may be*, filed with the SRD or any other entity approved by rule or order of the commission shall contain the

information specified in subdivisions 1 through 4 of subsection A, ~~as the case may be of this section~~, and the proper fee, if applicable, shall be payable to the SRD, or other such entity approved by rule or order of the commission, or the fee may be payable to the Treasurer of Virginia and filed directly with the commission.

C. An investment company that is registered under the 1940 Act or that has filed a registration statement under the 1933 Act shall file, upon written request of the commission and within the time period set forth in the request, a copy of any document identified in the request that is part of the federal registration statement filed with the SEC or part of an amendment to such federal registration statement.

21 VAC 5-30-80. Adoption of NASAA statements of policy.

The commission adopts the following NASAA statements of policy that shall apply to the registration of securities in the Commonwealth. It will be considered a basis for denial of an application if an offering fails to comply with an applicable statement of policy. While applications not conforming to a statement of policy shall be looked upon with disfavor, where good cause is shown, certain provisions may be modified or waived by the commission.

1. Options and Warrants, as amended April ~~27~~ November 18, 1997.
2. Underwriting Expenses, Underwriter's Warrants, Selling Expenses and Selling Security Holders, as amended April 27, 1997.
3. Real Estate Programs, as amended October 24, 1991.
4. Oil and Gas Programs, as amended October 24, 1991.
5. Cattle-Feeding Programs, as adopted September 17, 1980.
6. Unsound Financial Condition, as adopted April 27, 1997.
7. Real Estate Investment Trusts, as amended September 29, 1993.

21 VAC 5-40-20. Exchange and automated quotations system.

In accordance with § 13.1-514 A 12 of the Act, the National Association of Securities Dealers Automated Quotations System (NASDAQ) is approved by the commission; provided, however, that the securities for which the NASDAQ exemption is being claimed, and the issuer of such securities, meet the following conditions:

1. If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of such agent in its prospectus.

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2. A class of the issuer's securities is required to be and is registered under Section § 12 of the Securities Exchange Act of 1934, and has been so registered for the three years immediately preceding the offering date.

3. Neither the issuer nor a significant subsidiary has had a material default during the last seven years (or the issuer's existence if less than seven years) in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more.

4. The issuer has had consolidated net income (before extraordinary items and the cumulative effect of accounting changes) of at least \$1 million in four of its last five fiscal years including its last fiscal year; and if the offering is of interest bearing securities, has had for its last fiscal year, such net income, but before deduction for income taxes and depreciation, of at least one and one-half times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months prior to the commencement of the offering.

5. If the offering is of stock or shares, other than preferred stock or shares, such securities have voting rights and such rights include (i) the right to have at least as many votes per share, and (ii) the rights to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law.

6. If the offering is of stock or shares, other than preferred stock or shares, such securities are owned beneficially or of records, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on such date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least \$3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this section upon written information furnished by the record owners.

7. Any securities issued or guaranteed as to both principal and interest by an international bank of which the United States is a member is so exempted without regard to the conditions in this section.

8. If the offering is of interest bearing securities of a finance company with liquid assets of at least 105% of its liabilities (other than deferred income taxes, deferred investment tax credits, capital stock and surplus) at the end of each of its last five fiscal years, the applicable net income requirement of subdivision 4 of this section, but before deduction for interest expense, shall be one and

one-quarter times the issuer's annual interest expense. "Finance company" means a company engaged primarily in the business of wholesale, retail, installment, mortgage, commercial, industrial or consumer financing, banking or factoring. "Liquid assets" means cash, receivables payable on demand or not more than 12 years following the close of the company's last fiscal year, and readily marketable securities, in each case less applicable reserves and unearned income.

21 VAC 5-40-30. Uniform limited offering exemption.

A. Nothing in this exemption is intended to relieve, or should be construed as in any way relieving, issuers or persons acting on their behalf from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of the Act.

In view of the objective of this section and the purpose and policies underlying the Act, this exemption is not available to an issuer with respect to a transaction which, although in technical compliance with this section, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this section.

Nothing in this section is intended to exempt registered broker-dealers or agents from the due diligence standards otherwise applicable to such registered persons.

Nothing in this section is intended to exempt a person from the broker-dealer or agent registration requirements of Article 3 (§ 13.1-504 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia, except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision B 2 below of this section.

B. For the purpose of the limited offering exemption referred to in § 13.1-514 B 13 of the Act, the following securities are determined to be exempt from the securities registration requirements of Article 4 (§ 13.1-507 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia.

Any securities offered or sold in compliance with the federal Securities Act of 1933 (~~15 USC §§ 77a through 77aa~~), Regulation D ("Reg. D"), Rules 230.501-230.503 and 230.505 as made effective in Release No. 33-6389 (47 FR 11251), and as amended in Release Nos. 33-6437 (47 FR 54764), 33-6663 (51 FR 36385), 33-6758 (53 FR 7866) and 33-6825 (54 FR 11369) and which satisfy the following further conditions and limitations:

1. The issuer and persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that all persons who offer or sell securities subject to this section are registered in accordance with § 13.1-505 of the Act except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision B 2 below of this subsection.

2. No exemption under this section shall be available for the securities of any issuer if any of the persons described in the federal Securities Act of 1933 (~~45 USC §§ 77a through 77aa~~), Regulation A, Rule 230.262(a), (b), or (c) (17 CFR 230.262):

a. Has filed a registration statement which is subject of a currently effective stop order entered pursuant to any state's securities law within five years prior to the beginning of the offering.

b. Has been convicted within five years prior to the beginning of the offering of a felony or misdemeanor in connection with the purchase or sale of a security or a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

c. Is currently subject to a state's administrative order or judgment entered by that state's securities administrator within five years prior to the beginning of the offering or is subject to a state's administrative order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years prior to the beginning of the offering.

d. Is currently subject to a state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

e. Is currently subject to an order, judgment, or decree of a court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to an order, judgment or decree of any court of competent jurisdiction, entered within five years prior to the beginning of the offering, permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of a false filing with a state.

f. The prohibitions of subdivisions a, b, c and e ~~above~~ of this subdivision shall not apply if the party subject to the disqualifying order, judgment or decree is duly licensed or registered to conduct securities related business in the state in which the administrative order, judgment or decree was entered against such party.

g. A disqualification caused by this subsection is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification, or the State Corporation Commission, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption under this section be denied.

3. The issuer shall file with the commission no later than 15 days after the first sale in this state from an offering being made in reliance upon this exemption:

a. A notice on Form D (17 CFR 239.500).

b. An undertaking by the issuer to promptly provide, upon written request, the information furnished by the issuer to offerees.

c. An executed consent to service of process appointing the Clerk of the State Corporation Commission as its agent for purpose of service of process, unless a currently effective consent to service of process is on file with the commission.

d. A filing fee of \$250.

4. In sales to nonaccredited investors, the issuer and persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that the investment is suitable for the purchaser as to the purchaser's other security holdings and financial situation and needs.

5. Offers and sales of securities which are exempted by this section shall not be combined with offers and sales of securities exempted by another regulation or section of the Act; however, nothing in this limitation shall act as an election. The issuer may claim the availability of another applicable exemption should, for any reason, the securities or persons fail to comply with the conditions and limitations of this exemption.

6. In any proceeding involving this section, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

C. The exemption authorized by this section shall be known and may be cited as the "Uniform Limited Offering Exemption."

21 VAC 5-40-100. Issuer limited transactional exemption.

A. In accordance with § 13.1-514 B 7(b) of the Act, an offer or sale by the issuer of any of the following securities issued by a corporation, partnership, limited liability company, or real estate investment trust, as the case may be: note, stock, bond, debenture, evidence of indebtedness, partnership interest, share of beneficial interest in a real estate investment trust, a warrant or right to purchase or subscribe to any of the foregoing or a security convertible into any of the foregoing, shall be exempt from the securities, broker-dealer and agent registration requirements of the Act, provided the following conditions are met:

1. In connection with an offering pursuant to this ~~rule~~ section, there shall be no more than 35 purchasers in this Commonwealth during any period of 12 consecutive months;

2. In connection with an offering pursuant to this ~~rule~~ section, the issuer shall:

a. Deliver Form VA-1 and in certain prescribed circumstances, Part 2 of Form VA-1 or a disclosure document containing the information required by Form

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VA-1 and Part 2, if required, to each prospective purchaser prior to a sale to a purchaser; and

b. Sell securities only to purchasers, each of which the issuer shall, after reasonable inquiry, believe either:

(1) Has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and is able to bear the economic risks of the prospective investment; or

(2) Together with a purchaser representative or representatives, has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and that the purchaser is able to bear the economic risks of the prospective investment; and,

3. No commission or similar remuneration is paid or given, directly or indirectly, for soliciting a prospective purchaser, or in connection with sales of securities in reliance on this ~~rule~~ section, unless paid to a broker-dealer and its agent who are registered under the Act;

B. This exemption is not available with respect to an offering:

1. Pursuant to a registration statement or Regulation A (17 CFR §§ 230.251-230.263) notification which has been filed under the ~~federal~~ Securities Act of 1933;

2. Pursuant to an exemption under Regulation D (17 CFR § 230.505 or 17 CFR § 230.506), which offering may be exempted in Virginia only by ~~Article 5, 21 VAC 5-40-30 of these rules~~ (Uniform limited offering exemption);

3. If the amount of money to be raised from the offering exceeds \$1,000,000;

4. If the issuer has offered for sale or sold its securities which are of the same or a similar class as that to be offered for sale or sold under this ~~rule~~ section within 180 days prior to this offering or if the issuer offers for sale or sells its securities that are of the same or a similar class as those offered and sold under this ~~rule~~ section within 180 days after this offering; or

5. If the issuer does not have a principal place of business in this Commonwealth.

C. An exemption under this ~~rule~~ section is not available if the issuer, its directors, officers, partners, members, trustees or beneficial owners of 10% or more of a class of its voting securities, or its promoters or agents connected with it or a person offering or selling the securities for or on behalf of the issuer:

1. Has been convicted (or has pleaded nolo contendere) within five years prior to reliance on this ~~rule~~ section of a felony or a misdemeanor in connection with the purchase

or sale of a security, or in connection with making a false filing with the United States Securities and Exchange Commission or a state securities administrator or of a felony involving fraud or deceit, including but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, conspiracy to defraud, or theft;

2. Is subject to an order, judgment or decree of a court of competent jurisdiction that temporarily or preliminarily restrains or enjoins, or is subject to an order, judgment or decree of a court of competent jurisdiction, entered within five years prior to reliance on this ~~rule~~ section, which permanently restrains or enjoins a person from engaging in or continuing a practice or conduct in connection with the purchase or sale of a security, or involving the making of a false filing with the United States Securities and Exchange Commission or a state securities administrator;

3. Is subject to a United States Postal Service false representation order entered within five years prior to reliance on this ~~rule~~ section; or

4. Is subject to a state administrative order entered within five years prior to reliance on this ~~rule~~ section by a state securities administrator in which fraud or deceit was found.

D. The issuer shall file with the State Corporation Commission 15 days prior to the first sale in this Commonwealth in reliance on this ~~rule~~ section:

1. A copy of Form VA-1, including Part 2, if applicable or a disclosure document containing the information required by the Form;

2. An executed Consent to Service of Process on Form U2 appointing the Clerk of the State Corporation Commission as its agent for service of process;

3. An undertaking to promptly provide to the State Corporation Commission, upon request, additional information as the State Corporation Commission may require; and

4. A nonrefundable filing fee of \$250.

E. This ~~rule~~ section does not exempt persons or transactions from the anti-fraud provisions of the ~~Virginia Securities Act (§ 13.1-501 et seq. of the Act)~~.

F. The State Corporation Commission may deny the exemption if it determines that a particular transaction or offering is not in the public interest.

G. For purposes of this ~~rule~~ section and § 13.1-514 B 7(b) of the Act, the following shall apply:

1. Neither the issuer nor persons acting on its behalf shall offer or sell the securities by form of general solicitation or advertising, including but not limited to, the following:

a. "Cold" calls by telephone or other means, advertising, article, notice, or other communication

published in a newspaper, newsletter, magazine, mass mailing, electronic media, or similar media or broadcast over television or radio; or

b. Seminars or meetings whose attendees have been invited by general solicitation or general advertising.

2. Securities acquired in a transaction under this ~~rule~~ *section* shall not be resold without registration under or exemption from the Virginia Securities Act. The issuer or a person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in an offering under this ~~rule~~ *section* are purchasing for investment and not with a view to distribution of the securities. Reasonable care shall include, but not be limited to, the following:

a. Reasonable inquiry to determine whether the purchaser is acquiring the securities for himself or for other persons;

b. Placement of a restrictive legend on the certificate or other document evidencing the securities. The legend shall be in the following form: THE SECURITIES REPRESENTED BY THIS CERTIFICATE (OR OTHER DOCUMENT) HAVE BEEN ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM THE REGISTRATION OR QUALIFICATION PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS AND SHALL NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION PROVISIONS OF APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR APPLICABLE EXEMPTIONS THEREFROM;

c. Issuance of stop-transfer instructions to the issuer's transfer agent with respect to the securities, or, if the issuer transfers its own securities, notation in the appropriate records of the issuer; and

d. Obtaining from the purchaser a signed agreement that the securities will not be sold unless they are registered under the Virginia Securities Act or exempted from registration.

3. All sales that are part of the same offering under this ~~rule~~ *section* shall meet all the conditions of this ~~rule~~ *section*. Offers and sales that are made more than six months before the commencement of an offering under this ~~rule~~ *section* or are made more than six months after completion of an offering under this ~~rule~~ *section* will not be considered part of that offering, so long as during those six-month periods there are no offers or sales of securities by or on behalf of the issuer that are of the same or a similar class as those offered or sold under this ~~rule~~ *section*. If securities of the same or a similar class as those offered pursuant to this ~~rule~~ *section* are offered or sold less than six months before or after an offer or sale pursuant to this ~~rule~~ *section*, those offers to sell or sales, will be deemed to be "integrated" with the offering.

H. In proceedings involving this ~~rule~~ *section*, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

I. The exemption authorized by this ~~rule~~ *section* shall be known and may be cited as the "Issuer Limited Transactional Exemption."

21 VAC 5-40-120. Offerings conducted pursuant to Rule 506 of federal Regulation D (17 CFR § 230.506): Filing requirements and issuer-agent exemption.

A. An issuer offering a security that is a covered security under § 18 (b)(4)(D) of the Securities Act of 1933 (15 USC §§ 77a through 77aa) (the "1933 Act" ~~r(b)(4)(D)~~) shall file with the commission no later than 15 days after the first sale of such federal covered security in this Commonwealth:

1. A notice on SEC Form D (17 CFR 239.500).

2. An executed consent to service of process (Form U-2) appointing the Clerk of the State Corporation Commission as its agent for service of process.

3. A filing fee of \$250 (payable to the Treasurer of Virginia).

B. For the purpose of this chapter, SEC "Form D" is the document, as adopted by the SEC and in effect on September 1, 1996, as may be amended by the SEC from time to time, entitled "Form D; Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption," including Part E and the Appendix.

C. Pursuant to § 13.1-514 B 13 of the Act, an agent of an issuer who effects transactions in a security exempt from registration under the *Securities Act of 1933* ~~Act~~ pursuant to rules and regulations promulgated under § 4(2) thereof (15 USC § 77d(2)) is exempt from the agent registration requirements of the Act.

21 VAC 5-80-10. Application for registration as an investment advisor and notice filing as a federal covered advisor.

A. Application for registration as an investment advisor shall be filed with the commission at its Division of Securities and Retail Franchising or such other entity designated by the commission on and in full compliance with forms prescribed by the commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as an investment advisor unless the following executed forms, fee and information are submitted:

1. Form ADV.

2. The statutory fee in the amount of \$200. The check must be made payable to the Treasurer of Virginia.

3. Signed and executed Agreement for Inspection of Records.

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4. Written supervisory procedures pursuant to 21 VAC 5-80-170 D. (*Sole proprietorships employing no investment advisor representatives other than the sole proprietor are excluded.*)

5. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

D. Every person who transacts business in this Commonwealth as a federal covered advisor shall file a notice as prescribed in subsection E of this section with the commission at its Division of Securities and Retail Franchising or such other entity designated by the commission.

E. A notice filing for a federal covered advisor shall be deemed incomplete unless the following executed forms, fee and information are submitted:

1. Form ADV.
2. The statutory fee in the amount of \$200. The check must be made payable to the Treasurer of Virginia.
3. Consent to Service of Process on Form S.A.14.

Notwithstanding the exclusion provided by subdivision (vi) of § 13.1-501 of the Act in the definition of "investment advisor," for the period ending three years from October 11, 1996, the commission may require the registration as an investment advisor of any federal covered advisor who fails or refuses to pay a fee required by this rule section; provided that a delay in payment or an underpayment of a fee that is remedied within 15 days after receipt of notice from the commission shall not constitute a failure or refusal to pay the fee.

21 VAC 5-80-40. Updates and amendments.

A. An investment advisor or federal covered advisor shall update its Form ADV as required by the "updating" provisions of ~~Item 7~~ *Items 1 and 10* of Form ADV Instructions and shall file all such information with the commission at its Division of Securities and Retail Franchising.

B. An investment advisor shall file the balance sheet as prescribed by Part II, Item 14 of Form ADV, unless excluded from such requirement, with the commission at its Division of Securities and Retail Franchising within 90 days of the investment advisor's fiscal year end. Any investment advisor who is registered in the state in which it maintains its principal place of business shall file with the commission at its Division of Securities and Retail Franchising any financial documents required to be filed by the state within 10 days of the time it must file these documents in such state.

21 VAC 5-80-140. Custody of client funds or securities by investment advisors.

An investment advisor who takes or has custody of any securities or funds of any client must comply with the following; provided that an investment advisor having its principal place of business outside this Commonwealth and registered or licensed, and in compliance with the applicable books and records requirements, in the state where its principal place of business is located, shall only be required to make, keep current, maintain and preserve such of the following required books, ledgers and records as are not in addition to those required under the laws of the state in which it maintains its principal place of business:

1. An investment advisor with its principal place of business located in this Commonwealth shall notify the commission that it has or may have custody. Such notification may be given on Form ADV.

2. The securities of each client must be segregated, marked to identify the particular client having the beneficial interest therein and held in safekeeping in some place reasonably free from risk of destruction or other loss.

3. All client funds must be deposited in one or more bank accounts containing only clients' funds, such account or accounts must be maintained in the name of the investment advisor or agent or trustee for such clients, and the investment advisor must maintain a separate record for each such account showing the name and address of the bank where the account is maintained, the dates and amounts of deposits in and withdrawals from the account, and the exact amount of each client's beneficial interest in the account.

4. Immediately after accepting custody or possession of funds or securities from any client, the investment advisor must notify the client in writing of the place where and the manner in which the funds and securities will be maintained and subsequently, if and when there is a change in the place where or the manner in which the funds or securities are maintained, the investment advisor must give written notice thereof to the client.

5. At least once every three months, the investment advisor must send each client an itemized statement showing the funds and securities in the investment advisor's custody at the end of such period and all debits, credits and transactions in the client's account during such period.

6. At least once every calendar year, an independent public accountant must verify all client funds and securities by actual examination at a time chosen by the accountant without prior notice to the investment advisor. A certificate of such accountant stating that he or she has made an examination of such funds and securities, and describing the nature and extent of the examination, shall be filed with the commission promptly after each such examination.

7. This section shall not apply to an investment advisor also registered as a broker-dealer under Section § 15 of the Securities and Exchange Act of 1934 (15 USC §§ 78a through 78kk § 78o) if the broker-dealer is (i) subject to and in compliance with SEC Rule 15c3-1 (Net Capital Requirements for Brokers or Dealers) (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934, or (ii) a member of an exchange whose members are exempt from SEC Rule 15c3-1, (17 CFR 240.15c3-1) under the provisions of paragraph (b)(2) thereof, and the broker-dealer is in compliance with all regulations and settled practices of the exchange imposing requirements with respect to financial responsibility and the segregation of funds or securities carried for the account of customers.

21 VAC 5-80-160. Recordkeeping requirements for investment advisors.

A. Every investment advisor registered or required to be registered under the Act shall make and keep current the following books, ledgers and records, except an investment advisor having its principal place of business outside this Commonwealth and registered or licensed, and in compliance with the applicable books and records requirements, in the state where its principal place of business is located, shall only be required to make, keep current, maintain and preserve such of the following required books, ledgers and records as are not in addition to those required under the laws of the state in which it maintains its principal place of business:

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.
2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.
3. A memorandum of each order given by the investment advisor for the purchase or sale of any security, of any instruction received by the investment advisor from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment advisor who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.
4. All check books, bank statements, canceled checks and cash reconciliations of the investment advisor.

5. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment advisor as such.

6. All trial balances, financial statements, and internal audit working papers relating to the business of such investment advisor.

7. Originals of all written communications received and copies of all written communications sent by such investment advisor relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, and (iii) the placing or execution of any order to purchase or sell any security; provided, however, (a) that the investment advisor shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment advisor, and (b) that if the investment advisor sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment advisor shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment advisor shall retain with a copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

8. A list or other record of all accounts in which the investment advisor is vested with any discretionary power with respect to the funds, securities or transactions of any client.

9. All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment advisor, or copies thereof.

10. All written agreements (or copies thereof) entered into by the investment advisor with any client or otherwise relating to the business of such investment advisor as such.

11. a. A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment advisor circulates or distributes, directly or indirectly, to 10 or more persons (other than investment advisory clients or persons connected with such investment advisor), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment advisor indicating the reasons therefor.

b. All of their advertisements and all records, worksheets, and calculations necessary to form the basis for performance data in their advertisements.

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12. a. A record of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

b. An investment advisor shall not be deemed to have violated the provisions of this subdivision 12 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

13. a. Notwithstanding the provisions of subdivision 12 ~~above of this subsection~~, where the investment advisor is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days

after the end of the calendar quarter in which the transaction was effected.

b. An investment advisor is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment advisor derived, on an unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

c. An investment advisor shall not be deemed to have violated the provisions of this subdivision 13 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

14. A copy of each written statement and each amendment or revision thereof, given or sent to any client or prospective client of such investment advisor in accordance with the provisions of 21 VAC 5-80-190 and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

15. Every investment advisor subject to 21 VAC 5-80-170 shall keep in each business office written procedures which shall include, but not be limited to, the duties imposed under 21 VAC 5-80-170.

B. If an investment advisor subject to subsection A of this section has custody or possession of securities or funds of any client, the records required to be made and kept under subsection A above shall also include:

1. A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts.

2. A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits.

3. Copies of confirmations of all transactions effected by or for the account of any such client.

4. A record for each security in which any such client has a position, which record shall show the name of each such client having any interest in each security, the amount or interest of each such client, and the location of each such security.

C. Every investment advisor subject to subsection A of this section who renders any investment advisory or management service to any client shall, with respect to the portfolio being

supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment advisor, make and keep true, accurate and current:

1. Records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale.
2. For each security in which any such client has a current position, information from which the investment advisor can promptly furnish the name of each such client, and the current amount or interest of such client.

D. Any books or records required by this section may be maintained by the investment advisor in such manner that the identity of any client to whom such investment advisor renders investment advisory services is indicated by numerical or alphabetical code or some similar designation.

E. 1. All books and records required to be made under the provisions of subsection A to subdivision C 2, inclusive, of this section shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years of such period in the office of the investment advisor.

2. Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment advisor and of any predecessor, shall be maintained in the principal office of the investment advisor and preserved until at least three years after termination of the enterprise.

F. An investment advisor subject to subsection A of this section, before ceasing to conduct or discontinuing business as an investment advisor shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and shall notify the commission in writing of the exact address where such books and records will be maintained during such period.

G. All books, records or other documents required to be maintained and preserved under this section may be stored on microfilm, microfiche, or an electronic data processing system or similar system utilizing an internal memory device provided a printed copy of any such record is immediately accessible.

H. Any book or record made, kept, maintained, and preserved in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4) under the Securities Exchange Act of 1934 (~~15 USC §§ 78a through 78kk~~), which is substantially the same as the book, or other record required to be made, kept, maintained, and preserved under this section shall be deemed to be made, kept, maintained, and preserved in compliance with this section.

21 VAC 5-80-170. Supervision of investment advisor representatives.

A. An investment advisor shall be responsible for the acts, practices, and conduct of its investment advisor representatives in connection with advisory services until such time as the investment advisor representatives have been properly terminated as provided by 21 VAC 5-80-110.

B. Every investment advisor shall exercise diligent supervision over the advisory activities of all of its investment advisor representatives.

C. Every investment advisor representative employed by an investment advisor shall be subject to the supervision of a supervisor designated by such investment advisor. The supervisor may be the investment advisor in the case of a sole proprietor, or a partner, officer, office manager or any qualified investment advisor representative in the case of entities other than sole proprietorships. All designated supervisors shall exercise reasonable supervision over the advisory activities of all investment advisor representatives under their responsibility.

D. As part of its responsibility under this section, every investment advisor, *except sole proprietorships employing no investment advisor representatives other than the sole proprietor*, shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth the procedures adopted by the investment advisor, which shall include but not be limited to the following duties imposed by this section; provided that an investment advisor having its principal place of business outside this Commonwealth and registered or licensed, and in compliance with the applicable books and records requirements, in the state where its principal place of business is located, shall only be required to make, keep current, maintain and preserve such of the following required books, ledgers and records as are not in addition to those required under the laws of the state in which it maintains its principal place of business:

1. The review and written approval by the designated supervisor of the opening of each new client account;
2. The frequent examination of all client accounts to detect and prevent irregularities or abuses;
3. The prompt review and written approval by a designated supervisor of all advisory transactions by investment advisor representatives and of all correspondence pertaining to the solicitation or execution of all advisory transactions by investment advisor representatives;
4. The prompt review and written approval of the handling of all client complaints.

E. Every investment advisor who has designated more than one supervisor pursuant to subsection C of this section shall designate from among its partners, officers, or other qualified investment advisor representatives, a person or group of persons who shall:

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1. Supervise and periodically review the activities of the supervisors designated pursuant to subsection C of this section; and
2. No less often than annually inspect each business office under his supervision to ensure that the written procedures are being enforced.

All supervisors designated pursuant to this subsection E shall exercise reasonable supervision over the supervisors under their responsibility to insure compliance with this subsection.

21 VAC 5-80-210. Exclusions from definition of "investment advisor" and "federal covered advisor."

A. The terms "investment advisor" and "federal covered advisor" do not include any person engaged in the investment advisory business whose only client in this Commonwealth is one (or more) of the following:

1. An investment company as defined in the Investment Company Act of 1940 (~~15 USC §§ 80a-1 through 80a-64~~).
2. An insurance company licensed to transact insurance business in this Commonwealth.
3. A bank, a bank holding company as defined in the Bank Holding Company Act of 1956 (~~12 USC § 1841 et seq.~~), a trust subsidiary organized under Article 3.1 (§ 6.1-32.1 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia, a savings institution, a credit union, or a trust company if the entity is either (i) authorized or licensed to transact such business in this Commonwealth or (ii) organized under the laws of the United States.
4. A broker-dealer so registered under the Act and under the Securities and Exchange Act of 1934 (~~15 USC §§ 78a through 78kk~~).
5. An employee benefit plan with assets of not less than \$5,000,000.
6. A governmental agency or instrumentality.

B. Any investment advisor or federal covered advisor who (i) does not have a place of business located within this Commonwealth and (ii) during the preceding 12-month period has had fewer than six clients who are residents of this Commonwealth other than those listed in subsection A of this section is excluded from the registration and notice filing requirements of the Act.

21 VAC 5-80-220. Performance based fees.

A. In accordance with § 13.1-503 C of the Act, an investment advisor may enter into, extend, or renew any investment advisory contract to provide for compensation to the investment advisor on the basis of a share of the capital gains upon, or the capital appreciation of, the funds or any portion of the funds of a client, provided that the following conditions of this section are satisfied.

B. Nature of the client:

1. a. The client entering into the contract subject to this section must be a natural person or a company, as defined in subdivision B 2 of this subsection and in the definition of "company" in subsection F of this section, who immediately after entering into the contract has at least \$500,000 under the management of the investment advisor; or

b. A person who the registered investment advisor (and any person acting on his behalf) entering into the contract reasonably believes, immediately prior to entering into the contract, is a natural person or a company, as defined in subdivision B 2 of this subsection and in the definition of "company" in subsection F of this section, whose net worth at the time the contract is entered into exceeds \$1,000,000. (The net worth of a natural person may include assets held jointly with such person's spouse.)

2. The term "company" as used in subdivision B 1 of this section does not include:

a. A private investment company, as defined in subsection F of this section;

b. An investment company registered under the Investment Company Act of 1940 (~~15 USC §§ 80a-1 through 80a-64~~); or

c. A business development company, as defined in section § 202 (a) (22) of the Investment Advisers Act of 1940 (~~15 USC §§ 80b-1 through 80b-24 80b-2(a)(22)~~);

unless each of the equity owners (other than the investment advisor entering into a contract under this section) of any such company identified in this subdivision 2, is a natural person or company described in this subsection B.

C. Compensation formula. The compensation paid to the advisor under this section with respect to the performance of any securities over a given period shall be based on a formula which:

1. Includes, in the case of securities for which market quotations are readily available, the realized capital losses and unrealized capital depreciation of the securities over the period;

2. Includes, in the case of securities for which market quotations are not readily available:

a. The realized capital losses of the securities over the period and

b. If the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; and

3. Provides that any compensation paid to the advisor under this section is based on the gains less the losses (computed in accordance with subdivisions G 1 and 2 of

this ~~section~~ subsection) in the client's account for a period of not less than one year.

D. Disclosure. In addition to the disclosure requirements of Form ADV, the advisor shall disclose to the client, or the client's independent agent, prior to entering into an advisory contract permitted by this section, all material information concerning the proposed advisory arrangement including the following:

1. That the fee arrangement may create an incentive for the advisor to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;
2. Where relevant, that the advisor may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;
3. The time period which will be used to measure investment performance throughout the term of the contract and its significance in the computation of the fee;
4. The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the advisor believes the index is appropriate; and
5. Where an advisor's compensation is based on the unrealized appreciation of securities for which market quotations are not readily available, how such securities will be valued and the extent to which the valuation will be independently determined.

E. Arms-length contract. The investment advisor (and any person acting on its behalf) who enters into the contract must reasonably believe, immediately prior to entering into the contract, that the contract represents an arm's-length arrangement between the parties and that the client (or in the case of a client which is a company as defined in subsection F of this section, the person, representing the company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a company may be a partner, director, officer or an employee of the company or the trustee, where the company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in subsection F of this section.

F. Definitions. For the purpose of this section:

The term "~~affiliate~~" "*affiliated person*" has the same meaning as in ~~section~~ § 2 (a) (3) of the Investment Company Act of 1940 (15 USC § 80a-2(a)(3)).

The term "client's independent agent" means any person agreeing to act as the client's agent in connection with the contract other than:

1. The investment advisor acting in reliance upon this section, an affiliated person of the investment advisor, an

affiliated person of an affiliated person of the investment advisor, or an interested person of the investment advisor as defined in this subsection;

2. A person who receives, directly or indirectly, any compensation in connection with the contract from the investment advisor, an affiliated person of the investment advisor, an affiliated person of an affiliated person of the investment advisor or an interested person of the investment advisor as defined in this subsection; or

3. A person with any material relationship between himself (or an affiliated person of such person) and the investment advisor (or an affiliated person of the investment advisor) that exists, or has existed at any time during the previous two years.

The term "company" has the same meaning as in ~~section~~ § 202 (a) (5) of the Investment Advisers Act of 1940 (15 USC § 80b-2(a)(5)).

The term "interested person" as used in the definition of "client's independent agent" of this section means:

1. Any member of the immediate family of any natural person who is an affiliated person of the investment advisor;

2. Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment advisor or by a controlling person of the investment advisor if the beneficial or legal interest of the person in any security issued by the investment advisor or by a controlling person of the investment advisor:

- a. Exceeds one tenth of one percent of any class of outstanding securities of the investment advisor or a controlling person of the investment advisor; or

- b. Exceeds 5.0% of the total assets of the person (seeking to act as the client's independent agent); or

3. Any person or partner or employee of any person who at any time since the beginning of the last two years has acted as legal counsel for the investment advisor.

The term "private investment company" means a company which would be defined as an investment company under ~~section~~ § 3 (a) of the Investment Company Act of 1940 (15 USC § 80a-3(a)) but for the exception provided from that definition by ~~section~~ § 3 (c) (1) of such Act.

The term "securities for which market quotations are readily available" in subsection C of this section has the same meaning as in Rule 2a-4 (a) (1) under the Investment Company Act of 1940 (17 CFR 270.2a-4 (a) (1)).

The term "securities for which market quotations are not readily available" in subsection C of this section means securities not described in the above paragraph.

Proposed Regulations

21 VAC 5-80-250. Employment of investment advisor representative by more than one investment advisor or federal covered advisor.

A. In accordance with § 13.1-504 C of the Act, an investment advisor representative (representative) may be employed by more than one investment advisor or federal covered advisor (employing advisor) if all of the following conditions are satisfied:

1. Each employing advisor is under common ownership and control as defined in subsection B of this section.
2. Each employing advisor is registered or has filed notice, as the case may be, in accordance with 21 VAC 5-80-10.
3. Each employing advisor consents in writing to the employment of the representative as an investment advisor representative by each of the other employing advisors.
4. The representative is registered in accordance with 21 VAC 5-80-70 by and on behalf of each employing advisor.
5. Each employing advisor executes an Investment Advisor Representative Multiple Employment Agreement (Form S.A.15), and the executed agreement is filed with the commission at its Division of Securities and Retail Franchising prior to the representative transacting business in Virginia on behalf of such advisor.
6. A new Investment Advisor Representative Multiple Employment Agreement is executed and filed with the commission at its Division of Securities and Retail Franchising within 15 days after any information in a current agreement on file with the commission becomes materially deficient, incomplete or inaccurate.

B. The term "common ownership and control" as used herein means possession of at least a 50% ownership interest in each employing advisor by the same individual or individuals.

CHAPTER 85. FORMS - SECURITIES ACT.

21 VAC 5-85-10. Adopted securities forms.

The commission adopts for use under the Act the forms contained in the appendix (not included in the Virginia Administrative Code) and listed below.

Broker-Dealer and Agent Forms

Form BD - Uniform Application for Broker-Dealer Registration (2/98).

~~Form S.A.1 - Supplemental Information for Commonwealth of Virginia to Be Furnished with Form BD (rev. 7/97).~~

Agreement for Inspection of Records (rev. 7/98).

Form S.A.11 - Broker-Dealer's Surety Bond (rev. 1982).

Form S.A.2 - Application for Renewal of a Broker-Dealer's Registration (rev. 11/96).

Form S.D.4 - Application for Renewal of Registration as an Agent of an Issuer (1997).

Form S.D.4.A - Non-NASD Broker-Dealer or Issuer Agents to be Renewed Exhibit (1974).

Form S.D.4.B - Non-NASD Broker-Dealer or Issuer Agents to be Canceled with no disciplinary history (1974).

Form S.D.4.C - Non-NASD Broker-Dealer or Issuer Agents to be Canceled with disciplinary history (1974).

Form BDW - Uniform Notice of Termination or Withdrawal of Registration as a Broker-Dealer (rev. 4/89).

Rev. Form U-4 - Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U-5 - Uniform Termination Notice for Securities Industry Registration (11/97).

Investment Advisor and Investment Advisor Representative Forms

Form ADV - Uniform Application for Registration of Investment Advisors (rev. 7/97).

Agreement for Inspection of Records (rev. 7/98).

Surety Bond Form.

Rev. Form U-4 - Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U-5 - Uniform Termination Notice for Securities Industry Registration (11/97).

Form S.A.3 - Affidavit for Waiver of Examination (rev. 11/96).

Form S.A.14 - Consent to Service of Process for Notice Filing as a Federal Covered Advisor (7/97).

Form S.A.15 - Investment Advisor Representative Multiple Employment Agreement (7/98).

Securities Registration Forms

Form U-1 - Uniform Application to Register Securities (7/81).

Form U-2 - Uniform Consent to Service of Process (7/81).

Form U-2a - Uniform Form of Corporate Resolution (7/81).

Form S.A.4 - Registration by Notification - Original Issue (rev. 11/96).

Form S.A.5 - Registration by Notification - Non-Issuer Distribution (rev. 11/96).

Form S.A.6 - Registration by Notification - Pursuant to 21 VAC 5-30-50 Non-Issuer Distribution "Secondary Trading" (1989).

Form S.A.8 - Registration by Qualification (7/91).

Form S.A.10 - Request for Refund Affidavit (Unit Investment Trust) (7/90).

Form S.A.12 - Escrow Agreement (1971).

Form S.A.13 - Impounding Agreement (7/58).

Form VA-1 - Parts 1 and 2 - Notice of Limited Offering of Securities (rev. 11/96).

Form NF - Uniform Investment Company Notice Filing (4/97).

VA.R. Doc. No. R98-236; Filed April 22, 1998, 11:44 a.m.

Proposed Regulations

(Rev. 7/98)

AGREEMENT FOR INSPECTION OF RECORDS

(Name of Issuer, Broker-Dealer or Agent)

(hereinafter "Applicant") hereby agrees and represents as a condition of registration of its securities or of granting its application for registration as a broker-dealer or as an agent under the Securities Act of Virginia:

I.

- (A) That all of Applicant's records, immediately upon the request of the Commission, will be made available for inspection by the Commission and reproduction for the Commission in the office where such records are maintained;
- (B) That all of Applicant's records (or legible copies of same, or print-outs of same, if automated) pertaining to a securities transaction any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection by the Commission in the office of the Commission's Division of Securities and Retail Franchising within 48 hours after request of the Commission for same;
- (C) That the term "records" shall mean and include all books, papers, documents, tapes, films, photographs or other materials, regardless of physical form or characteristics, (1) that are maintained for the recordation or storage of information prepared, used or to be used in connection with a securities transaction or (2) that were used or are to be used in connection with a securities transaction; and
- (D) That the address at which the records are maintained is _____

and that if this address changes, then the Applicant immediately will give written notification to the Commission of the correct address.

II.

The Applicant understands:

- (A) That failure to comply with the terms of Part I of this Agreement may be considered grounds for the institution of a proceeding to revoke a broker-dealer's or agent's registration or the effectiveness of a registration statement.
- (B) That any issuer, broker-dealer or agent subject to an investigation made by the Commission may be required to pay the actual cost of the investigation ~~including \$20 per day for the time of the investigator.~~

(Signature of Agent)

(Name of Issuer or Broker-Dealer)

(Date)

By: _____

(Signature)

(Typed or Printed Name of Signer)

(Contact Person)

(Title)

(Telephone Number)

(Date)

(Rev. 7/98)

AGREEMENT FOR INSPECTION OF RECORDS

(Name of Investment Advisor)

(hereinafter "Applicant") hereby agrees and represents as a condition of granting application for registration as an investment advisor under the Virginia Securities Act:

I.

- (A) That all of Applicant's records, immediately upon the request of the Commission, will be made available for inspection by the Commission and reproduction for the Commission in the office where such records are maintained;
(B) That all of Applicant's records (or legible copies of same, or print-outs of same, if automated) pertaining to the investment advisory business any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection by the Commission in the office of the Commission's Division of Securities and Retail Franchising within 48 hours after request of the Commission for same;
(C) That the term "records" shall mean and include all books, papers, documents, tapes, films, photographs or other materials, regardless of physical form or characteristics, (1) that are maintained for the recordation or storage of information prepared, used or to be used in connection with the investment advisory business or (2) that were used or are to be used in connection with the investment advisory business; and
(D) That the address at which the records are maintained is

and that if this address changes, then the Applicant immediately will give written notification to the Commission of the correct address.

II.

The Applicant understands:

- (A) That failure to comply with the terms of Part I of this Agreement may be considered grounds for the institution of a proceeding to revoke an investment advisor's registration.
(B) That any investment advisor subject to an investigation made by the Commission may be required to pay the actual costs of the investigation including \$20 per day for the time of the investigator.

(Name of Investment Advisor)

By:

(Signature)

(Typed or Printed Name of Signer)

(Title)

(Date)

Proposed Regulations

S.A.1
Rev. 7/97

SUPPLEMENTAL INFORMATION FOR COMMONWEALTH OF VIRGINIA TO BE FURNISHED WITH FORM BD

Full name of applicant exactly as stated on Form BD _____ Date _____

~~Answer the following questions and supply the information required:~~

1. ~~Is the applicant "in good standing" in its state of organization? Yes _____ No _____.~~
2. ~~Submit a check payable to Treasurer of Virginia in the amount of \$200. (§ 13.1-505 F of the Code of Virginia)~~
3. ~~The following must be submitted along with the Form BD:~~
 - a. ~~A completed Agreement for Inspection of Records. (21 VAC 5-20-10 B 4)~~
 - b. ~~A copy of the firm's written supervisory procedures. Sole proprietorships are excluded. (21 VAC 5-20-10 B 5)~~
4. ~~Financial reports pursuant to 21 VAC 5-20-80.~~
 - a. ~~Broker dealers subject to the Securities Exchange Act of 1934 (15 USC §§ 78a-78jj), must attach one copy of the applicant's latest financial statement, which need not be audited, reflecting computation of net capital.~~
 - b. ~~All other broker dealers must attach one copy of applicant's latest audited financial statement and,~~
 - c. ~~Attach one copy of applicant's latest Joint Regulatory Report or FOCUS Report or,~~
 - d. ~~Furnish one copy of applicant's latest unaudited financial statement. (If applicant's latest audited financial statement required by subsection a is not dated within 90 days preceding the filing of this application, the unaudited financial statement must be dated within the 90 day period and attested to by an officer or director of the applicant).~~
 - e. ~~Attach a copy of all currently effective subordination agreements if applicable.~~
5. ~~Broker Dealer bond.~~

~~The surety bond must be executed if the broker dealer is not subject to the Securities Exchange Act of 1934, and does not have a net worth in excess of \$25,000. (§ 13.1-505 B of the Code of Virginia and 21 VAC 5-20-300). Attached is the required surety bond in the penal amount of \$ _____.~~
6. ~~Exam requirements for principals.~~

~~See definition of "Principal" under 21 VAC 5-20-70 A 2.~~

~~Applicant must comply with either a or b below.~~

 - a. ~~All principals of applicant have obtained a minimum passing grade of 70% on the USASLE (Uniform Securities Agent State Law Exam), Series 63, the Uniform Combined State Law Examination, Series 66, or on a similar examination designated by the Director of the Division of Securities and Retail Franchising. (21 VAC 5-20-70 A 1)~~

~~Yes _____ No _____~~
 - b. ~~At least two principals of applicant have been registered with the SEC or the NASD as a general securities principal (21 VAC 5-20-70 A 2). The NASD requires general securities principals to take and successfully pass the Series 24 Exam.~~

~~Yes _____ No _____~~

PROVIDE EVIDENCE OF THE ABOVE IN THE FORM OF AN NASD EXAM REPORT.

S.A. 15 (7/98)

INVESTMENT ADVISOR REPRESENTATIVE MULTIPLE EMPLOYMENT AGREEMENT

As a condition of _____
(print or type individual's name and CRD Number)
being employed as an investment advisor representative ("Representative") by each investment advisor ("Advisor") identified below, each Advisor hereby consents to the employment of Representative as an investment advisor representative by and on behalf of each of the undersigned Advisors.

Type/Print Advisor's Name/CRD#

Type/Print Advisor's Name/CRD#

By: _____
Signature

By: _____
Signature

Name of Signer (Type/Print)

Name of Signer (Type/Print)

Title of Signer (Type/Print)

Title of Signer (Type/Print)

Date

Date

Type/Print Advisor's Name/CRD#

Type/Print Advisor's Name/CRD#

By: _____
Signature

By: _____
Signature

Name of Signer (Type/Print)

Name of Signer (Type/Print)

Title of Signer (Type/Print)

Title of Signer (Type/Print)

Date

Date

Proposed Regulations

Title of Regulation: 21 VAC 5-120-10 et seq. Virginia Trademark and Service Mark Regulations.

Statutory Authority: §§ 12.1-13 and proposed 59.1-92.19 of the Code of Virginia.

NOTICE TO INTERESTED PERSONS

The VIRGINIA STATE CORPORATION COMMISSION will consider adopting regulations and forms designed to implement the new Virginia Trademark and Service Mark Act (1998), effective July 1, 1998. (The Act is contained in House Bill No. 264 of the 1998 Session of the Virginia General Assembly.) The proposed regulations and forms address the requirements, procedures and fees related to registering marks, renewing such registrations, and filing assignments and name changes. In addition, the regulations establish the classification of goods and services.

Copies of the proposed regulations and forms are available from the State Corporation Commission's Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218-1197, (804) 371-9187, FAX (804) 371-9911. Written comments are invited. Any interested person who files objections to the proposed regulations will, if he or she so requests, be afforded an opportunity to present evidence and be heard in regard to such objections.

Comments and requests for hearing should be submitted to State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, VA 23218-2118, FAX (804) 371-9654; should include a conspicuous reference to CASE NO. SEC980020; and must be received by June 3, 1998. Interested persons who file objections and request to be heard, or who ask to be notified of any hearing, will be notified of the date, time and place of the hearing.

CHAPTER 120.

VIRGINIA TRADEMARK AND SERVICE MARK ACT.

PART I.

GENERAL ADMINISTRATION.

21 VAC 5-120-10. Definitions.

As used in the Virginia Trademark and Service Mark Act (1998), the following regulations and forms pertaining to trademarks and service marks, and instructions of the State Corporation Commission, the following meanings shall apply:

"Act" means the Virginia Trademark and Service Mark Act (1998) contained in Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1 of the Code of Virginia.

"Application" means all information required by the forms prescribed by the State Corporation Commission as well as any additional information required by the State Corporation Commission and any required fees.

"Commission" means the State Corporation Commission.

"Division" means the Securities and Retail Franchising Division of the State Corporation Commission.

"Exhibit" means an image of the mark on a separate sheet of paper without any extraneous markings.

"Mark" means any trademark or service mark entitled to registration under the Act, whether registered or not.

"Specimen" means evidence demonstrating use, as that term is defined in § 59.1-92.2 of the Act, of a mark in the ordinary course of trade in the Commonwealth of Virginia.

21 VAC 5-120-20. Authority; severability.

A. Pursuant to the authority granted by Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1 of the Code of Virginia, the following regulations and forms regarding the administration and implementation of the Virginia Trademark and Service Mark Act (1998) have been adopted.

The intent of these regulations and forms is to supplant written and unwritten administrative policies. The division, acting by such person or persons as the division director may designate, shall have authority to perform all acts under the Act which the State Corporation Commission itself could perform but subject to review by the State Corporation Commission under its Rules of Practice and Procedure (5 VAC 5-10-10 et seq.).

B. Should any provision or application of these regulations be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions or applications of these regulations and forms are declared to be severable.

21 VAC 5-120-30. Classification of regulatory standards.

Regulations are regulatory standards adopted and promulgated and shall be considered the highest level of policy applied by the State Corporation Commission.

Forms are regulatory standards adopted for the purpose of implementing the Act by prescribing initial basic requirements for completing various applications and reports filed with the State Corporation Commission. The forms required by the State Corporation Commission are set forth in 21 VAC 5-120-100 and have the same force and effect as regulations.

Statements made orally or in writing by personnel of the division or other State Corporation Commission personnel in response to inquiries or otherwise and not specifically identified and promulgated as regulations shall not be considered regulatory standards of the State Corporation Commission and shall not be considered binding upon the State Corporation Commission in connection with specific decisions undertaken by the State Corporation Commission thereafter. The State Corporation Commission may refuse to answer any question based upon a hypothetical situation.

21 VAC 5-120-40. Application of regulations.

All regulations shall be applied collectively, to the extent relevant, in connection with specific determinations made by the division or the State Corporation Commission in the course of administering the Act. The captions of these regulations are for convenience only. Should there be a

conflict between the caption and the text of a regulation the text will control.

Because regulations and forms cannot adequately anticipate all potential application requirements, the failure to satisfy all regulatory standards of the State Corporation Commission will not necessarily foreclose the possibility of a favorable disposition of a matter pending before the State Corporation Commission, and similarly will not necessarily preclude an unfavorable disposition if the specific characteristics and circumstances so warrant.

PART II.

REGISTRATION AND PROTECTION OF TRADEMARKS AND SERVICE MARKS.

21 VAC 5-120-50. Application for registration.

A. Application for registration of a mark shall be filed with the division on and in full compliance with forms prescribed by the State Corporation Commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration unless the following executed forms, fee and information are submitted:

1. Executed and notarized Form TM 1, Application for Registration of a Trademark or Service Mark.
2. The registration fee in the amount of \$30 per classification requested. The check must be made payable to the Treasurer of Virginia.
3. A specimen of the mark as used by the applicant (see definition of "use" in § 59.1-92.2 of the Act).
4. An exhibit of the mark.
5. Classification of the mark (see Classification of goods and services, 21 VAC 5-120-90).
6. Any other information the State Corporation Commission may require.

21 VAC 5-120-60. Expiration.

The registration of a mark shall be effective for a term of five years from the date of registration. The registration will expire if not renewed within six months prior to the expiration date.

21 VAC 5-120-70. Renewals.

An application for renewal of the registration must be filed within six months prior to the expiration date of the registration. A registration may be renewed for a five-year period from the date of expiration upon receipt of a completed application on Form TM 2, Application for Renewal of Registration of a Trademark or Service Mark, a specimen of the mark as used at the time the renewal application is filed, and the \$30 renewal fee per classification made payable to the Treasurer of Virginia.

21 VAC 5-120-80. Assignments and name change.

A. Any mark and its registration shall be assignable with the good will of the business in which the mark is used or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignments shall be by instruments in writing duly executed and may be filed with the State Corporation Commission upon payment of a \$30 fee made payable to the Treasurer of Virginia.

B. An applicant or registrant, as the case may be, effecting a change of name may file a Certificate of Name Change, Form TM 3, with the State Corporation Commission upon payment of a \$30 fee made payable to the Treasurer of Virginia.

PART III.

CLASSIFICATION OF GOODS AND SERVICES.

21 VAC 5-120-90. Classification of goods and services.

The application for registration or renewal of registration of a mark shall identify the class(es) of goods or services with which the mark is actually being used. The following classes of goods and services are established for convenience of administration of the Act:

Goods.

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers, and artists.
3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps, perfumery, essential oils, cosmetics, hair lotions; dentifrices.
4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.
5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax, disinfectants; preparations for destroying vermin; fungicides, herbicides.
6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Proposed Regulations

7. *Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.*
 8. *Hand tools and implements (hand operated); cutlery; side arms; razors.*
 9. *Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.*
 10. *Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopedic articles; suture materials.*
 11. *Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.*
 12. *Vehicles; apparatus for locomotion by land, air, or water.*
 13. *Firearms; ammunition and projectiles; explosives, fireworks.*
 14. *Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.*
 15. *Musical instruments.*
 16. *Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery, adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); playing cards; printer's type; printing blocks.*
 17. *Rubber, gutta-percha, gum asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes not of metal.*
 18. *Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins; hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.*
 19. *Building materials (nonmetallic); rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; monuments, not of metal.*
 20. *Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.*
 21. *Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semiworked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.*
 22. *Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.*
 23. *Yarns and thread for textile use.*
 24. *Textiles and textile goods, not included in other classes; bed and table covers.*
 25. *Clothing, footwear, headgear.*
 26. *Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.*
 27. *Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (nontextile).*
 28. *Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.*
 29. *Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.*
 30. *Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice.*
 31. *Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.*
 32. *Beer, mineral and aerated waters and other nonalcoholic drinks, fruit drinks and fruit juices; syrups and other preparations for making beverages.*
 33. *Alcoholic beverages (except beers).*
 34. *Tobacco, smokers articles; matches.*
- Services.
35. *Advertising; business management; business administration; office functions.*

- 36. *Insurance, financial affairs; monetary affairs; real estate affairs.*
- 37. *Building construction; repair, installation services.*
- 38. *Telecommunications.*
- 39. *Transport; packaging and storage of goods; travel arrangement.*
- 40. *Treatment of materials.*
- 41. *Education; providing of training; entertainment; sporting and cultural activities.*
- 42. *Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes.*

PART IV.

FORMS FOR TRADEMARKS AND SERVICE MARKS.

21 VAC 5-120-100. Trademark and service mark forms.

The State Corporation Commission adopts for use under the Act the forms listed below:

Form TM 1 - Application for Registration of a Trademark or Service Mark (7/98).

Form TM 2 - Application for Renewal of Registration of a Trademark or Service Mark (7/98).

Form TM 3 - Certificate of Name Change of an Applicant or Registrant (7/98).

VA.R. Doc. No. R98-235; Filed April 22, 1998, 11:44 a.m.

Proposed Regulations

TM 1 (7/98)

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

APPLICATION FOR REGISTRATION OF A TRADEMARK OR SERVICE MARK

(Please type or print)

Applicant (owner) name and address: _____

Contact person name and address: _____

Daytime phone: _____ Fax number: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____

(entity type i.e. corporation, partnership, etc)

Kind of mark (check one): Trademark Service Mark

Identify the trademark or service mark (or attach an exhibit of the exact mark): _____

Class number(s) of goods or services (see 21 VAC 5-120-90): _____

Describe the product(s) or service(s) the mark represents (identifies): _____

Date mark was first used **anywhere** by applicant or applicant's predecessor: _____

Date mark was first used **in Virginia** by applicant or applicant's predecessor: _____

PLEASE NOTE: A specimen of the mark must accompany this application.

The applicant asserts that it is the owner of this mark and that the mark is in use in the Commonwealth of Virginia. No other person has registered this mark or has the right to use this mark in Virginia, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such person, to cause confusion or mistake, or to deceive.

(NOTE: The application must be signed in the name of the applicant, either by the applicant or by a person authorized by the applicant. The application must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____

(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing application was subscribed and sworn to before me by _____

on the _____ day of _____, 19____.

My Commission Expires: _____ Notary Public: _____

TM 2 (7/98)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION FOR RENEWAL OF REGISTRATION OF A TRADEMARK
OR SERVICE MARK
(Please type or print)

Applicant (owner) name and address: _____

Contact person name and address: _____

Daytime phone: _____ Fax number: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____
(entity type i.e. corporation, partnership, etc)

On the _____ day of _____, 19____, the mark identified below was registered in the
name of: _____

Identify the trademark or service mark (or attach an exhibit of the exact mark):

Class number(s) of goods or services: _____

Describe the product(s) or service(s) the mark represents (identifies): _____

PLEASE NOTE: A specimen of the mark must accompany this application.

If the applicant is not the registrant named above, the applicant is the assignee to whom a new certificate was issued on the
_____ day of _____, 19____.

The applicant asserts that it is the owner of this mark and that the mark has been and is still in use in the Commonwealth of
Virginia. No other person has the right to use this mark in Virginia, either in the identical form thereof or in such near
resemblance thereto as to be likely, when applied to the goods or services of such person, to cause confusion or mistake, or to
deceive.

(NOTE: The application must be signed in the name of the applicant, either by the applicant or by a person authorized by the
applicant. The application must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____
(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing application was subscribed and sworn to before me by: _____

on the _____ day of _____, 19____.

My Commission Expires: _____ Notary Public: _____

Proposed Regulations

TM 3 (7/98)

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

CERTIFICATE OF NAME CHANGE OF AN APPLICANT OR REGISTRANT
(Please type or print)

Applicant/Registrant name and address: _____

Contact person name and address: _____

Daytime phone: _____ Fax number: _____

Prior name of applicant/registrant and address: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____
(entity type i.e. corporation, partnership, etc)

Kind of mark (check one): Trademark Service Mark Date name change effective: _____

Identify each trademark or service mark for which the name change is applicable (or attach an exhibit of the exact mark(s)):

Describe the product(s) or service(s) the mark represents (identifies): _____

(NOTE: The certificate must be signed in the name of the applicant, either by the applicant or by a person authorized by the applicant. The certificate must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____
(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing certificate was subscribed and sworn to before me by: _____

on the _____ day of _____, 19____.

My Commission Expires: _____ Notary Public: _____

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 change from the proposed text of the regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: 4 VAC 25-40-10 et seq. Safety and Health Regulations for Mineral Mining (amending 4 VAC 25-40-10, 4 VAC 25-40-40, 4 VAC 25-40-50, 4 VAC 25-40-70, 4 VAC 25-40-90, 4 VAC 25-40-100, 4 VAC 25-40-110, 4 VAC 25-40-120, 4 VAC 25-40-130, 4 VAC 25-40-140, 4 VAC 25-40-180, 4 VAC 25-40-200, 4 VAC 25-40-210, 4 VAC 25-40-220, 4 VAC 25-40-250, 4 VAC 25-40-270, 4 VAC 25-40-300, 4 VAC 25-40-310, 4 VAC 25-40-350, 4 VAC 25-40-390, 4 VAC 25-40-400, 4 VAC 25-40-440, 4 VAC 25-40-450, 4 VAC 25-40-460, 4 VAC 25-40-490, 4 VAC 25-40-500, 4 VAC 25-40-510, 4 VAC 25-40-520, 4 VAC 25-40-530, 4 VAC 25-40-540, 4 VAC 25-40-550, 4 VAC 25-40-590, 4 VAC 25-40-630, 4 VAC 25-40-660, 4 VAC 25-40-670, 4 VAC 25-40-690, 4 VAC 25-40-710, 4 VAC 25-40-720, 4 VAC 25-40-770, 4 VAC 25-40-780, 4 VAC 25-40-790, 4 VAC 25-40-800, 4 VAC 25-40-810, 4 VAC 25-40-820, 4 VAC 25-40-830, 4 VAC 25-40-870, 4 VAC 25-40-880, 4 VAC 25-40-890, 4 VAC 25-40-900, 4 VAC 25-40-910, 4 VAC 25-40-920, 4 VAC 25-40-930, 4 VAC 25-40-970, 4 VAC 25-40-1030, 4 VAC 25-40-1100, 4 VAC 25-40-1130, 4 VAC 25-40-1140, 4 VAC 25-40-1180, 4 VAC 25-40-1210, 4 VAC 25-40-1220, 4 VAC 25-40-1250, 4 VAC 25-40-1260, 4 VAC 25-40-1280, 4 VAC 25-40-1320, 4 VAC 25-40-1340, 4 VAC 25-40-1370, 4 VAC 25-40-1540, 4 VAC 25-40-1550, 4 VAC 25-40-1560, 4 VAC 25-40-1580, 4 VAC 25-40-1590, 4 VAC 25-40-1670, 4 VAC 25-40-1690, 4 VAC 25-40-1740, 4 VAC 25-40-1780, 4 VAC 25-40-1810, 4 VAC 25-40-1880, 4 VAC 25-40-2010, 4 VAC 25-40-2040, 4 VAC 25-40-2080, 4 VAC 25-40-2100, 4 VAC 25-40-2140, 4 VAC 25-40-2170, 4 VAC 25-40-2180, 4 VAC 25-40-2210, 4 VAC 25-40-2220, 4 VAC 25-40-2250, 4 VAC 25-40-2270, 4 VAC 25-40-2280, 4 VAC 25-40-2300, 4 VAC 25-40-2340, 4 VAC 25-40-2390, 4 VAC 25-40-2400, 4 VAC 25-40-2410, 4 VAC 25-40-2420, 4 VAC 25-40-2440, 4 VAC 25-40-2450, 4 VAC 25-40-2480, 4 VAC 25-40-2490, 4 VAC 25-40-2500, 4 VAC 25-40-2530, 4 VAC 25-40-2540, 4 VAC 25-40-2550, 4 VAC 25-40-2590, 4 VAC 25-40-2610, 4 VAC 25-40-2650, 4 VAC 25-40-2660, 4 VAC 25-40-2680, 4 VAC 25-40-2700, 4 VAC 25-40-2720, 4 VAC 25-40-2750, 4 VAC 25-40-2760, 4 VAC 25-40-2770, 4 VAC 25-40-2790, 4 VAC 25-40-2800, 4 VAC 25-40-2810, 4 VAC 25-40-2820, 4 VAC 25-40-2850, 4 VAC 25-40-2870, 4 VAC 25-40-2880, 4 VAC 25-40-2910, 4 VAC 25-40-2920, 4 VAC 25-40-2930, 4 VAC 25-40-2980, 4 VAC 25-40-3000, 4 VAC 25-40-3030, 4 VAC 25-40-3050, 4 VAC 25-40-3070, 4 VAC 25-40-3080, 4 VAC 25-40-3110, 4 VAC 25-40-3120, 4 VAC 25-40-3160, 4 VAC 25-40-3170, 4 VAC 25-40-3220, 4 VAC 25-40-3240, 4 VAC 25-40-3280,

4 VAC 25-40-3290, 4 VAC 25-40-3300, 4 VAC 25-40-3310, 4 VAC 25-40-3320, 4 VAC 25-40-3330, 4 VAC 25-40-3340, 4 VAC 25-40-3350, 4 VAC 25-40-3420, 4 VAC 25-40-3430, 4 VAC 25-40-3450, 4 VAC 25-40-3460, 4 VAC 25-40-3620, 4 VAC 25-40-3660, 4 VAC 25-40-3690, 4 VAC 25-40-3700, 4 VAC 25-40-3710, 4 VAC 25-40-3720, 4 VAC 25-40-3830, 4 VAC 25-40-3840, 4 VAC 25-40-3890, 4 VAC 25-40-3930, 4 VAC 25-40-3980, 4 VAC 25-40-3990, 4 VAC 25-40-4060, 4 VAC 25-40-4090, 4 VAC 25-40-4100, 4 VAC 25-40-4110, 4 VAC 25-40-4140, 4 VAC 25-40-4160, 4 VAC 25-40-4220, 4 VAC 25-40-4230, 4 VAC 25-40-4260, 4 VAC 25-40-4280, 4 VAC 25-40-4290, 4 VAC 25-40-4320, 4 VAC 25-40-4330, 4 VAC 25-40-4350, 4 VAC 25-40-4430, 4 VAC 25-40-4440, 4 VAC 25-40-4460, 4 VAC 25-40-4540, 4 VAC 25-40-4590, 4 VAC 25-40-4650, 4 VAC 25-40-4750, 4 VAC 25-40-4770, 4 VAC 25-40-4910, 4 VAC 25-40-4920, 4 VAC 25-40-4970, 4 VAC 25-40-4980, 4 VAC 25-40-5060, 4 VAC 25-40-5070, 4 VAC 25-40-5120, 4 VAC 25-40-5170, 4 VAC 25-40-5180, 4 VAC 25-40-5200, 4 VAC 25-40-5210, 4 VAC 25-40-5230, 4 VAC 25-40-5290, 4 VAC 25-40-5310, 4 VAC 25-40-5320, 4 VAC 25-40-5330, 4 VAC 25-40-5340, 4 VAC 25-40-5370, 4 VAC 25-40-5400, 4 VAC 25-40-5450, 4 VAC 25-40-5470, 4 VAC 25-40-5550, 4 VAC 25-40-5580, 4 VAC 25-40-5590, 4 VAC 25-40-5630, 4 VAC 25-40-5660, 4 VAC 25-40-5670 and 4 VAC 25-40-5710; adding 4 VAC 25-40-25, 4 VAC 25-40-145, 4 VAC 25-40-385, 4 VAC 25-40-388, 4 VAC 25-40-895, 4 VAC 25-40-1685, 4 VAC 25-40-1785, 4 VAC 25-40-2015, 4 VAC 25-40-2915, 4 VAC 25-40-3325, 4 VAC 25-40-3328, 4 VAC 25-40-3475, 4 VAC 25-40-3478, 4 VAC 25-40-3595, 4 VAC 25-40-3855, 4 VAC 25-40-3955, 4 VAC 25-40-3958, 4 VAC 25-40-5750, 4 VAC 25-40-5760, 4 VAC 25-40-5770 and 4 VAC 25-40-5780; repealing 4 VAC 25-40-20, 4 VAC 25-40-30, 4 VAC 25-40-60, 4 VAC 25-40-80, 4 VAC 25-40-320, 4 VAC 25-40-730, 4 VAC 25-40-750, 4 VAC 25-40-940, 4 VAC 25-40-960, 4 VAC 25-40-1300, 4 VAC 25-40-1310, 4 VAC 25-40-1490, 4 VAC 25-40-1940, 4 VAC 25-40-2260, 4 VAC 25-40-2510, 4 VAC 25-40-3230, 4 VAC 25-40-5040, 4 VAC 25-40-5050, 4 VAC 25-40-5680, 4 VAC 25-40-5690, 4 VAC 25-40-5720, 4 VAC 25-40-5730 and 4 VAC 25-40-5740).

Statutory Authority: §§ 45.1-161.3, 45.1-161.294 and 45.1-161.305 of the Code of Virginia.

Effective Date: July 1, 1998.

Summary:

The Division of Mineral Mining in the Department of Mines, Minerals and Energy has amended its safety and health requirements to protect the safety of persons on mineral mine sites and the public and property in the vicinity of mineral mines. Improper actions by operators and mineral miners are a significant cause of accidents, fatalities, citizen complaints and property damage.

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The amendments incorporate new requirements added to the Mine Safety Act in 1994 and 1997, clarify the intent of existing regulations from communication memorandums issued by the Director of the Division of Mineral Mining, revise and clarify the regulation, and add several provisions needed by industry. The regulation provides operators with options for compliance which can reduce costs. It also improves accountability for both operator and miners in areas such as training and inspection of equipment.

The amendments include numerous changes, addressing general safety requirements at surface and underground mines, ground control, fire prevention and control, air quality and physical agents, explosives, mobile equipment, personal protection, travelways, electricity, materials handling, guards, mining near gas and oil wells, and reporting requirements.

Summary of Public Comments and Agency's 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 Conrad T. Spangler, Department of Mines, Minerals and Energy, 900 Natural Resources Drive, P.O. Box 3727, Charlottesville, VA 22903, telephone (804) 961-5000.

PART I.

GENERAL ADMINISTRATIVE PROVISIONS-SURFACE AND UNDERGROUND.

4 VAC 25-40-10. Definitions.

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

"Abandoned mine" means a mine in which all work has stopped on the mine premises and where an office with a responsible person in charge is no longer maintained at the mine.

"Abandoned workings" means deserted mine areas in which further work is not intended.

"Acceptable" means tested and found to be appropriate for a specific purpose by a nationally recognized agency.

"ACGIH" means the American Conference of Governmental Industrial Hygienists.

~~"Active workings" means areas at, in, or around a mine or plant where persons work or travel.~~

~~"Approved" means accepted by the Division of Mineral Mining.~~

~~"Asbestos" means chrysotile, amosite, crocidolite, anthophyllite, asbestos, tremolite asbestos, and actinolite asbestos.~~

~~"Authorized person" means a person approved or assigned by mine management to perform a specific type of duty or duties or to be at a specific location or locations in the mine.~~

"Angle of repose" means the maximum slope or angle at which material remains stable.

"Auxiliary fan" means a fan used to deliver air to a working place off the main airstream, generally used with ventilation tubing.

"Blasting Blast area" means the area of the mine in which concussion or flying material can reasonably be expected to cause injury, but in no case less than four times the depth of the boreholes in feet during detonation.

"Blast site" means the 50-foot perimeter around boreholes being loaded, or 30 feet if demarcated by a barricade, and the 180° free-face area for a distance of at least four times the average depth of the boreholes being loaded.

~~"Booster fan" means a fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.~~

"Bridle" means a cable or chain used to support a work platform in a raised position with more than three connection points.

"Burden" means the distance in feet between rows of boreholes or between the open face and boreholes.

~~"Certified" means holding a valid certification card issued by the Board of Examiners.~~

"Company official" means a member of the company supervisory or technical staff.

~~"Competent person" means a person approved by the director having abilities and experience that fully qualify the person to perform the duty to which he is assigned.~~

"Department" means the Department of Mines, Minerals and Energy.

"Director" means the Director of the Division of Mineral Mining ~~Director.~~

"Distribution box" means an apparatus with an enclosure through which an electric circuit is carried to one or more cables from a single incoming feedline, each cable circuit being connected through individual overcurrent protective devices.

"Division" means the Division of Mineral Mining.

"Escapeway" means a passageway by which persons may leave if the ordinary exit is obstructed.

~~"Experienced person" means a person with one or more years of mining experience.~~

"Face ["] or ["] bank" means that part of any mine where excavating is progressing or was last done.

"Flash point" means the minimum temperature at which sufficient vapor is released to form a flammable vapor-air mixture.

"Free-face ["] means the face area of a quarry bench to be blasted.

"Flyrock" means any uncontrolled material generated by the effect of a blast that would be potentially hazardous to personnel persons, or to property not owned or controlled by the operator.

~~"Fuse" means a short protective device.~~

~~"Grounded" means a conducting connection between an electric circuit or equipment and the on site source from which the electric circuit originates which is effectively connected to the earth.~~

"Heavy duty mobile equipment" means any equipment used for loading, hauling, or grading and not normally intended for highway use.

"Hoist" means a power-driven windlass or drum used for raising ore, rock, or other material from a mine, and for lowering or raising persons and material.

~~"Igniter cord" means a fuse, cordlike in appearance, which burns progressively along its length with an external flame at the zone of burning and is used for lighting a series of safety fuses in the desired sequence.~~

"Lay" means the distance parallel to the axis of the rope in which a strand makes one complete turn about the axis of the rope.

"Loaded" means containing explosives, blasting agents, or detonators.

"Main fan" means a fan that controls the entire airflow of the mine or the airflow of one of the major air circuits.

"Major electrical installation" means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power.

"Mine opening" means any opening or entrance from the surface into a mine.

~~"Mine operator" means any individual, corporation or corporate officer, firm, joint venture, partnership, business trust, association, any group or combination acting as a unit, or any legal entity which is engaged in mining.~~

~~"Mineral mining" means the surface or underground mining of any mineral other than coal.~~

"Misfire" means the partial or complete failure of a blast to detonate as planned.

["] MSHA" means the Mine Safety and Health Administration.

"Occupational injury" means any injury to a miner which occurs at a mine for which medical treatment is administered, or which results in death or loss of consciousness, inability to perform all job duties on any day after an injury, temporary

assignment to other duties, or transfer to another job as specified in the 30 CFR Part 50.2.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined.

~~"Permissible" means a machine, material, apparatus, or device which has been investigated, tested, and approved by the Bureau of Mines, and is maintained in the condition approved by the U.S. Department of Interior, Bureau of Mines.~~

"Potable" means fit for human consumption, and, where required by Code of Virginia, approved by the Virginia Department of Health.

"Powder chest" means a substantial, nonconductive portable container equipped with a lid and used at blasting sites for explosives other than blasting agents.

"Primer" means a cartridge or package of explosive explosives which contains a detonator or detonating cord.

"Refuse" means mineral processing waste, tailings, silts, sediments, or slimes.

"Rollover protection" means a framework, safety canopy or similar protection for the operator when equipment overturns and which is acceptable for use on that particular type of equipment.

"Safety fuse" means a train of powder enclosed in cotton, jute yarn, and water-proofing compounds, which burns at a uniform rate, used for firing a cap containing the detonating compound which in turn sets off the explosive charge.

"Safety hazard" means any condition, function, or circumstance which may reasonably be expected to cause or assist an accident.

"Scaled distance (Ds)" means the actual distance (D) in feet divided by the square root of the maximum explosive weight (W) in pounds that is detonated per delay period for delay intervals of eight milliseconds or greater; or the total weight of explosive in pounds that is detonated within an interval less than eight milliseconds.

"Scaling" means removal of insecure material from a face or highwall.

~~"Serious fire" means a fire that requires more than 30 minutes to extinguish.~~

~~"Serious personal injury" means any injury requiring at least one day of hospital confinement.~~

"Shaft" means a vertical or inclined shaft, slope, incline, or winze.

"Stemming" means that inert material placed in a borehole after the explosive charge for the purpose of confining the explosion gases in the borehole or that inert material used to separate the explosive charges (decks) in decked holes.

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"*Substantial construction*" means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage to which it will be subjected.

"*Suitable*" means that which fits and has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

"*Switch*" means a device used to complete or disconnect an electrical circuit.

"*Travelway*" means a passage, walk or way regularly used and designated for persons to go from one place to another.

"*Wet drilling*" means the continuous application of water through the control hole of hollow drill steel to the bottom of the drill hole.

"*Working place*" means any place in or about a mine where work is being performed.

4 VAC 25-40-20. ~~Permits and licenses. (Repealed.)~~

~~A. No person shall conduct mining activities without first obtaining a mining permit and license from the department. All new licenses issued on or after July 1, 1988, shall be issued for a one year period and be due for renewal on their anniversary date. Licenses due for renewal on January 1, 1989, shall be extended to the renewal date of the corresponding surface mining and reclamation permit and shall be renewed on the anniversary date of that permit on a schedule consistent with § 45.1-181 of the Code of Virginia.~~

~~B. Application for a new license or renewal of a license shall be on a form prescribed by the department and shall be accompanied by a fee as calculated by the department.~~

~~C. Mine operators granted a mining permit and license shall operate their mine in compliance with all applicable laws and regulations adopted by the department.~~

~~D. All surface mining operations shall have one complete inspection at least every 180 days. All underground mining operations shall have a complete inspection at least every 90 days. An underground mine operator who meets all of the qualifications prescribed in § 45.1-5 [Repealed] of the Code of Virginia shall automatically be considered for a reduced number of inspections each year. The maximum number of reductions and inspections shall not exceed 50% of the normal inspections.~~

4 VAC 25-40-25. *Purpose and authority.*

The purpose of this regulation is to provide for the protection of persons and property on and around mineral mines. The regulation works with the Virginia Mineral Mine Safety Act, Title 45.1 of the Code of Virginia (as shown in Mineral Mine Safety Laws of Virginia, 1997 edition). Refer to the Act for other definitions and requirements related to this regulation.

4 VAC 25-40-30. ~~Violations. (Repealed.)~~

~~A. Violations or unsafe conditions detected by the mine inspector during an inspection or investigation shall be reported to the mine operator on the mine inspection report form. A copy of the report shall also be posted on the employee bulletin board or other prominent place on the premises where it can be conveniently read by employees.~~

~~B. Mine operators shall correct all violations and unsafe conditions specified on the mine inspection report form. If a violation or unsafe condition cannot be corrected immediately, and the mine inspector has granted a compliance period, the mine operator shall take necessary measures to ensure the safety and health of any person affected by the condition.~~

~~C. The mine inspector shall, and is hereby authorized to, order any mine or section thereof cleared of all persons, except those necessary to eliminate the dangerous condition where, in his opinion, there is imminent or serious danger to life or health of any person. Such order shall remain in effect until the imminent or serious danger has been eliminated and the area or equipment re-inspected by the mine inspector.~~

4 VAC 25-40-40. *Certification.*

~~A. Any person who is responsible for supervising mining activities or blasting activities shall be certified by the Board of Mineral Mining Examiners and governed by the *Certification Requirements for Mineral Mining*, 4 VAC 25 Chapter 35. Applicants for certification shall possess experience and abilities deemed necessary by the Board of Mineral Mining Examiners and must pass a written examination with a grade of 85 or better. Applicants shall pay an examination fee of \$10.~~

~~B. A person certified as mine foreman or blaster shall ensure that all activities under his supervision are conducted in a safe manner and in compliance with applicable laws and regulations adopted by the department. Failure to carry out such duty may result in revocation of certification by the board.~~

4 VAC 25-40-50. *Duties of mine operators.*

~~Duties of the mine operator shall include, but not be limited to, the following *Reporting of accidents and injuries by the operator*.~~

- ~~1. Report any accident involving serious personal injury or death to any person on the mine property. The report shall be made to the division by the quickest available means, and the scene of the accident shall not be disturbed until an investigation is conducted by the division. For accidents where the injured person is transported to a hospital, but confinement is not expected, the operator may either preserve the scene or collect relevant physical data and photographs as specified by the division. The division shall be notified immediately upon learning that the injured person has been admitted to the hospital for medical treatment.~~

Head injuries that result in loss of consciousness at the site shall be reported immediately.

~~2. Report any serious fire in or about the mine to the division by the quickest available means;~~

~~3. Report any unplanned explosion in or about the mine to the division by the quickest available means;~~

~~4. Report any dangerous condition at the mine that cannot be corrected within the working shift. The report shall be made to the division by the certified official in charge;~~

~~5. 2. Keep on file a report of all accidents and occupational injuries occurring on the mine property for review by the division mine inspector. Such records shall be kept for three five years;~~

~~6. Cooperate with the certified mine foreman and blaster in the discharge of their duties;~~

~~7. Employ only certified persons to supervise mining and blasting activities;~~

~~8. Notify the division at least 10 days prior to abandoning the mine, resuming mining activities after being idle for at least 30 days or abandonment, changing the name or ownership of a mine, or opening a new mine; and~~

~~9. Provide the division with information specifying the total tons of minerals mined for the preceding 12 months ending December 31. Such information shall be reported on a form provided by the division and must be received not later than 45 days after the end of the calendar year. Renewal of license shall require proper submission of annual report.~~

4 VAC 25-40-60. Duties of mine inspectors. (Repealed.)

The mine inspector shall:

~~1. Proceed immediately to the scene of any serious accident, serious fire, or mine explosion;~~

~~2. Take charge of mine rescue and recovery operations whenever a mine fire, unplanned explosion, or other serious accident occurs; and~~

~~3. Have the power to compel the attendance of witnesses and to administer oaths or affirmations when investigating accidents, fires, or unplanned explosions.~~

4 VAC 25-40-70. Approval procedure.

A. When approval by the *Director of the Division of Mineral Mining* or the director is required, the mine operator shall submit written proposed standards for the person, equipment, material, or practice required by the regulation to the Division of Mineral Mining office.

B. The director will review the submittal, request additional material or corrections as required and notify the mine operator in writing of his determination within 30 days.

4 VAC 25-40-80. Appeal procedure. (Repealed.)

~~A. A mine operator may appeal any violation or order to the director by verbal or written notification within three days of the issuance of the violation or order.~~

~~B. Upon notification or receipt of the appeal, the director, or the authorized representative, will conduct a conference with the mine operator in accordance with § 9-6.14:11 of the Code of Virginia.~~

~~C. The director will notify the operator in writing within 30 days of the decision to uphold, modify or cancel the violation or order.~~

4 VAC 25-40-90. Documents incorporated by reference.

~~A. ACGIH, 1996 Threshold Limit Values and Biological Exposure Indices for 1987-1988 may be obtained from published by the American Conference of Governmental Industrial Hygienists, 6500 Glenway Avenue, Building D7, Cincinnati, OH 45211-4438.~~

~~B. American Table of Distances for Storage of Explosives, 1986, may be obtained from [,] 1991 edition, published by the Institute of Makers of Explosives, Suite 310, 1420 Nineteenth Street, N.W., Washington, DC 20036-3605.~~

~~C. NFPA, National Electrical Code, 1987 1996 edition, may be obtained from published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~D. Virginia Department of Labor and Industry, Boiler and Pressure Vessel Safety Division, Boiler and Pressure Vessel Rules and Regulations, 1974, Amendments Effective 1986, may be obtained from amended 1995 by the Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.~~

~~E. Bureau of Mines Instruction Guide 19, Mine Emergency Training, U. S. Department of Labor, 1972 edition.~~

~~F. Blasting Guidance Manual, U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement, 1987 edition.~~

~~G. The American National Standard for Wire Rope for Miners, M11.1-1980, published by the American National Standards Institute.~~

~~H. Addresses for references may be obtained from the division.~~

PART II.

GENERAL SAFETY PROVISIONS-SURFACE AND UNDERGROUND.

4 VAC 25-40-100. Employee indoctrination training.

New or reassigned employees shall be indoctrinated trained in state and company safety regulations and be properly task trained prior to being assigned a task or duty. Records of training shall be kept in writing at the mine site for two years or for 60 days after termination of employment.

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4 VAC 25-40-110. Inexperienced employees.

Employees with less than ~~one year~~ *six months* of mining experience shall work with or under the direction of an experienced ~~person~~ *miner*.

4 VAC 25-40-120. When foreman required.

When three or more persons are working in a mine, a certified mine foreman shall be ~~in charge~~ *employed who shall ensure that all activities under [their the foreman's] supervision are conducted in a safe manner in compliance with applicable laws and regulations adopted by the department. The director may designate an approved competent person to perform the duties of a certified surface foreman except for the preshift examination.*

4 VAC 25-40-130. Examination by foreman.

The certified mine foreman shall examine ~~each working place~~ *active workings* at the beginning of each shift. Any hazardous or unsafe condition shall be corrected prior to personnel starting work in the affected area. If the hazardous or unsafe condition cannot be corrected immediately, the affected area shall be barricaded and posted with warning signs. A record of the daily inspection shall be kept for one year.

4 VAC 25-40-140. First aid training for foreman.

The certified mine foreman ~~in charge~~ shall be trained in first aid and possess a valid first aid certificate *issued by an approved agency or organization.*

4 VAC 25-40-145. Inspection of mobile and stationary equipment.

Mobile and stationary equipment that is to be used during a shift shall be inspected by the equipment operator. Equipment safety defects shall be reported to the certified mine foreman. Defects that affect the safety or health of persons shall be corrected before the equipment is used.

4 VAC 25-40-180. Emergency communication systems.

An approved *operational* communication system *acceptable to the director* shall be provided and maintained at the mine for obtaining assistance in the event of an emergency.

4 VAC 25-40-200. Illumination requirements.

Illumination sufficient to provide safe working conditions shall be provided at all ~~work areas~~ *active workings*, structures, and travelways.

4 VAC 25-40-210. Cleanliness.

All ~~work areas~~ *active workings*, structures, and travelways shall be kept clean and orderly.

4 VAC 25-40-220. Water supplies.

Potable water with a sanitary dispensing method shall be provided at all ~~working areas~~ *active workings*.

4 VAC 25-40-250. Use of intoxicating substances.

~~Intoxicating beverages and narcotics shall not be permitted on the mine property.~~ Employees shall not use *intoxicating beverages, narcotics or other substances on the mining site* that will impair their ability to perform their assigned task. Employees using substances, whether prescription or over-the-counter, that may impair their ability to perform their assigned task shall notify the person in charge of the mining site prior to starting their shift.

4 VAC 25-40-270. Refuse piles, water and silt retaining dams.

~~A. Refuse piles, water and silt retaining dams shall be of substantial construction and inspected at regular intervals. New dams or modifications to existing dams shall be designed and constructed by or under the direction of a licensed, professional engineer that meet the size criteria of § 45.1-225.2 of the Code of Virginia shall be designed, constructed, maintained, inspected and abandoned in accordance with §§ 45.1-225.2 through 45.1-225.5 of the Code of Virginia.~~

~~B. Water and silt retaining dams that do not meet the size criteria of § 45.1-225.1 of the Code of Virginia shall be designed, constructed and abandoned in accordance with the Minerals Other Than Coal Surface Mining Law (§ 45.1-180 et seq. of the Code of Virginia).~~

~~C. Refuse shall be placed only in locations approved by the director.~~

4 VAC 25-40-300. Closure of roads or openings.

Upon abandonment of a mine, the operator shall effectively close or fence all roads or openings ~~which persons could enter~~ *or pits where hazardous conditions exist* and warning signs shall be posted. *Upon temporary cessation of mining activities as provided for in § 45.1-181 of the Code of Virginia, the operator shall effectively close or barricade access roads and hazardous areas.*

4 VAC 25-40-310. Starting machinery.

Machinery or equipment shall not be started prior to ~~insuring~~ *ensuring* that affected persons are in the clear. If the machinery or equipment is not visible from the starting switch, an audible warning signal shall be given.

4 VAC 25-40-320. Equipment defects. (Repealed.)

~~Machinery or equipment defects that adversely affect the safety or health of persons shall be corrected prior to use.~~

4 VAC 25-40-350. Repairing machinery.

Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. *Energy sources, other than those related to electricity or internal combustion, which pose a hazard to miners, shall be tagged out and signed by the individuals doing the work, and locked out if practical, by each authorized person exposed to the hazard. Tags or*

locks shall be removed only by the persons who installed them or by an authorized person, after ensuring that affected persons are in the clear.

4 VAC 25-40-385. Mobile crane requirements.

A. The rated capacity of the crane at the radius at which the lift will be made shall be divided by four and this limit shall not be exceeded.

B. A full-cycle operational test lift shall be made prior to lifting of employees. The platform shall carry twice the intended load during the test lift.

C. All lifts shall be made in accordance with the manufacturer's lifting recommendations.

D. The stability of the footing shall be verified during the full-cycle operational test.

E. The load line on which the platform is suspended will have controlled load lowering. The free-fall option shall not be used with suspended work platforms.

F. The operating mechanism of the clutch of every man-hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake, to prevent accidental withdrawal of the clutch.

G. Any boom crane used to hoist personnel shall be equipped with a brake or brakes which shall be capable of holding the work platform at any point.

H. Lifting bridles on working platforms suspended from cranes shall consist of four legs so attached that the stability of the platform is ensured. The lifting bridle on working platforms suspended from cranes shall be secured by a shackle or attached by a closed hook which cannot open due to load position in the hook.

I. Platform requirements.

1. The platform and its components must be capable of supporting, without failure, at least four times the maximum intended load.

2. The platform shall be enclosed with a guardrail system including a top guardrail of approximately 42 inches, a midrail, and a toe-board capable of keeping personnel and materials secured.

a. The number of employees to be hoisted shall be kept to a minimum and in no case shall the number exceed four.

b. Employees using the platform shall be considered to weigh 250 pounds each.

c. The platform shall not be used during high winds and electrical storms or other adverse weather conditions which could endanger employees on the platform.

d. A safety cable shall be attached from the hook to the work platform which would be capable of

supporting the suspended load in an upright position in the event of a failure of the main lifting bridle.

e. Personnel shall not ride on the work platform with supplies, materials, or tools other than small hand tools.

f. A standard code of hoisting signals shall be used; one person shall be designated to give hoisting signals.

4 VAC 25-40-388. Rope requirements.

A. Unless damage or deterioration is removed by cut-off, wire ropes shall be removed from service when any of the following conditions exist:

1. The number of broken wires exceeds either:

a. Five percent of the total number of wires; or

b. Fifteen percent of the total number of wires within any strand.

2. On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;

3. A loss of more than one-third of the original diameter of the outer wire;

4. Rope deterioration from corrosion;

5. Distortion of the rope structure;

6. Heat damage from any source; or

7. Diameter reduction due to wear that exceeds 6.0% of the baseline diameter measurement;

B. Load end attachments.

1. Wire rope shall be attached to the load by a method that develops at least 80% of the nominal strength of the rope.

2. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer; and

3. Load end attachment methods using splices are prohibited.

C. Drum end attachment. For drum end attachment, wire rope shall be replaced when [there is]:

1. More than one broken wire at an attachment;

2. Improper installation of an attachment;

3. Slippage at an attachment; or

4. Evidence of deterioration from corrosion at an attachment.

D. Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

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E. Safety devices attached to hoist ropes shall be selected, installed, and maintained according to manufacturers' specifications to minimize internal corrosion, weakening and breaking of the hoist rope.

PART III.

GROUND CONTROL-SURFACE AND UNDERGROUND.

4 VAC 25-40-390. Stability requirements.

The mine operator shall use a mining method which will ensure ground, wall, bench and bank stability, including benching and sloping at the angle of repose as necessary.

4 VAC 25-40-400. Open pit mine rims.

Rims of open pit mines pits shall be stripped back of loose, unconsolidated material and trees for at least 10 feet, and unconsolidated material beyond 10 feet shall be sloped to the angle of repose. Areas that were developed prior to the effective date of this [regulation chapter] may be barricaded and posted with warning signs in lieu of meeting this requirement.

4 VAC 25-40-440. Installation of ~~rockbolts~~ rock bolts.

When mechanical measures, such as ~~rockbolts~~ rock bolts, must be used to stabilize ground movement, they shall be installed in accordance with a plan approved by the director.

4 VAC 25-40-450. Correction of unsafe conditions.

The certified mine foreman ~~in-charge~~ designated by the mine operator shall examine ~~working areas~~ active workings for unsafe conditions at least at the beginning of the shift and after blasting. Any unsafe condition found shall be corrected prior to employees starting or resuming work in the affected area.

4 VAC 25-40-460. Examination for unsafe conditions.

All personnel shall examine their ~~working area~~ active workings for unsafe conditions prior to starting work and frequently thereafter. Any unsafe condition found shall be corrected or reported to the *designated* certified mine foreman ~~in-charge~~.

PART IV.

FIRE PREVENTION AND CONTROL-SURFACE AND UNDERGROUND.

4 VAC 25-40-490. Smoking near flammable and combustible materials.

No person shall smoke or use an open flame within 25 feet of locations used to store or handle flammable or combustible liquids.

4 VAC 25-40-500. Warning and evacuation procedures.

Mine Operators shall establish ~~approved~~ acceptable procedures for fire warning, emergency evacuation, and firefighting.

4 VAC 25-40-510. Flammable and combustible liquid storage tanks.

Areas surrounding flammable and combustible liquid storage tanks shall be kept free of combustible materials for at least 25 feet in all directions and posted with readily visible fire hazard warning signs.

4 VAC 25-40-520. Storage of flammable materials.

Flammable and combustible materials shall be stored in acceptable containers approved by the National Fire Protection Association (NFPA) or other approved rating agency.

4 VAC 25-40-530. Distance of storage tanks from mine opening.

Flammable and combustible liquid or gas storage tanks shall not be located within 100 feet of any underground mine opening.

4 VAC 25-40-540. Storage buildings or areas.

[~~Building Buildings~~] or areas used for storage of flammable or combustible materials shall be:

1. Of fire resistant construction;
2. ~~Well-ventilated~~ Well-ventilated;
3. Kept clean and orderly;
4. Posted with fire hazard warning signs; and
5. Provided with means to confine or contain accidental spills.

4 VAC 25-40-550. Shut-off valves.

Fuel lines shall be equipped with shut-off valves at the source. Such valves shall be readily accessible and maintained in operating ~~conditions~~ condition.

4 VAC 25-40-590. Battery charging areas.

Battery charging areas shall be ~~well-ventilated~~ well-ventilated and posted with warning signs prohibiting smoking or open flames within 25 feet.

4 VAC 25-40-630. Training and practice drills.

All employees assigned to firefighting responsibilities by the operator shall be trained in firefighting ~~and emergency~~ evacuation procedures, and practice drills shall be conducted at least ~~once each calendar year~~ every six months.

4 VAC 25-40-660. Removing flammable and combustible gases from containers.

Prior to applying heat, cutting, or welding on any pipe or container that has contained a flammable or combustible material:

1. The pipe or container shall be drained, thoroughly cleaned and ventilated; and
2. The pipe or container shall be filled with an inert gas or material.

4 VAC 25-40-670. Fire extinguishers.

Fire extinguishers shall be provided in all mobile equipment with an enclosed cab.

A. Whenever a fire or its effects could impede escape from self-propelled equipment, a fire extinguisher shall be on the equipment.

B. Whenever a fire or its effects would not impede escape from the equipment but could affect the escape of other persons in the area, a fire extinguisher shall be on the equipment or within 100 feet of the equipment.

4 VAC 25-40-690. Fire-resistant structures buildings near underground openings.

Buildings and other structures within 100 feet of underground mine openings shall be fire-resistant fire resistant.

4 VAC 25-40-710. Dust or gases.

Dust or gases which may be explosive or combustible shall be tested and controlled in an approved acceptable manner.

PART V.

AIR QUALITY AND PHYSICAL AGENTS-SURFACE AND UNDERGROUND.

4 VAC 25-40-720. Employee exposure limits to airborne contaminants.

With respect to airborne contaminants, the following shall apply:

~~1. When deemed necessary by the director, mine operators shall conduct approved surveys to determine employee exposure to airborne contaminants;~~

~~2. Employee exposure to airborne contaminants based on a time-weighted average sample, shall not exceed Threshold Limit Values (TLVs) specified by the ACGIH in Threshold Limit Values and Biological Exposure Indices for 1987-88, except as otherwise provided; and~~

~~3. 1. Employees shall be withdrawn from areas where airborne contaminants given a "C" designation in Threshold Limit Values and Biological Exposure Indices for 1987-88 by the ACGIH are present in concentrations that exceed specified [TLVs TLVs].~~

2. Control of employee exposure to harmful airborne contaminants shall be by feasible engineering control methods. If such control measures are not available, an approved program shall be implemented by the operator. Miners exposed for short periods to gas, dust, fumes and mist-inhalation hazards shall wear permissible respiratory equipment. When the exposure is for prolonged periods, other measures to protect workers or to reduce the hazard shall be taken.

4 VAC 25-40-730. Drilling requirements. (Repealed.)

~~Drills shall be equipped with wet suppression or dry collection dust control devices and such devices shall be used when drilling.~~

4 VAC 25-40-750. Employee exposure to contaminants. (Repealed.)

~~Control of employee exposure to harmful airborne contaminants shall be by feasible engineering control methods. If such control measures are not available, an approved program shall be implemented by the mine operator.~~

4 VAC 25-40-770. Employee exposure to noise limits.

Except for surface mines which are inspected by MSHA, employee exposure to noise shall not exceed the federal limit adopted for noncoal mineral mines. If exposure exceeds the federal limit, the director may require the mine operator to employ feasible engineering and administrative control measures. Operators shall provide hearing protection upon request.

PART VI.

EXPLOSIVES-SURFACE AND UNDERGROUND.

4 VAC 25-40-780. Storage of explosive materials.

A. Detonators and explosives, other than blasting agents, shall be stored in acceptable magazines accepted by the Institute of Manufacturers Makers of Explosives (IME) or other approved agency.

B. Detonators shall not be stored in the same magazine with explosives.

C. Explosives magazines shall be:

1. Located in accordance with the 1986 edition of the American Table of Distances for Storage of Explosives;
2. Detached structures located away from powerlines, fuel storage areas, and other possible sources of fire;
3. Constructed substantially of noncombustible material or covered with fire-resistant material;
4. Reasonably bullet resistant;
5. Electrically bonded and grounded if constructed of metal;
6. Made of nonsparking material on the inside, including floors;
7. Provided with adequate and effectively screened ventilation openings near the floor and ceiling;
8. Kept locked securely when unattended;
9. Posted with suitable danger signs so located that a bullet passing through the sign will not strike the magazine;

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10. Used exclusively for storage of explosives or detonators and ~~kept free of all extraneous blasting-related materials~~;

11. Kept clean and dry in the interior and in good repair;

12. Unheated, unless heated in a manner that does not create a fire or explosion hazard. Electrical heating devices shall not be used inside a magazine; and

13. Located at least 300 feet away from any underground mine opening, occupied building, public road, or private road not used in connection with the mine.

D. An accurate inventory log of explosives stored in the magazine shall be maintained ~~and posted inside the magazine [on-site on site]~~.

E. Any theft or unaccounted loss of explosives shall be reported immediately by telephone to local police, state police, the U.S. Department of Treasury Bureau of Alcohol, Tobacco and Firearms (ATF), and the Division of Mineral Mining.

F. Smoking or open flames shall be prohibited within 50 feet of explosives magazines or blasting agents storage facilities.

G. Areas surrounding magazines and facilities for the storage of blasting agents shall be kept clear of combustible materials, except live trees over 10 feet tall, for a distance of 50 feet in all directions.

H. Prior to repairs of a magazine which may cause a fire or explosion, the contents shall be removed to a safe location and guarded.

I. Explosives stored in magazines shall be:

1. Arranged so that the oldest stock is used first;
2. Separated by brand and type;
3. Stored with their top sides up; and
4. Stacked in a stable manner not over ~~six~~ eight feet high.

J. When stored with other explosives, ammonium nitrate fuel oil blasting agents shall be physically separated to prevent contamination.

K. Damaged or deteriorated explosives and blasting agents shall be destroyed in a safe manner by a certified blaster.

4 VAC 25-40-790. Transportation.

A. Vehicles used to transport explosives shall be:

1. In good mechanical condition;
2. Posted with warning signs;
3. Provided with suitable fire extinguishers;

4. Provided with a nonsparking cargo area equipped with sides and tailgate;

5. Kept free of extraneous materials in the cargo area;

6. Operated at safe speeds over routes that expose the minimum number of personnel; and

7. Operated with the minimum number of persons required to safely transport the explosives.

B. Explosives and detonators shall be transported in separate vehicles unless they are separated by four inches of hardwood or the equivalent.

C. When explosives or detonators are transported by an ~~electrically-powered~~ electrically-powered vehicle, the cargo area shall be electrically insulated and covered.

D. Vehicles containing explosives shall not be left unattended or taken into a shop or building for any reason.

E. No person shall smoke while transporting explosives.

F. Explosives, detonators, or blasting agents shall not be transported on ~~man-trips~~ mantrips.

G. Explosives and detonators shall be transported in substantial, nonconductive, closed containers. Containers shall not be stacked higher than the sides or tailgate of the vehicle.

4 VAC 25-40-800. Use of explosives.

A. A certified blaster shall be in direct charge of blasting activities.

B. Persons who assist in blasting activities shall be under the direct supervision of the certified blaster in charge and shall be alerted to the hazards involved.

C. Black powder or safety fuse shall not be used without approval from the ~~division~~ director. Special approvals shall specify use restrictions and procedures necessary for safe storage, transportation, and use.

D. The design and loading of a blast shall provide sufficient burden, spacing, and stemming to prevent flyrock or other dangerous effects.

E. Boreholes shall not be drilled where there is a danger of intersecting a loaded or misfired hole.

F. No person shall smoke or use an open flame within 50 feet of explosives or detonators.

G. Prior to bringing explosives and detonators to the blast site:

1. Weather conditions shall be monitored to ensure safe loading and firing;
2. The blast site shall be inspected for hazards;
3. The boreholes shall be inspected and cleared of obstructions; and

4. Personnel and equipment, except those used in loading the shot, shall be removed from the ~~blasting area~~ *blast site*.

H. Boreholes to be blasted shall be loaded as near to the blasting time as practical. Loaded shots shall be blasted as soon as possible upon completion of loading *and connection to the initiation device*. Surface blasting shall be conducted during daylight hours only.

I. Explosives shall be kept a safe distance from detonators until they are made into a primer.

J. Primers shall not be made up or assembled in advance of the borehole being loaded.

K. Only wooden or other nonsparking implements shall be used to punch holes in an explosive cartridge.

L. Detonators shall be inserted completely and securely into explosive cartridges used as primers. Priming shall be sufficient to detonate the explosive column in the borehole.

M. Primers shall be inserted into the borehole slowly to prevent accidental detonation from impact, and tamping shall not be done directly on the primer.

N. Tamping poles shall be constructed of wood [~~and/or~~] nonsparking materials.

O. Unused explosives, detonators, and blasting agents shall be returned to the magazine or storage facility upon completion of loading activities and prior to firing the blast.

P. Equipment and machinery used to load or stem boreholes shall not be operated over loaded boreholes for any reason. Areas containing loaded boreholes shall be guarded or barricaded to prevent unauthorized entry.

Q. Blast warning signals shall be established and posted at the mine. Audible warning signals shall be given prior to firing a blast.

R. All personnel shall be removed from the ~~blasting blast~~ area prior to *connection to the initiation device and the firing of a blast*.

S. Blasting personnel shall fire shots from a safe location.

T. A post-blast examination of the ~~blasting blast~~ area shall be made by the certified blaster in charge. Other personnel shall not return to the blasting area until an all clear signal is received from the certified blaster.

4 VAC 25-40-810. Recordkeeping.

A detailed record of each surface blast shall be prepared immediately by the certified blaster. Records shall be maintained for three years and subject to inspection by the division mine inspectors. Records shall contain the following information:

1. Name of company or contractor;
2. Location, date, and time of blast;

3. Name, signature, and certification number of blaster in charge [- ;]

4. Type of material blasted;

5. Number of holes, burden and spacing;

6. Diameter ~~and~~, depth *and condition* of ~~holes~~ *boreholes*;

7. Types of explosives used;

8. Total amount of explosives used;

9. Maximum amount of explosives per delay period of eight milliseconds or greater;

10. Method of firing and type of circuit;

11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting;

12. Weather conditions (including such factors as wind directions, etc.);

13. Height or length of stemming;

14. Whether mats or other protections were used;

15. Type of detonators used and delay periods used;

16. The person taking the seismograph reading shall accurately indicate exact location of seismograph, if used, and shall also show the distance of seismograph from blast;

17. Seismograph records, including seismograph readings, where required:

- a. Name and signature of person operating seismograph;
- b. Name of person analyzing the seismograph record; and
- c. Seismograph reading [- ; and]

18. Maximum number of holes per delay period of eight milliseconds or greater.

4 VAC 25-40-820. Procedure where a misfire occurs during a blast.

~~The following procedures shall apply following a misfire:~~

~~1. A.~~ No person shall enter the blasting area for at least 15 minutes except in the case of safety fuse where special approvals apply.

~~2. B.~~ Misfires shall be disposed of in a safe manner by the certified blaster; ~~and~~.

~~3. C.~~ The ~~blasting blast~~ area shall be guarded or barricaded and posted with warning signs until the misfire has been cleared.

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4 VAC 25-40-830. When traffic to be stopped.

Prior to blasting near a ~~mine haul~~ *mine haul* road or public highway, traffic shall be stopped at a safe distance.

4 VAC 25-40-870. Streams and watercourses.

Surface blasting shall be prohibited if effects are liable to change the course or channel of any stream without a variance issued by the ~~division~~ *director*.

4 VAC 25-40-880. Ground vibration from surface blasting.

A. Ground vibration, measured as peak particle velocity, resulting from ~~surface~~ *surface* blasting, shall not exceed the limits ~~shown~~ *set forth* below at any inhabited building not owned or leased by the operator, without approval of the director, ~~Division of Mineral Mining~~. A *seismographic record shall be provided for each blast.*

Distance (D) to nearest inhabited building	Peak Particle Velocity inches per second	Scaled distance Ds <i>Scaled distance Ds (when not using a seismograph)</i>
0 - 300	1.25	50
301 - 5,000	1.00	55
5,001 and beyond	0.75	65

B. If seismic monitoring of each blast is not conducted, blasting shall be in accordance with the following *scaled distance* formulas:

$$W = \left(\frac{D}{D_s} \right)^2 \quad D_s = \frac{D}{\sqrt{W}}$$

W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or more.

D = Distance in feet from the blast site to the nearest inhabited building not owned or leased by the mine operator.

Ds = Scaled distance factor shown in table [~~above~~ *in subsection A of this section*].

C. *The operator may use the alternative ground vibration limits shown below to determine the maximum allowable ground vibration. If these limits are used, a seismographic record including both particle velocity and vibration frequency levels shall be kept for each blast. Ground vibration levels and airblast levels are taken from the Blasting Guidance Manual.*

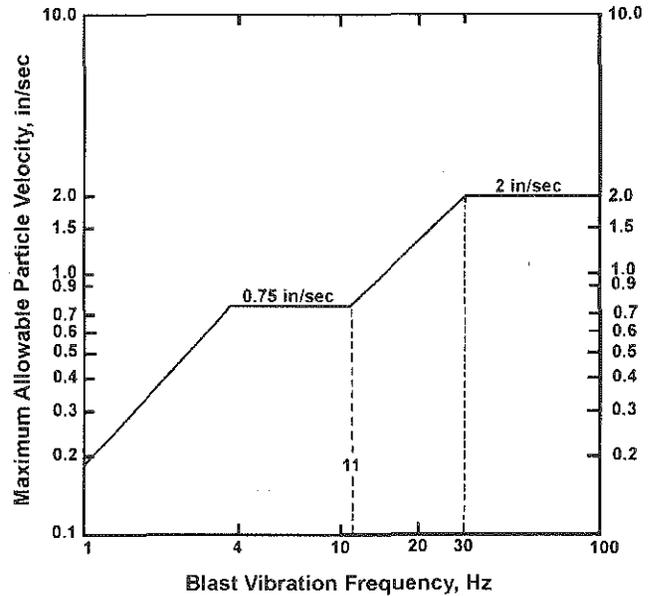


Figure 1. Alternative blasting level criteria.

(Source modified from figure B-1. Bureau of Mines R18507)

4 VAC 25-40-890. Noise Airblast limits.

Airblast resulting from surface blasting shall not exceed 129 ~~decibles~~ *decibels* at any private building not owned or leased by the mine operator unless a ~~higher level has been approved by the division~~ *alternate level based on the sensitivity of the seismograph microphone as specified below is being used.*

Lower Frequency Limit of Measuring System, in Hz	Max. Level in dB (± 3 dB)
1 Hz or lower--flat response*	134 peak
2 Hz or lower--flat response	133 peak
6 Hz or lower--flat response	129 peak
C-weighted slow response	105 peak dBC

*Only when approved by the director.

4 VAC 25-40-895. Lower vibration and airblast levels.

If necessary to prevent damage, the director may specify lower allowable ground vibration and airblast levels than those provided by 4 VAC 25-40-880 and 4 VAC 25-40-890.

4 VAC 25-40-900. Total weight of explosives.

The total pounds of explosives and blasting agent in any blast shall not exceed 40,000 pounds without the ~~written~~ *approval of the division director.*

4 VAC 25-40-910. Seismic testing and evaluation.

Seismic testing and evaluation to determine compliance with blasting regulations shall:

1. Utilize approved *acceptable* instrumentation which measures ~~both ground vibration and~~ *airblast; and vibration frequency when applicable[- ;]*

2. Be conducted and analyzed by a qualified ~~seismologist~~ *person*; and
3. Be conducted whenever directed by the division.

4 VAC 25-40-920. Electric detonators.

A. When electric detonators are used, an acceptable "~~Blaster's Galvanometer" or "Blaster's Multimeter"~~ *blaster's galvanometer or blaster's multi-meter* shall be used to test detonators, firing lines, series circuit, and total circuit resistance prior to firing.

B. Electric detonators of different brands shall not be used in the same blast.

C. Except when being tested with an acceptable instrument:

1. Electric detonators shall be kept shunted until they are connected into the series circuit;
2. Series circuits shall be kept shunted until they are connected onto the firing line; and
3. Firing line shall be kept shunted until immediately before blasting.

D. Blasting machines or other ~~approved~~ *acceptable* power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits to be used.

E. When electric detonators are used, sources of stray current to the blasting area shall be de-energized. Blasting activities shall be stopped immediately if stray current or static electricity in amounts sufficient to cause a premature detonation are encountered.

4 VAC 25-40-930. Nonelectric blasting.

A. When detonating cord manufactured with more than three grains per foot is used within 800 feet of inhabited buildings, not owned or leased by the ~~mine~~ operator, trunk lines shall be covered with at least six inches of loose earth *or other acceptable material*.

B. All detonating cord knots shall be tight and all connections kept at right angles to the trunk lines.

C. Detonators and delay connectors shall not be attached to exposed detonating cord by the certified blaster until the ~~blasting~~ *blast* area is cleared.

D. Detonating cord blasting shall use a double trunk line or loop system to ensure complete detonation.

E. Detonating cord trunk lines, in multiple row blasts, shall make one or more complete loops, with crossies between loops at intervals not more than 200 feet.

F. When using a gas-charged initiation system, the certified blaster shall ensure that all components are fully charged prior to firing the blast. The ~~blasting~~ *blast* area shall be cleared of personnel prior to charging the components.

G. Shock tube and other nonelectric detonation systems shall be used in accordance with manufacturers' recommendations.

PART VII.

DRILLING-SURFACE AND UNDERGROUND.

4 VAC 25-40-940. ~~Inspection of drilling area for hazards.~~ (Repealed.)

~~The drilling area shall be inspected for hazards by the certified foreman prior to personnel starting work. Any hazards found shall be eliminated prior to the start of drilling operations.~~

4 VAC 25-40-960. ~~Dust control systems.~~ (Repealed.)

~~Drills shall be provided with wet suppression or dry collection dust control systems. Drillers shall use such control systems to control dust during drilling operations.~~

4 VAC 25-40-970. Safe operation of drills.

Drillers shall inspect their work area for hazards prior to drilling; drills shall be operated from a safe position. *Any hazards found shall be eliminated before beginning drilling operations.*

4 VAC 25-40-1030. Hands to be kept clear.

Drillers shall not hold or rest their hands on any ~~moving~~ *rotating* part of a drill.

4 VAC 25-40-1060. ~~Moving hand-held handheld drills.~~

Prior to moving handheld *pneumatic* drills from one working area to another [,] the air shall be turned off and bled from the hose.

4 VAC 25-40-1070. ~~Handling of boulders.~~

Prior to drilling large boulders, drills shall be moved to a safe location and positioned securely in place.

4 VAC 25-40-1090. ~~Rotary jet piercing equipment.~~

Prior to using rotary jet piercing equipment, the ~~mine~~ operator shall obtain ~~written permission approval~~ from the ~~division~~ *which director* who shall specify safety procedures to be used *in operating this equipment*.

PART VIII.

COMPRESSED AIR, GASES, AND BOILERS-SURFACE AND UNDERGROUND.

4 VAC 25-40-1100. Boilers and pressure vessels.

Boilers and pressure vessels shall be constructed, installed, and maintained in accordance with the Boiler and Pressure Vessel ~~Rules and Regulations [(16 VAC 25-50-10 et seq.)] , 1974, amended effective 1986, issued by the Boiler and Pressure Vessel Safety Division of the Virginia Department of Labor and Industry.~~ Mine Operators shall, upon request, provide proof that the boiler or pressure vessel meets the Boiler and Pressure Vessel [~~Rules and~~] Regulations. Boilers and pressure vessels shall be inspected internally by an inspector ~~approved~~ *certified* by the Virginia

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Department of Labor and Industry at the time periods specified in the Boiler and Pressure Vessel Rules and Regulations. Records of such inspections shall be kept.

4 VAC 25-40-1130. ~~Compressor-air~~ Compressor-air intakes.

~~Compressor-air~~ Compressor-air intakes shall be installed to ~~insure~~ ensure that only clean, uncontaminated air enters the compressors.

4 VAC 25-40-1140. Draining compressed-air receivers.

Compressed-air receivers shall be drained of moisture and oil ~~at least once each day, oil, or carbon buildup in accordance with manufacturers' recommendations.~~

4 VAC 25-40-1180. Safety devices.

Safety devices on compressed-air systems shall be checked daily *by the operator or his agent.*

4 VAC 25-40-1200. Improper uses.

At no time shall compressed air be directed towards a person *unless a diffuser limiting pressure to no more than 30 pounds per square inch is used.*

4 VAC 25-40-1210. Locking devices.

Safety chains or suitable ~~locking~~ safety devices shall be used at connections to machines of ~~high-pressure~~ high pressure hose lines of ¾ inch inside diameter or larger, and between high pressure hose lines of ¾ inch inside diameter or larger, where a connection failure would create a hazard.

4 VAC 25-40-1220. Storage of oxygen cylinders.

~~Oxygen cylinders~~ Oxygen cylinders shall not be stored near oil or grease.

4 VAC 25-40-1250. Securing cylinders.

Compressed ~~air~~ gas or liquid gas cylinders shall be safely secured in an upright position.

4 VAC 25-40-1260. Valves and gauges to be protected.

Valves and gauges on compressed gas cylinders shall be protected ~~from falling material~~ by covers when being transported, and stored, or if a hazard from falling material exists when used.

4 VAC 25-40-1280. Boiler equipment and maintenance.

Boilers shall be equipped and maintained as follows:

1. Boilers shall be equipped with guarded, well-maintained water gauges and pressure gauges placed so that they can be observed easily. Water gauges and pipe passages to the gauges shall be kept clean and free of scale and rust;
2. Boilers shall be equipped with automatic pressure-relief valves; valves shall be opened manually at least once a week to determine that they will function properly;

3. Boiler installations shall be provided with acceptable safety devices to protect against hazards of flame outs, fuel interruptions, and ~~low-water~~ low water level; and

4. Blowoff valves shall be piped outside the building and shall have outlets so located or protected that persons passing by, near, or under them will not be scalded.

PART IX.

MOBILE EQUIPMENT-SURFACE AND UNDERGROUND.

4 VAC 25-40-1300. ~~Inspection by operators.~~ (Repealed.)

~~Equipment that is to be used during a shift shall be inspected by the equipment operator. Equipment safety defects shall be reported to the certified foreman in charge.~~

4 VAC 25-40-1310. ~~Correction of defects.~~ (Repealed.)

~~Equipment safety defects shall be corrected before the equipment used.~~

4 VAC 25-40-1320. Brakes on mobile equipment.

Powered mobile equipment shall be provided with adequate *service brakes capable of stopping and holding the equipment with its typical load on the maximum grade it travels.*

4 VAC 25-40-1340. Requirements for starting or moving equipment.

Equipment operators shall be certain, by signal or other means, that all persons are clear before starting or moving equipment.

4 VAC 25-40-1350. Construction of operators' cabs.

~~Operators' Cabs shall be constructed to permit operators to see without straining and shall be reasonably comfortable maintained to provide visibility for safe operation.~~

4 VAC 25-40-1370. Safety equipment.

Heavy duty mobile equipment manufactured after June 30, 1969, shall be equipped with approved acceptable roll-over protection structures (ROPS) and seatbelts seat belts. Equipment operators shall use the seatbelts seat belts provided.

4 VAC 25-40-1490. ~~Loading of railroad cars or trucks.~~ (Repealed.)

~~Railroad cars or trucks shall be loaded in such manner as to minimize spillage while enroute to a dumping site.~~

4 VAC 25-40-1540. Traffic rules.

Traffic rules, including speed, signals, and warning signs, shall be standardized at each mine and posted at each mine.

4 VAC 25-40-1550. Heating and cooling cabs.

~~Heavy duty mobile equipment with cabs shall be equipped with heaters, air conditioners, or both, maintained in good condition, where needed because of extreme weather conditions being operated in extreme weather conditions~~

shall use control measures to limit exposure of the equipment operator to extreme heat and cold.

4 VAC 25-40-1560. Getting on or off equipment.

When an operator is present, persons shall notify him before getting on or off *heavy duty mobile* equipment.

4 VAC 25-40-1580. Backup alarms.

A. An automatic backup alarm which is audible above surrounding noise levels shall be provided on heavy duty mobile equipment which has an obstructed view to the rear.

B. An automatic reverse-activated strobe light may be used at night in lieu of an audible reverse alarm.

4 VAC 25-40-1590. Railroad equipment.

Railroad equipment shall be installed, or maintained and operated by the operator as follows:

1. Public and permanent railroad crossing shall be posted with warning signs or signals or shall be guarded when trains are passing and shall be planked or otherwise filled between the rails;
2. Operators shall sound warning before starting trains and when trains approach crossing, other trains on adjacent tracks, persons, and any place where vision is obscured;
3. Persons shall not go over, under, or between cars unless the train is stopped and the motorman has been notified and the notice acknowledged;
4. Only authorized persons shall be permitted to ride on trains or locomotives and they shall ride in a safe position;
5. Movement of two or more pieces of rail equipment operating independently on the same track shall be regulated by an efficient signal block, telephone, or radio system; movements on complex haulage systems shall be adequately controlled if not under the supervision of a dispatcher;
6. Positive-acting ~~stop blocks~~ *stop blocks*, derail devices, track skates, or other adequate means shall be installed wherever necessary to protect persons from runaway or moving railroad equipment;
7. Whenever a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used;
8. Persons in charge of trains shall ~~insure~~ *ensure* that tracks are clear and personnel are in safe locations prior to moving trains;
9. Cars shall not be coupled or uncoupled manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from manual coupling;
10. Rocker-bottom or bottom-dump rail cars shall be equipped with locking devices;

11. Roadbeds, rails, joints, switches, frogs, and other elements on railroads shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage;

12. Switch throws shall be installed so as to provide adequate clearance for switchmen;

13. Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged;

14. Railcars shall not be left on side tracks unless ample clearance is provided for traffic on adjacent tracks;

15. Parked railcars, unless held effectively by brakes, shall be blocked securely;

16. Railroad cars with ~~breaking~~ *braking* systems, ~~when in use,~~ shall be equipped with effective brake shoes *when in use*;

17. Where necessary, bumper blocks, or the equivalent, shall be provided at all track ~~dead ends~~ *dead ends*; and

18. At least 30 inches continuous clearance from the farthest projection of moving railroad equipment shall be provided on at least one side of the tracks; all places where it is not possible to provide 30-inch clearance shall be marked conspicuously.

4 VAC 25-40-1670. Towing equipment.

A tow bar *and safety chain* shall be used to tow heavy equipment *that is not being operated under its own power*. ~~A safety chain shall be used in conjunction with the tow bar.~~

4 VAC 25-40-1685. Repairs or maintenance.

Repairs or maintenance shall not be performed on mobile equipment until tagged out. The power shall be off and the mobile equipment shall be blocked against hazardous motion, except where power or motion is necessary to make adjustments.

PART X.

PERSONAL PROTECTION-SURFACE AND UNDERGROUND.

4 VAC 25-40-1690. First aid materials.

~~Approved~~ *Suitable* first aid materials shall be provided. First aid materials shall be adequate for the number of employees and accessible to all work areas.

4 VAC 25-40-1740. Safety ~~belts~~ *or harnesses*.

A safety ~~belt~~ *or harness* with a line shall be worn when persons work where there is danger of falling; ~~when bins, tanks, or other dangerous areas are entered, a safety harness shall be worn and a second person shall tend the lifeline.~~ *Also see 4 VAC 25-40-2550.*

4 VAC 25-40-1780. Wearing of rings.

Finger rings shall not be worn while ~~working in or around a mine or plant operating or working on equipment or tools.~~

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4 VAC 25-40-1785. Light reflecting personal protection material.

Reflective tape or material shall be worn on the hats or clothing of persons working underground or during hours of darkness.

PART XI.

TRAVELWAYS-SURFACE AND UNDERGROUND.

4 VAC 25-40-1810. Safe access.

Safe means of access shall be provided and maintained to all ~~working places~~ work locations.

4 VAC 25-40-1880. Debris to be cleared.

~~Ladderways~~ Ladders, stairways, walkways, and ramps shall be kept free of loose rock and extraneous materials.

4 VAC 25-40-1940. Unguarded conveyors. (Repealed.)

~~Unguarded conveyors with walkways shall be equipped with emergency stop devices along their full length.~~

4 VAC 25-40-2010. Scaffolds and working platforms.

Scaffolds and working platforms shall be of substantial construction and provided with handrails and maintained in good condition. Floorboards shall be laid properly and the scaffolds and working platform shall not be overloaded. Working platforms shall be provided with ~~teeboards~~ toeboards when necessary.

4 VAC 25-40-2015. Installation of electrical circuits; supervision of electrical work.

A. Electrical equipment and circuits shall be installed in accordance with the standards in the National Electrical Code, unless provided for in this part.

B. All work on electric systems performed in accordance with the National Electrical Code and this part shall be done by, or under the supervision of, a certified electrical repairman or other appropriately licensed electrical repairman.

PART XII.

ELECTRICITY-SURFACE AND UNDERGROUND.

4 VAC 25-40-2040. Trailing cables of mobile equipment.

Individual overload protection and ~~short circuit~~ short circuit protection shall be provided for the trailing cables of mobile equipment.

4 VAC 25-40-2080. Making connections under load.

Trailing cable and ~~power cable~~ power cable connections to junction boxes shall not be made or broken under load.

4 VAC 25-40-2100. Avoiding power lines.

Telephone and electric signal wires shall be protected from contacting energized ~~powerlines~~ power lines.

4 VAC 25-40-2140. De-energizing electrical equipment.

~~Electrical equipment shall be de-energized before work is done on such equipment. Switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Electrically-powered equipment shall be de-energized before mechanical work is done on such equipment. Power switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individual working on it. Suitable warning notices shall be posted at the power switch and signed by the individuals doing the work. Such locks, tags or preventative other devices, shall be removed only by the persons person who installed them or by an authorized person personnel after ensuring that affected persons are in the clear.~~

4 VAC 25-40-2170. Clearance around equipment.

At least three feet of clearance shall be provided around all parts of stationary electric equipment or ~~switchgear~~ switch gear where access or travel is necessary.

4 VAC 25-40-2180. Nonconductive materials electrical safety mats.

Dry, wooden platforms, insulating mats, or other electrically nonconductive material shall be kept in place at all switchboards and power-control switches where shock hazards exist. However, metal plates on which a person normally would stand and which are kept at the same potential as the grounded, metal, noncurrent-carrying parts of the power switches to be operated may be used.

4 VAC 25-40-2210. Guarding connections and grids accessible equipment.

Electrical connections and resistor grids that are difficult or impractical to insulate shall be guarded, unless protection is provided by location.

4 VAC 25-40-2220. Grounding equipment.

All metal enclosed, electrically-operated circuits or equipment shall be grounded *back to the on-site source from which the electric circuit originates, and which is effectively connected to the earth* or provided with equivalent protection.

4 VAC 25-40-2250. Testing after installation or repair.

Continuity and resistance of grounding systems shall be tested immediately after installation, repair, and modification; and annually thereafter. A record of the resistance measured ~~during the most recent tests in each equipment ground conductor, grounding electrode conductor, and the earth around the grounding electrode shall be made, and the most recent test record shall be made available on a~~ upon request by the director or his ~~duly authorized representative~~ division mine inspector.

4 VAC 25-40-2260. ~~When inspections required.~~ (Repealed.)

~~Electric equipment and wiring shall be inspected by a competent person as often as necessary to assure safe operating conditions.~~

4 VAC 25-40-2270. Correcting dangerous conditions.

Electric equipment and wiring shall be inspected by a competent person as often as necessary to ensure safe operating conditions. When a potentially dangerous condition is found, it shall be corrected before equipment or wiring is energized.

4 VAC 25-40-2280. ~~Dusttight or watertight construction.~~ Dust-proof and water-proof electrical equipment.

Electric motors, switches, and controls exposed to damaging dust or water shall be of ~~dusttight~~ dust tight or watertight construction.

4 VAC 25-40-2300. ~~Hand held~~ Handheld electric tools.

~~Hand held~~ Handheld electric tools shall not be operated in excess of 130 volts.

4 VAC 25-40-2340. Fuse replacement tools.

Fuse tongs or ~~hot line~~ hot line tools shall be used when fuses are removed or replaced in electrical circuits.

4 VAC 25-40-2390. Lightning grounds.

~~Lightning arrester~~ Lightning-arrester grounds on trolley tracks shall be connected to earth at least 40 25 feet from the ~~track or underground mine return circuit opening.~~

4 VAC 25-40-2400. Overhead ~~powerlines~~ power lines.

Surface overhead ~~powerlines~~ power lines shall be installed and maintained as specified by the National Electrical Code, 1987 edition.

4 VAC 25-40-2410. Incompatible line installations.

Telegraph, telephone, or signal wires shall not be installed on the same crossarm with power conductors. When carried on poles supporting ~~powerlines~~ power lines, they shall be installed as specified by the National Electrical Code, ~~1987~~ edition.

4 VAC 25-40-2420. Safety in electrical storms.

Persons shall not stand on the ground in the vicinity of an ~~electrically powered~~ electrically-powered shovel or other similar heavy equipment during an electrical storm.

4 VAC 25-40-2440. Protecting ~~powerlines~~ power lines.

~~Powerlines~~ Power lines, including trolley wires, and telephone circuits, shall be protected against short circuits and lightning.

4 VAC 25-40-2450. Bare powerline power lines precautions.

Where metallic tools or equipment can come in contact with bare ~~powerlines~~ power lines, the lines shall be guarded or de-energized.

4 VAC 25-40-2480. Lightning ~~arresters~~ arrester for telephone circuits.

A lightning ~~arresters~~ arrester shall be provided where telephone circuits enter a mine; mine telephone extensions in surface buildings shall be provided with a lightning arrester for each circuit entering the building.

4 VAC 25-40-2490. Lighting ~~arresters~~ arrester for power circuits.

Each exposed power circuit that leads underground shall be equipped with a lightning ~~arresters~~ arrester of an acceptable type at or near the point where the circuit enters the mine.

4 VAC 25-40-2500. Moving equipment near ~~powerlines~~ power lines.

Electric wiring shall be installed in a manner to prevent fire and contact hazards. When equipment must be moved or operated near energized ~~powerlines~~ power lines and the clearance is less than 10 feet, the lines shall be de-energized or a warning sign posted or other precautionary measures shall be taken. Also see 4 VAC 25-40-3890.

4 VAC 25-40-2510. ~~Installation of electric wiring.~~ (Repealed.)

~~Electric wiring shall be installed in a manner to prevent fire and contact hazards.~~

PART XIII.

MATERIALS HANDLING-SURFACE AND UNDERGROUND.

4 VAC 25-40-2530. Protective Personal protection equipment.

Acceptable protective clothing, respiratory protection, gloves, and goggles or face shields, accepted by the National Institute for Occupational Safety and Health (NIOSH) or other approved agency, shall be worn by persons ~~handling~~ exposed to chemical substances that are corrosive, flammable, reactive, or toxic.

4 VAC 25-40-2540. Storage of materials.

Materials shall be stored and stacked in a manner which minimizes stumbling or ~~fall of material~~ fall of material hazards.

4 VAC 25-40-2550. ~~Areas where entrapment may occur.~~ Confined space hazard.

~~Persons working in bin~~ A safety harness attached to an attended life line shall be worn by persons before they enter bins, hoppers, silos, tanks, surge, or storage piles ~~shall not enter an area where they are exposed to entrapment by the caving or sliding of loose, unconsolidated material. No~~

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~~person~~ Persons shall not enter the above areas until the supply and discharge of materials has ceased and the supply and discharge equipment is locked out. No person shall enter an area where they are exposed to entrapment by the caving or sliding of loose, unconsolidated material. Also see 4 VAC 25-40-1740.

4 VAC 25-40-2590. ~~Taglines~~ Tag lines.

~~Taglines~~ Tag lines shall be attached to suspended loads that require steadying or guidance.

4 VAC 25-40-2610. Dropping elevated materials.

Materials shall not be dropped from an ~~elevation~~ excessive height unless the drop area is guarded or sufficient warning is given.

4 VAC 25-40-2650. Overhead crane equipment.

~~Operator carrying~~ Overhead cranes with operator cabs shall be provided with:

1. Bumpers at each end of each rail;
2. Automatic switches to halt uptravel of the blocks before they strike the hoist;
3. Effective audible warning signals within easy reach of the operator; and
4. A means to ~~lockout~~ lock out the disconnect switch.

4 VAC 25-40-2660. Overhead crane bridges.

No person shall work from or travel on the bridge of an overhead crane unless the bridge is provided with substantial ~~footwalks~~ foot-walks with ~~teeboards~~ toe-boards and railing the length of the bridge.

PART XIV. GUARDS.

4 VAC 25-40-2680. ~~Moving machine~~ Accessible moving parts.

~~Gears, sprockets, chains, drive, head, tail, and take-up pulleys, chain drives, flywheels, couplings, shafts, sawblades, fan inlets, saw and fan blades, and other similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons, are within seven feet reach by persons shall be guarded to prevent accidental contact.~~

4 VAC 25-40-2700. ~~Pulley guards. Conveyor guarding; conveyor belts and idlers.~~

~~Guards on conveyor drive, head pulley, and tail pulley shall extend a distance sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and pulley. A. Equipment guarding on conveyor drives, head pulleys, tail pulleys, and take-up pulleys that are within seven feet reach shall extend a sufficient distance to prevent a person from reaching behind, over, or under the guard and becoming caught in the moving parts. Other accessible, moving parts on the conveyor shall be guarded to prevent accidental contact.~~

B. Conveyor belts and idlers that are accessible from walkways shall be guarded or provided with emergency stop cords or railings positioned to prevent a person from falling on or against the moving belts or idlers.

4 VAC 25-40-2720. ~~Unguarded conveyors. Use of stop cords.~~

~~Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length. When emergency stop cords are used on conveyors with walkways, the cord shall extend along the full length of the conveyor.~~

4 VAC 25-40-2750. Maintenance of guards.

Guards shall be sufficiently strong and maintained to ~~provide required protection~~ prevent contact with moving parts. Guards shall not be required where the exposed moving parts are at least seven feet away from walking or working surfaces.

4 VAC 25-40-2760. ~~Where guards to be provided. Flying or falling material protection.~~

Guards or shields shall be provided in areas where flying or falling materials present a hazard.

PART XV.

SAFETY AND HEALTH REGULATIONS-UNDERGROUND ONLY.

Article 1.

Ground Control.

4 VAC 25-40-2770. Ground support.

A. Upon encountering suspected hazardous geological conditions, the operator shall suspend mining activities in the area until a ground control plan has been approved by the director.

B. Ground support shall be used if the operating experience of the mine, or any particular area of the mine, indicates that it is required. If it is required, support, including timbering, rock bolting, or other methods shall be consistent with the nature of the ground and the mining method used. Also see 4 VAC 25-40-440.

4 VAC 25-40-2790. ~~When ground conditions to be examined. Inspection of work area.~~

Miners shall examine and test the back, face, and ribs of their working places ~~areas, visually and by sounding,~~ at the beginning of each shift and frequently thereafter. ~~Supervisors~~ Competent persons shall examine the ground conditions during daily visits to ~~insure~~ ensure that proper testing and ground control practices are being followed. Loose ground shall be taken down or adequately supported before any other work is done. Ground conditions along haulageways and travelways shall be examined periodically and scaled or supported as necessary.

4 VAC 25-40-2800. Scaling bar to be provided.

A scaling bar of proper length and blunt on one end shall be provided where manual scaling may be required. Picks or other short tools shall not be used for scaling when this use places the user in danger of falling material.

4 VAC 25-40-2810. Timbers to be blocked or wedged.

Timbers used for support of ground in active working places areas shall be blocked or wedged tightly. Loosened or dislodged timbers shall be promptly repaired or replaced.

4 VAC 25-40-2820. Installation of ground support in shafts.

When necessary, permanent or temporary ground support shall be installed near enough to the bottom of the shaft during shaft sinking to prevent falls of rocks from the sides of the shaft.

4 VAC 25-40-2850. Acceptable rock-bolting materials.

Only rock-bolting materials acceptable to the ~~Mine Safety and Health Administration~~ MSHA or other approved agency shall be used.

4 VAC 25-40-2870. Rock-bolt torque tests.

Rock bolts used as a means of ground support and which require torquing shall be torqued to a value within the range determined from information obtained by tests in the strata in which the ~~rock-bolt~~ rock-bolt assembly is used. In no case shall the applied torque cause a bolt tension that would exceed the yield point or anchorage capacity of the rock-bolt assembly being used.

4 VAC 25-40-2880. Rock-bolt anchorage tests.

When rock bolts are used as a means of ground support, anchorage test procedures shall be established and tests shall be conducted to determine the anchorage capacity of rock-bolt installations. The results shall be in writing and made available to the director of ~~Division of Mineral Mining~~ or his duly authorized representative.

Article 2.

Fire Prevention and Control.

4 VAC 25-40-2910. ~~Fire alarm~~ Fire alarm systems.

~~Fire alarm~~ Fire alarm systems adequate to warn all employees shall be provided and maintained in operating condition.

4 VAC 25-40-2915. No smoking near flammable materials.

Signs shall be posted which prohibit smoking or an open flame within 25 feet of places where flammable materials are stored.

4 VAC 25-40-2920. Use of flammable materials underground.

No gasoline, benzene, kerosene, or other flammable ~~oil~~ petroleum products shall be used in powering machinery

underground without prior approval of the director of ~~the Division of Mineral Mining~~.

4 VAC 25-40-2930. Use of ~~liquified~~ liquefied petroleum gases.

The use of ~~liquified~~ liquefied petroleum gases shall be limited to maintenance work.

4 VAC 25-40-2980. ~~Underground fires~~ Open flame restrictions.

Fires shall not be built underground; open flame torches and candles shall not be left underground.

4 VAC 25-40-3000. Fire doors to be provided.

A. Fire doors shall be provided at shaft stations or other appropriate locations where necessary to prevent the spread of smoke or gas; the doors shall be equipped with latches operable from both sides. To confine or prevent the spread of toxic gases from a fire originating in an underground shop where maintenance work is routinely done on mobile equipment, one of the following measures shall be taken:

1. Use of control doors or bulkheads;
2. Routing of the mine shop air directly to an exhaust system;
3. Reversal of mechanical ventilation; or
4. Use of an automatic fire suppression system in conjunction with an alternate escape route.

The alternative used shall at all times provide at least the same degree of safety as control doors or bulkheads.

B. If used as an alternative, control doors and bulkheads shall:

1. Be constructed to serve as a barrier to fire, the effects of fire, and air leakage at each opening to the shop; and
2. Be constructed and maintained as follows:
 - a. So that, once closed, it will not reopen as a result of a differential in air pressure;
 - b. So that it can be opened from either side by one person or be provided with a personnel door that can be opened from either side;
 - c. To be clear of obstruction;
 - d. Provided with a means of remote or automatic closure unless a person specifically designated to close the door in the event of a fire can reach the door within three minutes;
 - e. If located 20 feet or more from exposed timber or other combustible material, the control doors or bulkheads shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at

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least equivalent to the door in fire and air-leakage resistance and in physical strength; and

f. If located less than 20 feet from exposed timber or other combustibles, the control door or bulkhead shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three quarters of an inch in thickness. The ~~woodgrain~~ *wood grain* of one layer shall be perpendicular to the ~~woodgrain~~ *wood grain* of the other layer. The wood construction shall be covered on all sides and edges with no less than 24-gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance and in physical strength. Roll down steel doors with a fire resistance rating of 1½ hours or greater, but without an insulation core, are acceptable, provided that an automatic sprinkler or deluge system is installed that provides even coverage of the door on both sides.

C. If routing of mine shop air to exhaust system is used as an alternative, routing the mine shop exhaust air directly to an exhaust system shall be done so that no person would be exposed to toxic gases in the event of a shop fire.

D. If mechanical ventilation is used as an alternative, reversal of mechanical ventilation shall be accomplished by a main fan. If the main fan is located underground:

1. The cable or conductors supplying power to the fan shall be routed through areas free of fire hazards; or
2. The main fan shall be equipped with a second, independent power cable or set of conductors from the surface. The power cable or conductors shall be located so that an underground fire disrupting power in one cable or set of conductors will not affect the other; or
3. A second fan capable of accomplishing ventilation reversal shall be available for use in the event of failure of the main fan; and
4. The mechanical ventilation shall provide rapid air reversal that allows persons underground time to exit in fresh air by the second escapeway or find a place of refuge and be done according to predetermined conditions and procedures.

E. If automatic fire suppression system and escape route is used as an alternative, the automatic fire suppression system and alternate escape route shall:

1. Be located in the shop area;
2. Be of the appropriate size and type for the particular fire hazards involved;
3. Be inspected at weekly intervals and properly maintained; and
4. In the case of the escape route, bypass the shop area so that the route will not be affected by a fire in the shop area.

4 VAC 25-40-3030. Welding or cutting near combustible materials.

When welding or cutting near combustible material, the surrounding area shall, if practical, be wet down thoroughly before and after work is done. A fire patrol of the area shall be maintained afterward for so long as necessary to ~~ensure~~ *ensure* that no danger of fire exists as determined by a responsible supervisor. In addition, when welding or cutting in shafts, winzes or raises, barriers, bulkheads or other protective measures shall be used to prevent injury to anyone working or traveling below.

4 VAC 25-40-3050. Mine rescue stations.

A mine rescue station equipped with at least 10 sets of approved and properly maintained two-hour, self-contained, breathing apparatus, adequate supplies, and spare parts shall be maintained at mines employing 75 or more persons underground or, in lieu thereof, the mine shall be affiliated with a central mine rescue station.

4 VAC 25-40-3070. Rescue apparatus.

Mine rescue apparatus acceptable to the ~~Mine Safety Health Administration (MSHA)~~ *MSHA* or other approved agency shall be properly maintained for immediate use. The equipment shall be tested at least once a month and records kept of the test.

4 VAC 25-40-3080. Rescue crews to be provided.

At any mine employing 75 or more persons underground, at least two rescue crews (10 persons) shall be trained at least annually in the use, care, and limitations of self-contained breathing and firefighting apparatus and in mine rescue procedures. Smaller mines shall have at least one person so trained for each 10 persons employed underground. *These persons shall complete, at minimum, an approved course of instruction as prescribed by MSHA's Office of Educational Policy and Development in the use, care, and maintenance of the type of breathing apparatus which will be used by the mine rescue team. The instruction shall be given by division personnel or by persons approved to give such instruction.*

4 VAC 25-40-3110. Mine evacuation drills.

Mine evacuation drills shall be held for each shift once every six months. These evacuation drills shall involve all employees each shift and shall include:

1. Activation of the ~~fire alarm~~ *fire alarm* system; and
2. Evacuation of all persons from their work areas to the surface or to designated central evacuation points at some time other than a shift change.

Records of such drills, showing the time and date, shall be kept for at least two years after each drill.

4 VAC 25-40-3120. Instruction in escape plans.

All employees involved in the escape and evacuation plan for an underground operation shall be instructed at least once

each calendar year on current escape and evacuation plans, ~~fire alarm~~ fire alarm signals, and applicable procedures to be followed in case of fire or other emergency. New employees shall receive such instructions before going underground. Whenever an employee is assigned to work in another area of the mine, he shall be instructed on the escapeway for that area at the time of such assignment. However, employees who normally work in more than one area of the mine shall be instructed at least once each calendar year in the location of escapeways for all areas of the mine in which they normally work or travel. Whenever a change is made in escape and evacuation plans and procedures for any area of the mine, all affected employees shall be instructed of such change. Records of instruction shall be kept for two years.

Article 3.

Air Quality, Radiation and Physical Agents.

4 VAC 25-40-3160. Oxygen content in mines.

Air in all active workings areas shall contain at least 19.5% volume oxygen as measured by an acceptable oxygen analyzer.

4 VAC 25-40-3170. ~~Installation of fans.~~ Ventilation.

Main fans shall be installed on the surface; if it is necessary to locate them underground, they shall be in fire-resistant areas and shall be provided with remote controls.

4 VAC 25-40-3220. Mine atmosphere test instruments.

Instruments shall be provided to test the mine atmosphere quantitatively for carbon monoxide, nitrogen dioxide, and other gases that occur in the mine. Tests shall be conducted as frequently as necessary by the operator to assure ensure that the required quality of air is maintained.

4 VAC 25-40-3230. ~~Flame safety lamps.~~ (Repealed.)

~~Flame safety lamps or other acceptable devices shall be used to test for oxygen deficiency.~~

4 VAC 25-40-3240. Access to unventilated inadequately ventilated areas.

~~Unventilated~~ Access to inadequately ventilated areas shall be sealed, or barricaded and posted against entry.

4 VAC 25-40-3280. Ventilation door closing.

When ventilation control doors are opened as a part of the normal mining cycle, they shall be closed as soon as possible to reestablish normal ventilation to ~~working places active areas.~~

4 VAC 25-40-3290. Sampling for radon gas.

Mine atmospheres shall be sampled to determine if hazardous concentrations of radon gas are present. Where potentially hazardous concentrations are found, or known sources of radon exist, each active work area shall be sampled as often as necessary by a competent person.

4 VAC 25-40-3300. Maximum annual exposure.

No person shall be permitted to receive an exposure to radon gas in excess of four working level months (WLM) in any calendar year.

4 VAC 25-40-3310. Maximum concentrations.

Persons shall not be exposed to air containing concentrations of radon gas exceeding 1.0 working level (WL) in active workings areas.

4 VAC 25-40-3320. Changes in permissible exposures.

If levels of permissible exposures to concentrations of radon gas differ from those prescribed in ~~Part V or XV this chapter [that]~~ are recommended by the Environmental Protection Agency and approved by the President of the United States, no employee shall be permitted to receive exposures in excess of those levels after the effective dates established by the director.

Article 4.

Explosives.

4 VAC 25-40-3325. Storage and use of explosives.

See 4 VAC 25-40-3475 on gassy mines for blasting requirements.

4 VAC 25-40-3328. Certified underground blaster.

Shots shall be fired by a certified underground blaster.

4 VAC 25-40-3330. Construction of underground storage magazines.

~~Box-type underground distribution~~ Main storage magazines used to store explosives or detonators near working faces shall be constructed with only nonsparking material inside and equipped with covers or doors and shall be located out of the line of blasts, 25 feet from roadways, power lines and in a reasonably dry place protected from roof and rib falls.

4 VAC 25-40-3340. Use of storage magazines.

~~Box-type underground distribution,~~ main storage magazines shall be used to store detonators or explosives other than blasting agents near working faces and shall be located not less than 50 feet from the face.

4 VAC 25-40-3350. Secondary Day-box magazines.

~~Secondary underground and box-type underground magazines~~ A. Day boxes shall be suitably labeled suitably.

B. Contents not used during the shift shall be returned to the main magazine at the end of each shift.

4 VAC 25-40-3420. Leaving blasting area; reentering blasting area.

A. In areas where dangerous accumulations of water, gas or mud could be encountered, persons shall be removed to safe places before blasting.

B. Blasting areas shall not be reentered after firing for a minimum time limit of 30 minutes and not until the

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concentration of smoke, dust, and fumes has been reduced to safe limits.

4 VAC 25-40-3430. Misfires to be reported.

Misfires shall be reported to the certified foreman. The blast area shall be ~~dangered off until misfired holes are disposed of. Where explosives other than black powder have been used, misfired holes shall be disposed of as soon as possible by one of the following methods: barricaded and posted with warning signs until the misfire has been disposed of by a certified underground blaster.~~

- ~~1. Washing the stemming and charge from the borehole with water;~~
- ~~2. Re-attempting to fire the holes if leg wires are exposed; or~~
- ~~3. Inserting new primers after the stemming has been washed out.~~

4 VAC 25-40-3450. Isolating explosives from static electricity.

Explosives, detonators, and blasting lines shall be isolated from sources of static electricity and stray currents and from extraneous ~~electric contact sources.~~

4 VAC 25-40-3460. Electric blasting.

Where electric blasting is to be performed, electric circuits ~~to~~ and equipment in the immediate area to be blasted shall be de-energized before explosives or detonators are brought into the area; the power shall not be turned on again until after the shots are fired.

4 VAC 25-40-3475. Blasting in gassy mines.

Blasts in gassy mines shall be initiated electrically, and multiple shot blasts shall be initiated with millisecond delay detonators. Permissible blasting units of capacity suitable for the number of holes in a round to be blasted shall be used unless the round is fired from the surface when all persons are out of the mine.

4 VAC 25-40-3478. Stemming.

Boreholes shall be stemmed as prescribed for the explosives used.

Article 5.
Drilling.

Article 6.
Loading, Hauling, and Dumping.

4 VAC 25-40-3590. ~~Man-trip~~ Mantrip cars.

Supplies, materials, and tools other than small ~~handtools~~ hand tools shall not be transported with persons in ~~man-trip~~ [~~mantrips~~ mantrip] cars. ~~Man-trip~~ [~~Mantrips~~ Mantrip] cars shall be operated independently of ore and supply trips.

4 VAC 25-40-3595. Transportation of miners.

A. Each mantrip shall be operated independently of any loaded trip of minerals or other material.

B. All miners, except the motorman and trip rider, shall ride inside the cars.

C. Miners shall remain seated while in moving mantrip cars, shall not board or leave moving mantrip cars, and shall proceed to and from mantrips in an orderly manner.

4 VAC 25-40-3620. Hazardous chute lips.

Warning devices, barricades or conspicuous markings shall be installed when chute lips create a hazard to personnel.

4 VAC 25-40-3660. Loosening ~~hangups~~ hang-ups.

Persons attempting to loosen ~~hangups~~ hang-ups shall wear and use safety belts with ~~taglines~~ tag lines or ropes to prevent their falling into the chute; if working near the chute opening, a bar sufficient in length to protect ~~him~~ the person from dislodged material shall be used.

4 VAC 25-40-3680. Design of shelter holes.

Shelter holes shall be at least four feet wide; marked conspicuously with lights ~~or~~, reflective signs ~~or~~, reflective tape ~~or~~, reflectors or luminous paint; provide a minimum of 40 inches clearance from the farthest projection of moving equipment; and shall not be used for storage of timber, tools, or other materials unless a 40-inch clearance is maintained.

4 VAC 25-40-3690. ~~Triplights~~ Trip lights.

~~Triplights~~ Trip lights or approved reflectors shall be used on the rear of pulled trips and on the front of pushed trips.

4 VAC 25-40-3700. Operation of ~~man-trip~~ [~~mantrips~~ mantrip] cars.

~~Man-trip~~ [~~Mantrips~~ Mantrip] cars shall be operated at speeds consistent with the condition of tracks and equipment used.

4 VAC 25-40-3710. Discharge and boarding points.

Where ~~man-trip~~ [~~mantrips~~ mantrip] cars are used, discharge and boarding points shall [be] designated. Persons shall not board or leave moving ~~man-trip~~ [~~mantrips~~ mantrip] cars.

4 VAC 25-40-3720. ~~Man-trip~~ Mantrip passengers.

~~Man-trip~~ ~~cars~~ Mantrip passengers shall ride on the side of the car opposite the trolley wire when the trolley wire is not centrally located unless covered [~~man~~ mantrip] cars are provided.

4 VAC 25-40-3830. Refuge areas.

Refuge areas shall be:

1. Of fire-resistant construction, preferably in untimbered areas of the mine;

2. Large enough to accommodate readily the normal number of persons in the particular area of the mine;
3. Constructed so they can be made gas-tight; and
4. Provided with compressed air lines, waterlines, suitable ~~handtools~~ *hand tools*, and stopping materials.

4 VAC 25-40-3840. Development of escape and evacuation plan.

A specific escape and evacuation plan, and revisions thereof, suitable to the conditions and mining system of the mine and showing assigned responsibilities of all key personnel in the event of an emergency shall be developed by the operator and set out in written form. A copy of the plan and revisions thereof shall be available to the director or an authorized representative. Also copies of the plans and revisions thereof shall be posted at locations convenient to all persons on the surface and underground. Such a plan shall be updated as necessary and shall be reviewed jointly by the operator and the director or his authorized representative at least once every six months from the date of the last review. The plan shall include:

1. Mine maps or diagrams showing directions of principal air flow, location of escape routes and locations of existing telephones or other voice communication devices (see 4 VAC 25-40-3120 and 4 VAC 25-40-3850);
2. A firefighting plan;
3. Surface procedure to follow in an emergency, including the notification of proper authorities [, and] preparing rescue equipment and other equipment which may be used in rescue and recovery operations; and
4. A statement of the availability of emergency communication and transportation facilities, emergency power and ventilation and location of rescue personnel and equipment.

4 VAC 25-40-3855. Communications.

Telephone service or equivalent two-way communication facilities shall be provided from underground working areas to the surface.

Article 7. Electricity.

4 VAC 25-40-3890. Bare power conductors wires and cables.

~~Trolley wires and bare power conductors shall be guarded at trip loading and unloading points and at shaft stations. Where such trolley wires and bare power conductors are less than 6½ feet above the rail, they shall be guarded at all points where persons work or pass regularly beneath. Wires and cables not encased in armor shall be supported by well-installed insulators and shall not touch combustible materials, roof, or ribs; however, this requirement shall not apply to ground wires, grounded power conductors, and trailing cables.~~

4 VAC 25-40-3930. Disconnecting switches.

Disconnecting switches that can be opened safely under load shall be provided underground at all primary power circuits near shafts, levels, and boreholes. *Disconnecting switches shall be installed underground in all main power circuits within approximately 500 feet of the bottoms of shafts and boreholes, and at other places where main power circuits enter the mine.*

4 VAC 25-40-3955. Fire precautions in transportation of mining equipment.

A. Prior to moving or transporting any unit of off-track mining equipment in areas of the active workings where energized trolley wires or trolley feeder wires are present:

1. The unit of equipment shall be examined by a certified person to ensure that accumulation of oil, grease, and other combustible materials have been removed from such unit of equipment; and
2. A qualified person shall examine the trolley wires, trolley feeder wires, and the associated automatic circuit interrupting devices to ensure that proper short circuit protection exists.

B. A record shall be kept of the examinations and shall be made available, upon request, to the director.

C. Off-track mining equipment shall be moved or transported in areas of the active workings where energized trolley wires or trolley feeder wires are present only under the direct supervision of a certified person who shall be physically present at all times during moving or transporting such equipment.

D. The frames of off-track mining equipment being moved or transported in accordance with this section shall be covered on the top and on the trolley wire side with fire-resistant material, where appropriate, as determined by the director.

E. Electrical contact shall be maintained between the mine track and the frames of off-track mining equipment being moved in-track and trolley entries, except that rubber-tired equipment need not be grounded to a transporting vehicle if no metal part of such rubber-tired equipment can come into contact with the transporting vehicle.

F. To avoid accidental contact with power lines [,] the equipment being transported or trammed shall be insulated or assemblage removed, if necessary, if the clearance to the power lines is six inches or less.

G. Sufficient prior notice shall be given the department so that a mine inspector may travel the route of the move before the actual move is made, if he deems it necessary.

H. A minimum vertical clearance of 12 inches shall be maintained between the farthest projection of the unit of equipment which is being moved and the energized trolley wires or trolley feeder wires at all times during the movement or transportation of such equipment. If the height of the seam

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of minerals does not permit 12 inches of vertical clearance to be so maintained, the following additional precautions shall be taken:

1. Electric power shall be supplied to the trolley wires or trolley feeder wires only from out by the unit of equipment being moved or transported. Where direct current electric power is used and such electric power can be supplied only from the equipment being moved or transported, power may be supplied from such equipment if a miner with the means to cut off the power, and in direct communication with persons actually engaged in the moving or transporting operation, is stationed out by the equipment being moved;

2. The settings of automatic circuit interrupting devices used to provide short circuit protection for the trolley circuit shall be reduced to not more than one-half of the maximum current that could flow if the equipment being moved or transported were to come into contact with the trolley wire or trolley feeder wire;

3. At all times the unit of equipment is being moved or transported, a miner shall be stationed at the first automatic circuit breaker out by the equipment being moved. Such miner shall be in direct communication with persons actually engaged in the moving or transporting operation and capable of communicating with the authorized person on the surface required to be on duty;

4. Where trolley phones are utilized to satisfy the requirements of subsection C of this section, telephones or other equivalent two-way communication devices that can readily be connected with the mine communication system shall be carried by the miner stationed at the first automatic circuit breaker out by the equipment being moved and by a miner actually engaged in the moving or transporting operation; and

5. No person shall be permitted to be in by the unit of equipment being moved or transported, in the ventilating current of air that is passing over such equipment, except those persons directly engaged in moving such equipment. The provisions of this section shall not apply to units of mining equipment that are transported in mine cars, provided that no part of the equipment extends above or over the sides of the mine car.

4 VAC 25-40-3958. Use of track as electrical power conductor.

The following standards shall apply where track is used as a power conductor:

1. Both rails of main line tracks shall be welded or bonded at every joint, and cross bonds shall be installed at intervals of not more than 200 feet. If the rails are paralleled with a feeder circuit of like polarity, such paralleled feeder shall be bonded to the track rails at intervals of not more than 1,000 feet.

2. At least one rail on secondary track haulage roads shall be welded or bonded at every joint, and cross bonds shall be installed at intervals of not more than 200 feet.

3. Track switches on entries shall be well-bonded.

4. Rails shall not be used as power conductors in rooms.

Article 8.

Personal Protection.

4 VAC 25-40-3980. Welding operations.

Welding operations shall be shielded and ~~well-ventilated~~ well-ventilated.

4 VAC 25-40-3990. Self-rescue devices to be made available.

A one hour self-rescue device approved by the ~~Division of Mineral Mining MSHA~~ shall be made available by the operator to all personnel underground. The self-rescue devices shall be maintained in a good condition by a daily visual check and weighing of the devices every six months, with maintenance records kept.

Article 9.

Safety Program.

4 VAC 25-40-4060. ~~Personnel instruction.~~ Mine emergency and self-rescue training.

A. On an annual basis all persons who are required to go underground shall be instructed in an approved course contained in ~~U.S. Department of Labor, the Bureau of Mines Instruction Guide 19, "Mine Emergency Training" (September 1972).~~ The instruction shall be given by ~~Division of Mineral Mining personnel or by persons approved to give such instruction.~~

B. On an annual basis all persons who go underground shall be instructed in the use of the individual self-rescuer provided to them. The instruction shall be given by ~~division of Mineral Mining~~ personnel or by persons who are approved by the ~~Division of Mineral Mining MSHA~~ to give such instructions; provided, however, that if a ~~division of Mineral Mining~~ instructor or an approved instructor is not immediately available, such instruction of new employees in self-rescuers may be conducted by competent persons.

Article 10.

Personnel Hoisting.

4 VAC 25-40-4090. Connecting driving mechanisms to ~~personal~~ personnel hoists.

Belts, ropes, or chains shall not be used to connect driving mechanisms to ~~personal~~ personnel hoists.

4 VAC 25-40-4100. Brakes on ~~personal~~ personnel hoists.

Any hoist used to hoist persons shall be equipped with a brake or brakes which shall be capable of holding its fully loaded cage, skip, or bucket at any point in the shaft.

4 VAC 25-40-4110. ~~Personal~~ Personnel hoist clutches.

The operating mechanism of the clutch of every ~~personal~~ personnel hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake, to prevent accidental withdrawal of the clutch.

4 VAC 25-40-4140. Overtravel prevention on ~~personal~~ personnel hoists.

All ~~personal~~ personnel hoists shall be provided with devices to prevent overtravel. When utilized in shafts exceeding 100 feet in depth, such hoists shall also be provided with ~~overspeed~~ over-speed devices.

4 VAC 25-40-4160. Overtravel by ~~pass~~ bypass switches.

When an overtravel ~~by pass~~ bypass switch is installed, the switch shall function so as to allow the conveyance to be moved through the overtravel position when the switch is held in the closed position by the hoist person. The overtravel ~~by pass~~ bypass switch shall return automatically to the open position when released by the hoist person.

4 VAC 25-40-4220. ~~Engine-powered~~ Engine-powered hoists.

Where any diesel or similar ~~fuel injection~~ fuel injection engine is used to power a hoist, the engine shall be equipped with a damper or other cutoff in its air intake system. The control handle shall be clearly labeled to indicate that its intended function is for emergency stopping only.

4 VAC 25-40-4230. Standards for wire ropes.

The ~~United States of America Standards Institute specifications cited in "Wire Rope for Mines" M11.1-1960, or the latest revision thereof,~~ American National Standard for Wire Rope for Miners shall be used as a guide in the selection, installation, and maintenance of wire ropes used for hoisting, except in those instances where the recommendations cited herein are more stringent.

4 VAC 25-40-4260. ~~End attachment replacement.~~ Wire rope examination.

A. Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

B. At least once every 14 calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change of layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

C. Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous 14 calendar days, the wire rope shall be examined in accordance with subsection B of this section.

D. At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made:

1. Wherever wear is evident;
2. Where the hoist rope rests on sheaves at regular stopping points; and
3. Where the hoist rope leaves the drum at regular stopping points and at drum crossover and change of layer regions.

E. At the completion of each examination required by subsections B, C and D of this section, the person making the examination shall certify by signature and date that the examination has been made. If any condition listed in subsection D of this section is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

F. The person making the measurements or nondestructive tests as required by subsection D of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

4 VAC 25-40-4280. ~~Attaching ropes to loads.~~ Load end attachment.

The rope shall be attached to the load by the thimble and clip method, the socketing method, or other approved method. If the socketing method is employed, zinc or its equivalent shall be used. The use of Babbitt metal or lead for socketing wire ropes is prohibited. If the thimble and clip method is used, the following shall be observed:

1. The rope shall be attached to the load by passing one end around an oval thimble that is attached to the load bending the end back so that it is parallel to the long or "live" end of the rope and fastening the two parts of the rope together with clips.
2. The u-bolt of each clip shall encircle the short or "dead" end of the rope and the distance between clips shall not be less than the figures given in the accompanying table.
3. As a minimum, the following number of clips or equivalent shall be used for various diameters of six-strand 19-wire plow steel ropes:

(Follow manufacturer's recommendations for other kinds of wire, rope and clips).

Diameter of rope, inches	Number of clips	Center to center spacing of clips, inches
3/4	4	4-1/2
7/8	4	5-1/4
1	4	6
1-1/8	5	6-3/4
1-1/4	5	7-1/2

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1-3/8	6	8-1/4
1-1/2	6	9
1-5/8	6	9-3/4
1-3/4	7	10-1/2
1-7/8	8	11-1/4
2	8	12
2-1/8	8	13
2-1/4	8	14

Follow manufacturer's recommendations for other kinds of wire, rope and clips.

4. For all ropes less than 3/4 inch in diameter, at least four clips or equivalent shall be used.

5. When special conditions require the attachment of a sling to the hoisting cable to handle equipment in the shaft, the sling shall be attached by clips or equivalent in accordance with the table in subdivision 3 of this section.

4 VAC 25-40-4290. New ropes.

New ropes shall be broken in ~~in accordance with~~ according to the manufacturer's recommendations.

4 VAC 25-40-4320. Headframes and sheaves.

Headframes and sheaves shall be designed and constructed to withstand pulls by the hoists greater than the breaking strengths of the hoist ropes.

4 VAC 25-40-4330. Clearance requirements.

Headframes shall be high enough to provide at least 15 feet of clearance between the bottom of the sheave or drum and the uppermost part of the highest rope connection of the conveyance when the conveyance is at its uppermost person-landing area.

4 VAC 25-40-4350. Platforms.

Platforms with ~~toeboards~~ toe-boards and handrails shall be provided around elevated head sheaves.

4 VAC 25-40-4430. Use of manually-operated hoists.

When a manually-operated hoist is used, a qualified hoist person approved by the director shall remain within hearing of the telephone or signal device at all times while any person is underground.

4 VAC 25-40-4440. Use of automatic hoists.

When automatic hoisting is used, a competent hoist person approved by the director shall be in attendance on the premises while any person is underground.

4 VAC 25-40-4460. Competency of hoist persons.

Only competent hoist persons approved by the director shall operate the hoist except in cases of emergency and in the training of new hoist persons.

4 VAC 25-40-4540. Persons in charge.

Authorized persons shall be in charge of all ~~man-trips~~ mantrips.

4 VAC 25-40-4590. When skips to shall be empty.

When combinations of cages and skips are used, the skips shall be empty while persons are being transported.

4 VAC 25-40-4650. Where buckets to be stopped on raising.

Buckets shall be stopped after being raised three feet when persons are hoisted from the bottom; a second hoisting signal shall be given after the bucket has been stabilized. Hoisting shall be at a minimum speed and the ~~bellcord~~ bell cord shall be attended constantly until the crosshead has been engaged.

4 VAC 25-40-4750. Qualifications of persons giving signals.

Any person responsible for receiving or giving signals for cages, skips, and ~~man-trips~~ mantrips when persons or materials are being transported shall be familiar with the posted signaling code.

4 VAC 25-40-4770. ~~Stopblocks~~ Stop blocks or derail switches.

Positive ~~stopblocks~~ stop blocks or a derail switch shall be installed on all tracks leading to a shaft collar or landing.

4 VAC 25-40-4910. Lubrication of ropes.

Ropes shall be kept well-lubricated from end to end as recommended by the manufacturer.

4 VAC 25-40-4920. Cutting of ropes for inspections.

On other than friction hoists, ropes shall be cut off and reconnected to the conveyance as often as necessary to ~~assure~~ ensure adequate inspection of rope condition and to distribute wear of the rope. At least six feet shall be cut from the rope above the highest connection; this portion shall be examined carefully for corrosion, damage, wear, and fatigue by the rope manufacturer or a ~~competent~~ an acceptable agency.

4 VAC 25-40-4970. Testing on each shift.

Hoist persons shall examine their hoists and shall test overtravel, ~~deadman~~ dead man controls, position indicators, and braking mechanisms at the beginning of each shift.

4 VAC 25-40-4980. Testing with empty conveyances.

Empty conveyances shall be operated up and down shafts at least one round trip before hoisting persons after any shaft or equipment repairs and before regular ~~man-trips~~ mantrips are hoisted or lowered.

4 VAC 25-40-5040. ~~Removing persons before blasting-~~ (Repealed.)

~~In areas where dangerous accumulations of water, gas, mud, or fire atmosphere could be encountered, persons shall be removed to safe places before blasting.~~

4 VAC 25-40-5050. ~~Communications to be provided.~~ (Repealed.)

~~Telephone service or equivalent two-way communication facilities shall be provided from underground working areas to the surface.~~

Article 11. Gassy Mines.

4 VAC 25-40-5060. Gassy mines.

A mine shall be deemed gassy and thereafter operated as a gassy mine if:

1. Flammable gas emanating from the ~~orebody of ore body~~ or the strata surrounding the ~~orebody ore body~~ has been ignited in the mine;
2. A concentration of 0.25% or more, by air analysis, of flammable gas emanating only from the ~~orebody ore body~~ or the strata surrounding the ~~orebody as ore body~~ has been detected not less than 12 inches from the back, face, or ribs in any open workings; or
3. The mine is connected to a gassy mine.

4 VAC 25-40-5070. Effect of detection of flammable gases.

Flammable gases detected only while ~~unwatering draining~~ mines or flooded sections of mines, or during other mine reclamation operations, shall not be used to permanently classify a mine gassy. During such periods that any flammable gas is present in the mine, the ~~affected gassy area~~ of the mine shall be operated in accordance with appropriate standards in ~~4 VAC 25-40-5060 thru 4 VAC 25-40-5120~~ of this ~~chapter article~~.

4 VAC 25-40-5120. Installation of main fans.

Main fans shall be:

1. Installed on the surface;
2. Powered electrically from a circuit independent of the mine power circuit. Internal combustion engines shall be used only for standby power or where electrical power is not available;
3. Installed in fireproof housing provided with fireproof air ducts;
4. Offset not less than 15 feet from the nearest side of the mine opening and equipped with ample means of pressure relief unless:
 - a. The opening is not in direct line with forces which would come out of the mine should an explosion occur; and
 - b. Another opening not less than 15 feet nor more than 100 feet from the fan opening is equipped with a ~~weakwall weak wall~~ stopping or explosion doors in direct line with the forces which would come out of the mine should an explosion occur;

5. Installed to permit prompt reversal of airflow; and

6. Attended constantly or provided with automatic devices to give alarm when the fans slow down to stop. Such devices shall be placed so they will be seen or heard by responsible persons.

4 VAC 25-40-5170. Failure of ventilation.

When there has been a failure of mine ventilation other than a failure of a main fan as described in 4 VAC 25-40-5160, the operator shall:

1. Withdraw all persons from the ~~affected unventilated active workings areas~~; and
2. De-energize the power in ~~affected unvented active workings areas~~. The power shall not be restored or persons permitted to reenter the affected active ~~workings areas~~ until a ~~competent person certified foreman~~ has determined that the flammable gas concentration in such active ~~workings areas~~ is less than 1.0%.

4 VAC 25-40-5180. Inspection after ventilation failure.

When ventilation is not restored in a reasonable time, all persons shall be removed from the ~~affected areas affected~~; after ventilation has been restored, the areas affected shall be examined by a certified foreman for gas and other hazards and made safe before power is restored and before persons, other than the examiners and other authorized persons, return to the areas affected.

4 VAC 25-40-5200. Operation of booster fans.

Booster fans shall be:

1. Operated by permissible drive units maintained in permissible condition;
2. Operated only in air containing less than 1.0% flammable gas; and
3. Kept in continuous ~~operations operation~~ when persons are in active ~~workings areas~~ of the mine affected by such fans.

4 VAC 25-40-5210. Equipping booster fans.

Booster fans shall be:

1. Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground;
2. Equipped with a device that automatically de-energizes the power in ~~affected unventilated active workings areas~~ should the fan system malfunction; and
3. Equipped with two sets of controls capable of starting, stopping, and reversing the fans. One set of controls shall be located at the fans. A second set of controls shall be at another location remote from the fans.

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4 VAC 25-40-5230. Inspection of auxiliary fans.

Auxiliary fans shall be inspected by ~~competent~~ persons approved by the director at least twice each shift.

4 VAC 25-40-5290. Intake air for pumps and compressors.

~~Electrically—operated~~ *Electrically-operated* pumps, compressors, and portable substations shall be in intake air.

4 VAC 25-40-5310. Adjustments in ventilation.

If flammable gas in excess of 1.0% by volume is detected in the air not less than 12 inches from the back, face and rib of an underground ~~working—place~~ *active area*, or in air returning from a ~~working—place—~~ *places an area or areas*, adjustments shall be made in the ventilation immediately so that the concentration of flammable gas in such air is reduced to 1.0% or less.

4 VAC 25-40-5320. Detection of flammable gas.

If 1.5% or higher concentration of flammable gas is detected in air returning from an underground ~~working—place~~ *area or areas*, the persons shall be withdrawn and the power cut off to the portion of the mine endangered by such flammable gas until the concentration of such gas is reduced to 1.0% or less.

4 VAC 25-40-5330. Use of air passing by opening of unsealed abandoned area to ventilate.

Air that has passed by an opening of any unsealed abandoned area and contains 0.25% or more of flammable gas shall not be used to ventilate working areas. Examinations of such air shall be conducted during the ~~pre-shift~~ *pre-shift* examinations required by 4 VAC 25-40-5510 [~~of this chapter~~].

4 VAC 25-40-5340. Use of air passing through abandoned panels to ventilate.

Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any working ~~place~~ *area* in such mine. No air which has been used to ventilate any area from which the pillars have been removed shall be used to ventilate any working ~~place~~ *area* in such mine, except that such air, if it does not contain 0.25% by volume or more of methane, may be used to ventilate enough advancing working ~~places~~ *areas* immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

4 VAC 25-40-5370. ~~Seal fittings.~~ *Fitting of seals for atmosphere sampling and pressure measurement.*

One or more seals of every sealed area shall be fitted with a pipe and a valve or cap to permit sampling of the atmosphere and measurement of the pressure behind such seals.

4 VAC 25-40-5400. Line brattices.

Line brattices or other suitable devices shall be installed from the last open crosscut to a point near the face to ~~assure~~

ensure positive air flow to the face of every active underground working ~~place~~ *area*, unless the director or his authorized representative permits an exception to this requirement.

4 VAC 25-40-5450. ~~Stopping in crosscuts.~~ *Construction specifications for stoppings.*

Stoppings in crosscuts between intake and return airways, ~~en—entries~~ other than room entries, shall be built of solid, substantial material; exposed surfaces shall be made of fire-resistant material, or if the material mined is combustible, stoppings shall be made of incombustible material.

4 VAC 25-40-5470. Installation of air locks.

The main ventilation shall be so arranged by means of air locks, overcasts, or undercasts that the passage of trips or persons does not cause interruptions of air currents. Where air locks are ~~impracticable~~ *impractical*, single doors may be used if they are attended constantly while the areas of the mine affected by the doors are being worked, unless they are operated mechanically or are self-closing.

4 VAC 25-40-5550. Frequency and method of examinations.

Examinations for dangerous conditions including tests for flammable gas with an acceptable device shall be made at least once each week, and at intervals of not more than seven days, by the certified foreman, except during weeks in which the mine is idle for the entire week.

The certified foreman shall:

1. Examine and make tests:
 - a. In the return of each split where it enters the main return;
 - b. On accessible pillar falls;
 - c. At seals;
 - d. In the main return;
 - e. In at least one entry of each intake and return airway in its entirety;
 - f. In idle workings; and
 - g. In abandoned workings, insofar as conditions permit;
2. Mark his initials and the date at the places examined;
3. Report dangerous conditions promptly to the mine operator or other designated person; and
4. Record the results of the examination with ink or indelible pencil in a book kept for that purpose at a designated place on the surface of the mine.

4 VAC 25-40-5580. Airflow to be maintained.

Airflow shall be maintained in all intake and return air courses of a mine. When multiple main fans are used, such

ventilation systems shall not develop ~~neutral areas~~ (areas without perceptible air movement).

4 VAC 25-40-5590. Fan installation doors.

In mines ventilated by a combination of multiple blowing or multiple exhausting fans, each main fan installation shall be equipped with ~~non-combustible~~ *noncombustible* doors designed and positioned so that, in the event of failure of a main fan, these doors will automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which would come out of the mine, should an explosion occur.

4 VAC 25-40-5630. Permissible distribution boxes required.

Only permissible distribution boxes shall be used in working ~~places and other places~~ *areas and other areas* where dangerous quantities of flammable gas may be present or may enter the air current.

4 VAC 25-40-5660. Permissible or approved explosives.

Only permissible *or other types of* explosives approved by the director shall be used in gassy mines.

4 VAC 25-40-5670. Written list of conditions.

The division of Mineral Mining and the director, in granting approval referred to in 4 VAC 25-40-5660 of this chapter, shall provide the operator with a written list of conditions for using the specific explosives covered by the approval and adapted to the mining operation.

4 VAC 25-40-5680. Initiating blasts. (Repealed.)

~~Blasts in gassy mines shall be initiated electrically, and multiple shot blasts shall be initiated with millisecond delay detonators. Permissible blasting units of capacity suitable for the number of holes in a round to be blasted shall be used unless the round is fired from the surface when all persons are out of the mine.~~

4 VAC 25-40-5690. Stemming boreholes. (Repealed.)

~~Boreholes shall be stemmed as prescribed for the explosives used.~~

4 VAC 25-40-5710. Limitations on firing shots.

Shots or rounds shall not be fired in places where flammable gas can be detected with a permissible flame safety lamp, or where 1.0% or more of flammable gas can be detected by any other Division of Mineral Mining MSHA approved device or method, at a point not less than 12 inches from the back, face and rib. See Article 4 (4 VAC 25-40-3325 et seq.) of this part for blasting requirements.

4 VAC 25-40-5720. Certified blasters. (Repealed.)

~~Shots shall be fired by a certified blaster.~~

PART XVI.

MISCELLANEOUS SURFACE AND UNDERGROUND.
MINING NEAR GAS AND OIL WELLS.

4 VAC 25-40-5730. Personnel hoisting cranes. (Repealed.)

~~Personnel hoisting crane requirements are as follows:~~

- ~~1. The rated capacity of the crane at the radius at which the lift will be made shall be divided by four, and this limit shall not be exceeded.~~
- ~~2. A full cycle operational test lift shall be made prior to lifting of employees. The platform shall carry twice the intended load during the test lift.~~
- ~~3. All lifts shall be made in accordance with the manufacturer's lifting recommendations.~~
- ~~4. The stability of the footing shall be verified during the full cycle operational test.~~
- ~~5. The load line on which the platform is suspended will have control load lowering. The free fall option shall not be used with suspended work platforms.~~
- ~~6. The operating mechanism of the clutch of every man-hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake, to prevent accidental withdrawal of the clutch.~~
- ~~7. Any boom crane used to hoist personnel shall be equipped with a brake or brakes which shall be capable of holding the work platform at any point.~~
- ~~8. Lifting bridles on working platforms suspended from cranes shall consist of four legs so attached that the stability of the platform is ensured. The lifting bridle on working platforms suspended from cranes shall be secured by a shackle or attached by a closed hook which cannot open due to load position in the hook.~~
- ~~9. Platforms and their components must be capable of supporting, without failure, at least four times the maximum intended load. The platform shall be enclosed with a guardrail system including a top guardrail of approximately 42 inches, a midrail and a toeboard capable of keeping personnel and materials secured. Also:

 - ~~a. The number of employees to be hoisted shall be kept to a minimum and in no case shall the number exceed four;~~
 - ~~b. Employees using the platform shall be considered to weigh 250 pounds each;~~
 - ~~c. The platform shall not be used during high winds, electrical storms, snow, or other adverse weather conditions which could endanger employees on the platform;~~
 - ~~d. A safety cable shall be attached from the hook to the work platform which would be capable of~~~~

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supporting the suspended load in an upright position in the event of a failure of the main lifting bridle;

~~e. Personnel shall not ride on work platform with supplies, materials, or tools other than small hand tools; and~~

~~f. A standard code of hoisting signals shall be used; one person shall be designated to give hoisting signals.~~

4 VAC 25-40-5740. Wire rope requirements. (Repealed.)

~~A. Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions exist:~~

- ~~1. The number of broken wires exceeds either:
 - a. Five percent of the total number of wires; or
 - b. Fifteen percent of the total number of wires within any strand;~~
- ~~2. On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length;~~
- ~~3. A loss of more than one third of the original diameter of the outer wire;~~
- ~~4. Rope deterioration from corrosion;~~
- ~~5. Distortion of the rope structure;~~
- ~~6. Heat damage from any source; or~~
- ~~7. Diameter reduction due to wear that exceeds 6.0% of the baseline diameter measurement;~~

~~B. For load end attachments:~~

- ~~1. Wire rope shall be attached to the load by a method that develops at least 80% of the nominal strength of the rope;~~
- ~~2. Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer; and~~
- ~~3. Load end attachment methods using splices are prohibited.~~

~~C. For drum end attachments, wire rope shall be replaced when:~~

- ~~1. More than one broken wire at an attachment;~~
- ~~2. Improper installation of an attachment;~~
- ~~3. Slippage at an attachment; or~~
- ~~4. Evidence of deterioration from corrosion at an attachment.~~

~~D. Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.~~

~~E. Safety devices attached to hoist ropes shall be selected, installed, and maintained according to manufacturers' specifications to minimize internal corrosion and weakening of the hoist rope.~~

4 VAC 25-40-5750. Notice of intent to mine near gas or oil wells.

A. Before removing minerals, or extending any mine workings or mining operations within 500 feet of any permitted gas or oil well, or gas or oil well being drilled, the operator of such mine shall give notice by certified mail to the well operator, the gas and oil inspector and the director, and shall forward with the notice an accurate map or maps on a scale of 400 feet to the inch showing its mine workings and projected mine workings beneath the tract of land or within 500 feet of the gas or oil well.

B. After giving notice and furnishing the map, the operator may proceed with mining operations as shown on the map, but shall not remove minerals or conduct any mining operations nearer than 200 feet to any permitted well or well that is being drilled without the consent of the director.

4 VAC 25-40-5760. Application for mining near gas or oil wells.

A. Application may be made at any time to the director by the operator for an approval to conduct mining operations within 200 feet of any permitted gas or oil well, or gas or oil well being drilled, on forms furnished by the director and containing such information as the director may require.

B. The application shall be accompanied by a map or maps as specified in Chapter 16 (§ 45.1-180 et seq.) of Title 45.1 of the Code of Virginia showing all mining operations or workings projected within 200 feet of the well.

C. Notice of the application shall be sent by certified mail to the well operator and the gas and oil inspector. The notice shall inform the well operator of the right to object to the proposed mining activity. Objections must be filed with the director within 15 days after notice is received by the objecting person.

D. The director may, prior to considering the application, make or cause to be made any inspections or surveys which he deems necessary, and may, if no objection is filed by the well operator or the gas and oil inspector within 15 days after the notice is received, grant the request of the operator to conduct the mining operations as projected, or with such modifications as he may deem necessary.

E. If the well operator or gas and oil inspector files objections, a hearing will be held under the same procedures as set forth in § 9-6.14:11 of the Code of Virginia.

F. If the applicant for an approval to mine within 200 feet of a gas or oil well submits proof in writing that none of the persons required to be notified under this section has any objection to the projected mining activity, then the director may waive the notice requirement under this section and

grant the request of the operator to conduct the projected mining activity, provided all other conditions have been met.

4 VAC 25-40-5770. Mining plan.

When mining within 200 feet of a gas or oil well, the mine operator shall submit a plan showing projected pillars of minerals to be left unmined around each well. The pillars shall be situated so that each well is centered within a pillar. The excavated areas adjacent to any pillar may not exceed 20 feet in width without prior approval from the director. In no circumstances may the narrowest pillar dimension be less than twice the width of the excavated area.

4 VAC 25-40-5780. Approval to mine near plugged gas or oil well.

A. Applications may be made at any time to the director on forms furnished by the director and containing such information as the director may require by the operator for a permit to mine through a plugged gas or oil well. The application shall be accompanied by a map or maps as specified showing all mining operations or workings projected through the area of the well.

B. Notice of such application shall be sent by certified mail to the well operator and, in the case of mining through a well, to the gas and oil inspector. The notice shall inform the well operator and the gas and oil inspector of the right to object to the proposed mining activity. The objections must be filed with the director within 15 days after notice is received. The application also shall contain information necessary to establish that:

1. The well has been adequately plugged for the purpose of safely mining through, and
2. No oil, gas or fluids can migrate into the mine workings.

C. The director may, prior to considering the application, make or cause to be made any inspections or surveys which he deems necessary and may, if no objection is filed by the well operator or the gas and oil inspector within 15 days after notice is received, grant the request of the operator to conduct the mining operations as projected or with such modifications as he may deem necessary.

D. If the well operator or gas and oil inspector files an objection, a hearing will be held under the same procedures as set forth in § 9-6.14:11 of the Code of Virginia.

E. If the applicant for a permit to mine through a gas or oil well submits proof in writing that none of the persons required to be notified under this section has any objection to the projected mining activity, then the director may waive the notice requirement under this section and grant the request of the operator to conduct the projected mining activity, provided all other conditions have been met.

VA.R. Doc. No. R97-10; Filed April 22, 1998, 10:49 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF CORRECTIONS

REGISTRAR'S NOTICE: The repeal of 6 VAC 15-60-10 et seq. is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Corrections will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

The promulgation of 6 VAC 15-61-10 et seq. is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1 B 9 and 10, which exempts agency action relating to inmates of prisons or other such facilities or parolees therefrom, and relating to the custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

Title of Regulation: 6 VAC 15-60-10 et seq. Virginia Probation and Parole Standards (REPEALED).

VA.R. Doc. No. R98-237; Filed April 22, 1998, 11:51 a.m.

Title of Regulation: 6 VAC 15-61-10 et seq. Standards for State Community Correctional Units.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Effective Date: September 1, 1998.

Summary:

This regulation represents completely revised operational and management standards for state-operated probation and parole offices, detention centers, diversion centers, day reporting centers, and boot camps. The Board of Corrections is simultaneously repealing the current Virginia Probation and Parole Standards, 6 VAC 15-60-10 et seq.

Agency Contact: Copies of the regulation may be obtained from Woody Woodard, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3237.

**CHAPTER 61.
STANDARDS FOR STATE COMMUNITY CORRECTIONAL UNITS.**

**PART I.
INTRODUCTION.**

6 VAC 15-61-10. Definitions.

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

"Arrest Authority (PB-15)" means a warrant issued for the arrest and detention of a delinquent offender.

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"Boot Camp (Shock Incarceration Program)" means a highly regimented military style residential program, supplemented with educational programming, and which is restricted to youthful, nonviolent offenders.

"Case record" means a confidential written record regarding an offender which includes documentation of all action which has occurred.

"Chemical agent" means an active substance, such as tear gas, used to deter activities that might cause personal injury or property damage.

"Commissary" means a general store where offenders can purchase approved items.

"Community correctional facilities" means diversion centers, detention centers, and boot camps.

"Community Corrections Operating Procedures (CCOP)" means an operational manual providing guidelines for community corrections staff.

"Community re-entry plan" means a plan devised to address transition needs from a community program or facility to community supervision.

"Conditions of supervision" means a document which details the rules an offender must abide by in order to successfully complete supervision.

"Contraband" means items prohibited on unit premises by statute, regulation, policy or procedure.

"Day Reporting Center" means a nonresidential community-based program that provides intensive supervision, substance abuse counseling, education training, work placement, and other therapeutic interventions.

"Department" means the Virginia Department of Corrections.

"Detention Center Incarceration Program" means a residential program which provides regimented, highly structured, paramilitary style training. The emphasis is on work, educational, and therapeutic programs.

"Diversion Center Incarceration Program" means a highly structured, community-based residential program used as an alternative to incarceration which provides 24-hour supervision and treatment services. The emphasis is on gainful employment in the private sector.

"Early release" means release prior to the specified term of supervision.

"Foot-candle" means a unit for measuring the intensity of illumination, defined as the amount of light thrown on a surface.

"Furnishings in offender living areas" means items authorized by the department to be placed in inmate living areas.

"Grievance procedure" means methodology which affords a formal process to address complaints with administration personnel.

"Health authority" means staff who are qualified by virtue of appropriate training and experience to render health services within their discipline, which includes a physician, nurse, dentist, psychiatrist, psychologist, social worker or an independent health care provider.

"Health care services" means provision of care for an offender's medical needs by one who is qualified by virtue of appropriate training and experience to render health services within their discipline, which includes a physician, nurse, dentist, psychiatrist, psychologist, social worker or an independent health care provider.

"Health record" means the confidential written record which documents all health services rendered during program participation.

"Manual" means written guidelines for specified operational procedures.

"Offender" means any person placed under the supervision of the Virginia Department of Corrections.

"Officer" means any person authorized by the Virginia Department of Corrections to provide supervisory services to offenders or prepare investigative reports or both.

"Plan of supervision" means the goals and objectives of supervision which should be jointly developed between the offender and supervising staff.

"Post log" means a written record for the recording of activities or unusual incidents for a specific security position.

"Post order" means that document which outlines the duties, responsibilities, and emergency procedures of that post in the facility.

"Postsentence report" means a criminal and social history of an offender prepared after sentencing.

"Potable water supply" means water supply suitable for drinking.

"Presentence report" means a criminal and social history of an offender prepared prior to the sentencing event.

"Unit" means a program or facility designed to provide supervision, surveillance, and treatment to probationers, parolees, and offenders on post-release supervision, as well as investigative services to the courts, the department, and the Parole Board, and includes probation and parole districts, detention centers, diversion centers, day reporting centers and shock incarceration programs.

"Unit head" means that individual in a public or private agency who has overall responsibility for the operation of a program or facility, including the application of state funds provided for that purpose.

"Violation" means an action or inaction by an offender which is contrary to the conditions of supervision and is

considered technical when it does not involve the commission of a new offense.

"Volunteer" means an individual who provides services without compensation.

"Work program" means structured activities which provide services to the department or community.

6 VAC 15-61-20. Legal standard.

Nothing contained in this chapter shall be construed as setting a legal standard for the management or operation of any facility for purposes of litigation by offenders.

6 VAC 15-61-30. Responsibility; enforcement.

A. The unit head shall be responsible for ensuring that the requirements described in this chapter are implemented.

B. This chapter shall be enforced through the Board of Corrections' Regulations Governing Certification and Inspection, 6 VAC 15-20-10 et seq.

PART II.

GENERAL ADMINISTRATION AND MANAGEMENT.

6 VAC 15-61-40. Organization and administration.

A. The unit shall maintain an organizational chart reflecting the current structure of authority.

B. Written procedure and practice shall provide for participation of employees in staff meetings relating to their respective duties.

C. Designated staff shall maintain and keep current a copy of the Community Corrections Operating Procedures. The CCOP shall be made accessible to all employees.

D. The unit head or designee shall maintain and keep current copies of the department's Policy and Procedures Manual, Secretarial Administrative Manual, the Virginia Personnel Act, and the Department of Personnel and Training Policies and Procedures Manual. Upon request of any employee, the unit head shall make available any of these manuals.

E. Written policies and procedures for unit operation and maintenance shall be maintained, reviewed, and updated as needed by the unit head. All employees shall have access to the written policies and procedures.

F. Written procedure and practice shall govern the dissemination of offender information to the public, address confidentiality requirements, and designate who may provide such information.

G. Written procedure and practice shall provide for the investigation of citizen complaints about the unit.

H. The unit head shall ensure that any leased or rental facility complies with applicable state and local building codes, as well as health codes.

6 VAC 15-61-50. Personnel.

A. Written procedure and practice shall provide for the confidentiality of personnel records.

B. A criminal record check shall be conducted on all employees prior to employment.

C. A written performance evaluation for each employee shall be completed at least every 12 months based upon defined criteria and shall be reviewed and discussed with the employee.

D. The unit head or designee shall maintain a current and accurate personnel record on each employee.

E. Written procedure and practice shall provide for employees to challenge information in their personnel record and to have it corrected or removed if proven to be inaccurate.

F. All classified, nonprobationary employees shall have access to the Virginia grievance procedures.

6 VAC 15-61-60. Citizen and volunteer involvement.

A. Written procedure and practice shall govern citizen involvement in the unit's programs and shall include recruitment, selection, training, orientation, responsibilities, supervision, and termination of volunteers.

B. Unit staff shall document that volunteers complete an orientation and training program before participation in their assignments and agree in writing to abide by unit policies and procedures.

6 VAC 15-61-70. Training and staff development.

A. Upon employment, each new employee shall satisfactorily complete all basic training and subsequent in-service training requirements as specified by the Department of Corrections and the Division of Operations.

B. An employee shall not assume sole responsibility for any working shift prior to the completion of orientation of unit policy and procedures.

C. Written procedure and practice shall provide that all personnel authorized to carry firearms successfully complete the department's mandated firearms training and any subsequent re-certification.

D. All personnel authorized to use chemical agents shall be trained in their use and in the treatment of individuals exposed to a chemical agent.

6 VAC 15-61-80. Fiscal management.

A. The unit's budget process shall comply with procedures and instructions of the department, division, and region.

B. The unit head shall monitor and review the expenditure of budgeted funds on a continuing basis.

C. The unit head shall be responsible for the collection, safeguarding, and disbursement of all moneys in accordance with court order, department, and unit procedures.

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D. Written procedure and practice regarding collection, safeguarding, and disbursement of moneys shall be provided to staff.

E. There shall be no commingling of any offender funds or funds received from offenders with unit funds.

F. Written procedure and practice shall govern the operation of offender accounts. This subsection is not applicable to probation and parole units or day reporting centers.

6 VAC 15-61-90. Case records.

A. Written procedure and practice shall specify the utilization and maintenance of case records, including the recording of significant events and decisions.

B. Case records shall contain a signed copy of the conditions of supervision.

C. Written procedure and practice shall provide for the retention and disposition of inactive case records.

D. Case records shall be safeguarded from unauthorized and improper disclosure.

E. Case records shall be reviewed by supervising staff in accordance with written procedure.

PART III.

STANDARDS APPLICABLE ONLY TO PROBATION/PAROLE AND DAY REPORTING CENTERS.

6 VAC 15-61-100. Supervision.

A. The district's average caseload shall not exceed 60 offenders.

B. Written procedure and practice shall specify the classification and supervision of offenders in order to safeguard the community and meet offender program needs.

C. Written conditions of probation, parole, or post-release supervision shall be furnished to the offender. Assistance shall be provided if an offender does not understand the conditions.

D. Written procedure and practice shall provide that emergency supervision services be available 24 hours a day.

E. Supervision goals and objectives shall be developed and reviewed with the offender and adjusted based on performance in the community. Offender supervision shall be in compliance with the standards of supervision.

F. Offenders shall not be confronted with possible violation of supervision for failure to meet financial obligations that are not conditions of supervision or required by state law.

G. Written procedure and practice shall permit the supervising officer to recommend early release from active supervision.

H. Written procedure and practice shall require that all arrests and alleged violations be recorded, investigated and, if appropriate, reported in writing to the revoking authority.

I. Written procedure and practice shall provide for the issuance and execution of the Arrest Authority (PB-15).

J. Officers shall be permitted to carry a department-issued firearm in the performance of their duties in accordance with Community Corrections Operating Procedures.

K. Written procedure and practice shall govern the security, storage, and use of firearms and ammunition.

L. Written procedure and practice shall govern the use of chemical agents.

6 VAC 15-61-110. Investigations.

A. Unit staff shall conduct investigations in accordance with procedures provided by the Department of Corrections, Division of Operations, Virginia Parole Board, and appropriate courts.

B. Written procedure and practice shall allow the use of staff other than probation and parole officers for the collection of information necessary for the completion of any properly assigned investigation.

C. The presentence report shall be prepared in the Department of Corrections' approved format and submitted to the court for review and evaluation as specified in the Code of Virginia unless otherwise directed by the court.

D. Written procedure and practice shall require timely transmittal of presentence reports to the appropriate departmental unit.

E. Written procedure and practice shall require timely transmittal of postsentence reports to the appropriate departmental unit for those offenders who have been sentenced to a term of confinement in the Department of Corrections by the courts within the district's jurisdiction.

PART IV.

STANDARDS APPLICABLE ONLY TO COMMUNITY CORRECTIONAL FACILITIES AND DAY REPORTING CENTERS.

6 VAC 15-61-120. Offender services.

A. Staff shall provide offenders with the center's written rules and regulations.

B. There shall be documented eligibility criteria for acceptance.

C. Each offender shall be assessed according to policies and procedures for services.

D. Staff shall review changes in the plan with the offender and document these changes.

E. The unit head shall develop and implement written policies and procedures for community service.

F. Each unit shall establish an advisory committee which serves as a link between the center and the community. This subsection is applicable only to day reporting centers.

G. For diversion centers only, verification of offender whereabouts when not in the facility shall be governed by written procedures. The forms of verification shall include, but not be limited to:

1. Random telephone contacts to the authorized destination; and
2. Random on-site visits to the authorized destination.

6 VAC 15-61-130. Program and health services applicable only to diversion centers.

A. This section applies only to diversion centers.

B. Criteria for acceptance into the program and intake shall be governed by written policy, procedure and practice.

C. Staff shall complete an initial information form on each offender admitted into residency.

D. Staff shall distribute a copy of the criteria for acceptance and intake policies and procedures to referral sources and interested parties.

E. Staff shall provide, in writing to the referral source, reasons for nonacceptance into the program.

F. Staff shall design a plan of supervision in conjunction with the offender which includes expected behavior and accomplishments.

G. At the time of intake, program staff shall review available services with the offender.

H. Staff shall review offender progress with the offender. The outcome of each review shall be documented in the offender's case record.

I. Written procedure and practice shall provide the offender an opportunity for family and community involvement.

J. Offenders shall be permitted to attend religious services and to receive visits from representatives of their respective faiths.

K. Staff shall provide for recreational and leisure time activities.

L. Staff shall make referrals, when needed, for supervision in the community and shelter.

M. Staff shall use community resources, either through referrals for service or by contractual agreement, to provide offenders with the services to become self sufficient.

N. Written procedure and practice shall govern the possession and control of prescribed medications and over-the-counter drugs.

PART V.
STANDARDS APPLICABLE TO COMMUNITY
CORRECTIONAL FACILITIES.

6 VAC 15-61-140. Physical plant.

A. Offender living areas shall have sanitation facilities to include access to (special housing requirements may be altered to ensure safety and security):

1. A toilet above floor level which is available for use without staff assistance 24 hours a day.
2. Shower and bathing facilities, with hot and cold running water.
3. A bed above floor level.
4. Enclosable storage space or locker.
5. A wash basin with potable water and hot and cold water.

B. Space shall be provided for visitation, private counseling, and group meetings.

C. Reasonable accommodations shall be available for the disabled.

D. Space shall be provided at the unit to store and issue clothing, bedding, cleaning supplies, offenders' property, and other items required for daily operations.

E. Adequate space shall be provided for administrative, security, professional, and clerical staff.

F. Separate and adequate space shall be provided for mechanical and electrical equipment.

G. Written procedure and practice shall specify a preventive maintenance program for the physical plant. The program shall include documentation of work performed, provisions for emergency repairs or replacement in life-threatening situations, and provisions for capital repairs.

H. Sleeping quarters and bathroom areas shall have a minimum of 20 foot-candles of light.

I. Sleeping quarters shall be properly ventilated with circulation at least seven cubic feet per minute of outside air or re-circulated air containing no less than 25% outside air per minute per occupant.

6 VAC 15-61-150. Safety and emergency procedures.

A. There shall be written emergency plans which outline duties of staff, procedures, and evacuation routes. Emergency plans shall include responses in the event of fire; chemical release; power, water, or heat loss; a natural disaster; the taking of hostages; riots; disturbances; absconding; bomb threats; suicide prevention/intervention; death and adverse job action. Plans shall be reviewed every 12 months by all staff. The review shall be documented.

B. There shall be a posted floor plan showing evacuation routes. The fire plan shall be reviewed at least every 12 months by the State Fire Marshal.

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C. Fire drills shall be performed in accordance with emergency plans and shall include evacuation of offenders except where security would be jeopardized. Fire drills shall be held, documented, and evaluated for effectiveness at least every three months.

D. There shall be documentation that, through site visits every 12 months, the local fire department is familiar with the available equipment, physical layout, and emergency procedures of the unit. Additional site visits shall be required in cases of structural changes or additions to the unit.

E. The unit shall have the equipment necessary to maintain essential lights, power, and communications in an emergency. Testing shall be performed every three months and shall be documented.

F. The unit head shall ensure the facility complies with the regulations of the state or local fire safety authority which has jurisdiction over the facility.

G. Written procedure and practice shall provide for an inspection of the unit for compliance with safety and fire prevention standards at least every 30 days by a qualified departmental staff member. This procedure shall be reviewed at least every 12 months and updated as needed. In conjunction with the individual responsible for unit safety, action plans to correct deficiencies shall be written and directed to the unit head.

H. The unit shall have a manual fire alarm or an automatic smoke detection system or an automatic fire suppression system in all sleeping and living areas, and action plans shall be written and submitted for all areas of deficiencies. Other areas of the unit shall also have fire detection and suppression equipment as required by the State Fire Marshal.

I. Written procedure and practice shall specify the unit's fire protection equipment type, use, and testing to include:

1. Availability of equipment at appropriate locations throughout the unit.
2. Training on the use of equipment.
3. Inspection of extinguishers at least every 12 months.
4. Inspection of range hoods at least every six months and cleaning as necessary. Inspections shall be performed by trained and qualified personnel.
5. Inspection of detection and suppression systems at least every three months.
6. Testing of fire alarms for function at least every three months.

J. Furnishings in offender living areas, including cleanable, nontoxic and flame-retardant mattresses and pillows, shall be selected based on known fire safety performance characteristics and in conformance with departmental procedures. Furnishings which no longer meet fire safety performance specifications shall be repaired or removed from service.

6 VAC 15-61-160. Security management.

A. There shall be a manual containing all procedures for unit security and control with detailed instructions for implementing these procedures. The manual shall be available to all staff and procedures reviewed and updated as necessary.

B. There shall be a written post order for each security post and a requirement for officers to read and be familiar with the order each time they assume a new post. Supervising personnel shall document that the post order has been discussed with the officer. Post orders shall be reviewed at least every 12 months.

C. Written procedure and practice shall require that correctional staff maintain a post log for each permanent post and other areas deemed necessary by the unit head. Such post logs shall record routine information, emergency situations, and unusual incidents.

D. Written procedure and practice shall provide that the unit maintains a written record of all security equipment.

6 VAC 15-61-170. Security and control.

A. The unit shall have a system for physically counting offenders.

B. Written procedure and practice shall provide that staff regulate offender movement.

C. Written procedure and practice shall provide for searches of the unit, staff, offenders, and visitors to control contraband and provide for disposition of the contraband pursuant to state law.

D. There shall be procedures concerning the operation and use of official vehicles and personal vehicles on state property, including provisions for parking in designated areas and for ensuring that vehicles are left locked with the windows rolled up when not in use.

E. Written procedure and practice shall govern the use of force, firearms, chemical agents, and security equipment.

6 VAC 15-61-180. Keys and equipment.

A. Written procedure and practice shall govern the distribution, use, and control of keys within the unit.

B. Written procedure and practice shall govern the use and storage of all tools, culinary equipment and hazardous materials, including flammable, toxic, and caustic materials, as well as security equipment.

6 VAC 15-61-190. Security, isolation and detention.

Written procedures and practice shall govern detention and removal of offenders. Written procedure shall provide for the issuance and execution of the Arrest Authority (PB-15).

6 VAC 15-61-200. Food service.

A. Food service operations shall be supervised by a full-time staff member who is experienced in food service

management. This subsection is not applicable to contracted services.

B. All meals shall meet or exceed nationally recommended dietary allowances.

C. Written procedure and practice shall require that accurate records are maintained of all meals served and that meals are planned in advance to ensure proper food flavor, temperature, and appearance.

D. Written procedure and practice shall provide for special diets as prescribed by appropriate medical or dental personnel.

E. Written procedure and practice shall require that at least three meals, including two hot meals, are provided at regular meal times during each 24-hour period, with no more than 14 hours between the beginning of the evening meal and the beginning of breakfast. Variations may be allowed based on weekend and holiday food service demands and security needs, provided basic nutritional goals are met.

F. Food service personnel, including offenders, shall receive a preassignment medical examination by medical personnel and an examination at least every 12 months thereafter to ensure freedom from diarrhea, skin infections, and other illnesses transmissible by food or utensils. Offenders and other persons working in food service shall be monitored continuously for health and cleanliness by the food service manager or designee.

G. Written procedure and practice shall require weekly inspections of all food service areas, including dining and food preparation areas and equipment, by the person supervising food service operations or his designee.

H. Shelf goods shall be maintained properly and safely. Refrigerated foods shall be stored at 35°F to 40°F, and frozen foods shall be maintained at 0°F or below. Refrigerator and dishwasher temperature shall be checked daily.

6 VAC 15-61-210. Sanitation and hygiene.

A. The unit shall comply with the requirements of appropriate regulatory agencies with regard to the potable water supply, control of vermin and pests, emissions, and water disposal systems.

B. The unit shall provide housekeeping and maintenance to ensure the facility is clean and in good repair.

C. Written procedure and practice shall provide for weekly sanitation inspections of the facility by designated staff. A report of findings and recommended corrective action shall be submitted to the unit head.

D. Written procedure and practice shall provide for the issue of clean suitable clothing to offenders. Protective clothing and safety equipment shall be provided when appropriate.

E. Written procedure and practice shall provide clean bedding, towels, washcloths and blankets to all offenders.

F. Written procedure and practice shall provide for the weekly laundering of bedding and clothing.

G. Written procedure and practice shall provide that hair care services that comply with applicable health requirements are available to offenders. This subsection is not applicable to diversion centers.

H. Written procedure and practice shall require that articles necessary for maintaining proper personal hygiene are available to all offenders through the unit commissary. Offenders shall be issued necessary personal hygiene articles. This subsection is not applicable to diversion centers.

6 VAC 15-61-220. Health care services.

A. Written procedure and practice shall provide that the unit head, in conjunction with the health authority, shall ensure that offenders are provided with health care services.

B. Written procedure and practice shall provide access to adequate health care, 24-hour emergency medical services, and for a system for processing complaints about health care. These procedures shall be communicated to offenders upon arrival at the unit.

C. Written procedure and practice shall provide that there are provisions for continuity of health care from admission to discharge.

D. Written procedure and practice shall require that the Office of Health Services conduct a documented, quality assurance review for each unit every other year. Action plans shall be written for all areas of deficiency. This subsection is not applicable to diversion centers which do not receive medical services from a co-located facility.

E. Written procedure and practice shall govern the use of restraints for medical and psychiatric purposes, and shall identify the authorization needed, as well as when, where, and how restraints may be used and for what duration of time.

F. Written procedure and practice shall require that all medical, psychiatric, dental, and nursing matters involving medical judgment are the sole province of the responsible physician, dentist, and nurse, respectively.

G. Written procedure and practice shall provide that the medical staff reports immediately to the unit head any condition that poses a threat to health and safety. This subsection is not applicable to diversion centers which do not receive medical services from a co-located facility.

H. Written procedure and practice shall ensure that the unit provides adequate space, equipment, supplies, and materials for the delivery of health care. This subsection is not applicable to diversion centers.

I. Written procedure and practice shall provide that first aid kits and emergency medical supplies are inventoried and perpetually available.

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J. Written procedure and practice shall require that medical staff are responsible for checking and testing all medical equipment according to manufacturers' recommendations and that the equipment is safeguarded from offender access. This subsection is not applicable to diversion centers.

K. Written procedure and practice shall require that all medical personnel who provide health care services to offenders meet state licensure, certification and registration requirements. This subsection is not applicable to diversion centers.

L. Written procedure and practice shall provide that all treatment by health care personnel other than physician, dentist, psychologist, optometrist, and other independent provider is performed pursuant to written protocols by personnel authorized by law to give such orders.

M. Written procedure and practice shall provide that nonmedical personnel involved in the distribution and/or administration of non-over-the-counter medications or in providing other medical services are trained according to Department of Corrections, Office of Health Services' procedures.

N. Written procedure and practice shall provide for on-site emergency first aid, CPR and crisis intervention. In addition, direct care and custodial staff are trained to recognize signs and symptoms of mental illness and chemical dependency.

O. Offenders shall not be used for the following duties:

1. Performing direct patient care services, with the exception of assisting in feeding and movement by wheelchair, stretcher, and turning patient over in bed;
2. Scheduling health care appointments;
3. Determining access of other offenders to health care services;
4. Handling or having access to surgical instruments, needles, medications, and medical records; and
5. Operating diagnostic and therapeutic instruments.

P. Written procedure and practice shall provide that health care personnel are provided opportunities for orientation and training.

Q. At the time of the offender's referral, a medical assessment shall be completed. Staff shall be made aware of special medical problems.

R. Written procedure and practice shall provide that all offenders undergo a health screening by qualified medical personnel upon arrival at the unit or no later than one working day thereafter. All findings shall be recorded on forms approved by the health authority.

S. Written procedure and practice shall provide for the identification and management of tuberculosis and other communicable diseases and that these policies and

procedures are updated as new information becomes available.

T. Written procedure and practice shall provide that offenders have access to mental health services.

U. Services shall include a mental health screening upon arrival, crisis intervention, and a system to return the offender to the originating jurisdiction when mental health services are beyond the resources of the unit.

V. Written procedure and practice shall provide that treatment of an offender's health problems are not limited by the resources available within the unit and that hospital care is available for emergency needs at a facility outside the unit.

W. Written procedure and practice shall require that regularly scheduled sick call is conducted by qualified health care personnel and is available to all offenders. This subsection is not applicable to diversion centers.

X. Written procedure and practice shall prohibit offenders from choosing their own health care provider and shall require procedures for documentation of refusal to accept treatment. This subsection is not applicable to diversion centers.

Y. Written procedure and practice shall provide that written informed consent for offender health care is obtained where required and documented.

Z. When health care is rendered against the patient's will, it shall be in accord with state and federal laws and regulations.

6 VAC 15-61-230. Health records.

A. Written procedure and practice shall govern the creation, organization, maintenance, and storage of a complete health record for each offender which documents all the health services rendered during the entire period of participation.

B. Written procedure and practice shall provide for confidentiality of the health record and shall support the following requirements:

1. The health record shall be maintained separately from the unit record.
2. Access to the health record shall be controlled by the health authority and shall be granted only to those who require it under departmental procedures.
3. The health authority shall share with the unit head information regarding security, offender medical management, and ability to participate in programs.

C. Written procedure and practice shall require that inactive health record files are retained as permanent records in compliance with departmental procedures.

6 VAC 15-61-240. Pharmacy services.

Written procedure and practice shall govern the possession, control, and distribution of prescribed medications and over-the-counter drugs.

6 VAC 15-61-250. Serious illness and death.

A. Written procedure and practice shall specify and govern the process by which those individuals designated by the offender are notified in case of the offender's serious illness, injury, or death.

B. Written procedure and practice shall specify and govern the actions to be taken in the event of an offender death.

6 VAC 15- 61-260. Legal and programmatic rights of offenders.

A. Written procedure and practice shall provide that program access, work assignments, and administrative decisions are made without regard to an offender's race, religion, national origin, sex, handicap, or political views.

B. Written procedure and practice shall protect offenders from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

6 VAC 15-61-270. Offender rules and discipline.

A. Written rules of offender conduct shall specify prohibited acts and disciplinary procedures. Signed acknowledgment of receipt of the rules shall be maintained in the offender's file.

B. Written procedure and practice shall provide for an offender disciplinary procedure.

6 VAC 15-61-280. Mail, telephone, and visiting.

A. Written procedure and practice shall govern offender correspondence which includes:

1. Procedures which ensure that offender mail shall not be read except where there is a reasonable belief that there is a threat to unit order and security, and then only in accordance with written procedure.
2. Inspection of offender mail for contraband and disposition of contraband.

B. Written procedure and practice shall govern offender telephone privileges.

C. Written procedure and practice shall provide visiting privileges for offenders and specify the time, screening, frequency, and number of visitors and shall make provisions for special visits.

6 VAC 15-61-290. Work programs.

A. Written procedure and practice shall provide for offender participation in a work program.

B. Employees shall be trained in offender work supervision prior to independent functioning as work supervisors.

6 VAC 15-61-300. Educational services, religious programs, and counseling.

A. The unit shall provide access to academic programs.

B. An offender's attendance and participation in religious services and activities shall be voluntary.

C. Written procedure and practice shall provide for a system of programs at each unit.

D. Written procedure and practice shall provide that staff is available to counsel offenders and that provision is made for counseling and crisis intervention services.

E. Treatment and professional services shall be provided by persons qualified by either formal education, training or licensure.

F. Written procedure and practice shall provide that a community re-entry plan be developed for each offender and submitted to the receiving unit prior to discharge.

VA.R. Doc. No. R98-238; Filed April 22, 1998, 11: 50 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services is claiming an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. 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 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (repealing 12 VAC 30-60-90).

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

Effective Date: June 10, 1998.

Summary:

This amendment corrects a technical error made by DMAS. Utilizing the public comment process specified by Article 2 (§ 9-6.14:7.1 et seq. of the Code of Virginia) of the Administrative Process Act in 1993, DMAS amended its State Plan for Medical Assistance in order to remove the requirement that local health departments preauthorize transportation services. At that time, DMAS technically erred by leaving 12 VAC 30-60-90 in this chapter. This action corrects that error.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services,

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600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-60-90. ~~Utilization control: Special services. (Repealed.)~~

~~In the broad category of special services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.~~

VA.R. Doc. No. R98-234; Filed April 22, 1998, 11:28 a.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-10-10 et seq. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority (amending 13 VAC 10-10-20).

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

Effective Date: May 1, 1998.

Summary:

The amendments delete the specific income limits set forth in these rules and regulations for occupancy of a multi-family dwelling unit financed by an authority mortgage loan and provide that such income limits shall be established by or pursuant to rules and regulations of the authority. Therefore, the occupancy of a dwelling unit shall be subject to the income limits established by or pursuant to the rules and regulations applicable to the authority mortgage loan which finances such dwelling unit.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

13 VAC 10-10-20. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such

resolution or rules and regulations shall specify whether the person's or family's income shall be calculated as adjusted family income or gross income. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income or gross income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross income, as applicable, household composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above the applicable income limit established by or pursuant to rules and regulations of the authority.

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

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

VA.R. Doc. No. R98-194; Filed April 22, 1998, 9:57 a.m.

Title of Regulation: 13 VAC 10-20-10 et seq. Rules and Regulations for Multi-Family Housing Developments (amending 13 VAC 10-20-20).

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

Effective Date: May 1, 1998.

Summary:

The amendments change the income limits on units in multi-family developments financed under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development

Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

13 VAC 10-20-20. Income limits and general restrictions.

~~Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the authority's rules and regulations authorize its board to establish from time to time by resolution and by rules and regulations lower income limits for initial occupancy; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. Income limits are established below in this chapter in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.~~

~~In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in, and subject to the provisions of, 13 VAC 10-20-100 and 13 VAC 10-20-130), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed (i) in the case of units for which the board has approved the mortgage loan prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the board has approved the mortgage loan on or after November 15, 1991, 115% of such area median gross income as so determined (or, upon approval of the executive director for good cause, for all or some of the remaining units, 150% of area median gross income as so determined). The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be, in the case of units for which the board has approved the mortgage loan prior to November 15, 1991, 150% of such area median gross income as so determined (or, unless otherwise agreed by the mortgagor and the authority, such lesser income limit equal to seven times the annual rent, including utilities except telephone, applicable to such units) or shall be, in the case of units for which the board has approved the mortgage loan on or after November 15, 1991, 115% of such area median~~

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~~gross income as so determined (or 150% of such area median gross income as so determined, if approved by the executive director as an income limit for all or some of such units pursuant to clause (ii) in the preceding sentence).~~

All of the units in each development financed under this chapter shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed 150% of the area median gross income as determined by the authority; provided, however, that in the case of any development which is subject as of April 30, 1998, to the income limit of seven times the rents, including utilities except telephone, applicable to the units therein (or the lesser of such income limit and any other income limit), all of the units in such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed seven times the rents, including utilities except telephone, applicable to the units therein, unless the authority and the mortgagor shall agree to apply the income limit of 150% of the area median gross income as described above. The applicable income limit set forth in the preceding sentence shall also apply to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy. The foregoing income limits shall apply to all developments for which the board approves mortgage loans on or after May 1, 1998, and all developments for which the board has approved mortgage loans prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such mortgage loans or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.

The board may establish, in the resolution authorizing any mortgage loan to finance a development under this chapter, income limits lower than those provided herein or in the authority's rules and regulations for the occupants of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof hereunder and under the authority's rules and regulations, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

VA.R. Doc. No. R98-195; Filed April 22, 1998, 9:56 a.m.

Title of Regulation: 13 VAC 10-130-10 et seq. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons (amending 13 VAC 10-130-30).

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

Effective Date: May 1, 1998.

Summary:

The amendments change the income limits on units in multi-family developments for mentally disabled persons financed under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

13 VAC 10-130-30. Income limits and general restrictions.

The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the authority's income limit set forth under its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the total annual rent is inapplicable. In accordance with the authority's rules and regulations, the income limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons who are mentally disabled and who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy of such units and at the time of reexamination and redetermination of such persons' adjusted family incomes and eligibility subsequent to their initial occupancy of such units) which do not exceed (4) in the case of units in a M/D development for which the board

~~approved the mortgage loan prior to November 15, 1991, 150% of the applicable area median gross income as determined by the authority and (ii) in the case of units in a M/D development for which the board approved the mortgage loan on or after November 15, 1991, 115% of the applicable area median gross income as determined by the authority. The foregoing income limit shall apply to all developments for which the board approves mortgage loans on or after May 1, 1998, and for which the board has approved mortgage loans prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such mortgage loans or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.~~

The board may establish, in the resolution authorizing any mortgage loan to finance an M/D development under these rules and regulations, income limits lower than those provided herein for the occupants of the units in such M/D development.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in an M/D development, the occupancy of the M/D development shall comply with such limitations, and the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the M/D development shall be computed, for the purpose of determining eligibility for occupancy thereof under these rules and regulations in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all M/D developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such M/D developments, and (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

VA.R. Doc. No. R98-196; Filed April 22, 1998, 9:57 a.m.

* * * * *

Title of Regulation: 13 VAC 10-140-10 et seq. Rules and Regulations for the Acquisition of Multi-Family Housing Developments (amending 13 VAC 10-140-20).

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

Effective Date: May 1, 1998.

Summary:

The amendments change the income limits on units in multi-family developments acquired under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

13 VAC 10-140-20. Income limits and general restrictions.

~~In order to be eligible for occupancy of a multi family dwelling unit, a person or family shall not have an adjusted family income (as defined in the authority's rules and regulations) greater than (i) in the case of a multi family dwelling unit for which the board has approved the acquisition prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the foregoing shall not be applicable if no amounts are payable by or on behalf of such person or family or if amounts payable by such person or family are deemed by the board not to be rent or (ii) in the case of a multi family dwelling unit for which the board has approved the acquisition on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish in this chapter or by resolution for occupancy of such dwelling unit. In the case of a multi family dwelling unit described in (i) above, the authority may, subsequent to November 15, 1991, determine to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. The income limits established below in this chapter are in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.~~

At least 20% of the units in each development shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed (i) in the case of units for which the board has approved the acquisition prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the authority has approved the acquisition on or after November 15, 1991, 115% of such area median gross income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be as set forth in (i) and (ii), as applicable, in the preceding sentence (or, in the

Final Regulations

~~case of units described in (i) in the preceding sentence, such lesser income limit, if applicable, equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).~~

All of the units in each development acquired under this chapter shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed 150% of the area median gross income as determined by the authority; provided, however, that in the case of any development which is subject as of April 30, 1998, to the income limit of seven times the rents, including utilities except telephone, applicable to the units therein (or the lesser of such income limit and any other income limit), all of the units in such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed seven times the rents, including utilities except telephone, applicable to the units therein, unless the authority and the owner shall agree to apply the income limit of 150% of the area median gross income as described above or unless the authority is the sole owner of the development and determines to apply such income limit. The applicable income limit set forth in the preceding sentence shall also apply to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy. The foregoing income limits shall apply to all developments for which the board approves the acquisition thereof on or after May 1, 1998, and all developments for which the board has approved the acquisition thereof prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such acquisitions or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.

The board may establish, in the resolution authorizing the acquisition of any development under this chapter, income limits lower than those provided herein for occupancy of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof under this chapter, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to

facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued by the authority to finance such developments, (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

VA.R. Doc. No. R98-197; Filed April 22, 1998, 9:57 a.m.



GOVERNOR

EXECUTIVE ORDER NUMBER SIX (98)

IMPLEMENTATION PROCEDURES FOR CAR TAX RELIEF AND LOCAL SCHOOL CONSTRUCTION

Pursuant to the authority vested in me as Governor under the laws of the Commonwealth of Virginia and specifically under Article V of the Constitution of Virginia, and in accordance with Article X, Sections 7 and 8 of the Constitution of Virginia and House Bill No. 30 (1998), which I have signed into law, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct Executive Branch agencies to implement personal property tax relief and school construction funding as follows:

Article X, Section 8 of the Constitution of Virginia prohibits the Commonwealth from levying taxes in excess of those necessary to pay the government's necessary expenses or its indebtedness. Article X, Section 7 of the Constitution of Virginia requires that all necessary expenditures be made pursuant to an appropriation by the General Assembly. Item 554 of House Bill 30 designates \$447,200,000 as necessary expenditures for personal property tax relief, and an amount not to exceed \$110,000,000 as necessary expenditures for local school construction assistance. Further, House Bill 30 empowers me as "Chief Budget Officer" to ensure that appropriations are spent properly. In the absence of duly enacted legislation, this Executive Order ensures that the \$557,200,000 in taxes levied are returned to the taxpayers or otherwise spent on necessary expenses as required by Article X, Section 8 of the Constitution of Virginia.

IMPLEMENTATION OF PERSONAL PROPERTY TAX RELIEF

Item 554 of House Bill No. 30 appropriates \$447,200,000 during the 1998-2000 biennium "to implement a program which provides equitable tax relief from the personal property tax on vehicles."

Item 554 provides that legislation prescribing the details of such a program "may be adopted" this year or in some subsequent session of the General Assembly. In the absence of specific legislation this year prescribing the manner in which a personal property tax relief program will be implemented, I hereby establish the Car Tax Relief Plan of 1998 as a means of returning to the taxpayers taxes levied pursuant to Article X, Section 8 of the Constitution of Virginia. Pursuant to the stated intention of the General Assembly, the Car Tax Relief Plan of 1998 will provide the people of Virginia \$447,200,000 in personal property tax relief beginning January 1, 1998, and will facilitate the ultimate elimination of the personal property tax on the first \$20,000 of the value of passenger cars, pickup or panel trucks, and motorcycles ("qualifying vehicles") over a five-year period.

In furtherance of those objectives, I hereby assign to the Commissioner of the Department of Motor Vehicles the primary responsibility for implementing the plan. Subject to my continuing oversight and approval, the Department of

Motor Vehicles shall develop and fully implement appropriate mechanisms to administer \$447,200,000 in personal property tax relief no later than July 1, 1998. Necessary policy and technical assistance in implementing the provisions of the tax relief plan shall be provided by the Department of Taxation. The following principles shall guide the Department of Motor Vehicles in carrying out this Executive Order:

1. The Department of Motor Vehicles shall ensure that the appropriate state agencies, local government officials of the Commonwealth, and affected members of the automobile industry and public are involved in the planning and implementation of the personal property tax relief program.
2. The Department of Motor Vehicles shall develop a process of identifying "qualifying vehicles" among the vehicles that are owned and leased in the Commonwealth. Qualifying vehicles shall include cars, pickup trucks, panel trucks and motorcycles owned or leased by individual taxpayers and used primarily for personal use.
3. The Department of Motor Vehicles also shall develop a process of identifying the amount of taxes paid on each qualifying vehicle for the purpose of calculating the reimbursement to each taxpayer.
4. For 1998 and thereafter, the Department of Motor Vehicles shall facilitate tax reimbursements to individual taxpayers for 100% of the personal property tax on qualifying vehicles valued at \$1,000 or less. For qualifying vehicles valued at more than \$1,000, the Department of Motor Vehicles shall facilitate reimbursements to taxpayers for 12.5% of the personal property tax paid on the first \$20,000 of value in calendar year 1998, 27.5% in calendar year 1999, and 47.5% in the first half of calendar year 2000.
5. The reimbursement procedures shall lay a foundation for future reimbursements to taxpayers or local governments of 47.5% of the personal property tax paid on the first \$20,000 of value of qualifying vehicles in the second half of calendar year 2000, 70% in 2001, and 100% in 2002 and beyond.
6. For personal property taxes paid from January 1, 1998 to June 30, 2000, the plan shall be designed for the Commonwealth to reimburse the taxpayers directly in an amount not to exceed \$447,200,000. Payments to taxpayers shall be made by the State Treasurer on warrants issued by the Comptroller.
7. The Auditor of Public Accounts is hereby requested to periodically review the payments made to taxpayers to ensure accurate reimbursements to taxpayers.
8. The Department of the Treasury, the Department of Accounts, the Department of Planning and Budget, and the Department of Taxation shall assist the Department of Motor Vehicles in implementing this plan, as necessary.

Governor

9. The Department of Motor Vehicles, and other affected state agencies, shall develop or modify computer systems and develop forms and any other processes necessary to implement personal property tax relief.

IMPLEMENTATION OF SCHOOL CONSTRUCTION FUNDING

Item 554 of House Bill No. 30 appropriates an amount not to exceed \$110,000,000 during the 1998-2000 biennium for a "program which provides financial assistance for school construction, additions, renovations, including the costs of retrofitting or enlarging public school buildings, infrastructure and site acquisition for such public school buildings and facilities or debt service payments, or a portion thereof."

Item 554 provides that legislation prescribing the details of such a program "may be adopted" this year or in some subsequent session of the General Assembly. Of the total funds appropriated for school construction, \$55,000,000 is appropriated for distribution in fiscal year 1999 and the balance is appropriated for distribution in fiscal year 2000. In the absence of legislation this year prescribing eligibility and distribution criteria for the funds appropriated in Item 554, I hereby instruct the Board of Education to take all necessary and appropriate steps to disburse funds appropriated for local school construction. In order to ensure that all localities in Virginia receive a fair share of funding, the Board of Education shall disburse funds appropriated for this purpose as follows:

1. From funds appropriated for this purpose in Item 554, the Board shall disburse \$200,000 to each county and city in Virginia in each year of the 1998-2000 biennium. If for any reason funds appropriated are not sufficient to provide each locality \$200,000 in any year of the 1998-2000 biennium, then the Board shall disburse available funds to each county and city in equal shares.
2. In each year of the 1998-2000 biennium, any funds appropriated for this purpose which remain after disbursing \$200,000 to each county and city shall be distributed pro rata to each locality according to its respective average daily membership adjusted by its composite index, commonly referred to as weighted composite index.

The Board of Education shall develop procedures to ensure that funds disbursed to localities pursuant to Item 554 are used for "school construction, additions, renovations, including the costs of retrofitting or enlarging public school buildings, infrastructure and site acquisition for such public school buildings and facilities or debt service payments, or a portion thereof."

The Board of Education shall work in conjunction with the Governor's Commission on School Construction to study the brick and mortar needs of schools in Virginia and the funding sources available to localities to meet those identified needs, including Literary Fund loans, Virginia Public School Authority bonds, Maintenance Supplement grants, local funds, federal

assistance, and the grants appropriated pursuant to Item 554 of House Bill No. 30.

The Department of Education, the Department of Planning and Budget, the Department of General Services, and the Department of the Treasury shall assist the Board of Education in implementing this disbursement plan, as necessary.

This Executive Order shall be effective on July 1, 1998 and shall remain in full force and effect until June 30, 2000, unless amended or rescinded by law or by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 14th day of April, 1998.

/s/ James S. Gilmore, III, Governor

VA.R. Doc. No. R98-230; Filed April 22, 1998, 11:07 a.m.

EXECUTIVE ORDER NUMBER SEVEN (98)

CREATING THE GOVERNOR'S COMMISSION ON LOCAL SCHOOL CONSTRUCTION

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Commission on Local School Construction.

The Commission is classified as a gubernatorial advisory commission in accordance with Section 2.1-51.35 and Section 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to study in depth the issue of local school construction needs, alternative methods to address local needs and funding sources, and to report its conclusions and recommendations to the Governor. The time has come for the people of Virginia to know all of the facts relating to school construction and to create a blueprint for addressing local school construction responsibilities over the next decade. My charge to the Commission is to leave no stone unturned in studying the facts and making concrete recommendations. It shall be incumbent upon the Commission to take a broad view of local school construction and bring fresh and creative analysis to brick and mortar issues.

In fulfilling its mission, the Commission shall consult officials at all levels of government, officials and citizens from all regions of the Commonwealth, educators, experts in the fields of construction, finance, and demographics, and especially parents and students. The Commission shall conduct public meetings and discussions throughout the Commonwealth for the purpose of receiving the views of citizens and engaging them in public dialogue about a subject often debated but seldom studied.

The Commission's work shall culminate in thorough study and recommendations regarding the following issues:

1. In light of public debate in Virginia over the amount of school construction and renovation "needs" in Virginia, the Commission shall determine an accurate definition of "need" that can be applied uniformly to all localities.
2. Having arrived at a uniform definition of "need," the Commission shall take an inventory of school construction and renovation needs throughout Virginia. The Commission should consider both immediate need and projected need over the next decade.
3. The Commission shall assess what actions, financial or otherwise, each locality has taken over the last decade to address its school construction or renovation needs. The assessment shall compare localities by a variety of measurements, including, but not limited to, (i) each locality's total project costs on school construction, renovation and maintenance over the last decade; (ii) each locality's total expenditures on school construction, renovation and maintenance over the last decade; (iii) each locality's total project costs and total expenditures on school construction, renovation and maintenance as a percentage of total revenues over the last decade; (iv) each locality's total project costs and total expenditures on school construction, renovation and maintenance per capita; (v) each locality's total project costs and total expenditures on school construction, renovation and maintenance in proportion to local household and per capita income; and (vi) each locality's total project costs and total expenditures on school construction, renovation and maintenance in proportion to comparative tax burdens.
4. The Commission shall assess local efforts over the last decade to use existing buildings efficiently, to consolidate schools or close schools, and to apply corresponding savings to existing need.
5. The Commission should analyze the cost of new school construction, compare costs of actual projects in Virginia, study the most efficient school construction projects, and draw conclusions about how localities can build or renovate schools most cost effectively.
6. The Commission shall include in its report conclusions regarding need that is the result of circumstances beyond local control and need that is the result of local inaction by comparison to other localities.
7. The Commission shall assess each locality's actual and projected enrollment over the next decade and come to conclusions regarding creative and cost-effective ways to accommodate enrollment growth in those localities.
8. The Commission shall assess what federal financial assistance is currently available or might become available under proposals being considered by Congress. The Commission shall make recommendations regarding (i) how the Commonwealth

or its localities can best benefit from such federal assistance programs and (ii) what the Commonwealth should request its Congressional delegation to support as the federal programs are considered by Congress.

9. The Commission shall make recommendations about how localities can utilize various types of state and federal financial assistance, including Literary Fund loans, Virginia Public School Authority bonds, Maintenance Supplement grants, state grants, and federal interest-free bonds to augment local funds in addressing local school construction responsibilities. These recommendations should include calculations of the aggregate amount of funding which will be available to Virginia localities through the combination of all available funding sources over the next decade.

10. The Commission shall make recommendations regarding the local need or financial factors which the Commonwealth should prioritize in its distribution formulas for Literary Fund loans, Virginia Public School Authority bonds, Maintenance Supplement grants, and other state grants.

11. The Commission shall make recommendations regarding creative and cost-effective alternatives to new construction. Re-defined school divisions, shifting students from overcrowded schools to under-utilized schools, opening public charter schools in non-traditional locations, putting two teachers into K-3 classrooms, hiring additional remedial teachers to work with small groups of students in non-classroom settings, and utilizing technology, among other ideas, should be considered.

The Commission shall be composed of members appointed by, and to serve at the pleasure of, the Governor. The Commission shall be chaired by the Secretary of Education, and the Superintendent of Public Instruction shall serve as vice chair.

The President of the Board of Education shall serve as a member of the Commission. The Commission shall work cooperatively with the Board of Education in conducting this study and shall receive input from the Board regarding its implementation of school construction funding grants during the 1998-2000 biennium. The Commission shall assess the effectiveness of the school construction funding grant program and make recommendations for improvement.

Necessary staff support for the conduct of the Commission's work shall be furnished by the Office of the Secretary of Education, the Department of Education, the Department of Planning and Budget, the Department of General Services, the Department of the Treasury, and such other Executive agencies as the Governor shall designate. An estimated 1,200 hours of staff support will be required to support the Commission. Funding necessary for the term of the Commission's existence shall be provided from sources appropriated for the same purposes as the Commission's work. Direct expenditures for the Commission's work are estimated to be \$20,000.

Governor

Members of the Commission shall serve without compensation and shall receive expenses incurred in the discharge of their official duties only upon the approval of the Secretary of Education.

The Commission shall make an interim report to the Governor specifying the amount and costs of staff support provided and the sources of such staff support within for the first six months of the Commission's work. The Commission shall issue such other reports and recommendations at the request of the Governor. The Commission shall make a final report to the Governor no later than January 1, 1999.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until January 1, 1999, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 14th day of April, 1998.

/s/ James S. Gilmore, III, Governor

VA.R. Doc. No. R98-233; Filed April 22, 1998, 11:07 a.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Standards Workgroup on Ammonia, Mercury, Lead and Copper

The Department of Environmental Quality's Water Quality Standards Workgroup on Ammonia, Mercury, Lead and Copper has completed its efforts on reviewing Virginia's water quality criteria for these pollutants, and the department will no longer be convening meetings of the workgroup.

As a result of the workgroup's efforts, during the last triennial review, the water quality criterion for ammonia was amended to express the chronic criterion as a 30-day average, and the criteria for lead in freshwater and saltwater were amended after being recalculated using the most recent information available. DEQ has funded additional research on the toxicity of lead with a sensitive saltwater species, and additional modifications to the saltwater lead criterion will be proposed in the future.

The department funded a consultant's review of the available information on what effect dissolved organic carbon may have on the toxicity of copper. The consultant's report concluded that there was insufficient information available regarding the use of dissolved organic carbon concentrations to modify the copper criterion. Therefore, no modification to the Virginia copper criterion will be made and it will remain as currently implemented. The mercury criteria will also remain as currently implemented because of concerns with multimedia risk issues.

Any questions on the activities of the workgroup should be directed to Alan Anthony, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4114.

GOVERNOR'S EMPLOYMENT AND TRAINING DEPARTMENT

Job Training Partnership Act

The U. S. Department of Labor Appropriations Act for 1998 authorizes the Secretary of Labor to grant statutory and regulatory waivers of Job Training Partnership Act (JTPA) provisions for the second year beginning July 1, 1998. The Governor's Employment and Training Department (GETD) intends to submit a proposal in June 1998 to the U.S. Department of Labor seeking waivers of certain JTPA requirements. The waiver proposal will address the following objectives: to move toward a coherent and efficient workforce development system to meet the needs of businesses and citizens; to use the waiver process to enhance/encourage collaboration between state agencies and local one-stop partners; to facilitate local/regional flexibility and collaborative efforts; and to promote continuous improvement of program performance.

Notification as to the availability of the draft proposal will be advertised in this publication and other sources. Questions should be directed to Gail Robinson, Policy Analyst, at (804) 786-2511.

STATE WATER CONTROL BOARD

Proposed Consent Special Order Beechwood Lagoon and Stone Hollow Lagoon

The State Water Control Board and the Department of Environmental Quality propose to issue a Proposed Consent Special Order to Beechwood Water Corporation for the sewage lagoons at Beechwood and Stone Hollow in Henry County. This order requires the lagoons to be upgraded, or in the case of Beechwood Lagoon connected to the Henry County Public Service Authority, or closed within three years. There is a \$10,000 civil charge, of which \$9,000 is suspended conditional on completion of all requirements in the order.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed action until June 11, 1998. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, NW, Roanoke, VA 24019, or FAX (540) 562-6725, and should refer to Beechwood or Stone Hollow. The proposed order may be examined at the Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA. Copies of the orders and amendments may be obtained in person or by mail.

Proposed Consent Special Order Boar's Head Provision Company, Inc.

The State Water Control Board proposes to take an enforcement action against the Boar's Head Provision Company, Inc. The owner has agreed to settle the matter of alleged VPA permit violations at its Jarratt facility in Greensville County. The proposed order requires that the company undertake a groundwater study to demonstrate attenuation levels of chlorides, continue efforts to reduce chloride concentrations in its process wastewater effluent, apply for a new permit on a timely basis, and meet all final permit requirements by its reissuance. The proposed order also requires that the company pay a \$15,000 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the Proposed Consent Special Order. Comments should be addressed to Amy Thatcher Clarke, Piedmont Regional Office, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia 23060 and should refer to the Proposed Consent Special Order. This Proposed Consent Special Order was previously noticed in the March 30, 1998,

General Notices/Errata

Virginia Register as including a \$15,000 supplemental environmental project in lieu of the \$15,000 civil charge; that order was withdrawn and has been replaced by the aforementioned order requiring the civil charge.

The proposed order may be examined at the same address. A copy of the order may also be obtained in person or by mail from the Piedmont Regional Office.

Proposed Consent Special Order City of Buena Vista

The State Water Control Board proposes to enter into a Proposed Consent Special Order with the City of Buena Vista to resolve violations of the State Water Control Law and regulations at Buena Vista's sewage treatment plant in Rockbridge County. Since July of 1997, the Buena Vista sewage treatment plant experienced total suspended solids permit effluent limitation violations at levels which violated conditions of the permit for the facility. Buena Vista has undertaken/completed corrective actions by aggressively wasting solids to reduce the plant's solids inventory which had built up over a length of time. The Proposed Consent Special Order settles the outstanding Notices of Violation and incorporates a schedule of compliance to ensure the return to full and consistent compliance with the permit.

The board will receive written comments relating to the Proposed Consent Special Order for 30 days from the date of publication of this notice. Comments should be addressed to Steven W. Hetrick, Department of Environmental Quality, Post Office Box 1129, Harrisonburg, Virginia 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

Proposed Consent Special Order Burke-Parsons-Bowlby Corporation

The State Water Control Board proposes to enter into a Proposed Consent Special Order with the Burke-Parsons-Bowlby Corporation (BPB) to resolve violations of the State Water Control Law and regulations at the BPB facility in the Town of Goshen in Rockbridge County. The BPB facility has failed to comply with the permit's whole effluent toxicity final limit at outfall 003. BPB has undertaken corrective actions to reduce the toxicity of its stormwater discharges and additional actions are planned should these measure prove ineffective. The Proposed Consent Special Order settles the outstanding Notices of Violation and incorporates a schedule of compliance to return the facility to consistent compliance with the permit.

The board will receive written comments relating to the Proposed Consent Special Order for 30 days from the date of publication of this notice. Comments should be addressed to Steven W. Hetrick, Department of Environmental Quality,

Post Office Box 1129, Harrisonburg, Virginia 22801, and should refer to the Proposed Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

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 for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material 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/register/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

ERRATA

STATE CORPORATION COMMISSION

Publication: 14:10 VA.R. 1612-1630 February 2, 1998.

Corrections to Guidance Documents listing:

Division of Energy Regulation

Page 1616, column 1, "Underground Utility Damage Prevention Investigation and Enforcement Procedures," line 2, change "22 pages" to "5 pages"

Page 1616, column 1, "Damage Prevention Advisory Committee Bylaws," line 1, change "1995" to "1997"; line 2, change "7 pages" to "8 pages"

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-31-10 et seq. Virginia Pollutant Discharge Elimination System Permit Regulation.

Publication: 14:9 VA.R. 1335-1348 January 19, 1998.

Corrections to Final Regulation:

Page 1339, column 1, 9 VAC 25-31-800 F 6, line 13, after "9 VAC 25-31-900" change "B 2" to "D"

Page 1346, column 2, 9 VAC 25-31-900 C 3, line 3, after "9 VAC 25-31-830 B" insert "1"

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Title of Regulation: 16 VAC 25-90-1910. General Industry Standards (29 CFR Part 1910).

Publication: 14:15 VA.R. 2250-2252 April 13, 1998.

Correction to Final Regulation:

Page 2250, column 1, Title of Regulation, line 4, after "16 VAC 25-90-1910.252" insert "16 VAC 25-90-1910.261"

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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/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 OF AGRICULTURE AND CONSUMER SERVICES

May 14, 1998 - 9 a.m. -- Open Meeting
Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor Board
Room, Richmond, Virginia♿

A meeting to discuss issues related to Virginia agriculture and consumer protection, and to consider regulatory actions. The board will entertain public comment for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3538.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Marine Products Board

June 17, 1998 - 6 p.m. -- Open Meeting
The Backfin Restaurant, 213 Virginia Street, Urbanna,
Virginia♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (757) 874-3474 or FAX (757) 886-0671.

Virginia Seed Potato Board

May 12, 1998 - 8 p.m. -- Open Meeting
Eastern Shore Agricultural Research and Extension Center,
Research Drive, Painter, Virginia♿

A meeting to review regulations and the 1998 seed season, and to discuss 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 accommodation 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 Seed Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-1041.

STATE AIR POLLUTION CONTROL BOARD

† May 27, 1998 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House
Room C, Richmond, Virginia.

A quarterly meeting.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

ALCOHOLIC BEVERAGE CONTROL BOARD

May 18, 1998 - 9:30 a.m. -- Open Meeting
June 1, 1998 - 9:30 a.m. -- Open Meeting
June 15, 1998 - 9:30 a.m. -- Open Meeting
June 29, 1998 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive reports from and discuss activities of staff members, and to discuss other matters not yet 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

May 13, 1998 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

The Land Surveyor Section will meet to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† May 14, 1998 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The board will meet with the Board of Hearing Aid Specialists to discuss current issues of the two boards. No public comments will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

May 21, 1998 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A meeting to discuss general business. Public comments will be received for 15 minutes prior to the beginning of the meeting.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

† June 2, 1998 - 9 a.m. -- Open Meeting
† June 3, 1998 - 9 a.m. -- Open Meeting
The Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. ☎

A retreat to develop a mission statement and work plan to guide the board in fulfilling that mission. No public comments will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

BOARD FOR BARBERS

June 8, 1998 - 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 ☎

CHILD DAY-CARE COUNCIL

† May 15, 1998 - 9:30 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level 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 comments 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.

Calendar of Events

VIRGINIA STATE CHILD FATALITY REVIEW TEAM

† **May 27, 1998 - 10 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ☎

A meeting to discuss the status of ongoing studies and to update the team on any administrative matters. The second part of this meeting will be closed for confidential case review.

Contact: Suzanne J. Keller, Coordinator, Virginia State Child Fatality Review Team, 9 N. 14th St., Richmond, VA 23219, telephone (804) 786-1047, FAX (804) 371-8595, or toll-free 1-800-447-1706.

STATE BOARD FOR COMMUNITY COLLEGES

May 20, 1998 - 2:30 p.m. -- Open Meeting
Southwest Virginia Community College, Richlands, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular board meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TDD ☎

May 21, 1998 - 9 a.m. -- Open Meeting
Virginia Highlands Community College, Abingdon, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular board meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TDD ☎

COMPENSATION BOARD

May 28, 1998 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

May 27, 1998 - 9:30 a.m. -- Open Meeting
Chippokes Plantation State Park, Stewart Mansion House, 695 Chippokes Park Road, Surry, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to finalize goals and objectives and recommend developments and phasing programs to be included in the master plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

Virginia Cave Board

May 30, 1998 - 1 p.m. -- Open Meeting
Department of Conservation and Recreation, Zinke Building, 203 Governor Street, Room 200, Richmond, Virginia. ☎

A regular meeting to discuss issues relating to cave and karst conservation. A public comment period has been set aside on the agenda.

Contact: Lawrence R. Smith, Natural Area Protection Manager, Department of Conservation and Recreation, Division of Natural Heritage, 1500 E. Main St., Suite 312, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 371-2674 or (804) 786-2121.

Falls of the James Scenic River Advisory Board

June 4, 1998 - Noon -- Open Meeting
City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss river issues. Persons desiring interpreter services should contact the board at least one week prior to the meeting date.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

Goose Creek Scenic River Advisory Board

May 11, 1998 - 1:30 p.m. -- Open Meeting
Loudoun County Administration Building, Lovettsville Room, Leesburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review river issues. Persons desiring interpreter services should contact the board at least one week prior to the meeting date.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

Rivanna Scenic River Advisory Board

† **May 28, 1998 - 3:30 p.m.** -- Open Meeting
Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to discuss river issues. Public comments will be heard following regular business.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

Shenandoah Scenic River Advisory Board

May 14, 1998 - 4 p.m. -- Open Meeting
Clarke County Courthouse, Board of Supervisors Room, Berryville, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review river issues. Persons desiring interpreter services should contact the board at least one week prior to the meeting date.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

BOARD FOR CONTRACTORS

† **May 19, 1998 - 11 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A meeting to develop and implement a manual for board and staff usage which contains board interpretations and policies of statutes and regulations pertinent to the board. The department fully complies with the Americans with Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Geralde W. Morgan.

Contact: Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

BOARD OF CORRECTIONAL EDUCATION

† **May 14, 1998 - 12:30 p.m.** -- Open Meeting
Indian Creek Correctional Center, 801 Sanderson Road, Chesapeake, Virginia.☎ (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314.

BOARD OF CORRECTIONS

May 12, 1998 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia.☎

A meeting of the Correctional Services Committee.

Contact: Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

May 13, 1998 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia.☎

A meeting of the Administration Committee.

Contact: Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

May 13, 1998 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.☎

A meeting of the full board to discuss matters which may be presented.

Contact: Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

BOARD FOR COSMETOLOGY

June 1, 1998 - 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. Please notify the department of your request at least 10 days in advance. 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 ☎

Calendar of Events

DISABILITY SERVICES COUNCIL

May 11, 1998 - 3 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf will be provided)

A meeting to review the FY 1999 Rehabilitative Services Incentive Fund (RSIF) appeal letters.

Contact: LaDonna Rogers, Administrative Staff Assistant, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7154/Voice/TTY, toll-free 1-800-552-5019 or 1-800-464-9950/TDD ☎

July 29, 1998 - 11 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf will be provided)

A meeting to review the FY 1999 Rehabilitative Services Incentive Fund (RSIF) Competitive Proposals for approval.

Contact: LaDonna Rogers, Administrative Staff Assistant, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7154/Voice/TTY, toll-free 1-800-552-5019 or 1-800-464-9950/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

May 21, 1998 - 8:30 a.m. -- Open Meeting
Virginia Economic Development Partnership, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Green Conference Room, Richmond, Virginia. ♿

A meeting of the Nominating Committee of the Board of Directors to discuss the upcoming election of officers and the slate to be presented at the next full board meeting on June 2, 1998.

Contact: Kim Ellett, Administrative Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108 or FAX (804) 371-8112.

June 2, 1998 - 11 a.m. -- Open Meeting
Virginia Economic Development Partnership, 901 East Byrd Street, Riverfront Plaza, 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: Kim Ellett, Administrative Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108 or FAX (804) 371-8112.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

June 4, 1998 - 5:30 p.m. -- Open Meeting
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

May 27, 1998 - 6:30 p.m. -- Open Meeting
Courthouse Office Building, 6467 Main Street, Gloucester, Virginia. ♿ (Interpreter for the deaf provided upon request)

The biannual meeting of the committee to discuss a training exercise and a public information campaign for the current fiscal year.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1479.

DEPARTMENT OF ENVIRONMENTAL QUALITY

May 13, 1998 - 7 p.m. -- Public Hearing
Lee Center, 1108 Jefferson Street, Alexandria, Virginia.

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan consisting of a determination as to reasonably available control technology (RACT) for the control of emissions of nitrogen oxides (No_x) to the atmosphere from the Alexandria/Arlington Resource Recover Facility (municipal waste incinerator), operated in Alexandria by Ogden Martin Systems of Alexandria/Arlington, Inc.

Contact: John McKie, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3831 or FAX (804) 583-3801.

† **May 19, 1998 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A meeting to review the implications of Senate Bill 582. The bill as proposed would amend state law by imposing certain restrictions on the use of wetland mitigation banks to provide compensation for highway projects.

Contact: Joseph P. Hassell, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4072.

Virginia Ground Water Protection Steering Committee

May 19, 1998 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain minutes and a meeting agenda contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 13, 1998 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A Resident Trainee Task Force Committee meeting to discuss the resident trainee study guide and other related issues. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9523.

May 27, 1998 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A meeting of the Regulatory and Bylaws Committees to discuss regulations governing crematories.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9523.

June 10, 1998 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general board meeting. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9523.

BOARD OF GAME AND INLAND FISHERIES

June 4, 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)

The Finance Committee will meet and review the status of the agency's fiscal year 1997-1998 budget and discuss the agency's planned budget for fiscal year 1998-1999. The committee may take any actions deemed appropriate. Other items, including general and administrative matters, may be discussed.

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 GENERAL SERVICES

Design-Build/Construction Management Review Board

May 18, 1998 - 11 a.m. -- Open Meeting
June 15, 1998 - 11 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 requests submitted by localities for the use of the design-build or construction management type of contract. Public comments will be taken. The chairman may cancel the meeting if there is not business for the board's consideration. Please contact the Division of Engineering and Buildings to confirm meeting date and time.

Contact: Sandra H. Williams, Board Clerk, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

BOARD FOR GEOLOGY

† May 21, 1998 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Calendar of Events

GEORGE MASON UNIVERSITY

Board of Visitors

May 13, 1998 - Time to be announced -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax, Virginia. ☎

A regular meeting to hear reports of the standing committees of the board and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals and organizations who request it.

Contact: Patricia E. Roney, Administrative Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8700.

STATE BOARD OF HEALTH

May 18, 1998 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-600-10 et seq. Waterworks Operation Fee**. These proposed amendments change the existing annual waterworks operation fee schedule from set fees to capped fees so owners of waterworks can be charged amounts lower than presently allowed in the regulation.

Statutory Authority: §§ 32.1-12, 32.1-170 and 32.1-171.1 of the Code of Virginia.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1087, FAX (804) 786-5567 or toll-free 1-800-828-1120/TDD ☎

† **May 21, 1998 - 10 a.m. -- Open Meeting**
Hampton Inn, 7295 Williamson Road, Manassas, Virginia. ☎
(Interpreter for the deaf provided upon request)

A work session/retreat. At 6:30 p.m. there will be an informal dinner.

Contact: Paul W. Matthias, Staff, Department of Health, 1500 E. Main St., Room 227, Richmond, VA 23219, telephone (804) 371-2909 or FAX (804) 786-4616.

† **May 22, 1998 - 9 a.m. -- Open Meeting**
Hampton Inn, 7295 Williamson Road, Manassas, Virginia. ☎
(Interpreter for the deaf provided upon request)

A business meeting.

Contact: Paul W. Matthias, Staff, Department of Health, 1500 E. Main St., Room 227, Richmond, VA 23219, telephone (804) 371-2909 or FAX (804) 786-4616.

DEPARTMENT OF HEALTH

June 3, 1998 - 10:15 a.m. -- Open Meeting
Department of Health, Main Street Station, 1500 East Main Street, Room 121, Richmond, Virginia. ☎

A quarterly meeting of the AIDS Drug Advisory Committee to discuss the state ADAP and the state medication formulary.

Contact: Ann Elam, Public Health Nurse Supervisor, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23219, telephone (804) 371-8294 or toll-free 1-800-533-4148.

BOARD FOR HEARING AID SPECIALISTS

May 18, 1997 - 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, FAX (804) 367-2475 or (804) 367-9753/TDD ☎, or e-mail hearingaidspec@dpor.state.va.us.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **May 22, 1998 - 10 a.m. -- Open Meeting**
James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia.

A general business meeting of the Executive Committee.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education for Virginia, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **May 20, 1998 - 9:30 a.m. -- Open Meeting**
Virginia Historical Society, 2801 Kensington Avenue, 2nd Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The trustees of the foundation will meet to consider proposals to preserve significant threatened historic

properties through acquisition and resale with appropriate protective covenants.

Contact: Robert A. Carter, Director, Community Services, Department of Historic Resources, 10 Courthouse Avenue, Petersburg, VA 23803, telephone (804) 863-1626, FAX (804) 863-1627 or (804) 367-2386/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 2, 1998 - 9 a.m. -- Open Meeting

July 7, 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 HOUSING DEVELOPMENT AUTHORITY

† May 19, 1998 - 11 a.m. -- Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

COUNCIL ON INFORMATION MANAGEMENT

May 15, 1998 - 10 a.m. -- Open Meeting

Council on Information Management, 1100 Bank Street, Suite 901, Richmond, Virginia. ☎

A regular bimonthly meeting.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or toll-free 1-800-828-1120/TDD ☎

VIRGINIA INFORMATION PROVIDERS NETWORK AUTHORITY

May 28, 1998 - 1 p.m. -- Open Meeting

Council on Information Management, 1100 Bank Street, Suite 901, Richmond, Virginia. ☎

A regular monthly meeting of the Board of Directors.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or toll-free 1-800-828-1120/TDD ☎

VIRGINIA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† May 18, 1998 - 1 p.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, Sixth Floor, Speaker's Conference Room, Richmond, Virginia.

A regular meeting.

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 805 E. Broad St., Room 702, Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

STATE BOARD OF JUVENILE JUSTICE

May 13, 1998 - 9 a.m. -- Open Meeting

700 Centre, 700 East Franklin Street, 4th Floor, Richmond, Virginia. ☎

The Secure and Nonsecure Services Committees will meet at 9 a.m. The full board will meet at 10 a.m. to consider certification of residential and nonresidential programs, to adopt policies implementing regulatory requirements, and to consider other matters that may come before the board.

Contact: Donald R. Carignan, Policy Analyst Senior, Department of Juvenile Justice, 700 E. Franklin St., P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

† May 21, 1998 - 10 a.m. -- Open Meeting

Jackson River Technical Center, 105 East Country Club Lane, Covington, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the Apprenticeship Council.

Contact: Jennifer Peterlin, Program Director, Department of Labor and Industry, Power-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-8009, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

Calendar of Events

THE LIBRARY OF VIRGINIA

May 15, 1998 - 11 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ☎

A meeting of the State Networking Users Advisory Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219, telephone (804) 692-3535.

May 18, 1998 - 9 a.m. -- Open Meeting
Hyatt Richmond Hotel, 6624 West Broad Street, Richmond, Virginia. ☎

A retreat for the Library Board to review and finalize The Library of Virginia strategic plan presented by library staff.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219, telephone (804) 692-3535.

COMMISSION ON LOCAL GOVERNMENT

May 18, 1998 - 10 a.m. -- Open Meeting
Eighth Street Office Building, 805 East Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, Eighth Street Office Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

VIRGINIA MANUFACTURED HOUSING BOARD

May 20, 1998 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

May 26, 1998 - 9 a.m. -- Open Meeting
June 30, 1998 - 9 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters at 9 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 the following fishery management items at approximately noon: 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 ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

May 20, 1998 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business of the Drug Utilization Review Board.

Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, Program Operations, Pharmacy Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268.

June 8, 1998 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business of the Pharmacy Liaison Committee.

Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, Program Operations, Pharmacy Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268.

June 26, 1998 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **12 VAC 30-100-10 et seq. Health Insurance Program for Working Uninsured Individuals.** These regulations establish the Health Insurance Program for Working Uninsured Individuals. The regulations define, in a fair and equitable manner, who is eligible to receive premium subsidies, how beneficiaries will be enrolled and disenrolled, and what appeal rights they have. The regulations outline the rights and responsibilities of the providers and describe how the Department of Medical Assistance Services monitors the services provided by the managed care plans. The regulations also outline the administrative structure and reimbursement methodology and provide information on the benefit package or covered services.

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

Public comments may be submitted until June 26, 1998, to John Kenyon, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

BOARD OF MEDICINE

May 15, 1998 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Legislative Committee will meet to discuss legislative issues related to board activities and regulation, to review any pending regulations pursuant to regulatory review or legislative action, and to consider any other information that may come before the committee. The committee will entertain public comments during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

May 22, 1998 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Pursuant to § 54.1-2912.1 of the Code of Virginia, the board shall prescribe by regulation such requirements as

may be necessary to ensure continued practitioner competence.

† **June 4, 1998 - 8 a.m.** -- Open Meeting
† **June 5, 1998 - 8 a.m.** -- Open Meeting
† **June 6, 1998 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1, 2, 3, and 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

On June 4, a meeting to conduct general board business, receive committee and board reports and discuss any other items which may come before the board. On June 4, 5, and 6 the board will review reports, interview licensees/applicants, conduct administrative proceedings, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Informal Conference Committee

May 14, 1998 - 10:30 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

May 20, 1998 - 9:30 a.m. -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

May 21, 1998 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **June 24, 1998 - 9:30 a.m.** -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

June 26, 1998 - 9:30 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

A meeting to 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 ☎

Calendar of Events

VIRGINIA MILITARY INSTITUTE

May 14, 1998 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia. ☎

A regular meeting of the Board of Visitors to (i) hear committee reports; (ii) approve budget and awards, distinctions and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem. The Board of Visitors will not provide an opportunity for public comment at this meeting.

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.

MOTOR VEHICLE DEALER BOARD

† **May 18, 1998 - 9 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Committees of the board will meet as follows:
Transaction Recovery Fund Committee - 9 a.m.
Licensing Committee - 10:30 a.m.
Dealer Practices Committee - 1:30 p.m.
Advertising Committee - 3 p.m.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

† **May 19, 1998 - 9:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comments will be subject to the board's guidelines for public comment. Committees of the board will meet as follows:

Finance Committee - 8:45 a.m.
Franchise Review Committee - 9 a.m.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

June 15, 1998 - 10 a.m. -- Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Williamsburg Room, Richmond, Virginia.

June 27, 1998 - 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 Motor Vehicle Dealer Board intends to amend regulations entitled: **24 VAC 22-30-10 et seq. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** The purpose of the proposed amendments is to expand the definition of advertisement to include all types of media, including electronic media, and clarify the definition of the terms "free" and "dealer rebates" when used in advertisements.

Statutory Authority: §§ 46.2-1506 and 46.2-1582 of the Code of Virginia.

Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053 or toll-free 1-800-272-9268/TDD ☎

VIRGINIA MUSEUM OF FINE ARTS

May 20, 1998 - 4:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Marble Hall, Richmond, Virginia. ☎

A joint meeting of the Board of Trustees and the Board of Directors to discuss matters of mutual interest regarding fundraising. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Buildings and Grounds Committee

May 21, 1998 - Time to be determined -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Payne Room (member's suite), Richmond, Virginia. ☎

A meeting to receive an update on (i) the Center for Education and Outreach renovation project, (ii) maintenance reserve projects, and (iii) other buildings and grounds concerns. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Collections Committee

May 19, 1998 - 11 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to consider gift offers, purchases and loans of works of art. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Communications and Marketing Committee

May 21, 1998 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Richmond, Virginia. ☎

Agenda to be determined. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Education and Programs Committee

May 21, 1998 - 2 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A review of statewide task force findings. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Exhibitions Committee

May 21, 1998 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to consider upcoming and proposed exhibitions. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

May 21, 1998 - 11 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to review the budget. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Food Service Task Force Committee

May 21, 1998 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A regular meeting. Public comments will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

May 21, 1998 - 12:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A year-end meeting to review committee work and budget, and review and consider art acquisitions.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

COMMONWEALTH NEUROTRAUMA INITIATIVE ADVISORY BOARD

July 23, 1998 - 9:30 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms
Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

A quarterly board meeting.

Contact: Charlotte Neal, Board Administrator, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 662-7082, toll-free 1-800-552-5019 or 1-800-464-9950/TDD ☎

BOARD OF NURSING

May 11, 1998 - 9 a.m. -- Open Meeting
† **May 18, 1998 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf
provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders. Public comments 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 ☎

Calendar of Events

† May 18, 1998 - 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 Education Special Conference Committee will meet to review proposals and reports from nursing and nurse aide education programs and prepare recommendations for the board. Public comments 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

† May 18, 1998 - 1 p.m. -- Open Meeting

† May 20, 1998 - 8:30 a.m. -- Open Meeting

† May 21, 1998 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings. Public comments 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

† May 19, 1998 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comments will be received during an open forum beginning at 11 a.m. until noon. Beginning at 1 p.m., a panel of the board will conduct formal hearings with licensees and certificate holders.

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

† June 3, 1998 - 10 a.m. -- Open Meeting

Department of Social Services, Abingdon Regional Office, 190 Patton Street, Abingdon, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences with certified nurse aides and nurses. Public comments 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

May 12, 1998 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A formal hearing. No public comments will be heard.

Contact: Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TDD

BOARD FOR OPTICIANS

May 15, 1998 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation. The time of the meeting is subject to change. Call the board's office at least 24 hours in advance. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD

BOARD OF OPTOMETRY

NOTE: CHANGE IN MEETING DATE

† May 21, 1998 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

May 27, 1998 - 1 p.m. -- Open Meeting
202 North Ninth Street, 9th Floor Conference Room,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

The Executive Committee will meet to discuss business
and prepare for the May 28, 1998, board meeting.

Contact: Thomas Ariail, Business Manager, Virginia Board
for People with Disabilities, 202 N. Ninth St., 9th Floor,
Richmond, VA 23219, telephone (804) 786-0016/TDD, FAX
(804) 786-1118 or toll-free 1-800-846-4464.

May 28, 1998 - 9 a.m. -- Open Meeting
202 North Ninth Street, 9th Floor, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

The Education, Community Living and Employment
Committees will meet from 9 a.m. to noon to discuss
business and prepare for the afternoon business
meeting. The board business meeting will be held from
1 p.m. to 4:30 p.m. A public comment period will begin
before the board business meeting. Consumers, family
members, and service providers are encouraged to
comment on the needs and issues facing people with
disabilities in Virginia.

Contact: Thomas Ariail, Business Manager, Virginia Board
for People with Disabilities, 202 N. Ninth St., 9th Floor,
Richmond, VA 23219, telephone (804) 786-0016, FAX (804)
786-1118 or toll-free 1-800-846-4464.

BOARD OF PHARMACY

† May 14, 1998 - 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 Special Conference Committee will conduct informal
conferences. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board
of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA
23230, telephone (804) 662-9911 or FAX (804) 662-9313.

† May 28, 1998 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A public hearing on the issues addressed in SJR 61 of
the 1998 Session of the General Assembly which
requested the board to study the need for regulation of
pharmacy technicians. The board seeks comment on
the public perception of the identity, training, role and
responsibilities of technicians in a pharmacy.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst,
Department of Health Professions, 6606 W. Broad St.,

Richmond, VA 23230-1717, telephone (804) 662-9918 or
FAX (804) 662-9114.

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

May 13, 1998 - 1 p.m. -- Open Meeting
May 14, 1998 - 9 a.m. -- Open Meeting (if necessary)
The Williamsburg Hospitality House, 415 Richmond Road,
Williamsburg, Virginia.

A meeting of the Regulatory Committee to consider
requirements for licensure of substance abuse treatment
practitioners and consider amendments to the
Regulations Governing the Practice of Marriage and
Family Therapists, 18 VAC 115-50-10 et seq., pursuant
to a petition for rulemaking. Public comments will be
received at the beginning of the meeting. If necessary,
the committee will reconvene on May 14 to continue
discussion on agenda items.

Contact: Evelyn B. Brown, Executive Director, Board of
Licensed Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment Professionals,
6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717,
telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-
7197/TDD

May 13, 1998 - 11 a.m. -- Public Hearing
Hospitality House, Williamsburg, Virginia.

June 12, 1998 - Public comments may be submitted until this
date.

Notice is hereby given in accordance with § 9-6.14:7.1 of
the Code of Virginia that the Board of Licensed
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals intends to amend regulations entitled: **18
VAC 115-40-10 et seq. Regulations Governing the
Certification of Rehabilitation Providers.** The
proposed amendments will replace emergency
regulations which have been in effect since October 1,
1997, and are intended to more clearly define the scope
of practice and the mandate for certification to those who
exercise professional judgment in the provision of
rehabilitation services.

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

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

Calendar of Events

May 14, 1998 - 9 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road,
Williamsburg, Virginia. ☎

The Supervision Committee will meet at 9 a.m. to consider recommendations regarding supervision requirements for the professional counselor license. The Examination Committee will meet at 10 a.m. to consider examination processes. The Executive Committee will meet at 11 a.m. to consider recommended activities of the board. Public comments will not be heard at any meetings.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

May 14, 1998 - 1 p.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road,
Williamsburg, Virginia. ☎

A meeting to plan, set goals, and set objectives for future activities of the board. Public comments will be received at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

May 15, 1998 - 9 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road,
Williamsburg, Virginia. ☎

A continuation of the board meeting to (i) conduct general board business; (ii) consider committee reports, correspondence and any other matters under the jurisdiction of the board; and (iii) conduct regulatory review, including consideration of adoption of amendments to the Regulations Governing the Practice of Marriage and Family Therapy. Public comments will be received at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

May 15, 1998 - 10:30 a.m. -- Public Hearing
Roanoke City Council Chamber, 215 Church Avenue, S.W.,
Room 450, Roanoke, Virginia. ☎

A public hearing in connection with the board's study of the need to regulate cemeteries. The study is a result of House Bill 1077 and Senate Bill 700, which passed in the 1998 Session of the General Assembly. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

June 5, 1998 - 10 a.m. -- Open Meeting
Virginia Beach Central Library, 4100 Virginia Beach
Boulevard, Room B, Virginia Beach, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

June 5, 1998 - 1:30 p.m. -- Public Hearing
Virginia Beach Central Library, 4100 Virginia Beach
Boulevard, Room B, Virginia Beach, Virginia. ☎

A public hearing in connection with the board's study of the need to regulate electrologists. The study is a result of House Joint Resolution 204 and Senate Joint Resolution 128, which passed in the 1998 Session of the General Assembly. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

June 8, 1998 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. ☎

A meeting of the Discipline Committee to conduct an informal hearing regarding allegations of practitioner misconduct. Public comments will not be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

June 9, 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 board business and receive committee reports. Public comments will be received at the beginning of the meeting.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

VIRGINIA PUBLIC SCHOOL AUTHORITY

June 29, 1998 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Richmond, Virginia. ☎

A meeting to consider certain board administrative matters including election of officers, contract review, and other business as necessary.

Contact: Richard A. Davis, Debt Manager, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-4928 or e-mail richard.davis@trs.state.va.us.

VIRGINIA RACING COMMISSION

May 20, 1998 - 9:30 a.m. -- Public Hearing
Administrative Building, 12007 Courthouse Circle, New Kent,
Virginia.

May 30, 1998 - 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 10-180-10 et seq. Medication.** The proposed regulations provided for the use of furosemide and adjunct therapies in racehorses on race day.

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.

REAL ESTATE BOARD

May 14, 1998 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

The Education Committee and Fair Housing Committee will meet at 8 a.m. The full board will meet at 9 a.m. 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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Common Interest Community Management Information Fund Advisory Committee

May 21, 1998 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to develop recommendations for the Real Estate Board on uses of money collected pursuant to the Common Interest Community Management Fund for the benefit of common interest communities and their members.

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

STATEWIDE REHABILITATION ADVISORY COUNCIL

May 11, 1998 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms
Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Kay Magill, SRAC Liaison, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7527, FAX (804) 662-7696, toll-free 1-800-552-5019/TDD and Voice, or (804) 464-9950/TDD ☎

Calendar of Events

VIRGINIA RESOURCES AUTHORITY

May 12, 1998 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 700,
Richmond, Virginia.

June 9, 1998 - 9:30 a.m. -- Open Meeting
Ramada Oceanfront Tower and Conference Center, 58th and
Oceanfront, Virginia Beach, 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

† May 28, 1998 - 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 23218-0548, telephone (804) 782-1938.

VIRGINIA SMALL BUSINESS ADVISORY BOARD

May 11, 1998 - 10 a.m. -- Open Meeting
Department of Business Assistance, 707 East Main Street,
2nd Floor Board Room, Richmond, Virginia. ♿

A meeting to advise, counsel and confer with the Virginia Small Business Development Center Network on matters pertaining to the operation of the center.

Contact: Anthony Moore, Sr., Associate State Director, Virginia Small Business Development Center, 707 E. Main St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-8258 or FAX (804) 225-3384.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

Loan Committee

† May 26, 1998 - 10 a.m. -- Open Meeting
Department of Business Assistance, 707 East Main Street,
3rd Floor, Main Board Room, Richmond, Virginia.

A meeting to review applications for loans submitted to the authority for approval. Meeting time is subject to change.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 707 E. Main St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-8254 or FAX (804) 225-3384.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

May 21, 1998 - 9 a.m. -- Open Meeting
Colonial Farm Credit Conference Room, 6526 Mechanicsville
Turnpike, Mechanicsville, Virginia.

A regular bimonthly business meeting.

Contact: Linda J. Cox, Administrative Staff Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2123 or FAX (804) 786-6141.

COMMONWEALTH TRANSPORTATION BOARD

May 20, 1998 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street,
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

May 21, 1998 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street,
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comments will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comments has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these

conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

TREASURY BOARD

May 20, 1998 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

May 12, 1998 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A board meeting to (i) consider ratification of consent orders, (ii) consider requests for reinstatements and waivers of the National Board Examination and Clinical Competency Test, and (iii) discuss correspondence received and general board business. Brief public comments will be received at the beginning of the meeting.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

May 13, 1998 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal conferences. Public comments will not be received.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD

BOARD FOR THE VISUALLY HANDICAPPED

† **July 21, 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 ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

May 30, 1998 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting of the Vocational Rehabilitation Council to advise the department on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

May 29, 1998 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Department of Health, Bureau of Pharmacy Services, James Monroe Building, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on May 29, 1998, will be made part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

Calendar of Events

June 18, 1998 - 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.

VIRGINIA WASTE MANAGEMENT BOARD

May 18, 1998 -- 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 Waste Management Board intends to amend regulations entitled: **9 VAC 20-60-10 et seq. Hazardous Waste Management Regulations.** The purpose of amendment 14 is to incorporate the changes made by the United States Environmental Protection Agency from July 1, 1991, through September 19, 1994, plus the Universal Waste Rule of May 11, 1995. The changes reflect EPA changes in the management of used oil, land disposal restrictions, corrective action management units, and other technical corrections for recordkeeping, exporting of hazardous waste, boilers and industrial furnaces, revised treatment standards for hazardous wastes, and universal treatment standards. New, simplified rules for universal waste handlers are included. The corrections include other changes designed to correct inconsistencies between the Virginia regulation and that of EPA. The requirement for annual reports is reduced to a biennial report requirement to be consistent with EPA.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on May 18, 1998.

Contact: Robert Wickline, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

NOTE: EXTENSION OF COMMENT PERIOD

June 22, 1998 - 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 Waste Management Board intends to amend regulations entitled: **9 VAC 20-80-10 et seq. Solid Waste Management Regulations.**

Proposed Amendment 2 consists of 513 changes developed as a result of the regulatory review process and in response to a petition for rulemaking. The major changes are proposed in the ground water monitoring program, permit-by-rule for captive industrial landfills, addition of presumptive remedies in corrective action and changes in analytical requirements for contaminated soils.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Contact: Wladimir Gulevich, Assistant Division Director, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804) 698-4266, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

STATE WATER CONTROL BOARD

May 28, 1998 - 1 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Glen Allen, Virginia. ☎

June 26, 1998 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-590-10 et seq. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The proposed amendments serve four purposes: (i) to make the regulation conform to amendments in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and to federal financial responsibility requirements; (ii) to permit local government underground storage tank owners to use additional financial responsibility demonstration mechanisms; (iii) to provide liability relief for lenders in accordance with federal and state law; and (iv) to correct typographical errors and omissions.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed amendments and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material water quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed amendments, an explanation of need for the proposed amendments, an estimate of the impact of the proposed amendments upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of

Spill Response and Remediation, 629 East Main Street, 7th Floor, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Phone: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
3019 Peters Creek Road
Roanoke, Virginia
Phone: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Phone: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
4411 Early Road
Harrisonburg, Virginia
Phone: (540) 574-7800

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Phone: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Phone: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Phone: (757) 518-2000

Northern Regional Office
Department of Environmental Quality
13901 Crown Court
Woodbridge, Virginia
Phone: (703) 583-3800
Statutory Authority: §§ 62.1-44.34:9 and 62.1-44.34:12 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. June 26, 1998.

Contact: Mary-ellen Kendall, Financial Programs Manager, Office of Spill Response and Remediation, Department of Environmental Quality, P. O. Box 10009, Richmond, VA

23240-0009, telephone (804) 698-4298, FAX (804) 698-4266, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† June 11, 1998 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.☎
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. 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 LEGISLATIVE AUDIT AND REVIEW COMMISSION

May 11, 1998 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A staff briefing on the Joint Legislative Audit and Review Commission workplan, and a briefing on the 1998 Auditor of Public Accounts workplan.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† May 13, 1998 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

The committee will consider its final report for 1997-1998, review the actions of the 1998 Session of the General Assembly on its legislative recommendations, and adopt its 1998-1999 workplan and meeting schedule. Visit the commission's website at

Calendar of Events

<http://legis.state.va.us/agencies.htm> for more information, including the meeting agenda.

Contact: Diane E. Horvath, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169 or e-mail DHorvath@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 11

Conservation and Recreation, Department of
- Goose Creek Scenic River Advisory Board
Disability Services Council
Legislative Audit and Review Commission, Joint
Nursing, Board of
Rehabilitation Advisory Council, Statewide
Small Business Advisory Board, Virginia

May 12

Agriculture and Consumer Services, Department of
- Virginia Seed Potato Board
Corrections, Board of
Nursing Home Administrators, Board of
Resources Authority, Virginia
Veterinary Medicine, Board of

May 13

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Land Surveyor Section
Corrections, Board of
Funeral Directors and Embalmers, Board of
George Mason University
- Board of Visitors
Juvenile Justice, State Board of
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals, Board of Licensed
† Technology and Science, Joint Commission on
Veterinary Medicine, Board of

May 14

Agriculture and Consumer Services, Board of
† Audiology and Speech-Language Pathology, Board of
Conservation and Recreation, Department of
- Shenandoah Scenic River Advisory Board
† Correctional Education, Board of
Medicine, Board of
- Informal Conference Committee
Military Institute, Virginia
† Pharmacy, Board of
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals, Board of Licensed
Real Estate Board
- Education Committee

- Fair Housing Committee

May 15

† Child Day-Care Council
Information Management, Council on
Library of Virginia, The
Medicine, Board of
Opticians, Board for
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals, Board of Licensed

May 18

Alcoholic Beverage Control Board
General Services, Department of
- Design-Build/Construction Management Review
Board
Hearing Aid Specialists, Board for
† Intergovernmental Relations, Virginia Advisory
Commission on
Library of Virginia, The
Local Government, Commission on
† Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Licensing Committee
- Transaction Recovery Fund Committee
† Nursing, Board of

May 19

† Contractors, Board for
† Environmental Quality, Department of
- Virginia Ground Water Protection Steering
Committee
† Housing Development Authority, Virginia
† Motor Vehicle Dealer Board
- Finance Committee
- Franchise Review and Advisory Committee
Museum of Fine Arts, Virginia
- Collections Committee
† Nursing, Board of

May 20

Community Colleges, State Board for
† Historic Preservation Foundation, Virginia
Manufactured Housing Board, Virginia
Medicine, Board of
Medical Assistance Services, Department of
Museum of Fine Arts, Virginia
† Nursing, Board of
Transportation Board, Commonwealth
Treasury Board

May 21

Audiology and Speech Language Pathology, Board of
Community Colleges, State Board for
Economic Development Partnership, Virginia
† Geology, Board for
† Health, State Board of
† Labor and Industry, Department of
- Apprenticeship Council

Medicine, Board of
 Museum of Fine Arts, Virginia
 - Buildings and Grounds Committee
 - Communications and Marketing Committee
 - Education and Programs Committee
 - Exhibitions Committee
 - Finance Committee
 - Food Service Task Force
 † Nursing, Board of
 † Optometry, Board of
 Real Estate Board
 - Common Interest Community Management
 Information Fund Advisory Committee
 Soil and Water Conservation Board, Virginia
 Transportation Board, Commonwealth

May 22

† Health, State Board of
 † Higher Education for Virginia, State Council of
 Medicine, Board of

May 26

Marine Resources Commission
 † Small Business Financing Authority, Virginia
 - Loan Committee

May 27

† Air Pollution Control Board, State
 † Child Fatality Review Team, State
 Conservation and Recreation, Department of
 Emergency Planning Committee, Local - Gloucester
 Funeral Directors and Embalmers, Board of
 People with Disabilities, Virginia Board for

May 28

Compensation Board
 † Conservation and Recreation, Department of
 - Rivanna Scenic River Advisory Board
 Information Providers Network Authority, Virginia
 People with Disabilities, Virginia Board for
 † Richmond Hospital Authority
 - Board of Commissioners

May 30

Conservation and Recreation, Department of
 - Virginia Cave Board
 Visually Handicapped, Department for the

June 1

Alcoholic Beverage Control Board
 Cosmetology, Board for

June 2

† Audiology and Speech-Language Pathology, Board of
 Economic Development Partnership, Virginia
 Hopewell Industrial Safety Council

June 3

† Audiology and Speech-Language Pathology, Board of
 Health, Department of
 - AIDS Drug Advisory Committee
 † Nursing, Board of

June 4

Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
 Emergency Planning Committee, Local - Chesterfield
 County
 Game and Inland Fisheries, Board of
 † Medicine, Board of

June 5

† Medicine, Board of
 Professional and Occupational Regulation, Board for

June 6

† Medicine, Board of

June 8

Barbers, Board for
 Medical Assistance Services, Department of
 Psychology, Board of

June 9

Psychology, Board of
 Resources Authority, Virginia

June 10

Funeral Directors and Embalmers, Board of

June 11

† Waterworks and Wastewater Works Operators, Board
 for

June 15

Alcoholic Beverage Control Board
 General Services, Department of
 - Design-Build/Construction Management Review
 Board

June 17

Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board

June 18

Voluntary Formulary Board, Virginia

June 24

† Medicine, Board of

June 26

Medicine, Board of
 - Informal Conference Committee

June 29

Alcoholic Beverage Control Board
 Public School Authority, Virginia

June 30

Marine Resources Commission

July 7

Hopewell Industrial Safety Council

July 21

† Visually Handicapped, Board for the

July 23

Neurotrauma Initiative Advisory Board, Commonwealth

Calendar of Events

July 29

Disability Services Council

PUBLIC HEARINGS

May 13

Environmental Quality, Department of
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals, Board of Licensed

May 15

Professional and Occupational Regulation, Board for

May 20

Racing Commission, Virginia

May 28

† Pharmacy, Board of
Water Control Board, State

May 29

Voluntary Formulary Board, Virginia

June 5

Professional and Occupational Regulation, Board for

June 15

Motor Vehicle Dealer Board